



JIM DOYLE
GOVERNOR
STATE OF WISCONSIN

March 17, 2004

TO THE HONORABLE MEMBERS OF THE SENATE:

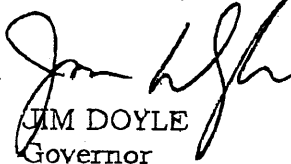
I am vetoing Senate Bill 49. This bill would change the state standard for admissibility of lay and expert witness testimony in our courts and administrative hearings to conform with federal rules. Under current law, the reliability of the evidence is a weight and credibility issue for the jury, and any challenges to this evidence are made through vigorous cross-examination or other means of impeachment. In contrast, this bill would require trial judges to assume a significant "gatekeeper" function in keeping from the jury scientific evidence that they determine is not reliable.

I am vetoing this bill because there is no evidence that Wisconsin's existing rules governing the admissibility of lay and expert witness testimony has produced unfair or illogical results. Moreover, under current law, Wisconsin judges already may reject evidence because it is superfluous, prejudicial, or inherently improbable.

Furthermore, this bill adds potential confusion to the administration of justice. Although the bill was amended in the Senate to exclude its applicability to criminal cases and Chapter 980 sexual predator cases, applying two separate standards to the admissibility of lay/expert witness testimony based on whether the case is civil or criminal is nonsensical. Under the bill as amended, the admissibility standard that would apply to a psychologist that testifies in a criminal sexual assault trial would be different than that applied to the same psychologist in a civil sexual assault trial.

In sum, the proponents of change in the evidentiary rules governing expert testimony bear the burden of demonstrating a compelling need for such change and the superiority of proposed new measures. The standard for the admissibility of lay and expert witness testimony in Wisconsin has worked effectively for decades because it places the final determination of reliability where it belongs: in the hands of a jury.

Respectfully submitted,


JIM DOYLE
Governor