

**New Immunity Exception under Pennsylvania’s Political Subdivision  
Tort Claims Act Expands Municipal Liability Exposure**

Except for specified exceptions, under Pennsylvania’s Political Subdivision Tort Claims Act, (“Tort Claims Act”) “no local agency shall be liable for any damages on account of an injury to person or property caused by an act of the local agency or an employee thereof or any other person.” 42 Pa. C.S. § 8541. An important new immunity exception was added to that list on November 26, 2019, when Governor Wolf signed Act 87 of 2019, which added “sexual abuse” as a new immunity exception to the Tort Claims Act.

Per newly added §8542(9), “sexual abuse” is defined as “conduct which constitutes an offense enumerated under [42 Pa. C.S.A.] §5551(7) (relating to no limitation applicable) if the injuries to the plaintiff were caused by actions or omissions of the local agency which constitute negligence.” 42 Pa. C.S. § 8542(b)(9). The offenses which fall within the new immunity exception consist of the following sex crimes involving minor victims as listed in §5551(7): human trafficking; sexual servitude; rape; statutory sexual assault; involuntary deviate sexual intercourse; sexual assault; institutional sexual assault; aggravated indecent assault; and, incest. 42 Pa. C.S. § 5551(7). This new immunity exception exposes municipalities and local government agencies to liability for their negligent failure to prevent, detect or stop the commission of these criminal acts where the victim is a minor.

Importantly, the new sexual abuse immunity exception is not subject to the \$500,000 damages cap that is applicable to all other immunity exceptions under the Tort Claims Act. 42 Pa. C.S. § 8553(e). Therefore, municipalities and local governments are exposed to unlimited liability for damages under this exception. This important change in the law, including changes in the statute of limitations period, will be discussed more in depth in the upcoming PELRAS Update Newsletter.