

SENATE BILL No. 398

By Committee on Judiciary

1-27

1 AN ACT concerning the rules of evidence; relating to testimony in the
2 form of opinion or inferences; requiring a proponent to demonstrate
3 that it is more likely than not that certain specialized knowledge will
4 help the tier of fact to understand the evidence before certain qualified
5 witnesses may testify; amending K.S.A. 60-456 and repealing the
6 existing section.

7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 60-456 is hereby amended to read as follows: 60-
10 456. (a) If the witness is not testifying as an expert, the testimony in the
11 form of opinions or inferences is limited to such opinions or inferences as
12 the judge finds *are*:

13 (1) ~~Are~~Rationally based on the perception of the witness;
14 (2) ~~are~~helpful to a clearer understanding of the testimony of the
15 witness; and

16 (3) ~~are~~not based on scientific, technical or other specialized
17 knowledge within the scope of subsection (b).

18 (b) ~~If scientific, technical or other specialized knowledge will help~~
19 ~~the trier of fact to understand the evidence or to determine a fact in issue,~~
20 A witness who is qualified as an expert by knowledge, skill, experience,
21 training or education may testify thereto in the form of an opinion or
22 otherwise if *the proponent demonstrates to the court that it is more likely*
23 *than not that the:*

24 (1) ~~The Expert's scientific, technical or other specialized knowledge~~
25 ~~will help the trier of fact to understand the evidence or to determine a fact~~
26 *in issue;*

27 (2) testimony is based on sufficient facts or data;
28 (2)(3) ~~the~~testimony is the product of reliable principles and methods;
29 and

30 (3)(4) ~~the witness has reliably applied expert's opinion reflects a~~
31 *reliable application of* the principles and methods to the facts of the case.

32 (c) Unless the judge excludes the testimony, the judge shall be
33 deemed to have made the finding requisite to its admission.

34 (d) Testimony in the form of opinions or inferences otherwise
35 admissible under this article is not objectionable because it embraces the
36 ultimate issue or issues to be decided by the trier of the fact.

1 Sec. 2. K.S.A. 60-456 is hereby repealed.

2 Sec. 3. This act shall take effect and be in force from and after its
3 publication in the statute book.