

ASSEMBLY BILL

No. 1864

Introduced by Assembly Member Wagner

February 22, 2012

An act to add Section 43.100 to the Civil Code, relating to immunity.

LEGISLATIVE COUNSEL'S DIGEST

AB 1864, as introduced, Wagner. Immunity: court-appointed professionals.

Existing law authorizes the court, if it appears that expert evidence is or may be required by the court or any party to the action, to appoint one or more experts to investigate, to render a report, and to testify as an expert at the trial of the action relative to the fact or matter as to which the expert evidence is or may be required, as specified.

Existing law governs family law proceedings. Existing law authorizes or requires, as specified, the court to appoint various professionals to assist in these proceedings, including counsel for the minor, mediators, and child custody evaluators, among others.

This bill would prohibit any monetary liability on the part of, and any cause of action for damages against, any professional appointed by court order to provide services to the court pursuant to the provisions described above, as an expert witness or in connection with family law proceedings, for any act, opinion, report, or communication in the performance of those services, as specified.

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. It is the intent of the Legislature in enacting this
2 act to codify, as public policy, the holding of *Howard v. Drapkin*
3 (1990) 222 Cal.App.3d 843, and to extend the protection and
4 immunity from civil litigation for damages to all professionals
5 appointed by the court pursuant to Part 2 (commencing with
6 Section 3020) of Division 8 of the Family Code or Section 730 of
7 the Evidence Code.

8 SEC. 2. Section 43.100 is added to the Civil Code, to read:

9 43.100. In addition to the privilege afforded by Section 47,
10 there shall be no monetary liability on the part of, and no cause of
11 action for damages shall arise against, any professional appointed
12 by court order to provide services to the court pursuant to Part 2
13 (commencing with Section 3020) of Division 8 of the Family Code,
14 or for any professional appointed by court order to provide services
15 pursuant to Section 730 of the Evidence Code, for any act, opinion,
16 report, or communication in the performance of those services, if
17 the act, opinion, report, or communication is within the scope of
18 those services and occurs during the provision of those services.