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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2874 Session of  
2020

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INTRODUCED BY WARNER, BERNSTINE, DAVANZO, DOWLING, GROVE,  
HEFFLEY, JONES, KAUFFMAN, KEEFER, MACKENZIE, MILLARD, MOUL,  
NELSON, RYAN, SAYLOR, SCHMITT AND ZIMMERMAN,  
SEPTEMBER 18, 2020

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REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 18, 2020

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AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania  
2 Consolidated Statutes, in preemptions, providing for  
3 exceptions to governmental immunity, preemption and  
4 cooperation.

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

7 Section 1. Title 53 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a section to read:

9 § 306. Exceptions to governmental immunity, preemption and  
10 cooperation.

11 (a) Preemption.--A municipality may not adopt or enforce a  
12 policy that prohibits or materially limits a law enforcement  
13 agency, law enforcement officer, corrections officer, parole  
14 officer, judicial officer or judicial staff from enforcing  
15 immigration laws, including the following:

16 (1) Compliance with subsection (b).

17 (2) Assisting or cooperating with an officer from the  
18 United States Citizenship and Immigration Services, United

1 States Immigration and Customs Enforcement or another Federal  
2 agency regarding immigration laws, including providing  
3 enforcement assistance.

4 (3) Permitting an officer from the United States  
5 Citizenship and Immigration Services, United States  
6 Immigration and Customs Enforcement or another Federal agency  
7 to enter a county correctional institution, including for the  
8 purpose of interviewing an individual in custody at the  
9 institution or enforcing immigration laws.

10 (4) Inquiring into the immigration status of an  
11 individual in custody.

12 (5) With respect to information relating to the release  
13 date or immigration status of an individual in custody,  
14 including information relating to name, date and place of  
15 birth:

16 (i) Sending the information to or requesting or  
17 receiving the information from the United States  
18 Citizenship and Immigration Services, United States  
19 Immigration and Customs Enforcement or another Federal  
20 agency.

21 (ii) Maintaining the information.

22 (iii) Exchanging the information with another  
23 municipality or Federal or State agency.

24 (b) Cooperation.--

25 (1) Except as provided in paragraph (3), a law  
26 enforcement agency or municipality that has custody of an  
27 individual subject to an immigration detainer request issued  
28 by the United States Immigration and Customs Enforcement  
29 shall:

30 (i) Comply with, honor and fulfill any request made

1 in the detainer request.

2 (ii) Inform the individual that the individual is  
3 being held pursuant to an immigration detainer request  
4 issued by the Federal Government.

5 (2) A law enforcement agency or municipality shall  
6 provide any information requested by the United States  
7 Citizenship and Immigration Services, United States  
8 Immigration and Customs Enforcement or another Federal agency  
9 relating to the release date or immigration status of any  
10 individual in its custody, including information relating to  
11 name, date and place of birth.

12 (3) Paragraph (1) shall not apply if an individual  
13 provides proof that the individual is a citizen of the United  
14 States or has lawful immigration status in the United States.

15 (c) Denial of State funds.--

16 (1) Notwithstanding any other provision of law, a  
17 municipality may not receive State funds if the municipality  
18 adopts, enforces or endorses a policy under which the  
19 municipality prohibits or discourages the enforcement of  
20 immigration laws or, by consistent actions, prohibits or  
21 discourages the enforcement of immigration laws.

22 (2) State funds for a municipality shall be denied for  
23 the fiscal year following the year in which the municipality  
24 adopted, enforced or endorsed a policy under which the  
25 municipality prohibited or discouraged the enforcement of  
26 immigration laws or, by consistent actions, prohibited or  
27 discouraged the enforcement of immigration laws.

28 (d) Exceptions to governmental immunity related to aliens.--

29 A municipality shall be liable for damages on account of an  
30 injury to a person or property as a result of criminal activity

1 by an alien if all of the following conditions are satisfied:

2 (1) Prior to engaging in the criminal activity, the  
3 alien was released from custody by a law enforcement agency  
4 of the municipality in disregard of an immigration detainer  
5 request.

6 (2) The alien is convicted of criminal charges stemming  
7 from the criminal activity.

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

11 "Corrections officer." As defined in 61 Pa.C.S. § 102  
12 (relating to definitions).

13 "County correctional institution." As defined in 61 Pa.C.S.  
14 § 102.

15 "Immigration detainer request." A request by a Federal  
16 agency to maintain temporary custody of an alien, including a  
17 United States Homeland Security Form I-247 document or a similar  
18 or successor form.

19 "Immigration laws." Federal laws, regulations and policy  
20 memoranda relating to aliens, immigrants or immigration,  
21 including the Immigration and Nationality Act (66 Stat. 163, 8  
22 U.S.C. § 1101 et seq.) and 8 CFR (relating to aliens and  
23 nationality).

24 "Judicial officer." As defined in 42 Pa.C.S. § 102 (relating  
25 to definitions).

26 "Judicial staff." Administrative staff, as that term is  
27 defined in 42 Pa.C.S. § 102.

28 "Law enforcement agency." The Office of Attorney General, a  
29 district attorney's office or an agency that employs a law  
30 enforcement officer.

1 "Law enforcement officer." An officer of the United States,  
2 another state or political subdivision thereof, or of the  
3 Commonwealth or political subdivision thereof, who is empowered  
4 by law to conduct investigations of or to make arrests for  
5 offenses enumerated in 18 Pa.C.S. (relating to crimes and  
6 offenses) or an equivalent crime in another jurisdiction and any  
7 attorney authorized by law to prosecute or participate in the  
8 prosecution of an offense.

9 "Municipality." A county, city, borough, incorporated town,  
10 township, home rule municipality, optional plan municipality,  
11 optional charter municipality or a similar general purpose unit  
12 of government created or authorized by statute.

13 "Parole officer." A State parole agent appointed by the  
14 Pennsylvania Board of Probation and Parole or a county probation  
15 or parole officer of the Commonwealth.

16 "Policy." An ordinance, resolution, regulation, rule,  
17 practice or other action, whether formal or informal,  
18 promulgated or enforced by a municipality.

19 Section 2. If any provision of this act or its application  
20 to any person or circumstance is held invalid, the invalidity  
21 shall not affect other provisions or applications of this act  
22 which can be given effect without the invalid provision or  
23 applicability.

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