

1338

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

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.

LBD00389-01-9