

SECOND REGULAR SESSION

# SENATE BILL NO. 1309

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY SENATOR TRENT.

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4997S.01I

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KRISTINA MARTIN, Secretary

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### AN ACT

To repeal section 490.065, RSMo, and to enact in lieu thereof one new section relating to expert witnesses.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 490.065, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 490.065, to read as follows:

490.065. 1. In actions brought under chapter 451, 452, 453, 454, or 455 or in actions adjudicated in juvenile courts under chapter 211 or in family courts under chapter 487, or in all proceedings before the probate division of the circuit court, or in all actions or proceedings in which there is no right to a jury trial:

(1) If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise;

(2) Testimony by such an expert witness in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact;

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

30           2. In all actions except those to which subsection 1  
31 of this section applies:

40 (b) The testimony is based on sufficient facts or data;

41 (c) The testimony is the product of reliable  
42 principles and methods; and

43 (d) The [expert has reliably applied] **expert's opinion**  
44 **reflects a reliable application of** the principles and  
45 methods to the facts of the case;

46 (2) An expert may base an opinion on facts or data in  
47 the case that the expert has been made aware of or  
48 personally observed. If experts in the particular field

49 would reasonably rely on those kinds of facts or data in  
50 forming an opinion on the subject, they need not be  
51 admissible for the opinion to be admitted. But if the facts  
52 or data would otherwise be inadmissible, the proponent of  
53 the opinion may disclose them to the jury only if their  
54 probative value in helping the jury evaluate the opinion  
55 substantially outweighs their prejudicial effect;

56 (3) (a) An opinion is not objectionable just because  
57 it embraces an ultimate issue.

58 (b) In a criminal case, an expert witness shall not  
59 state an opinion about whether the defendant did or did not  
60 have a mental state or condition that constitutes an element  
61 of the crime charged or of a defense. Those matters are for  
62 the trier of fact alone;

63 (4) Unless the court orders otherwise, an expert may  
64 state an opinion and give the reasons for it without first  
65 testifying to the underlying facts or data. But the expert  
66 may be required to disclose those facts or data on cross-  
67 examination.

68 3. The provisions of this section shall not prevent a  
69 person, partnership, association, or corporation, as owner,  
70 from testifying as to the reasonable market value of the  
71 owner's land.

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