



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 12/29/2010 (Per: CMH)

A ☞ The 2011 drafting file for
LRB-0358

E ☞ The 2011 drafting file for
LRB-0371

B ☞ The 2011 drafting file for
LRB-0368

F ☞ The 2011 drafting file for
LRB-0372

C ☞ The 2011 drafting file for
LRB-0369

G ☞ The 2011 drafting file for
LRB-0671

D ☞ The 2011 drafting file for
LRB-0370

☞ **Compile Draft – Appendix F**

has been copied/added to the drafting file for

2011 LRB-0388

(Jr1 Special Session Draft)

2011 DRAFTING REQUEST

Bill

Received: 11/09/2010

Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Governor-elect

By/Representing: Kevin Moore

May Contact:

Drafter: phurley

Subject: Courts - evidence

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Kevin.Moore@wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Evidence in torts cases

Instructions:

redraft 05-1542/2

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 11/09/2010	kfollett 11/09/2010		_____			
/1			mduchek 11/09/2010	_____	lparisi 11/09/2010		

FE Sent For:

<END>

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/?	phurley	11/9/10 kjf		_____ _____			

FE Sent For:

<END>

Hurley, Peggy

To: Moore, Kevin E - GOT

Cc: Champagne, Rick

Subject: RE: Drafting Request

Kevin,

I'll enter this today and get a draft to you as soon as I can.

Peggy

From: Moore, Kevin E - GOT [mailto:Kevin.Moore@wisconsin.gov]

Sent: Tuesday, November 09, 2010 9:47 AM

To: Hurley, Peggy

Cc: Champagne, Rick

Subject: Drafting Request

Good Morning-

The Governor Elect would like the following bill drafted:

2005 LRB 1542/2.

Please feel free to contact me should you have any questions.

Kevin Moore

Office of Governor-Elect Scott Walker

11/9/2010

2005 - 2006 LEGISLATURE

Needed 11/10

LRB-16422

RPN:kjfjf

PSH:kjf

0372/1

mnr

PWF

2005 SENATE BILL 70

11-9-10

February 17, 2005 - Introduced by Senators KANAVAS, STEPP, OLSEN and BROWN, cosponsored by Representatives SUDER, TOWNSEND, HAHN, BIES, JENSEN, HINES, VAN ROY, GUNDERSON, OTT, ALBERS, HUNDERTMARK, F. LASEE, DAVIS, KREIBICH and LAMB. Referred to Committee on Judiciary, Corrections and Privacy.

Regen

- 1 **AN ACT to renumber and amend** 907.01 and 907.02; **to amend** 907.03; and **to**
- 2 **create** 907.01 (3), 907.02 (1) (a), (b) and (c) and 907.02 (2) of the statutes;
- 3 **relating to:** evidence of lay and expert witnesses.

Analysis by the Legislative Reference Bureau

Under current law, if a witness is not testifying as an expert, the witness's testimony is limited to those opinions that are rationally based on the perception of the witness and helpful to a clear understanding of the witness's testimony or of a fact at issue in the case. This bill adds the additional limit that a nonexpert's testimony may not be based on scientific, technical, or other specialized knowledge of the witness.

Current law allows the testimony of an expert witness if that scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact at issue in the case. This bill limits the testimony of an expert witness to testimony that is based on sufficient facts or data, that is the product of reliable principles and methods, and that is based on the witness applying those principles and methods to the facts of the case. The bill also prohibits the testimony of an expert witness who is entitled to receive any compensation contingent on the outcome of the case.

Currently, the facts or data in a particular case on which an expert witness bases his or her opinion may be made known to the expert at or before the case hearing, but if those facts or data are reasonably relied upon by experts in the field in forming opinions about the subject, they do not need to be admissible into evidence

SENATE BILL 70

in the case. This bill adds that facts or data that are otherwise inadmissible may not be disclosed to the jury unless the court determines that their value in assisting the jury to evaluate the expert's testimony outweighs their prejudicial effect.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 907.01 of the statutes is renumbered 907.01 (intro.) and amended
2 to read:

3 **907.01 Opinion testimony by lay witnesses.** (intro.) If the witness is not
4 testifying as an expert, the witness's testimony in the form of opinions or inferences
5 is limited to those opinions or inferences which are rationaly all of the following:

6 (1) Rationaly based on the perception of the witness ~~and helpful~~.

7 (2) Helpful to a clear understanding of the witness's testimony or the
8 determination of a fact in issue.

9 SECTION 2. 907.01 (3) of the statutes is created to read:

10 907.01 (3) Not based on scientific, technical, or other specialized knowledge
11 within the scope of a witness under s. 907.02 (1).

12 SECTION 3. 907.02 of the statutes is renumbered 907.02 (1) (intro.) and
13 amended to read:

14 907.02 (1) (intro.) If scientific, technical, or other specialized knowledge will
15 assist the trier of fact to understand the evidence or to determine a fact in issue, a
16 witness qualified as an expert by knowledge, skill, experience, training, or education,
17 may testify thereto in the form of an opinion or otherwise: if all of the following

18 criteria are met: true

19 SECTION 4. 907.02 (1) (a), (b) and (c) of the statutes are created to read:

20 907.02 (1) (a) The testimony is based upon sufficient facts or data.

SENATE BILL 70

1 (b) The testimony is the product of reliable principles and methods.

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

4 **SECTION 5.** 907.02 (2) of the statutes is created to read:

5 907.02 (2) Notwithstanding sub. (1), the testimony of an expert witness may
6 not be admitted if the expert witness is entitled to receive any compensation
7 contingent on the outcome of any claim or case with respect to which the testimony
8 is being offered.

9 **SECTION 6.** 907.03 of the statutes is amended to read:

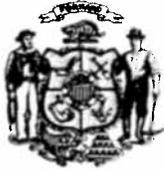
10 **907.03 Bases of opinion testimony by experts.** The facts or data in the
11 particular case upon which an expert bases an opinion or inference may be those
12 perceived by or made known to the expert at or before the hearing. If of a type
13 reasonably relied upon by experts in the particular field in forming opinions or
14 inferences upon the subject, the facts or data need not be admissible in evidence in
15 order for the opinion or inference to be admitted. Facts or data that are otherwise
16 inadmissible may not be disclosed to the jury by the proponent of the opinion or
17 inference unless the court determines that their probative value in assisting the jury
18 to evaluate the expert's opinion or inference substantially outweighs their
19 prejudicial effect.

20 **SECTION 7. Initial applicability.**

21 (1) This act first applies to actions commenced on the effective date of this
22 subsection.

23

(END)



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0372/1
PJH:kjf:md

2011 BILL

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BILL

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BILL

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