

---

## Judiciary Committee

---

### HB 2354

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

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

**Sponsors:** Representatives Alexander, Lantz and Esser; by request of Governor Locke and Attorney General.

#### 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.

**Hearing Date:** 1/24/02

**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:** Not Requested.

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