

S T A T E O F N E W Y O R K

7899--A

2009-2010 Regular Sessions

I N A S S E M B L Y

April 28, 2009

Introduced by M. of A. JEFFRIES, WEINSTEIN -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

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12 the estates, powers and trusts law is REPEALED.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-
21 ital child has been established pursuant to ANY OF THE provisions of

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

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1 [clause (A) of] subparagraph (2) of paragraph (a) [or the father has
2 signed an instrument acknowledging paternity and filed the same in
3 accordance with the provisions of clause (B) of subparagraph (2) of
4 paragraph (a) or paternity has been established by clear and convincing
5 evidence and the father of the child has openly and notoriously acknowl-
6 edged the child as his own].
7 S 4. This act shall take effect immediately and shall apply to the
8 estates of decedents dying on or after such date.