
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1604 Session of
2017

INTRODUCED BY RABB, V. BROWN, YOUNGBLOOD, DONATUCCI AND
McCLINTON, JUNE 22, 2017

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 22, 2017

AN ACT

1 Providing for extent of cooperation between certain law
2 enforcement agencies and Federal immigration authorities;
3 prohibiting certain acts by law enforcement agencies and
4 postsecondary institutions; and providing for policies
5 limiting assistance with immigration enforcement.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Police and
10 Community Safety Act.

11 Section 2. Legislative findings.

12 The General Assembly finds as follows:

13 (1) Immigrants are valuable and essential members of
14 this Commonwealth.

15 (2) A relationship of trust between Pennsylvania's
16 immigrant community and State and local agencies is central
17 to the public safety of the people of this Commonwealth.

18 (3) This trust is threatened when State and local
19 agencies are entangled with Federal immigration enforcement,

1 with the result that immigrant community members fear
2 approaching police when they are victims of and witnesses to
3 crimes, seeking basic health services or attending school, to
4 the detriment of public safety and the well-being of all
5 citizens of this Commonwealth.

6 (4) Entangling State and local agencies with Federal
7 immigration enforcement programs diverts already limited
8 resources and blurs the lines of accountability between
9 Federal, State and local governments.

10 (5) State and local participation in Federal immigration
11 enforcement programs also raises constitutional concerns,
12 including the prospect that Commonwealth residents could be
13 detained in violation of the Fourth Amendment to the
14 Constitution of the United States, targeted on the basis of
15 race or ethnicity in violation of the Equal Protection Clause
16 or denied access to education based on immigration status.

17 (6) This act seeks to ensure effective policing to
18 protect the safety, well-being and constitutional rights of
19 the residents of this Commonwealth and to direct the State's
20 limited resources to matters of greatest concern to State and
21 local governments.

22 Section 3. Definitions.

23 The following words and phrases when used in this act shall
24 have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 "Civil immigration warrant." A warrant for a violation of
27 Federal civil immigration law. The term includes a civil
28 immigration warrant entered in the National Crime Information
29 Center database.

30 "Federal immigration authority." An officer, employee or

1 person otherwise paid by or acting as an agent of the United
2 States Immigration and Customs Enforcement or the United States
3 Customs and Border Protection, or any division thereof, or other
4 officer, employee or person otherwise paid by or acting as an
5 agent of the United States Department of Homeland Security who
6 is charged with immigration enforcement.

7 "Hold request." A Federal Immigration and Customs
8 Enforcement request that a local law enforcement agency maintain
9 custody of an individual currently in the local law enforcement
10 agency's custody beyond the time the individual would otherwise
11 be eligible for release in order to facilitate transfer to
12 Immigration and Customs Enforcement. The term includes, but is
13 not limited to, the United States Department of Homeland
14 Security.

15 "Immigration enforcement." An effort to investigate, enforce
16 or assist in the investigation or enforcement of a Federal civil
17 immigration law. The term includes an effort to investigate,
18 enforce or assist in the investigation or enforcement of a
19 Federal criminal immigration law that penalizes a person's
20 presence in, entry or reentry to or employment in, the United
21 States, including, but not limited to, a violation of 8 U.S.C. §
22 1253 (relating to penalties related to removal), 1324c (relating
23 to penalties for document fraud), 1325 (relating to improper
24 entry by alien) or 1326 (relating to reentry of removed aliens).

25 "Joint law enforcement task force." A law enforcement agency
26 collaborating, engaging or partnering with a Federal law
27 enforcement agency in investigating, interrogating, detaining,
28 detecting or arresting persons for violations of Federal or
29 State criminal offenses.

30 "Judicial warrant." A warrant based on probable cause and

1 issued by a Federal judge or a United States magistrate judge
2 who authorizes Federal immigration authorities to take into
3 custody the individual who is the subject of the warrant.

4 "Law enforcement agency." A State or local law enforcement
5 agency. The term includes school police or a security
6 department.

7 "Notification request." An Immigration and Customs
8 Enforcement request that a local law enforcement agency inform
9 Immigration and Customs Enforcement of the release date and time
10 in advance of an individual in the local law enforcement
11 agency's custody. The term includes, but is not limited to, DHS
12 Form I-247N.

13 "Public schools." All public elementary and secondary
14 schools under the jurisdiction of the Department of Education,
15 charter schools, the State-related universities, universities
16 within the State System of Higher Education and community
17 colleges of this Commonwealth.

18 "School police and security departments." Police and
19 security departments of public schools.

20 "Transfer request." An Immigration and Customs Enforcement
21 request that a local law enforcement agency facilitate the
22 transfer of an individual in the local law enforcement agency's
23 custody to Immigration and Customs Enforcement. The term
24 includes, but is not limited to, DHS Form I-247X.

25 Section 4. Prohibited action by law enforcement agencies.

26 (a) General rule.--Law enforcement agencies may not do any
27 of the following:

28 (1) Use agency or department money, facilities,
29 property, equipment or personnel to investigate, interrogate,
30 detain, detect or arrest persons for immigration enforcement

1 purposes, including, but not limited to, any of the
2 following:

3 (i) Inquiring into or collecting information about
4 an individual's immigration status, except as required to
5 comply with 18 U.S.C. § 922(d)(5) (relating to unlawful
6 acts).

7 (ii) Detaining an individual on the basis of a hold
8 request.

9 (iii) Responding to requests for notification or
10 transfer requests.

11 (iv) Providing or responding to requests for
12 nonpublicly available personal information about an
13 individual, including, but not limited to, information
14 about the individual's release date, home address or work
15 address for immigration enforcement purposes.

16 (v) Making arrests based on civil immigration
17 warrants.

18 (vi) Giving Federal immigration authorities access
19 to individuals in agency or department custody for
20 immigration enforcement purposes.

21 (vii) Performing the functions of an immigration
22 officer, whether under 8 U.S.C. § 1357(g) (relating to
23 powers of immigration officers and employees) or any
24 other law, regulation or policy, whether formal or
25 informal.

26 (2) (i) Make agency or department databases, including
27 databases maintained for the agency or department by
28 private vendors, or the information in the databases
29 other than information regarding an individual's
30 citizenship or immigration status, available to any

1 person for the purpose of immigration enforcement.

2 (ii) An agreement in existence on the effective date
3 of this section that conflicts with the terms of this
4 paragraph is terminated.

5 (iii) A person or entity provided access to an
6 agency or department database shall certify in writing
7 that the database will not be used for the purposes
8 prohibited by this section.

9 (3) Place peace officers under the supervision of
10 Federal agencies or employ peace officers deputized as
11 special Federal officers or special Federal deputies, except
12 to the extent those peace officers remain subject to the laws
13 of this Commonwealth, governing conduct of peace officers and
14 the policies of the employing agency.

15 (4) Use Federal immigration authorities as interpreters
16 for law enforcement matters relating to individuals in agency
17 or department custody.

18 (b) Construction.--Nothing in this section shall be
19 construed to prevent a law enforcement agency from doing any of
20 the following:

21 (1) Responding to a request from Federal immigration
22 authorities for information about a specific person's
23 criminal history, including previous criminal arrests,
24 convictions and similar criminal history information where
25 otherwise permitted by State law.

26 (2) Participating in a joint law enforcement task force
27 so long as the purpose of the joint law enforcement task
28 force is not immigration enforcement.

29 (c) Reports relating to joint law enforcement task forces.--

30 (1) If a law enforcement agency chooses to participate

1 in a joint law enforcement task force, the law enforcement
2 agency shall submit a report every six months to the Office
3 of Attorney General, as specified by the Attorney General.

4 (2) The reporting agency or the Attorney General may
5 determine that a report, in whole or in part, is not a public
6 record for the purposes of the act of February 14, 2008
7 (P.L.6, No.3), known as the Right-to-Know Law, to prevent the
8 disclosure of sensitive information, including, but not
9 limited to, an ongoing operation or a confidential informant.

10 (d) Report by Attorney General.--

11 (1) The Attorney General, within 14 months after the
12 effective date of this section and twice a year thereafter,
13 shall report on the type and frequency of joint law
14 enforcement task forces. The report shall include, for the
15 reporting period, assessments on compliance with subsection

16 (b) (2) :

17 (i) a list of all law enforcement agencies that
18 participate in joint law enforcement task forces;

19 (ii) a list of joint law enforcement task forces
20 operating in this Commonwealth and their purposes;

21 (iii) the number of arrests made associated with
22 joint law enforcement task forces for the violation of
23 Federal or State crimes; and

24 (iv) the number of arrests made associated with
25 joint law enforcement task forces for the purpose of
26 immigration enforcement by all joint law enforcement task
27 force participants, including Federal law enforcement
28 agencies.

29 (2) The Attorney General shall post the reports required
30 by this subsection on the Attorney General's publicly

1 accessible Internet website.

2 (e) Judicial warrant required for certain acts.--

3 Notwithstanding any other law, in no event may a law enforcement
4 agency transfer an individual to Federal immigration authorities
5 for purposes of immigration enforcement or detain an individual
6 at the request of Federal immigration authorities for purposes
7 of immigration enforcement absent a judicial warrant.

8 (f) Construction.--Nothing in this section shall be

9 construed to prohibit or restrict a government entity or
10 official from sending to or receiving from Federal immigration
11 authorities information regarding the citizenship or immigration
12 status, lawful or unlawful, of an individual under 8 U.S.C. §§
13 1373 (relating to communication between government agencies and
14 the Immigration and Naturalization Service) and 1644 (relating
15 to communication between State and local government agencies and
16 Immigration and Naturalization Service).

17 Section 5. Policies limiting assistance with immigration
18 enforcement.

19 (a) Duty of Attorney General.--The Attorney General, within
20 three months after the effective date of this section, in
21 consultation with appropriate stakeholders, shall publish model
22 policies limiting assistance with immigration enforcement to the
23 fullest extent possible consistent with Federal and State law at
24 public schools, health facilities operated by the State or a
25 political subdivision, courthouses and shelters and that the
26 public schools, health facilities, courthouses and shelters
27 remain safe and accessible to all residents of this
28 Commonwealth, regardless of immigration status.

29 (b) Adoption of policies.--

30 (1) Public schools and health facilities operated by the

1 State or a political subdivision and courthouses shall adopt
2 one of the model policies published in accordance with
3 subsection (a) or an equivalent policy.

4 (2) All other organizations and entities that provide
5 services related to physical or mental health and wellness,
6 education or access to justice are encouraged to adopt the
7 model policy.

8 Section 6. Release of inmates.

9 (a) State correctional institutions.--

10 (1) The Board of Parole and the Department of
11 Corrections shall notify the Federal Bureau of Investigation
12 of the scheduled release of all persons confined to State
13 correctional institutions serving a term for the conviction
14 of a crime of violence as defined in 42 Pa.C.S. § 9714(g)
15 (relating to sentences for second and subsequent offenses).

16 (2) The notification shall be made at least 60 days
17 prior to the scheduled release date or as soon as practicable
18 if notification cannot be provided at least 60 days prior to
19 release.

20 (3) The only nonpublicly available personal information
21 that the notification may include is the name of the person
22 who is scheduled to be released and the scheduled date of
23 release.

24 (b) County correctional institutions.--

25 (1) Whenever a person confined to a county correctional
26 institution is serving a term for the conviction of an
27 offense and has a prior conviction a for crime of violence as
28 defined in 42 Pa.C.S. § 9714(g) or has a prior felony
29 conviction in another jurisdiction for an offense that has
30 all the elements of a crime of violence, the chief

1 administrator of the county correctional institution may
2 notify the Federal Bureau of Investigation of the scheduled
3 release of the person, provided that no local law or policy
4 prohibits the sharing of the information with either the
5 Federal Bureau of Investigation or Federal immigration
6 authorities.

7 (2) The notification may be made up to 60 days prior to
8 the scheduled release date.

9 (3) The only nonpublicly available personal information
10 that the notification may include is the name of the person
11 who is scheduled to be released and the scheduled date of
12 release.

13 Section 7. Prohibited action by postsecondary institutions.

14 (a) General rule.--No public or private postsecondary
15 institution in this Commonwealth, whether acting by or through
16 its governing body or officers, may enact, adopt, implement or
17 enforce a policy that relates to immigration enforcement or that
18 prohibits an undocumented immigrant on the premises of the
19 institution.

20 (b) Penalty.--A private postsecondary institution that
21 violates subsection (a) shall be subject to the withholding of
22 State funding or State-administered Federal funding. The
23 withholding of State funding shall include funds provided to the
24 private postsecondary institution directly as well as funding
25 for scholarships, loans and grants under this act for students
26 of the private postsecondary institution.

27 Section 8. Effective date.

28 This act shall take effect in 60 days.