
The original instrument was prepared by Camille Sebastien Perry. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jerry G. Jones.

DIGEST

Donahue (SB 308)

Present law (C.C.P. Art. 1425) allows the parties through interrogatories or by deposition to require any other party to identify each party that may be used at trial to present evidence as an expert under Articles 702-705 of the Code of Evidence; gives the court authority to order the parties to provide written reports for testifying expert witnesses that shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor and the data or other information considered by the witness in forming the opinions, and authorizes parties to obtain discovery of the opinions of experts as well as the facts known by them.

Present law requires the written report for testifying expert witnesses to be filed at least 90 days before the trial date or the date the case is to be ready for trial.

Proposed law extends the deadline for filing the written report from 90 days to 120 days.

Proposed law provides for a hearing to be held upon motion of any party at least 90 days before trial to present evidence on why an expert qualifies as an expert and why their methodologies are reliable under Articles 702-705 of the Code of Evidence, concerning opinions and expert testimony.

Proposed law requires a judge to provide written reasons for determining whether a person qualifies as a expert by providing the following:

- (a) The elements required to be satisfied in order for a person to testify under Articles 702-705 of the Code of Evidence.
- (b) The evidence that has been presented at the hearing by a party in order to satisfy the requirements of Articles 702 -705 of the Code of Evidence at trial.
- (c) A decision by the judge as to whether or not a person shall be allowed to testify under Articles 702-705 of the Code of Evidence at trial.
- (d) The reasons of the judge detailing in law and fact why a person shall be allowed or disallowed to testify under Articles 702-705 of the Code of Evidence based upon the evidence presented at this hearing.

Proposed law provides for the availability of an interlocutory appeal at the discretion of the appellate court, and provides that a party's right to appeal a ruling on the admissibility of expert evidence after an entry of judgment in the case shall not be waived by either a party's failure to

seek an interlocutory appeal nor an appellate court's decision to deny a motion for interlocutory appeal.

Proposed law provides that its provisions shall be given prospective application only and shall apply only to an action commenced on and after the effective date of the proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends C.C.P. Art. 1425(C); adds C.C.P. Art. 1425(F))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill.

1. Deleted language providing that provisions of proposed law shall be applicable to all actions commenced on and after its effective date and to all pending actions in which trial has not been scheduled or in which trial has been scheduled in excess of 90 days after the effective date of the proposed law.
2. Substituted language providing that provisions of proposed law shall be given prospective application only and shall apply only to an action commenced on and after the effective date of the proposed law.