



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2948

Introduced 1/31/2024, by Sen. Jil Tracy

SYNOPSIS AS INTRODUCED:

735 ILCS 5/Art. VIII Pt. 30 heading new
735 ILCS 5/8-3001 new
735 ILCS 5/8-3002 new
735 ILCS 5/8-3003 new
735 ILCS 5/8-3004 new
735 ILCS 5/8-3005 new
735 ILCS 5/8-3006 new
735 ILCS 5/8-3007 new
735 ILCS 5/8-3008 new
735 ILCS 5/8-3009 new
735 ILCS 5/8-3010 new

Amends the Code of Civil Procedure. Provides limitations upon a nonexpert's opinion or inference testimony. Sets forth requirements regarding: qualifications, testimony, disclosure, and compensation of expert witnesses; bases of expert opinion testimony; limitations on expert testimony; pretrial hearings and disclosures concerning expert witnesses; precedents to be followed in interpreting the new provisions; interlocutory appeals of rulings on the admissibility of expert evidence; standards to be followed by reviewing courts in determining the admissibility of expert testimony; and severability. Provides that the new provisions apply to actions commenced on or after the effective date of the amendatory Act and pending actions in which a trial has not been scheduled or in which a trial has been scheduled more than 90 days after the effective date of the amendatory Act. Effective immediately.

LRB103 38316 JRC 68451 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 adding Part 30 to Article VIII as follows:

6 (735 ILCS 5/Art. VIII Pt. 30 heading new)

7 Part 30. Expert Testimony

8 (735 ILCS 5/8-3001 new)

9 Sec. 8-3001. Opinion testimony by lay witnesses. If the
10 witness is not testifying as an expert, the testimony of the
11 witness in the form of opinions or inferences is limited to
12 those opinions or inferences that are:

13 (1) rationally based on the perception of the witness;
14 (2) helpful to a clear understanding of the testimony
15 of the witness or the determination of a fact in issue; and
16 (3) not based on scientific, technical, or other
17 specialized knowledge within the scope of Section 8-3003.

18 (735 ILCS 5/8-3002 new)

19 Sec. 8-3002. Testimony by experts. If scientific,
20 technical, or other specialized knowledge will assist the
21 trier of fact to understand the evidence or to determine a fact

1 in issue, a witness qualified as an expert by knowledge,
2 skill, experience, training, or education may testify in the
3 form of an opinion or otherwise, if:

4 (1) the testimony is based upon sufficient facts or
5 data;

6 (2) the testimony is the product of reliable
7 principles and methods; and

8 (3) the witness has applied the principles and methods
9 reliably to the facts of the case.

10 (735 ILCS 5/8-3003 new)

11 Sec. 8-3003. Bases of expert opinion testimony. The facts
12 or data in the particular case upon which an expert bases an
13 opinion or inference may be those perceived by or made known to
14 the expert at or before the hearing. If facts or data are of a
15 type reasonably relied upon by experts in the particular field
16 in forming opinions or inferences upon the subject, the facts
17 or data need not be admissible in evidence in order for the
18 opinion or inference to be admitted. Facts or data that are
19 otherwise inadmissible shall not be disclosed to the jury by
20 the proponent of the opinion or inference, unless the court
21 determines that the probative value in assisting the jury to
22 evaluate the expert's opinion substantially outweighs the
23 prejudicial effect.

24 (735 ILCS 5/8-3004 new)

1 Sec. 8-3004. Bars to expert testimony.

2 (a) A witness qualified as an expert by knowledge, skill,
3 experience, training, or education may offer expert testimony
4 only with respect to a particular field in which the expert is
5 qualified.

6 (b) An expert witness may receive a reasonable and
7 customary fee for the rendering of professional services;
8 however, the testimony of an expert witness shall not be
9 admitted if any compensation is contingent on the outcome of a
10 claim or case with respect to which the testimony is being
11 offered.

12 (735 ILCS 5/8-3005 new)

13 Sec. 8-3005. Mandatory pretrial hearing. If the witness is
14 testifying as an expert, then upon motion of a party, the court
15 shall hold a pretrial hearing to determine whether the witness
16 qualifies as an expert and whether the expert's testimony
17 satisfies the requirements of Sections 8-3002, 8-3003, and
18 8-3004. The court shall allow sufficient time for a hearing
19 and shall rule on the qualifications of the witness to testify
20 as an expert and whether the testimony satisfies the
21 requirements of Sections 8-3002, 8-3003, and 8-3004. The
22 hearing and ruling shall be completed no later than the final
23 pretrial hearing. The trial court's ruling shall set forth the
24 findings of fact and conclusions of law upon which the order to
25 admit or exclude expert evidence is based.

1 (735 ILCS 5/8-3006 new)

2 Sec. 8-3006. Mandatory pretrial disclosure of expert
3 testimony.

4 (a) Regardless of whether any party elects to request a
5 pretrial hearing under Section 8-3005, each party shall
6 disclose to the other parties the identity of any person who
7 may be used at trial to present expert evidence.

8 (b) Except as otherwise stipulated or directed by the
9 court, disclosure under this Section shall, with respect to a
10 witness who is retained or specially employed to provide
11 expert testimony in the case or whose duties as an employee of
12 the party regularly involve giving expert testimony, be
13 accompanied by a written report prepared and signed by the
14 witness. The report shall contain a complete statement of:

15 (1) all opinions to be expressed and the basis and
16 reasons for each;

17 (2) the data or other information considered by the
18 witness in forming the opinions;

19 (3) any exhibits to be used as a summary of or support
20 for the opinions;

21 (4) the qualifications of the witness, including a
22 list of all publications authored by the witness within
23 the preceding 10 years;

24 (5) the compensation to be paid for the study and
25 testimony; and

1 (6) a listing of any other cases in which the witness
2 has testified as an expert at trial or by deposition
3 within the preceding 4 years.

4 (c) Disclosures under this Section shall be made at the
5 times and in the sequence directed by the court. In the absence
6 of other directions from the court or stipulation by the
7 parties, the disclosures shall be made at least 90 days before
8 the trial date or the date the case is to be ready for trial
9 or, if the evidence is intended solely to contradict or rebut
10 evidence on the same subject matter identified by another
11 party under subsection (b), within 30 days after the
12 disclosure made by the other party.

13 (d) A party may depose any person who has been identified
14 as an expert whose opinions may be presented at trial. If a
15 report from the expert is required under paragraph (b), the
16 deposition shall not be conducted until after the report is
17 provided.

18 (735 ILCS 5/8-3007 new)

19 Sec. 8-3007. Interpretation. In interpreting and applying
20 this Part, the courts of this State shall follow the opinions
21 of the United States Supreme Court in Daubert v. Merrell Dow
22 Pharmaceuticals, Inc., 509 U.S. 579 (1993), General Electric
23 Co. v. Joiner, 522 U.S. 136 (1997), Kumho Tire Co. Ltd. v.
24 Carmichael, 526 U.S. 137 (1999), Weisgram v. Marley, 528 U.S.
25 440 (2000), and their progeny; moreover, the courts of this

1 State may draw from other precedents applying the standards
2 announced by the United States Supreme Court in the foregoing
3 cases and binding in the federal courts of this State.

4 (735 ILCS 5/8-3008 new)

5 Sec. 8-3008. Interlocutory appeal. Interlocutory appeal of
6 a ruling on the admissibility of expert evidence shall be
7 available at the discretion of the appellate court. In
8 deciding whether to grant the interlocutory appeal, the court
9 shall consider whether: (i) the ruling involved any challenge
10 to the constitutionality of this Part; (ii) the ruling will
11 help prove or disprove criminal liability; or (iii) the ruling
12 will help establish civil liability at or above \$75,000, where
13 the testimony could be outcome-determinative for establishing
14 liability or determining damages. Neither a party's failure to
15 seek interlocutory appeal nor an appellate court's decision to
16 deny a motion for interlocutory appeal shall waive a party's
17 right to appeal a ruling on the admissibility of expert
18 evidence after an entry of judgment in the case.

19 (735 ILCS 5/8-3009 new)

20 Sec. 8-3009. Standard of review.

21 (a) The proper construction of the expert evidence
22 admissibility framework under this Part is a question of law;
23 therefore, the reviewing court shall apply a de novo standard
24 of review in determining whether the trial court fully applied

1 the proper legal standard in considering the admissibility of
2 expert evidence.

3 (b) The application of this Part to determine the
4 admissibility of expert testimony is a question of fact;
5 therefore, the reviewing court shall apply an abuse of
6 discretion standard in determining whether the trial court
7 properly admitted or excluded particular expert evidence.

8 (735 ILCS 5/8-3010 new)

9 Sec. 8-3010. Application. This Part applies to all actions
10 commenced on or after the effective date of this amendatory
11 Act of the 103rd General Assembly and to all pending actions in
12 which trial has not been scheduled or in which trial has been
13 scheduled in excess of 90 days after the effective date of this
14 amendatory Act of the 103rd General Assembly.

15 Section 97. Severability. The provisions of this Act are
16 severable under Section 1.31 of the Statute on Statutes.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.