

3682--A

2009-2010 Regular Sessions

I N S E N A T E

March 27, 2009

Introduced by Sen. SAMPSON -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the estates, powers and trusts law, in relation to establishing inheritance by a non-marital child; and to repeal certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Clause (C) of subparagraph 2 of paragraph (a) of section
2 4-1.2 of the estates, powers and trusts law, as amended by chapter 434
3 of the laws of 1987, is amended to read as follows:
4 (C) paternity has been established by clear and convincing evidence
5 [and], WHICH MAY INCLUDE, BUT IS NOT LIMITED TO: (I) EVIDENCE DERIVED
6 FROM A GENETIC MARKER TEST, OR (II) EVIDENCE THAT the father [of the
7 child has] openly and notoriously acknowledged the child as his own[;
8 or], HOWEVER NOTHING IN THIS SECTION REGARDING GENETIC MARKER TESTS
9 SHALL BE CONSTRUED TO EXPAND OR LIMIT THE CURRENT APPLICATION OF SUBDI-
10 VISION FOUR OF SECTION FORTY-TWO HUNDRED TEN OF THE PUBLIC HEALTH LAW.
11 S 2. Clause (D) of subparagraph 2 of paragraph (a) of section 4-1.2 of
12 the estates, powers and trusts law is REPEALED.
13 S 3. Paragraph (b) of section 4-1.2 of the estates, powers and trusts
14 law, as amended by chapter 595 of the laws of 1992, is amended to read
15 as follows:
16 (b) If a non-marital child dies, his OR HER surviving spouse, issue,
17 mother, maternal kindred, father and paternal kindred inherit and are
18 entitled to letters of administration as if the decedent [were legiti-
19 mate] WAS A MARITAL CHILD, provided that the father and paternal kindred
20 may inherit or obtain such letters only if the paternity of the non-mar-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 ital child has been established pursuant to ANY OF THE provisions of
2 [clause (A) of] subparagraph (2) of paragraph (a) [or the father has
3 signed an instrument acknowledging paternity and filed the same in
4 accordance with the provisions of clause (B) of subparagraph (2) of
5 paragraph (a) or paternity has been established by clear and convincing
6 evidence and the father of the child has openly and notoriously acknowl-
7 edged the child as his own].

8 S 4. This act shall take effect immediately and shall apply to the
9 estates of decedents dying on or after such date.