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# A BILL FOR AN ACT

RELATING TO THE HAWAII RULES OF EVIDENCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. While it is only civil and humane to apologize  
2 and offer sympathy or other expressions of understanding to  
3 persons who have been harmed in some way, the reality of  
4 lawsuits often prevents these expressions of apology or sympathy  
5 from being made for fear that they will be used subsequently as  
6 an admission of liability. Ironically, many people will bring a  
7 claim or a lawsuit against another person or other entity for  
8 the simple reason that there has been no apology or expression  
9 of empathy made to them. Particularly in our State, the Aloha  
10 State, it is regrettable that members of our community cannot  
11 reach out to others in a humane way without fear of having this  
12 communication subsequently used as an admission of liability.  
13 This Act will allow these expressions without fear that they  
14 will be used against those who express these sentiment to  
15 others.

16           SECTION 2. Section 626-1, Hawaii Revised Statutes, is  
17 amended by adding to article IV a new rule to be appropriately  
18 designated and to read as follows:



1           "Rule     Apologies. (a) Evidence of written or oral  
2 apologies, whether made before or during judicial or  
3 administrative proceedings relating to the subject matter of the  
4 apology, is not admissible to prove liability. Evidence of  
5 benevolent gestures made in connection with such apologies is  
6 likewise not admissible. A statement of fault, which is part  
7 of, or in addition to, any of the above shall not be  
8 inadmissible pursuant to this section.

9           (b) For the purposes of this rule:

10          (1) "Apology" means an expression of sympathy or  
11           understanding regarding pain, suffering, or death  
12           which may have resulted from the subject matter of the  
13           judicial or administrative proceeding;

14          (2) "Benevolent gestures" means actions which convey a  
15           sense of compassion or commiseration emanating from  
16           humane impulses."

17          SECTION 3. This Act does not affect the rights or duties  
18 that matured, penalties that were incurred, and proceedings that  
19 were begun, before its effective date.



SB. NO. 2550

**Report Title:**

Rules of Evidence

**Description:**

Makes oral or written apologies inadmissible to prove fault and preserves admissibility of a statement of fault.

