

HOUSE BILL REPORT

SB 6429

As Reported by House Committee On:
Judiciary

Title: An act relating to expressions of benevolence, sympathy, and regret.

Brief Description: Regulating the admissibility of benevolent gestures in civil actions.

Sponsors: Senators B. Sheldon, Johnson, Kline, Costa, McCaslin, Gardner, Long and Winsley; by request of Governor Locke and Attorney General.

Brief History:

Committee Activity:

Judiciary: 2/28/02 [DP].

Brief Summary of Bill

- Makes inadmissible as evidence in a civil action an expression of sympathy or benevolence relating to the pain, suffering, or death of a person involved in an accident.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 8 members: Representatives Lantz, Chair; Hurst, Vice Chair; Carrell, Ranking Minority Member; Dickerson, Esser, Jarrett, Lovick and Lysen.

Minority Report: Do not pass. Signed by 1 member: Representative Boldt.

Staff: Edie Adams (786-7180).

Background:

During the 2001 interim, the Governor and Attorney General sponsored a Risk Management Task Force in response to increasing attention to incidents of severe harm to citizens and the increasing liability of the state for injuries and losses. The purpose of the task force was to identify how the state can deliver its difficult and risky programs and services in a way that better protects citizens of the state from harm or injury and that engages in the most effective risk management possible. The task force was

comprised of a number of groups, including: the Attorney General, legislators, agency directors and budget officials, risk managers, attorneys, and advisors from the University of Washington.

The Risk Management Task Force issued a number of recommendations in its final report. One of the recommendations of the task force is that an agency involved in a loss should consider visiting victims and their family members to express regret for the loss and consider offering services that might aid them in dealing with the loss.

Under state evidence laws, a statement of regret from an agency involved in a civil action would generally be admissible in the action since a statement by a party to a suit is admissible in court as long as it is relevant and not subject to a specific exclusion.

Summary of Bill:

The portion of statements, writings, or benevolent gestures, made to a person or the person's family, that express sympathy or benevolence relating to the pain, suffering, or death of the person involved in an accident are inadmissible as evidence in a civil action. A statement of fault is not made inadmissible under this provision.

"Accident" is defined as an occurrence that results in an injury or death that is not the result of wilful action by a party. "Benevolent gestures" is defined as actions that convey a sense of compassion or commiseration emanating from human impulses. "Family" is defined as any of the following relations of an injured party: spouse, parent, grandparent, stepparent, child, grandchild, brother, sister, half-brother, half-sister, adopted child of a parent, or spouse's parents.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill represents one of the 16 recommendations of the Risk Management Task Force established by the Governor and Attorney General. It allows an agency to say "I am sorry" and express its regret for a loss. The bill is supported by many groups, including the civil defense bar and the plaintiff's bar.

Testimony Against: None.

Testified: Senator Sheldon, prime sponsor; Dave Horn, Office of the Attorney General; and Gail Stone, Washington State Bar Association.

