

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 10

Session of
2017

INTRODUCED BY RESCHENTHALER, ALLOWAY, VULAKOVICH, FOLMER, REGAN,
SCARNATI, ARGALL, MCGARRIGLE, VOGEL, BARTOLOTTA,
EICHELBERGER, AUMENT, WARD, WHITE, RAFFERTY, MARTIN, WAGNER,
DISANTO, HUTCHINSON, CORMAN, STEFANO AND YAW,
JANUARY 20, 2017

SENATOR CORMAN, RULES AND EXECUTIVE NOMINATIONS, RE-REPORTED AS
AMENDED, FEBRUARY 6, 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, further
4 providing for exceptions to governmental immunity; and, in
5 preemptions, providing for municipality of refuge.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 8542 of Title 42 of the Pennsylvania
9 Consolidated Statutes is amended by adding a subsection to read:

10 § 8542. Exceptions to governmental immunity.

11 * * *

12 (a.1) Liability imposed on municipality of refuge.--

13 Notwithstanding subsection (a), a municipality of refuge
14 shall be liable for damages on account of an injury to a
15 person or property within the limits set forth in this
16 subchapter if the injury was caused by the act of an
17 individual that was in the custody, PURSUANT TO A LAWFUL

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1 ARREST, of the law enforcement agency of the municipality of
2 refuge and was released, notwithstanding the existence of a
3 United States Immigration and Customs Enforcement civil
4 immigration detainer request for the individual.

5 (2) As used in this subsection, the term "municipality
6 of refuge" shall have the same meaning as given to the term
7 in 53 Pa.C.S. § 305 (relating to municipality of refuge).

8 * * *

9 Section 2. Title 53 is amended by adding a section to read:

10 § 305. Municipality of refuge.

11 ~~(a) Enforcement. The following shall enforce each law,~~ <--
12 ~~mandate, request and order of the Federal Government relating to~~
13 ~~immigration, if the law, mandate, request or order does not~~
14 ~~conflict with the rights guaranteed under the Constitution of~~
15 ~~the United States or the Constitution of Pennsylvania:~~

16 ~~(1) The governing body of any municipality.~~

17 ~~(2) An officer or employee of any municipality.~~

18 ~~(3) A law enforcement official or a law enforcement~~
19 ~~agency.~~

20 ~~(4) A district attorney.~~

21 ~~(b) (A) Immigration.--The governing body of any municipality~~ <--
22 ~~may not adopt a rule, order, ordinance or policy which prohibits~~
23 ~~the enforcement of a Federal law or the laws of this~~
24 ~~Commonwealth, pertaining to an immigrant or immigrations.~~

25 ~~(c) Eligibility. A law enforcement agency or municipality~~ <--
26 ~~that refuses to enforce an immigration order shall not be~~
27 ~~eligible:~~

28 ~~(1) for any State grant ; or~~

29 ~~(2) to participate in the sale of State surplus~~
30 ~~property.~~

(B) ELIGIBILITY.--

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(1) A LAW ENFORCEMENT AGENCY OR MUNICIPALITY THAT
REFUSES TO ENFORCE AN IMMIGRATION ORDER SHALL NOT BE
ELIGIBLE:

(I) FOR ANY STATE GRANT; OR

(II) TO PARTICIPATE IN THE SALE OF STATE SURPLUS
PROPERTY.

(2) THIS SUBSECTION SHALL NOT APPLY TO A LAW ENFORCEMENT
AGENCY OR MUNICIPALITY THAT HAS MADE AN ATTEMPT TO COORDINATE
WITH A FEDERAL AGENCY PURSUANT TO AN IMMIGRATION ORDER TO
TRANSFER THE CUSTODY OF A SUSPECT IN QUESTION BUT WAS UNABLE
TO DO SO WITHIN THE TIME FRAME REQUESTED BY FEDERAL
IMMIGRATION OFFICIALS UP TO A MAXIMUM OF 48 HOURS, EXCLUDING
WEEKENDS AND HOLIDAYS, OF EXTENDED CUSTODY.

~~(d)~~ (C) Reinstatement.--A law enforcement agency or
municipality that has lost eligibility under subsection ~~(e)~~ (B)
may be reinstated for eligibility by providing proof to the
appropriate State agency that it is currently enforcing
immigration orders and that it has rescinded any rule, order,
ordinance or policy described under subsection ~~(b)~~ (A).

~~(e) Applicability. This section shall not apply to an
individual or entity under subsection (a) that has made an
attempt to coordinate with a Federal agency pursuant to an
immigration order to transfer the custody of a suspect in
question but was unable to do so.~~

(D) ENFORCEMENT.--EACH STATE AGENCY AND EXECUTIVE DEPARTMENT
OFFERING STATE GRANTS OR OVERSEEING THE SALE OF STATE SURPLUS
PROPERTY TO MUNICIPALITIES SHALL REQUIRE EACH MUNICIPALITY TO
VERIFY UNDER PENALTY OF PERJURY THAT THE MUNICIPALITY IS NOT A
MUNICIPALITY OF REFUGE AND IS IN COMPLIANCE WITH SUBSECTION (A).

1 ~~(f)~~ (E) Definitions.--As used in this section, the following <--
2 words and phrases shall have the meanings given to them in this
3 subsection unless the context clearly indicates otherwise:

4 "Municipality." Any county, city, borough, incorporated
5 town, township, home rule municipality, optional plan
6 municipality, optional charter municipality or any similar
7 general purpose unit of government which may be created or
8 authorized by statute.

9 "Municipality of refuge." A municipality that permits, <--
10 REQUIRES OR REQUESTS the release of an individual in the custody
11 of the law enforcement agency of the municipality
12 notwithstanding the existence of a United States Immigration and
13 Customs Enforcement civil immigration detainer request for the
14 individual.

15 Section 3. This act shall take effect in 60 days.