

AMENDED IN SENATE MARCH 28, 2012

**SENATE BILL**

**No. 1134**

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**Introduced by Senator Yee**

February 21, 2012

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An act to amend Section 43.92 of the Civil Code, relating to liability.

LEGISLATIVE COUNSEL'S DIGEST

SB 1134, as amended, Yee. Persons of unsound mind: psychotherapist duty to protect.

Existing law provides that no monetary liability and no cause of action arises against a psychotherapist, as defined, for failing to warn and protect from a patient's threatened violent behavior except if the patient has communicated to the psychotherapist a serious threat of physical violence against a reasonably identifiable victim or victims. Existing law also specifies that no monetary liability and no cause of action shall arise against a psychotherapist who, under those circumstances, discharges his or her duty to warn and protect by making reasonable efforts to communicate the threat to the victim or victims and to a law enforcement agency.

This bill would revise these provisions by removing any duty to warn and by providing that no monetary liability and no cause of action will arise against a psychotherapist for failing to protect from a patient's threatened violent behavior, except if the patient has communicated to the therapist a serious threat of physical violence against a reasonably identifiable victim or victims. In those circumstances, this bill would provide that there will be no monetary liability and no cause of action against the psychotherapist if the psychotherapist discharges his or her duty to protect by making reasonable efforts to communicate the threat to the intended victim or victims and to a law enforcement agency.

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 43.92 of the Civil Code is amended to  
 2 read:  
 3 43.92. (a) There shall be no monetary liability on the part of,  
 4 and no cause of action shall arise against, any person who is a  
 5 psychotherapist as defined in Section 1010 of the Evidence Code  
 6 in failing to protect from a patient’s threatened violent behavior  
 7 or failing to predict and protect from a patient’s violent behavior  
 8 except—~~where~~ *if* the patient has communicated to the  
 9 psychotherapist a serious threat of physical violence against a  
 10 reasonably identifiable victim or victims.  
 11 (b) There shall be no monetary liability on the part of, and no  
 12 cause of action shall arise against, a psychotherapist who, ~~where~~  
 13 ~~the patient has communicated a serious threat of violence as~~  
 14 ~~specified in subdivision (a)~~, *under the limited circumstances*  
 15 *specified in subdivision (a)*, discharges his or her duty to protect  
 16 by making reasonable efforts to communicate the threat to the  
 17 victim or victims and to a law enforcement agency.