

ASSEMBLY BILL

No. 733

Introduced by Assembly Member Nation

February 17, 2005

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

LEGISLATIVE COUNSEL'S DIGEST

AB 733, as introduced, Nation. Psychotherapists: duty to warn.

Existing law provides that no monetary liability and no cause of action shall arise against a psychotherapist, as defined, for failing to warn and protect from a patient's threatened violent behavior except where the patient has communicated to the psychotherapist a serious threat of physical violence against a reasonably identifiable victim or victims.

This bill would revise that provision to specify that it applies where the patient himself or herself has communicated the threat to the psychotherapist.

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 warn of and protect from a patient's threatened
7 violent behavior or failing to predict and warn of and protect

1 from a patient's violent behavior except where the patient *himself*
2 *or herself* has communicated to the psychotherapist a serious
3 threat of physical violence against a reasonably identifiable
4 victim or victims.

5 (b) If there is a duty to warn and protect under the limited
6 circumstances specified above, the duty shall be discharged by
7 the psychotherapist making reasonable efforts to communicate
8 the threat to the victim or victims and to a law enforcement
9 agency.