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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/09/2011	.	
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The Committee on Judiciary (Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 90.702, Florida Statutes, is amended to
read:

90.702 Testimony by experts.—

(1) If scientific, technical, or other specialized
knowledge will assist the trier of fact in understanding the
evidence or in determining a fact in issue, a witness qualified
as an expert by knowledge, skill, experience, training, or



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13 education may testify about it in the form of an opinion, or
14 otherwise, if:

15 (a) The testimony is based upon sufficient facts or data;

16 (b) The testimony is the product of reliable principles and
17 methods; and

18 (c) The witness has applied the principles and methods
19 reliably to the facts of the case; however, the opinion is
20 admissible only if it can be applied to evidence at trial.

21 (2) The courts of this state shall interpret and apply the
22 requirements of subsection (1) and s. 90.704 in accordance with
23 *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579
24 (1993); *General Electric Co. v. Joiner*, 522 U.S. 136 (1997); and
25 *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137 (1999). *Frye v.*
26 *United States*, 293 F. 1013 (D.C. Cir. 1923) and subsequent
27 Florida decisions applying or implementing *Frye* no longer apply
28 to subsection (1) or s. 90.704.

29 Section 2. Section 90.704, Florida Statutes, is amended to
30 read:

31 90.704 Basis of opinion testimony by experts.—The facts or
32 data upon which an expert bases an opinion or inference may be
33 those perceived by, or made known to, the expert at or before
34 the trial. If the facts or data are of a type reasonably relied
35 upon by experts in the subject to support the opinion expressed,
36 the facts or data need not be admissible in evidence. Facts or
37 data that are otherwise inadmissible in evidence may not be
38 disclosed to the jury by the proponent of the opinion or
39 inference unless the court determines that the probative value
40 of the facts or data in assisting the jury to evaluate the
41 expert's opinion substantially outweighs the prejudicial effect



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42 of the facts or data.

43 Section 3. This act shall take effect July 1, 2011.

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45 ===== T I T L E A M E N D M E N T =====

46 And the title is amended as follows:

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48 Delete everything before the enacting clause
49 and insert:

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A bill to be entitled

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An act relating to expert testimony; amending s.

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90.702, F.S.; providing that a witness qualified as an

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expert by knowledge, skill, experience, training, or

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education may testify in the form of an opinion as to

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the facts at issue in a case under certain

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circumstances; requiring the courts of this state to

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interpret and apply the principles of expert testimony

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in conformity with specified United States Supreme

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Court decisions; amending s. 90.704, F.S.; providing

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that facts or data that are otherwise inadmissible in

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evidence may not be disclosed to the jury by the

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proponent of the opinion or inference unless the court

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determines that the probative value of the facts or

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data in assisting the jury to evaluate the expert's

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opinion substantially outweighs the prejudicial effect

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of the facts or data; providing an effective date.