

FIRST REGULAR SESSION

# HOUSE BILL NO. 892

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PRATT.

Read 1<sup>st</sup> time March 31, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2085L.011

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### AN ACT

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

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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Section A. Section 490.065, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 490.065, to read as follows: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 any civil action, 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, **if the testimony is based upon sufficient facts or data, the testimony is the product of reliable principles and methods, and the witness has applied the principles and methods reliably to the facts of the case.**

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.

3. The facts or data in a particular case upon which an expert bases an opinion or inference may be those perceived by or made known to [him] **the expert** at or before the hearing and must be of a type reasonably relied upon by experts in the field in forming opinions or inferences upon the subject and must be otherwise reasonably reliable.

**4. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence in order for the opinion or inference to be admitted. Facts or data that are**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **otherwise inadmissible shall not be disclosed to the jury by the proponent of the opinion**  
18 **or inference unless the court determines that their probative value in assisting the jury to**  
19 **evaluate the expert's opinion substantially outweighs their prejudicial effect.**

20 [4.] **5.** If a reasonable foundation is laid, an expert may testify in terms of opinion or  
21 inference and give the reasons therefor without the use of hypothetical questions, unless the court  
22 believes the use of a hypothetical question will make the expert's opinion more understandable  
23 or of greater assistance to the jury due to the particular facts of the case.