Senate Bill No. 1041

CHAPTER 106

An act to amend Section 1260 of the Evidence Code, relating to hearsay evidence.

[Approved by Governor July 15, 2010. Filed with
Secretary of State July 15, 2010.]

SB 1041, Harman. Hearsay evidence: wills and revocable trusts.

Existing law, known as the "hearsay rule," provides that, at a hearing, evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated is inadmissible. Existing law also provides exceptions to the hearsay rule to permit the admission of specified kinds of evidence, including evidence of a statement made by a declarant who is unavailable as a witness that he or she has or has not made a will, or has or has not revoked his or her will, or that identifies his or her will.

This bill would expand that exception to the hearsay rule to permit the admission of evidence of a statement made by a declarant who is unavailable as a witness that he or she has or has not established or amended a revocable trust, or has or has not revoked his or her revocable trust or an amendment to a revocable trust, or that identifies his or her revocable trust or an amendment to a revocable trust.

The people of the State of California do enact as follows:

SECTION 1. Section 1260 of the Evidence Code is amended to read:

1260. (a) Except as provided in subdivision (b), evidence of any of the following statements made by a declarant who is unavailable as a witness is not made inadmissible by the hearsay rule:

(1) That the declarant has or has not made a will or established or amended a revocable trust.

(2) That the declarant has or has not revoked his or her will, revocable trust, or an amendment to a revocable trust.

(3) That identifies the declarant's will, revocable trust, or an amendment to a revocable trust.

(b) Evidence of a statement is inadmissible under this section if the statement was made under circumstances that indicate its lack of trustworthiness.

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