

ASSEMBLY BILL

No. 2723

Introduced by Assembly Member Washington

February 22, 2002

An act to amend Section 1160 of the Evidence Code, relating to evidence.

LEGISLATIVE COUNSEL'S DIGEST

AB 2723, as introduced, Washington. Evidence: admissibility.

Existing law provides for the inadmissibility of certain evidence as a matter of public policy, including portions of statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence relating to the pain, suffering, or death of a person involved in an accident and made to that person or to the family of that person, which are inadmissible as evidence of an admission of liability in a civil action. However, a statement of fault which is part of or in addition to any of the above is not inadmissible.

This bill would extend this rule of evidence to an administrative adjudication pursuant to the Administrative Procedure Act.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1160 of the Evidence Code is amended
2 to read:
3 1160. (a) The portion of statements, writings, or benevolent
4 gestures expressing sympathy or a general sense of benevolence
5 relating to the pain, suffering, or death of a person involved in an

1 accident and made to that person or to the family of that person
2 shall be inadmissible as evidence of an admission of liability in a
3 civil action *or an administrative adjudication conducted pursuant*
4 *to the Administrative Procedure Act (Chapter 4.5 (commencing*
5 *with Section 11400) or Chapter 5 (commencing with Section*
6 *11500) of Division 3 of Title 2 of the Government Code. A*
7 statement of fault, however, which is part of, or in addition to, any
8 of the above shall not be inadmissible pursuant to this section.

9 (b) For purposes of this section:

10 (1) “Accident” means an occurrence resulting in injury or
11 death to one or more persons which is not the result of willful
12 action by a party.

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

16 (3) “Family” means the spouse, parent, grandparent,
17 stepmother, stepfather, child, grandchild, brother, sister, half
18 brother, half sister, adopted children of parent, or spouse’s parents
19 of an injured party.

