
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 146 Session of
2021

INTRODUCED BY AUMENT AND MENSCH, JUNE 22, 2021

REFERRED TO JUDICIARY, JUNE 22, 2021

A RESOLUTION

1 Directing the Legislative Budget and Finance Committee to
2 conduct a study of the current limitations on liability under
3 42 Pa.C.S. § 8528 and issue a report of its findings and
4 recommendations to the Senate.

5 WHEREAS, In May 1978, the Joint State Government Commission
6 issued a report of the recommendations of the Task Force on
7 Sovereign Immunity in light of the Pennsylvania Supreme Court's
8 holding in *Brown v. Commonwealth*, 453 Pa. 566 (1973), suggesting
9 that the General Assembly provide for waiver of sovereign
10 immunity; and

11 WHEREAS, The Task Force on Sovereign Immunity, upon
12 completing its review, reaffirmed and resolved to retain the
13 Commonwealth's sovereign immunity and to allow for specific
14 limited waivers; and

15 WHEREAS, The Task Force on Sovereign Immunity recommended
16 that the maximum recovery for any plaintiff under the eight
17 aforementioned areas of liability be limited to \$250,000 and
18 that the maximum liability exposure for the Commonwealth be
19 limited to \$1 million per event or occurrence and recommended

1 that recovery be limited to specific types of damages; and

2 WHEREAS, The Task Force on Sovereign Immunity found both
3 constitutional authority and strong public policy in favor of
4 the proposed limitations on liability; and

5 WHEREAS, Among other things, the Task Force on Sovereign
6 Immunity stated that "in the case of a suit against an
7 individual or a corporation, recovery in most instances is
8 effectively limited by the insurance coverage of the defendant;
9 where the ultimate recovery exceeds insurance coverage, a
10 further practical limitation exists to the extent of any
11 defendant's resources. In the case of a sovereign with public
12 taxing powers, the absence of a statutory limitation on recovery
13 would make the liability exposure in each individual case
14 theoretically unlimited"; and

15 WHEREAS, On April 19, 1978, the Task Force on Sovereign
16 Immunity's recommendations were introduced in the House of
17 Representatives as House Bill No. 2437, Printer's No. 3135; and

18 WHEREAS, In 1978, the General Assembly enacted Act 330 of
19 1978 waiving the Commonwealth's sovereign immunity in certain
20 limited circumstances and limiting its liability under 42
21 Pa.C.S. §§ 8522 and 8528; and

22 WHEREAS, These limits have not been altered since 1978 and in
23 a series of cases, including *Zauflik v. Pennsbury Sch. Dist.*,
24 104 A.3d 1096, 1100 (2014) and *Grove v. Port Auth. of Allegheny*
25 *County*, 218 A.3d 877 (Pa. 2019), the Pennsylvania Supreme Court
26 questioned whether the current statutory limitations on
27 liability infringe on the constitutional right to a jury trial
28 guaranteed by section 6 of Article I of the Constitution of
29 Pennsylvania; and

30 WHEREAS, The Pennsylvania Supreme Court has also affirmed the

1 greater capacity of the Legislature to evaluate complex
2 questions of public policy to establish limits on the liability
3 of local governments and the Commonwealth in negligence cases;
4 and

5 WHEREAS, Section 11 of Article I of the Constitution of
6 Pennsylvania vests the Legislature with the sole authority to
7 waive the Commonwealth's sovereign immunity and with that the
8 sole authority to determine the scope of any waiver; and

9 WHEREAS, The Senate believes that it is important, having
10 agreed to waive the Commonwealth's liability in certain limited
11 circumstances, to revisit and reexamine whether it is in the
12 interests of this Commonwealth's residents for the limitations
13 on liability originally enacted, and as amended, to remain in
14 place or be again altered, taking into account the interests of
15 litigants, the public and the impact that any change may have
16 upon the Commonwealth's budget and the services, benefits and
17 programs the Commonwealth offers and provides to its residents;
18 therefore be it

19 RESOLVED, That the Senate direct the Legislative Budget and
20 Finance Committee to conduct a study of the current limitations
21 on liability under 42 Pa.C.S. § 8528 and issue a report of its
22 findings and recommendations to the Senate; and be it further

23 RESOLVED, That the Legislative Budget and Finance Committee's
24 study and report take into account the interests of litigants,
25 the public and the impact any changes may have upon the
26 Commonwealth's budget and the services, benefits and programs it
27 offers and provides to its residents; and be it further

28 RESOLVED, That the Legislative Budget and Finance Committee
29 report its findings to the General Assembly no later than June
30 30, 2022.