

3903

2015-2016 Regular Sessions

I N A S S E M B L Y

January 28, 2015

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 admissibility of certain evidence

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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 RECOVERY;
13 2. THAT SUCH STATEMENT WAS VOLUNTARILY MADE, AND NOT THROUGH THE
14 PERSUASION OF ANY PERSON;
15 3. THAT SUCH STATEMENT WAS NOT MADE IN ANSWER TO INTERROGATORIES
16 CALCULATED TO LEAD THE DECEASED TO MAKE ANY PARTICULAR STATEMENT; AND
17 4. THAT THE DECLARANT WAS OF SOUND MIND AT THE TIME OF MAKING THE
18 DECLARATION.
19 S 2. This act shall take effect immediately.
20

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

LBD04968-01-5