STATE OF NEW YORK

7523

2023-2024 Regular Sessions

IN SENATE

June 2, 2023

Introduced by Sen. HOYLMAN-SIGAL -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the civil practice law and rules, in relation to the business records exception to hearsay

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of rule 4518 of the civil practice law and rules, as amended by chapter 741 of the laws of 2005, is amended to read as follows:

(a) Generally. **1.** Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence or event, shall be admissible in evidence in proof of that act, transaction, occurrence or event, if the judge finds**:** **(i)** that it was made in the regular course of any business [~~and~~]**; (ii)** that it was the regular course of such business to make it[~~,~~]**; (iii) that the entry was made** at the time of the act, transaction, occurrence or event, or within a reasonable time thereafter**; and (iv) that the writing or record was made upon the recorder's own personal knowledge or from information given to the recorder by someone with personal knowledge and a business duty to transmit the information accurately or from information received by the recorder which is subject to an exception to the rule barring the admission of hearsay. For a hospital or medical office record, the entry must also be germane to the patient's treatment or diagnosis**.

2. An electronic record, as defined in section three hundred two of the state technology law, used or stored as such a memorandum or record, shall be admissible in a tangible exhibit that is a true and accurate representation of such electronic record.

3. The court may consider the method or manner by which the electronic record was stored, maintained or retrieved in determining whether the

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

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exhibit is a true and accurate representation of such electronic record. All other circumstances of the making of the memorandum or record, including lack of personal knowledge by the maker, may be proved to affect its weight, but they shall not affect its admissibility. The term business includes a business, profession, occupation and calling of every kind.

§ 2. This act shall take effect immediately.