

SENATE BILL REPORT

SB 6429

As Passed Senate, February 13, 2002

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: 2/4/02, 2/5/02 [DP].

Passed Senate: 2/13/02, 46-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Kastama, Vice Chair; Costa, Johnson, Long, McCaslin, Poulsen, Roach and Thibaudeau.

Staff: Dick Armstrong (786-7460)

Background: During the 2001 interim, Governor Locke and Attorney General Gregoire 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 that are made to a person or the person's family and 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.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill is supported by the Bar Association, plaintiff's bar, and defense bar. Injured parties often times just want a statement from the alleged wrongdoer that says "I'm sorry." This will help avoid litigation and encourage settlement and mediation. This approach is healthy for the legal system.

Testimony Against: None.

Testified: PRO: Senator B. Sheldon, prime sponsor; Chris Gregoire, Attorney General; Larry Shannon, WSTLA; Dana Childers, Liability Reform Coalition; Jan Eric Peterson, WSBA.