

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 801 Session of 2011

INTRODUCED BY CREIGHTON, METCALFE, BOBACK, CLYMER, D. COSTA,
DAY, GILLEN, GINGRICH, GOODMAN, GROVE, HARRIS, KAUFFMAN,
KNOWLES, METZGAR, MILLER, MUSTIO, PYLE, ROAE, SACCONI,
STEVENSON, TALLMAN, VULAKOVICH, FARRY AND GEIST,
FEBRUARY 23, 2011

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 23, 2011

AN ACT

1 Relating to support for law enforcement authorities when
2 detaining persons who have a questionable immigration status.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Full enforcement of immigration laws required.

6 (a) Limitation of immigration laws prohibited.--No official
7 or agency of the Commonwealth or other political subdivision
8 shall adopt a policy that limits or restricts enforcement of
9 Federal immigration laws to less than the full extent permitted
10 by Federal law.

11 (b) Recourse.--A person may challenge in court any official
12 or agency of the Commonwealth or any political subdivision that
13 adopts or implements a policy limiting or restricting
14 enforcement of Federal immigration laws to less than the full
15 extent permitted by Federal law. If there is a judicial finding
16 that an official or agency of the Commonwealth or any political

subdivision has violated this section, the court may order any of the following:

(1) That the person who brought the action recover court costs and attorney fees.

(2) That the official or agency of the Commonwealth or any political subdivision pay a civil penalty of not less than \$1,000 and not more than \$5,000 to the Commonwealth for each day beyond the seventh day that the policy remains in effect after service of notice on the agency of the filing of an action under this paragraph.

(c) Verification of status of domicile.--When a law enforcement officer has lawfully stopped, detained or arrested, for a violation of a law of this Commonwealth or any political subdivision, a person who is or should reasonably be suspected of being unlawfully present in the United States, a complete, full and appropriate attempt shall be made to verify the person's immigration status with the Federal Government. The person's immigration status shall be verified through a query to the appropriate entity of the Federal Government under section 642 of the Omnibus Consolidated Appropriations Act, 1977 (Public Law 104-208, 8 U.S.C. § 1373(c)). For the purposes of this paragraph, a person is presumed not to be an alien who is unlawfully present in the United States if the person provides to the law enforcement officer or agency any of the following:

(1) A valid Pennsylvania driver's license.

(2) A valid identification card issued by the Department of Transportation.

(3) Any other valid identification document with a photograph of the bearer issued by a Federal, State or local government agency which has verified the lawful presence of

the bearer as a condition of issuance.

(d) Conviction of alien to result in transfer to Federal custody.--If an alien, who is unlawfully present in the United States is convicted of a violation of State or local law, upon discharge from imprisonment or assessment of any fine that is imposed, the alien shall be transferred immediately to the custody of the United States Immigration and Customs Enforcement or the United States Customs and Border Protection.

(e) Transport to Federal custody.--Notwithstanding any other law, a law enforcement agency may securely transport an alien who is unlawfully present in the United States and who is in the agency's custody to a Federal facility in this Commonwealth or any other point of transfer into Federal custody that is outside the jurisdiction of the law enforcement agency. If the point of transfer is located outside of this Commonwealth, the arrested person first shall be served with a copy of a detainer request issued by a Federal immigration officer or a record of judicial authorization for the transfer.

(f) Arrests based on probable cause of alien status.--A law enforcement officer, with or without a warrant, may arrest a person if the officer has probable cause to believe that the person has committed a public offense that makes the person removable from the United States.

(g) Information relating to immigration status.--Except as provided in Federal law, officials or agencies of the Commonwealth and any political subdivision shall not be prohibited or in any way restricted from sending, receiving or maintaining information relating to the immigration status of any individual or exchanging that information with any other Federal, State or local governmental entity for the following

1 official purposes:

2 (1) The investigation, adjudication or prosecution of a
3 criminal or civil offense.

4 (2) Determining eligibility for any public benefit,
5 service or license provided by the Federal Government, any
6 State government, or any political subdivision of a state
7 government.

8 (3) Verifying a claim of residence or domicile if
9 determination of residence or domicile is required under the
10 laws of this Commonwealth or a judicial order issued pursuant
11 to a civil or criminal proceeding in this Commonwealth.

12 (4) Confirming the identity of any person who is
13 detained.

14 (5) If the person is an alien, determining whether the
15 person is in compliance with the Federal registration laws.

16 Section 2. Indemnification.

17 A law enforcement officer shall be indemnified by the
18 officer's agency against reasonable costs and expenses,
19 including attorney fees, incurred in connection with an action
20 or proceeding under this act to which the officer may become a
21 party by reason of being or having been a member of the law
22 enforcement agency, except in relation to matters in which the
23 officer is adjudged to have acted in bad faith.

24 Section 3. Implementation.

25 This act shall be implemented in a manner consistent with
26 Federal laws regulating immigration, protecting the civil rights
27 of all persons and respecting the privileges and immunities of
28 United States citizens.

29 Section 20. Effective date.

30 This act shall take effect in 60 days.