

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

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

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 Section 90.602, Florida Statutes, is repealed.

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

18           90.804 Hearsay exceptions; declarant unavailable.--

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

22           (e) Statement by deceased or ill declarant similar to one  
 23 previously admitted.--In an action or proceeding brought against  
 24 the personal representative, heir at law, assignee, legatee,  
 25 devisee, or survivor of a deceased person, or against a trustee  
 26 of a trust created by a deceased person, or against the  
 27 assignee, committee, or guardian of a mentally incompetent  
 28 person, when a declarant is unavailable as provided in paragraph

29 (1) (d), a written or oral statement made regarding the same  
30 subject matter as another statement made by the declarant that  
31 has previously been offered by an adverse party and admitted in  
32 evidence.

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