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

3190

2011-2012 Regular Sessions

I N A S S E M B L Y

January 24, 2011

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Judiciary

AN ACT to amend the estates, powers and trusts law, in relation to an order for the purposes of conducting paternity testing on a deceased person

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

Section 1. Clause (C) of subparagraph 2 of paragraph (a) of section 4-1.2 of the estates, powers and trusts law, as amended by chapter 64 of the laws of 2010, is amended to read as follows:

(C) paternity has been established by clear and convincing evidence, which may include, but is not limited to: (i) evidence derived from a genetic marker test ADMINISTERED TO THE FATHER DURING HIS LIFETIME OR POSTHUMOUSLY, or (ii) evidence that the father openly and notoriously acknowledged the child as his own, however nothing in this section regarding genetic marker tests shall be construed to expand or limit the current application of subdivision four of section forty-two hundred ten of the public health law. POSTHUMOUS TESTING TO DETERMINE PATERNITY SHALL BE PERMITTED WHERE THE PARTY SEEKING SUCH TESTING BEARS THE EXPENSE, UNLESS OTHERWISE PROVIDED BY THE COURT WHERE PATERNITY IS ESTABLISHED; OR SUCH COSTS ARE SOUGHT BY A GUARDIAN-AD-LITEM, A COMMITTEE, A CONSERVATOR, OR A GUARDIAN APPOINTED PURSUANT TO THE PROVISIONS OF ARTICLE EIGHTY-ONE OF THE MENTAL HYGIENE LAW.

S 2. This act shall take effect immediately and shall apply to estates of decedents dying on or after such date.

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

LBD07174-01-1