

By the Committee on Judiciary; and Senator Campbell

590-2351-05

1 A bill to be entitled
2 An act relating to evidence; repealing s.
3 90.602, F.S., relating to testimony of
4 interested persons regarding oral communication
5 with a deceased or mentally incompetent person;
6 amending s. 90.804, F.S.; providing a hearsay
7 exception in specified actions or proceedings
8 for a statement made by a declarant who is
9 unavailable due to death, illness, or infirmity
10 regarding the same subject matter as a
11 statement made by the declarant that was
12 previously offered by an adverse party and
13 admitted; providing an effective date.
14
15 Be It Enacted by the Legislature of the State of Florida:
16
17 Section 1. Section 90.602, Florida Statutes, is
18 repealed.
19 Section 2. Paragraph (e) is added to subsection (2) of
20 section 90.804, Florida Statutes, to read:
21 90.804 Hearsay exceptions; declarant unavailable.--
22 (2) HEARSAY EXCEPTIONS.--The following are not
23 excluded under s. 90.802, provided that the declarant is
24 unavailable as a witness:
25 (e) Statement by deceased or ill declarant similar to
26 one previously admitted.--In an action or proceeding brought
27 against the personal representative, heir at law, assignee,
28 legatee, devisee, or survivor of a deceased person, or against
29 a trustee of a trust created by a deceased person, or against
30 the assignee, committee, or guardian of a mentally incompetent
31 person, when a declarant is unavailable as provided in

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

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

6
7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 Senate Bill 988

10 The committee substitute revises the underlying bill by
11 restricting the hearsay exception to actions against a person
12 in control of the assets of a deceased person or a person in
13 control of an incompetent person or his or her assets.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31