

SENATE BILL No. 398

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

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

Section 1. K.S.A. 60-456 is hereby amended to read as follows: 60-456. (a) ~~If the a witness is not testifying as an expert, the testimony in the form of opinions or inferences is limited to such opinions or inferences as the judge finds an opinion is limited to one that is:~~

- (1) ~~Are~~ Rationally based on the perception of the witness;
- (2) ~~are helpful to a clearer~~ *clearly* understanding of the testimony of the witness ~~or determining a fact in issue~~; and
- (3) ~~are~~ not based on scientific, technical or other specialized knowledge within the scope of subsection (b).

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

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

(2) testimony is based on sufficient facts or data;

~~(2)(3) the~~ testimony is the product of reliable principles and methods; and

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

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

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

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 K.S.A. 60-456 is hereby repealed.

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

I hereby certify that the above BILL originated in the
SENATE, and passed that body

SENATE concurred in

HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.