



1-1-1970

Torts Review of Selected 1970 California Legislation

University of the Pacific; McGeorge School of Law

Follow this and additional works at: <https://scholarlycommons.pacific.edu/mlr>

 Part of the [Legislation Commons](#)

Recommended Citation

University of the Pacific; McGeorge School of Law, *Torts Review of Selected 1970 California Legislation*, 2 PAC. L. J. 464 (1971).
Available at: <https://scholarlycommons.pacific.edu/mlr/vol2/iss1/33>

This Greensheet is brought to you for free and open access by the Journals and Law Reviews at Scholarly Commons. It has been accepted for inclusion in McGeorge Law Review by an authorized editor of Scholarly Commons. For more information, please contact mgibney@pacific.edu.

Torts

Minor's Torts; parental liability

Civil Code §1714.1 (amended).

AB 1666; STATS 1970, Ch 640

This amendment to Section 1714.1 increases the maximum amount for which a parent may be liable for his child's torts. Section 1714.1 applies when a minor by willful misconduct causes injury or death to another, or injures the property of another. These injuries are imputed to the parents having custody or control of the minor. Each parent is jointly and severally liable for such torts subject to the following statutory limitations. For each such tort committed by the minor the injured party may collect a maximum of \$1000 for any damage, and in the case of injury to a person, such imputed liability shall be further limited to medical, dental, and hospital expenses not to exceed \$1000. Section 1714.1 previously limited the parents' liability to \$500 for each such tort.

References:

- 1) 2 WITKIN, SUMMARY OF CALIFORNIA LAW, *Torts* §308 (Supp. 1969).
- 2) Comment, *Insurance: Liability of Insurer Under Personal Liability Policy for Damage Caused by Willful Misconduct of Insured's Child—Application of New California Statute*, 7 HAST. L.J. 98 (1955).
- 3) Annot., 8 A.L.R.3d 612 (1966).

Parents' Liability for Conduct of Minor; discharge of firearms

Civil Code §1714.3 (new).

SB 760; STATS 1970, Ch 843

Section 1714.3 is added to the Civil Code to provide that "[c]ivil liability for any injury to the person or property of another proximately caused by the discharge of a firearm by a minor under the age of 15 years shall be imputed to a parent or guardian having custody or control of the minor for all purposes of civil damages, and such parent or guardian shall be jointly and severally liable with such minor for any damages resulting from such act, if such parent or guardian either permitted the minor to have the firearm or left the firearm in a place accessible to the minor."

The act also provides that any liability imposed by this Section is in addition to any liability presently imposed by law. The liability imposed under this Section for any person, or group of persons collectively, is limited to \$15,000 for injury to or death of one person as a result of any occurrence, or \$30,000 for injury to or death of all persons as a result of any one such occurrence. (*See Civil Code Section 1714.1 for the liability of the parent for wilful misconduct of the minor.*)

It is unclear from the language of this Section whether liability attaches to all injuries caused by the minor or only to those injuries caused by the minor's tortious conduct. The Section states "[c]ivil liability for any injury . . . shall be imputed to a parent or guardian . . . for any damages resulting from such act" Normally it is the act that is imputed. If the minor's act is not tortious (*e.g., unavoidable accident*) it would appear that the parent might not be liable. One possible clue to legislative intent is to compare Section 1714.3 with an existing Section. Vehicle Code Section 17707 states that "[a]ny civil liability of a minor . . . is hereby imposed upon the parents . . . for any damages proximately resulting from the negligent or wrongful act or omission of the minor in driving a motor vehicle." It is apparent from this statute that only tortious conduct is imputed to the parents.

Whether the legislature, by failure to specify that only tortious conduct will be imputed to the parent, meant to impute all acts causing damage is a question left unanswered by the new legislation.

References:

- 1) CAL. CIV. CODE §1714.1; CAL. PENAL CODE §12072, 12550; CAL. VEHICLE CODE §§17707, 17708.
- 2) CONTINUING EDUCATION OF THE BAR, REVIEW OF SELECTED 1965 CODE LEGISLATION, 56; 1 CALIFORNIA FAMILY LAWYER §7.38, CONTINUING EDUCATION OF THE BAR (1962).

Landowner Liability for Injury to Recreational Users of Unimproved Lands

Civil Code §846 (amended); Government Code §831.4 (amended).
SB 291; STATS 1970, Ch 807

Chapter 807 further limits the liability of landowners to recreational users of unimproved lands. Before the amendment, Section 846 declared that the landowner owed no duty of care to keep the premises safe for entry or use, and owed no duty to warn of hazardous conditions or activities to those who came upon the land for fishing, hunting, camping, water sports, or hiking. This provision is amended to include riding.

The Section also contains a provision that a landowner who gives permission to enter for recreational purposes does not extend assurance that the premises are safe for such purposes; designate the permittee as a licensee or invitee; or assume liability or responsibility for the permittee's acts. This provision originally applied to fishing, hiking, hunting, camping and sightseeing; this has been expanded to include water sports and riding.

The third part of the Section provides that it does not limit the liability which otherwise exists for: a) malicious failure to warn or guard against dangerous conditions; b) for injury suffered where permission was granted for consideration (except for consideration paid by the state). This originally applied to permission granted for fishing, hunting, camping, hiking or sightseeing. Water sports and riding have been added.

Section 831.4 of the Government Code provides that a public entity is not liable for injury caused by a condition of any of the following: 1) An unpaved road providing access to certain areas, which is not a city street, a city, county, state or federal highway or a public street or highway of a joint district formed for the improvement of public streets or highways. Before the amendment, this applied only to areas for fishing, hunting, camping and scenic or recreational areas. This amendment adds areas for hiking, riding and water sports within its application.

2) Travel on any open trail. This was originally limited to hiking, riding, fishing and hunting trails and is amended to include trails used for camping, water sports, and access to recreational or scenic areas.

References:

- 1) 2 WITKIN, SUMMARY OF CALIFORNIA LAW, *Torts*, §255 (7th ed. 1960); (Supp. 1969).
- 2) Comment, *Selected 1963 Legislation*, 38 CAL. S.B.J. 647 (1963).

Emergency Care; liability of dentists

Business and Professions Code §1627.5 (amended).

AB 398; STATS 1970, Ch 454

A dentist will no longer be held civilly liable for emergency care he provides at the request of another dentist where the emergency care arises from prior care of the requesting dentist. Before the enactment of Chapter 454 a dentist could not be held civilly liable for damages for emergency services performed outside the place of his practice if he

rendered the services in good faith. The amendment extends the applicability of the statute to include the situation where another dentist requests this particular dentist to render emergency care under the circumstances described above.