

1 HB161  
2 173148-3  
3 By Representatives Fridy, Beckman, Hill (J) and Faulkner  
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.