

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1888**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 3, 1996

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No.1888 with committee amendments.

Assembly Bill No.1888, as amended by the committee, amends the "New Jersey Tort Claims Act," specifically N.J.S.59:5-2, to clarify that a law enforcement officer involved in the pursuit of a person will not be liable for any injuries arising out of that pursuit. The immunity afforded law enforcement officers under this amendment also extends to public entities. The committee amendments clarify that the protections apply (1) to all pursuits, not just motor vehicle pursuits of fleeing suspects and (2) injuries caused by persons evading arrest as well as resisting arrest. The committee also amended the bill to remove the proposed amendatory phrase "[e]xcept as provided in N.J.S.59:5-2" from subsection b. of R.S.39:4-91 and added a new sentence at the end of the subsection. The new sentence was incorporated to clarify that nothing in the section should be construed to limit any immunity or defense otherwise provided by law.

It is the committee's understanding that this amendment will statutorily codify the New Jersey Supreme Court's 1995 determination in Felder v. Stonack. In that case, the court ruled that a law enforcement officer engaged in a motor vehicle pursuit was not liable for any injuries arising out of that pursuit unless those injuries were the result of "willful misconduct" on the part of the officer. The provisions of this bill are consistent with the court's ruling since the immunities afforded under chapter 3, section 14 of the "New Jersey Tort Claims Act" (N.J.S.59:3-14) states:

59:3-14. Public employee immunity--exception

a. Nothing in this act shall exonerate a public employee from liability if it is established that his conduct was outside the scope of his employment or constituted a crime, actual fraud, actual malice or willful misconduct.

b. Nothing in this act shall exonerate a public employee from the full measure of recovery applicable to a person in the private sector if it is established that his conduct was outside the scope of his employment or constituted a crime, actual fraud, actual malice or willful misconduct.