

1 SB158
2 173148-3
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 09-FEB-16

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8 SYNOPSIS: Under existing law, in trials, with certain
9 exceptions, if scientific, technical, or other
10 specialized knowledge will assist the trier of fact
11 to understand the evidence or to determine a fact,
12 a witness qualified as an expert may testify in the
13 form of an opinion.

14 In addition, expert testimony based on a
15 scientific theory, principle, methodology, or
16 procedure is only admissible if certain conditions
17 are met. The existing law provides for the
18 admissibility of expert testimony under the
19 "Daubert Standard" that is based on scientific
20 knowledge.

21 This bill would delete the reference to
22 scientific theory, principle, methodology, or
23 procedure concerning the admissibility of the
24 evidence and apply the Daubert Standard to expert
25 testimony based on scientific, technical, or other
26 specialized knowledge.

1 The bill would also provide for prospective
2 operation.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 To amend Section 12-21-160 of the Code of Alabama
9 1975, and to add Section 12-21-160.1 to the Code of Alabama
10 1975, relating to evidence in certain judicial proceedings; to
11 further provide for the admissibility of the testimony of
12 expert witnesses; and to provide for certain prospective
13 operation.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Section 12-21-160 of the Code of Alabama
16 1975, is amended to read as follows:

17 "§12-21-160.

18 "(a) Generally. If scientific, technical, or other
19 specialized knowledge will assist the trier of fact to
20 understand the evidence or to determine a fact in issue, a
21 witness qualified as an expert by knowledge, skill,
22 experience, training, or education, may testify thereto in the
23 form of an opinion or otherwise.

24 "(b) Scientific evidence. In addition to
25 requirements set forth in subsection (a), expert testimony
26 based on a scientific theory, principle, methodology, or
27 procedure is only admissible if :

1 "(1) The testimony is based on sufficient facts or
2 data,

3 "(2) The testimony is the product of reliable
4 principles and methods, and

5 "(3) The witness has applied the principles and
6 methods reliably to the facts of the case.

7 "(c) Nothing in this section shall modify, amend, or
8 supersede any provisions of the Alabama Medical Liability Act
9 of 1987 and the Alabama Medical Liability Act of 1996,
10 commencing with Section 6-5-540, et seq., or any judicial
11 interpretation thereof.

12 "(d) This section shall apply to all civil state
13 court actions commenced on or after January 1, 2012, and on or
14 before December 31, 2016. In criminal actions, this section
15 shall only apply to non-juvenile felony proceedings in which
16 the defendant that is the subject of the proceeding was
17 arrested on the charge that is the subject of the proceeding
18 on or after January 1, 2012, and on or before December 31,
19 2016. This section shall not apply to domestic relations,
20 child support, juvenile, or probate cases.

21 "(e) The provisions of this section, where
22 inconsistent with any Alabama Rule of Civil Procedure, Alabama
23 Rule of Criminal Procedure or Alabama Rule of Evidence,
24 including, but not limited to, Ala. R. Evid. 702, shall
25 supersede such rule or parts of rules."

26 Section 2. Section 12-21-160.1 is added to the Code
27 of Alabama 1975, to read as follows:

1 §12-21-160.1.

2 (a) If scientific, technical, or other specialized
3 knowledge will assist the trier of fact to understand the
4 evidence or to determine a fact in issue, a witness qualified
5 as an expert by knowledge, skill, experience, training, or
6 education, may testify thereto in the form of an opinion or
7 otherwise if all of the following conditions are met:

8 (1) The testimony is based on sufficient facts or
9 data.

10 (2) The testimony is the product of reliable
11 principles and methods.

12 (3) The witness has applied the principles and
13 methods reliably to the facts of the case.

14 (b) Nothing in this section shall modify, amend, or
15 supersede any provisions of the Alabama Medical Liability Act
16 of 1987 and the Alabama Medical Liability Act of 1996,
17 commencing with Section 6-5-540, et seq., or any judicial
18 interpretation thereof.

19 (c) This section shall apply to all civil state
20 court actions commenced on or after January 1, 2017. In
21 criminal actions, this section shall apply only to
22 non-juvenile felony proceedings in which the defendant that is
23 the subject of the proceeding was arrested on the charge that
24 is the subject of the proceeding on or after January 1, 2017.
25 This section shall not apply to domestic relations, child
26 support, juvenile, or probate cases.

1 (d) The provisions of this section, where
2 inconsistent with any Alabama Rule of Civil Procedure, Alabama
3 Rule of Criminal Procedure or Alabama Rule of Evidence,
4 including, but not limited to, Ala. R. Evid. 702, shall
5 supersede such rule or parts of rules.

6 Section 3. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.