

1 A bill to be entitled
 2 An act relating to expert testimony; amending s. 90.702,
 3 F.S.; providing that a witness qualified as an expert may
 4 testify as to the facts at issue in a case under certain
 5 circumstances; requiring the courts of this state to
 6 interpret and apply the specified provisions relating to
 7 expert testimony in conformity with specified United
 8 States Supreme Court decisions; amending s. 90.704, F.S.;
 9 prohibiting disclosure of facts or data that are otherwise
 10 inadmissible by an expert absent a finding that their
 11 probative value in assisting the jury to evaluate the
 12 expert's opinion substantially outweighs their prejudicial
 13 effect; providing an effective date.

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 15 Be It Enacted by the Legislature of the State of Florida:

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

19 90.702 Testimony by experts.—

20 (1) If scientific, technical, or other specialized
 21 knowledge will assist the trier of fact in understanding the
 22 evidence or in determining a fact in issue, a witness qualified
 23 as an expert by knowledge, skill, experience, training, or
 24 education may testify about it in the form of an opinion or
 25 otherwise if:

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

27 (b) The testimony is the product of reliable principles
 28 and methods; and

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

32 (2) The courts of this state shall interpret and apply the
 33 requirements of subsection (1) and s. 90.704 in accordance with
 34 Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579
 35 (1993); General Electric Co. v. Joiner, 522 U.S. 136 (1997);
 36 Kumho Tire Co., Ltd. v. Carmichael, 526 U.S. 137 (1999); and
 37 Weisgram v. Marley Co., 528 U.S. 440 (2000). Frye v. United
 38 States, 293 F. 1013 (D.C. Cir. 1923) and subsequent Florida
 39 decisions applying or implementing Frye shall no longer apply to
 40 subsection (1) or s. 90.704.

41 Section 2. Section 90.704, Florida Statutes, is amended to
 42 read:

43 90.704 Basis of opinion testimony by experts.—The facts or
 44 data upon which an expert bases an opinion or inference may be
 45 those perceived by, or made known to, the expert at or before
 46 the trial. If the facts or data are of a type reasonably relied
 47 upon by experts in the subject to support the opinion expressed,
 48 the facts or data need not be admissible in evidence. Facts or
 49 data that are otherwise inadmissible shall not be disclosed to
 50 the jury by the proponent of the opinion or inference unless the
 51 court determines that their probative value in assisting the
 52 jury to evaluate the expert's opinion substantially outweighs
 53 their prejudicial effect.

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