

## **BILL ANALYSIS**

Senate Research Center

H.B. 512  
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Economic Development  
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Engrossed

### **DIGEST**

Currently, defendants in a civil action may be reluctant to make general expressions of sympathy for any injuries or pain suffered by the other parties in the lawsuit out of fear that any expression of sympathy will be used in court to try to prove liability. However, a communication of sympathy may help to diffuse hostility and could improve the chances for settlement or even help to avoid litigation over the accident. H.B. 512 prohibits the introduction in a civil action of certain sympathetic statements made to the injured person or the injured person's family member when used to prove liability or fault. Statements admitting liability still would still be admissible even if the statement included a statement of sympathy.

### **PURPOSE**

As proposed, H.B. 512 sets forth criteria for the admissibility of certain communications of sympathy in a civil action.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 18, Civil Practice and Remedies Code, by adding Subchapter C, as follows:

#### **SUBCHAPTER C. ADMISSIBILITY**

Sec. 18.061. COMMUNICATIONS OF SYMPATHY. Prohibits a court in a civil action from admitting a communication that: expresses sympathy or a sense of benevolence relating an individual involved in an accident; is made to the individual or a person related to the individual within the second degree; and is offered to prove liability of the communicator to the individual. Defines "communication." Provides that a communication, including an excited utterance as defined by Rule 803(2) of the Texas Rules of Evidence, which includes statements concerning negligence or culpable conduct pertaining to an accident or event, are admissible to prove liability of the communicator.

SECTION 2. Effective date: September 1, 1999.  
Makes application of this Act prospective.

SECTION 3. Emergency clause.