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- (c) he or she is out of the state and it is not reasonably practicable to secure his or her attendance;
 - (d) all reasonable efforts to identify or find him or her have been made without success;
 - (e) no party to the proceedings who would have the right to cross-examine the person requires him or her to be called as a witness;
 - (f) having regard to the time which has elapsed since he or she made the statement and to all the circumstances he or she cannot reasonably be expected to have any recollection of the matters dealt with in the statement;
 - (g) having regard to all the circumstances of the case, undue delay, inconvenience or expense would have been caused by calling him or her as a witness; or
 - (h) he or she is compellable to testify but refuses to be sworn.
- In civil and criminal proceedings, a documentary statement should be admissible if it directly or indirectly reproduces or is derived from information from one or more devices designed and used for the purpose of recording, measuring, counting or identifying information, not being information based on a statement made by any person.
 - Provision should be made for the following safeguard and ancillary provisions:
 - (a) weight to be attached to the evidence;
 - (b) credibility of the person responsible for the statement;
 - (c) corroborative evidence;
 - (d) discretion to exclude a statement;
 - (e) statements made or recorded for the purpose of or in contemplation of criminal proceedings;
 - (f) withholding documents from a jury;
 - (g) inferences;
 - (h) production of documents in court; and
 - (i) production of a medical certificate.
 - Express provision should be made for the admissibility of evidence of the absence of a record or entry. For example, a periodic rent payment would be admissible to prove that a particular event of that description did not happen.
 - Provisions relating to bankers' books be amended so as to make clear that they are merely a means of facilitating the production in court of copies of bankers' books.
 - The definition of "bankers' books" should be amended to ensure that modern methods of recording information by banks, including computers, are not excluded from the provisions relating to bankers' books.
 - As a mere visual inspection of computer tapes, disks or cards would be useless, the Commission

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