

1338

2009-2010 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2009

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Introduced by M. of A. WRIGHT -- read once and referred to the Committee  
on Codes

AN ACT to amend the civil practice law and rules, in relation to admis-  
sibility of certain evidence

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

1     Section 1. The civil practice law and rules is amended by adding a new  
2     section 4517-a to read as follows:  
3     S 4517-A. STATEMENT UNDER BELIEF OF IMPENDING DEATH. STATEMENTS MADE  
4     UNDER THE BELIEF OF IMPENDING DEATH BY A DECEASED PERSON ARE ADMISSIBLE  
5     IN EVIDENCE IN ALL CIVIL AND CRIMINAL TRIALS AND OTHER PROCEEDINGS  
6     BEFORE COURTS, COMMISSIONS AND OTHER TRIBUNALS TO THE SAME EXTENT AND  
7     FOR THE SAME PURPOSES THAT THEY MIGHT HAVE BEEN ADMISSIBLE HAD THE  
8     DECEASED SURVIVED AND BEEN SWORN AS WITNESS IN THE PROCEEDINGS, UNDER  
9     THE FOLLOWING RESTRICTIONS. TO RENDER THE STATEMENTS OF THE DECEASED  
10    COMPETENT EVIDENCE, IT MUST BE SATISFACTORILY PROVED:  
11    1. THAT AT THE TIME OF THE MAKING OF SUCH STATEMENT THE DECLARANT WAS  
12    CONSCIOUS OF APPROACHING DEATH AND BELIEVED THERE WAS NO HOPE FOR RECOV-  
13    ERY;  
14    2. THAT SUCH STATEMENT WAS VOLUNTARILY MADE, AND NOT THROUGH THE  
15    PERSUASION OF ANY PERSON;  
16    3. THAT SUCH STATEMENT WAS NOT MADE IN ANSWER TO INTERROGATORIES  
17    CALCULATED TO LEAD THE DECEASED TO MAKE ANY PARTICULAR STATEMENT; AND  
18    4. THAT THE DECLARANT WAS OF SOUND MIND AT THE TIME OF MAKING THE  
19    DECLARATION.  
20    S 2. This act shall take effect immediately.

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

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