

ASSEMBLY BILL

No. 1316

Introduced by Assembly Member Smyth

February 18, 2011

An act to add Section 956.2 to the Evidence Code, relating to lawyer-client privilege.

LEGISLATIVE COUNSEL'S DIGEST

AB 1316, as introduced, Smyth. Lawyer-client privilege: injury to financial interests or property.

Existing law, with certain exceptions, makes privileged any confidential communication between a lawyer and a client. Among other things, existing law provides an exception to the privilege if the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit a crime or fraud.

This bill would provide an exception to the privilege if the lawyer reasonably believes that disclosure of any confidential communication relating to representation of a client is necessary to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another person and in furtherance of which the client has used or is using the lawyer's services. The bill also would provide an exception to the privilege if the lawyer reasonably believes that disclosure of any confidential communication relating to representation of a client is necessary to prevent, mitigate, or rectify substantial injury to the financial interests or property of another person that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services.

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 956.2 is added to the Evidence Code, to
2 read:
3 956.2. There is no privilege under this article if the lawyer
4 reasonably believes that disclosure of any confidential
5 communication relating to representation of a client is necessary
6 for either of the following:
7 (a) To prevent the client from committing a crime or fraud that
8 is reasonably certain to result in substantial injury to the financial
9 interests or property of another person and in furtherance of which
10 the client has used or is using the lawyer’s services.
11 (b) To prevent, mitigate, or rectify substantial injury to the
12 financial interests or property of another person that is reasonably
13 certain to result or has resulted from the client’s commission of a
14 crime or fraud in furtherance of which the client has used the
15 lawyer’s services.