

3682

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

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],

9 S 2. Clause (D) of subparagraph 2 of paragraph (a) of section 4-1.2 of  
10 the estates, powers and trusts law is REPEALED.

11 S 3. Paragraph (b) of section 4-1.2 of the estates, powers and trusts  
12 law, as amended by chapter 595 of the laws of 1992, is amended to read  
13 as follows:

14 (b) If a non-marital child dies, his OR HER surviving spouse, issue,  
15 mother, maternal kindred, father and paternal kindred inherit and are  
16 entitled to letters of administration as if the decedent [were legiti-  
17 mate] WAS A MARITAL CHILD, provided that the father and paternal kindred  
18 may inherit or obtain such letters only if the paternity of the non-mar-  
19 ital child has been established pursuant to ANY OF THE provisions of  
20 [clause (A) of] subparagraph (2) of paragraph (a) [or the father has  
21 signed an instrument acknowledging paternity and filed the same in  
22 accordance with the provisions of clause (B) of subparagraph (2) of  
23 paragraph (a) or paternity has been established by clear and convincing

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

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1 evidence and the father of the child has openly and notoriously acknowl-  
2 edged the child as his own].  
3 S 4. This act shall take effect immediately and shall apply to the  
4 estates of decedents dying on or after such date.