

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 28 Session of 2017

INTRODUCED BY WHITE, READSHAW, PICKETT, A. HARRIS, ROAE, M. K. KELLER, MACKENZIE, DIAMOND, DUSH, TOEPEL, SIMMONS, FEE, RAPP, TAYLOR, BLOOM, EVERETT, WARD, WARNER, GREINER, EMRICK, DUNBAR, MILLARD, TALLMAN, BARRAR, BAKER, SACCONI, RYAN, KEEFER, HICKERNELL, SANKEY, ROTHMAN, DAY, GABLER, GROVE, METCALFE, TOPPER, KAUFFMAN, ORTITAY, IRVIN, O'NEILL, STAATS, SAYLOR, FARRY, CHARLTON, B. MILLER, BERNSTINE, WHEELAND, RADER, ZIMMERMAN, KNOWLES, METZGAR AND PYLE, APRIL 3, 2017

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 3, 2017

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 53
 2 (Municipalities Generally) of the Pennsylvania Consolidated
 3 Statutes, in matters affecting government units, providing
 4 for exceptions to governmental immunity related to
 5 unauthorized aliens; and, in preemptions, providing for
 6 restriction on municipal regulation of official and employee
 7 communications relating to immigration status.

8 The General Assembly of the Commonwealth of Pennsylvania
 9 hereby enacts as follows:

10 Section 1. Title 42 of the Pennsylvania Consolidated
 11 Statutes is amended by adding a section to read:

12 § 8543. Exceptions to governmental immunity related to
 13 unauthorized aliens.

14 (a) Liability imposed.--A sanctuary municipality shall be
 15 liable for damages on account of an injury to a person or
 16 property as a result of criminal activity by an unauthorized
 17 alien if all of the following conditions are satisfied:

1 (1) Federal immigration officials have determined that
2 the person who engaged in the criminal activity is an
3 unauthorized alien.

4 (2) The criminal activity that caused the injury was
5 committed in the sanctuary municipality.

6 (3) The unauthorized alien is convicted of the criminal
7 activity that caused the injury.

8 (4) The criminal activity is a proximate cause of the
9 injury.

10 (b) Definitions.--As used in this section, the following
11 words and phrases shall have the meanings given to them in this
12 subsection:

13 "Municipality." A municipality as defined under 1 Pa.C.S. §
14 1991 (relating to definitions).

15 "Sanctuary municipality." A municipality that prohibits or
16 in any way restricts an official or employee of the municipality
17 from doing any of the following:

18 (1) sending to or receiving from Federal immigration
19 officials information regarding the citizenship or
20 immigration status, lawful or unlawful, of an individual;

21 (2) doing any of the following with respect to
22 information regarding the immigration status, lawful or
23 unlawful, of an individual:

24 (i) sending the information to or requesting the
25 information from Federal immigration officials;

26 (ii) maintaining the information; or

27 (iii) exchanging the information with other Federal
28 agencies, State agencies or municipalities;

29 (3) inquiring about an individual's name, date and place
30 of birth and immigration status while enforcing or conducting

1 an official investigation into a violation of a law of this
2 Commonwealth; or

3 (4) requesting an applicant who applies for a State or
4 local public benefit as defined by section 411(c) of the
5 Personal Responsibility and Work Opportunity Reconciliation
6 Act of 1996 (Public Law 104-193, 110 Stat. 2105) to provide
7 proof of eligibility to receive the State or local public
8 benefit.

9 "Unauthorized alien." An alien who is not lawfully present
10 within the United States as determined by Federal immigration
11 officials.

12 Section 2. Title 53 is amended by adding a section to read:
13 § 305. Restriction on municipal regulation of official and
14 employee communications relating to immigration
15 status.

16 (a) General rule.--The governing body of a municipality may
17 not adopt an ordinance, regulation or plan or take any other
18 action that limits or prohibits a public official, employee or
19 law enforcement officer of the municipality from communicating
20 or cooperating with an appropriate public official, employee or
21 law enforcement officer of the Federal government concerning the
22 immigration status of an individual in this Commonwealth.

23 (b) Notice to public officials, employees and law
24 enforcement officers.--The governing body of a municipality
25 shall provide written notice to each public official, employee
26 and law enforcement officer of the municipality of his duty to
27 communicate and cooperate with an appropriate public official,
28 employee or law enforcement officer of the Federal government
29 concerning the immigration status of an individual in this
30 Commonwealth.

1 (c) Compliance report to Commonwealth.--

2 (1) Within 90 days of the effective date of this
3 section, the governing body of a municipality shall submit a
4 written report to the Department of Community and Economic
5 Development that the municipality is in compliance with the
6 requirements of subsection (a).

7 (2) If the department fails to receive a timely report
8 from a municipality under this subsection, the department
9 shall provide the name of the municipality to the State
10 Treasurer.

11 (d) Duty of law enforcement officers.--A law enforcement
12 officer of a municipality who has reasonable suspicion to
13 believe that an individual under arrest is not legally present
14 in the United States shall immediately report the individual to
15 the appropriate United States Immigration and Customs
16 Enforcement Office within the Department of Homeland Security.

17 (e) Annual report to Commonwealth.--

18 (1) On or before March 1 of each year, the governing
19 body of a municipality shall report to the Department of
20 Community and Economic Development the number of reports made
21 by law enforcement officers of the municipality under
22 subsection (d).

23 (2) If the department fails to receive a timely report
24 from a municipality under this subsection, the department
25 shall provide the name of the municipality to the State
26 Treasurer.

27 (3) On or before April 1 of each year, the department
28 shall compile the reports received under this subsection and
29 submit a cumulative report to the General Assembly.

30 (f) Penalty for noncompliance.--

1 (1) Notwithstanding any other provision of law to the
2 contrary, the State Treasurer shall withhold the payment of
3 Commonwealth funds to a municipality whose name is reported
4 by the Department of Community and Economic Development to
5 the State Treasurer under this section until such time as the
6 municipality complies with this section and the department
7 notifies the State Treasurer.

8 (2) Paragraph (1) shall not apply to a payment of
9 Federal funds or a payment that is constitutionally mandated.

10 (g) Reinstatement.--The eligibility of a municipality to
11 receive Commonwealth funds may be restored if the municipality
12 demonstrates compliance with the requirements of this section. A
13 municipality determined to be in violation must provide proof
14 satisfactory to the Department of Community and Economic
15 Development that the municipality is in compliance.

16 (h) Duties of Department of Community and Economic
17 Development.--The Department of Community and Economic
18 Development shall:

19 (1) Develop procedures for reporting violations of this
20 section.

21 (2) Maintain records of all reports of alleged
22 violations and the actions taken to resolve the alleged
23 violations.

24 (3) Report municipalities in violation to the State
25 Treasurer for the purpose of withholding payment under
26 subsection (f).

27 Section 3. If any provision of this act or its application
28 to any person or circumstance is held invalid, the invalidity
29 shall not affect other provisions or applications of this act
30 which can be given effect without the invalid provision or

1 applicability.

2 Section 4. This act shall take effect in 60 days.