

CHAMBER ACTION

1 The Justice Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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

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 Section 90.602, Florida Statutes, is repealed.

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

22 90.804 Hearsay exceptions; declarant unavailable.--

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

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

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