

PROPOSED

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO. 2558
S.D. 1

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. Evidence of statements or gestures
2 that express sympathy, commiseration, or condolence concerning
3 the consequences of an event in which the declarant was a
4 participant is not admissible to prove liability for any claim
5 arising out of the event. This rule does not require the
6 exclusion of an apology or other statement that acknowledges or
7 implies fault even though contained in, or part of, any
8 statement or gesture excludable under this rule."

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

12 SECTION 4. New statutory material is underscored.

13 SECTION 5. This Act shall take effect upon its approval.

Report Title:
Rules of Evidence

PROPOSED

Description:

Makes statements or gestures that express sympathy, commiseration, or condolence concerning the consequences of an event in which the declarant was a participant inadmissible to prove liability for any claim arising out of the event and preserves admissibility of a statement of fault. (SD1)

