



452792

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2013	.	
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The Committee on Rules (Simmons) 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  
education may testify about it in the form of an opinion or  
otherwise if:



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

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

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

20 (2) The threshold required under subsection (1) to allow a  
21 witness to testify as an expert witness is satisfied if the  
22 principles and methods on which such knowledge is based are  
23 sufficiently established as generally accepted by the relevant  
24 expert community and are relevant to the facts of the particular  
25 case.

26 (3) The stated testimonial requirements apply in any case  
27 in which the expert opinion testimony is based on scientific,  
28 technical, or other specialized knowledge. All proposed expert  
29 testimony, including pure opinion testimony, is subject to ss.  
30 90.702 and 90.704.

31 Section 2. Section 90.704, Florida Statutes, is amended to  
32 read:

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



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43 their prejudicial effect.

44 Section 3. This act shall take effect July 1, 2013.

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

47 And the title is amended as follows:

48 Delete everything before the enacting clause  
49 and insert:

50 A bill to be entitled  
51 An act relating to expert testimony; amending s.  
52 90.702, F.S.; providing that a witness qualified as an  
53 expert by knowledge, skill, experience, training, or  
54 education may testify in the form of an opinion or  
55 otherwise as to the facts at issue in a case under  
56 certain circumstances; providing that the elements  
57 necessary to allow a witness to testify as an expert  
58 witness are satisfied if the principles and methods on  
59 which such knowledge is based are generally accepted  
60 by the relevant expert community; providing for  
61 applicability; amending s. 90.704, F.S.; providing  
62 that facts or data that are otherwise inadmissible in  
63 evidence may not be disclosed to the jury by the  
64 proponent of the opinion or inference unless the court  
65 determines that the probative value of the facts or  
66 data in assisting the jury to evaluate the expert's  
67 opinion substantially outweighs the prejudicial effect  
68 of the facts or data; providing an effective date.

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70 WHEREAS, the Legislature finds that the admissibility of  
71 expert testimony in the State of Florida is in need of revision



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72 and clarification, and

73 WHEREAS, the Legislature finds that the admissibility of  
74 expert testimony should be subject to a standard that generally  
75 applies the requirement of *Daubert v. Merrell Dow*  
76 *Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and federal rule of  
77 evidence 702, while recognizing that once knowledge is based  
78 upon principles and methods that are generally accepted within  
79 an expert community, a court need not continually reexamine the  
80 basis for such knowledge, but must ensure that the generally  
81 accepted principles and methods are relevant to the facts of the  
82 case before the court, and

83 WHEREAS, this act does not alter the authority of the  
84 courts in this state to manage their dockets as they deem  
85 appropriate, including, but not limited to, deciding whether a  
86 hearing or presentation of live testimony is required to resolve  
87 a pending motion, and

88 WHEREAS, the Legislature finds that all proposed expert  
89 testimony should be subject to the new standards of s. 90.702,  
90 Florida Statutes, as revised in this act, and as such, *Marsh v.*  
91 *Valyou*, 977 So. 2d 543 (Fla. 2007) and its holding as to pure  
92 opinion testimony, is overruled, NOW, THEREFORE,