

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 1888**

# **STATE OF NEW JERSEY**

DATED: MAY 15, 1997

The Senate Law and Public Safety Committee reports favorably Assembly Bill No. 1888 (1R).

Assembly Bill No.1888 (1R) 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 to (1) all pursuits, not just motor vehicle pursuits of fleeing suspects and (2) injuries caused by persons evading arrest as well as resisting arrest. The bill also clarifies that nothing in R.S.39:4-91 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 Fielder 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.