

2020 SESSION

INTRODUCED

20102382D

SENATE BILL NO. 529

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact § 8.01-397 of the Code of Virginia, relating to admissibility of statements of a deceased or incompetent party; hearsay exception.

Patron—Edwards

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-397 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-397. Corroboration required and evidence receivable when one party incapable of testifying (subdivision (b)(5) of Supreme Court Rule 2:804 derived from this section).

In an action by or against a person who, from any cause, is incapable of testifying, or by or against the committee, trustee, executor, administrator, heir, or other representative of the person so incapable of testifying, no judgment or decree shall be rendered in favor of an adverse or interested party founded on his uncorroborated testimony. In any such action, whether such adverse party testifies or not, all entries, memoranda, and declarations by the party so incapable of testifying made while he was capable, relevant to the matter in issue *and otherwise admissible*, ~~may shall not be received as evidence excluded as~~ *hearsay* in all proceedings including without limitation those to which a person under a disability is a party. The phrase "from any cause" as used in this section shall not include situations in which the party who is incapable of testifying has rendered himself unable to testify by an intentional self-inflicted injury.

For the purposes of this section, and in addition to corroboration by any other competent evidence, an entry authored by an adverse or interested party contained in a business record may be competent evidence for corroboration of the testimony of an adverse or interested party. If authentication of the business record is not admitted in a request for admission, such business record shall be authenticated by a person other than the author of the entry who is not an adverse or interested party whose conduct is at issue in the allegations of the complaint.

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