

House Bill No. 523

An act relating to evidence; repealing s. 90.602, F.S., relating to testimony of interested persons regarding oral communication with a deceased or mentally incompetent person; amending s. 90.804, F.S.; providing a hearsay exception in specified actions or proceedings for a statement made by a declarant who is unavailable due to death, illness, or infirmity regarding the same subject matter as a statement made by the declarant that was previously offered by an adverse party and admitted; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 90.602, Florida Statutes, is repealed.

Section 2. Paragraph (e) is added to subsection (2) of section 90.804, Florida Statutes, to read:

90.804 Hearsay exceptions; declarant unavailable.—

(2) HEARSAY EXCEPTIONS.—The following are not excluded under s. 90.802, provided that the declarant is unavailable as a witness:

(e) Statement by deceased or ill declarant similar to one previously admitted.—In an action or proceeding brought against the personal representative, heir at law, assignee, legatee, devisee, or survivor of a deceased person, or against a trustee of a trust created by a deceased person, or against the assignee, committee, or guardian of a mentally incompetent person, when a declarant is unavailable as provided in paragraph (1)(d), a written or oral statement made regarding the same subject matter as another statement made by the declarant that has previously been offered by an adverse party and admitted in evidence.

Section 3. This act shall take effect July 1, 2005.

Approved by the Governor May 24, 2005.

Filed in Office Secretary of State May 24, 2005.