

AMENDED IN ASSEMBLY APRIL 22, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2475**

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**Introduced by Assembly Member Beall**

February 19, 2010

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An act to add Section 43.94 to the Civil Code, relating to immunity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2475, as amended, Beall. Judicial immunity.

Existing law grants immunity from civil suit to judges for acts performed in the exercise of their judicial functions. Under the concept of quasi-judicial immunity, this absolute judicial immunity has been extended to persons other than judges if those persons act in a judicial or quasi-judicial capacity, including neutral 3rd parties engaged in attempts to settle disputes.

This bill would provide that the doctrine of judicial immunity or quasi-judicial immunity shall not apply to exonerate any 3rd party who is engaged in mediation, conciliation, evaluation, or similar dispute resolution efforts under any statute or contract *relating to an action or proceeding under the Family Code* from liability for any act performed within that capacity. *The bill would apply only to private persons appointed by the courts for their expertise, including mediators, guardians ad litem, therapists, receivers, and bankruptcy trustees, and to persons involved in alternative methods of dispute resolution who function apart from the courts pursuant to private agreement, including mediators, conciliators, evaluators, and marriage and family therapists.*

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 43.94 is added to the Civil Code, to read:

2 43.94. (a) The doctrine of judicial immunity or quasi-judicial  
3 immunity shall not apply to exonerate any third party who is  
4 engaged in mediation, conciliation, evaluation, or similar dispute  
5 resolution efforts under any statute or contract *relating to an action*  
6 *or proceeding under the Family Code* from liability for any act  
7 performed within that capacity.

8 ~~(b) This section shall apply, but not be limited, to all of the~~  
9 ~~following:~~

10 ~~(1) Mediators, guardians ad litem, therapists, receivers,~~  
11 ~~bankruptcy trustees, and other persons appointed by the courts for~~  
12 ~~their expertise.~~

13 ~~(2) Persons whose work product comes into the judicial process~~  
14 ~~to be used by the court even though they were not court-appointed,~~  
15 ~~such as social workers and probation department employees.~~

16 ~~(3) Persons involved in alternative methods of dispute resolution,~~  
17 ~~such as mediators and neutral factfinders, who function apart from~~  
18 ~~the courts pursuant to private agreement, including mediators,~~  
19 ~~conciliators, evaluators, and marriage and family therapists.~~

20 ~~(e) This section does not apply to any judicial officer,~~  
21 ~~subordinate judicial officer, or arbitrator.~~

22 *(b) This section shall apply only to the following:*

23 *(1) A private person appointed by the courts for his or her*  
24 *expertise, including mediators, guardians ad litem, therapists,*  
25 *receivers, and bankruptcy trustees.*

26 *(2) A person involved in alternative methods of dispute*  
27 *resolution, such as mediation or neutral factfinding, who functions*  
28 *apart from the court pursuant to a private agreement, including*  
29 *mediators, conciliators, evaluators, and marriage and family*  
30 *therapists.*

31 *(c) This section does not apply to any of the following:*

32 *(1) A judicial officer, subordinate judicial officer, or arbitrator.*

33 *(2) An individual employed by the court.*

34 *(3) Any person whose work product comes into the judicial*  
35 *process to be used by the court even though he or she was not*

- 1 *court appointed, such as social workers and probation department*
- 2 *employees.*

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