
By: **Delegates Bissett, Harkins, and M. Burns**
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Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Evidence - Expert Witness Testimony**

3 FOR the purpose of requiring the court to consider certain factors in admitting
4 opinion testimony concerning certain matters; establishing certain criteria the
5 court is required to consider in determining whether an opinion is based on
6 scientific knowledge; establishing certain factors in determining whether an
7 opinion will assist the fact finder to determine a fact in issue; establishing
8 certain qualifications for an expert witness; prohibiting the admission of an
9 expert witness opinion if the expert is entitled to certain compensation
10 contingent on the outcome of a claim; and generally relating to the admissibility
11 of expert witness testimony and opinions.

12 BY adding to

13 Article - Courts and Judicial Proceedings

14 Section 10-919

15 Annotated Code of Maryland

16 (1995 Replacement Volume and 1997 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Courts and Judicial Proceedings**

20 10-919.

21 (A) TESTIMONY IN THE FORM OF AN OPINION CONCERNING A SCIENTIFIC,
22 TECHNICAL, OR MEDICAL MATTER MAY NOT BE ADMITTED UNLESS THE COURT
23 DETERMINES THAT THE OPINION:

24 (1) IS BASED ON SCIENTIFIC KNOWLEDGE;

25 (2) WILL ASSIST THE TRIER OF FACT TO UNDERSTAND THE EVIDENCE
26 OR TO DETERMINE A FACT IN ISSUE; AND

27 (3) IS PRESENTED BY A WITNESS WHO IS QUALIFIED AS AN EXPERT.

1 (B) (1) AN OPINION IS BASED ON SCIENTIFIC KNOWLEDGE IF THE OPINION
2 NECESSARILY FOLLOWS FROM A SCIENTIFIC THEORY DEVELOPED IN ACCORDANCE
3 WITH THE SCIENTIFIC METHOD.

4 (2) IN DETERMINING WHETHER A SCIENTIFIC THEORY HAS BEEN
5 DEVELOPED IN ACCORDANCE WITH THE SCIENTIFIC METHOD, THE COURT SHALL
6 CONSIDER WHETHER:

7 (I) THE SCIENTIFIC THEORY HAS BEEN OR IS CAPABLE OF BEING
8 EXPERIMENTALLY TESTED AND, IF SO, THE RESULTS OF ANY EXPERIMENTS
9 CONDUCTED;

10 (II) THE SCIENTIFIC THEORY AND SUPPORTING EXPERIMENTS
11 HAVE BEEN PUBLISHED IN PEER-REVIEWED LITERATURE;

12 (III) THE EXPERIMENTAL RESULTS HAVE BEEN REPLICATED BY
13 DIFFERENT LABORATORIES AND RESEARCHERS; AND

14 (IV) THE SCIENTIFIC THEORY IS GENERALLY ACCEPTED IN THE
15 RELEVANT SCIENTIFIC COMMUNITY.

16 (3) IF AN OPINION IS BASED ON VARIOUS TECHNIQUES OR METHODS,
17 THE TECHNIQUES OR METHODS MUST HAVE BEEN DEVELOPED IN ACCORDANCE
18 WITH THE SCIENTIFIC METHOD AND MUST RELY ON AN UNDERLYING THEORY AND
19 THE COURT MUST EVALUATE THE THEORY, TECHNIQUES, AND METHODS IN LIGHT
20 OF THE CRITERIA SET FORTH IN PARAGRAPH (2) OF THIS SUBSECTION.

21 (C) AN OPINION WILL ASSIST THE FINDER OF FACT TO DETERMINE A FACT IN
22 ISSUE UNDER SUBSECTION (A)(2) OF THIS SECTION IF THE COURT DETERMINES
23 THAT:

24 (1) THE RELATIONSHIP BETWEEN THE OPINION AND THE SUPPORTING
25 SCIENTIFIC THEORY AND EXPERIMENTS IS SUFFICIENTLY CLOSE AND CONGRUENT
26 SO AS NOT TO RENDER THE OPINION SPECULATIVE;

27 (2) THE OPINION MAY BE VALIDLY AND RELIABLY DRAWN FROM THE
28 THEORY; AND

29 (3) AN OPINION CONTRARY TO THE ONE PROFFERED CANNOT FOLLOW
30 IF THE UNDERLYING THEORY IS CORRECT.

31 (D) (1) A WITNESS MAY BE QUALIFIED AS AN EXPERT UNDER SUBSECTION
32 (A)(3) OF THIS SECTION IF THE WITNESS' KNOWLEDGE, SKILL, EXPERIENCE,
33 TRAINING, EDUCATION, OR OTHER EXPERTISE LIES IN THE PARTICULAR FIELD
34 ABOUT WHICH THE WITNESS IS TESTIFYING.

35 (2) TESTIMONY BY A WITNESS WHO IS QUALIFIED UNDER SUBSECTION
36 (A)(3) OF THIS SECTION MAY NOT BE ADMITTED IF THE WITNESS IS ENTITLED TO
37 RECEIVE ANY COMPENSATION CONTINGENT ON THE OUTCOME OF A CLAIM WITH
38 RESPECT TO WHICH THE TESTIMONY IS OFFERED.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1998.