

**Introduced by Senator Perata**

February 22, 2001

---

---

An act to amend Section 1714.9 of the Civil Code, relating to liability.

LEGISLATIVE COUNSEL'S DIGEST

SB 448, as introduced, Perata. Liability: injures: peace officers: firefighters: emergency personnel.

Existing law provides that any person is responsible not only for the results of that person's willful acts causing injury to a peace officer, firefighter, or any emergency medical personnel employed by a public entity, but also for any injury occasioned to that person by the want of ordinary care or skill in the management of the person's property or person. This liability occurs where, among other situations, the conduct causing the injury occurs after the person knows or should have known of the presence of the peace officer, firefighter, or emergency medical personnel, violates a statute, ordinance, or regulation, and was the proximate cause of an injury which the statute, ordinance, or regulation was designed to prevent, and the statute, ordinance, or regulation was designed to protect the peace officer, firefighter, or emergency medical personnel.

This bill would revise this provision to require that the conduct causing injury be one that violates a statute, ordinance, or regulation, and that the conduct causing the injury was itself not the event that precipitated either the response or presence of the peace officer, firefighter, or emergency medical personnel.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1714.9 of the Civil Code is amended to  
2 read:

3 1714.9. (a) Notwithstanding statutory or decisional law to  
4 the contrary, any person is responsible not only for the results of  
5 that person’s willful acts causing injury to a peace officer,  
6 firefighter, or any emergency medical personnel employed by a  
7 public entity, but also for any injury occasioned to that person by  
8 the want of ordinary care or skill in the management of the person’s  
9 property or person, in any of the following situations:

10 (1) Where the conduct causing the injury occurs after the  
11 person knows or should have known of the presence of the peace  
12 officer, firefighter, or emergency medical personnel.

13 (2) ~~Where the conduct causing the injury occurs after the~~  
14 ~~person knows or should have known of the presence of the peace~~  
15 ~~officer, firefighter, or emergency medical personnel, violates a~~  
16 ~~statute, ordinance, or regulation, and was the proximate cause of~~  
17 ~~an injury which the statute, ordinance, or regulation was designed~~  
18 ~~to prevent, and the statute, ordinance, or regulation was designed~~  
19 ~~to protect the peace officer, firefighter, or emergency medical~~  
20 ~~personnel.~~

21 *As used in this subdivision, a statute, ordinance, or regulation*  
22 *prohibiting resistance or requiring a person to comply with an*  
23 *order of a peace officer or firefighter is designed to protect the*  
24 *peace officer, firefighter, or emergency medical personnel. Where*  
25 *the conduct causing injury violates a statute, ordinance, or*  
26 *regulation, and the conduct causing injury was itself not the event*  
27 *that precipitated either the response or presence of the peace*  
28 *officer, firefighter, or emergency medical personnel.*

29 (3) Where the conduct causing the injury was intended to injure  
30 the peace officer, firefighter, or emergency medical personnel.

31 (4) Where the conduct causing the injury is arson as defined in  
32 Section 451 of the Penal Code.

33 (b) This section does not preclude the reduction of an award of  
34 damages because of the comparative fault of the peace officer or  
35 firefighter in causing the injury.

36 (c) The employer of a firefighter, peace officer or emergency  
37 medical personnel may be subrogated to the rights granted by this  
38 section to the extent of the worker’s compensation benefits, and



1 other liabilities of the employer, including all salary, wage,  
2 pension, or other emolument paid to the employee or the  
3 employee's dependents.

4 (d) The liability imposed by this section shall not apply to an  
5 employer of a peace officer, firefighter, or emergency service  
6 personnel.

O

