REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.2166 Admissibility of evidence in action by or against person incapable of testifying.

Sec. 2166.

(1) In an action by or against a person incapable of testifying, a party's own testimony shall not be admissible as to any matter which, if true, must have been equally within the knowledge of the person incapable of testifying, unless some material portion of his testimony is supported by some other material evidence tending to corroborate his claim.

(2) A "person incapable of testifying" includes an individual who is incapable of testifying by reason of death or incompetency and his heirs, legal representatives, or assigns; and includes an individual, corporation, or other entity, or the successors thereof, whose agent, having material knowledge of the matter, is incapable of testifying by reason of death or incompetency. A "party's own testimony" includes the testimony of his agents, successors, assigns, predecessors, or assignors.

(3) In any such actions, all entries, memoranda, and declarations by the individual so incapable of testifying, relevant to the matter, as well as evidence of his acts and habits of dealing tending to disprove or show the improbability of the claims of the adverse party, may be received in evidence.

(4) When the deposition, affidavit, or testimony of a person incapable of testifying is taken in his lifetime or when he is mentally sound, and is read in evidence in the action, the affidavit or testimony of the other party shall be admitted in his own behalf on all matters mentioned or covered in the deposition, affidavit, or testimony. When the testimony or deposition of a witness has once been taken and used, or has heretofore been taken and used, upon the trial of any cause, and the same was, when so taken and used, competent and admissible under this section, the subsequent death or incompetency of the witness or of any other person shall not render the testimony incompetent under this section, but the testimony shall be received upon any subsequent trial of such cause.

History: Add. 1967, Act 263, Eff. Nov. 2, 1967 ;-- Am. 1969, Act 63, Imd. Eff. July 21, 1969 ;-- Am. 1974, Act 305, Imd. Eff. Dec. 9, 1974
Compiler's Notes: Section 2 of Act 305 of 1974 provides: “This 1974 amendatory act shall apply to actions pending on its effective date and to actions commenced thereafter, regardless of whether the cause of action arose prior to the effective date of this act or arose thereafter.”