

SENATE FLOOR AMENDMENTS

Amendments proposed by Senator Donahue to Engrossed Senate Bill No. 308 by Senator Donahue

1 AMENDMENT NO. 1

2 On page 1, delete line 17 and insert

3 "date ~~or the date the case is to be ready for trial~~ or, if the evidence is intended  
4 solely"

5 AMENDMENT NO. 2

6 On page 2, delete lines 5 through 29 and insert

7 "F. (1) Any party may file a motion for a pretrial hearing to  
8 determine whether a witness qualifies as an expert or whether the  
9 methodologies employed by such witness are reliable under Articles 702  
10 through 705 of the Louisiana Code of Evidence. The motion shall be filed  
11 not later than sixty days prior to trial and shall set forth sufficient  
12 allegations showing the necessity for these determinations by the court.

13 (2) The court shall hold a contradictory hearing and shall rule on the  
14 motion not later than thirty days prior to the trial. At the hearing, the court  
15 shall allow sufficient time for evidence to be adduced as to the qualifications  
16 and methodologies of the proposed witness based upon the provisions of  
17 Articles 702 though 705 of the Louisiana Code of Evidence.

18 (3) If the ruling of the court is made at the conclusion of the hearing,  
19 the court shall recite orally its findings of fact and reasons for judgment. If  
20 the matter is taken under advisement, the court shall render its ruling and  
21 provide written findings of fact and reasons for judgment not later than five  
22 days after the hearing.

23 (4) The findings of facts and reasons for judgment shall be made part  
24 of the record of the proceedings. The findings of facts and reasons for  
25 judgment shall specifically include and address:

26 (a) The elements required to be satisfied in order for a person to  
27 testify under Articles 702 through 705 of the Louisiana Code of Evidence.

28 (b) The evidence that has been presented at the hearing by a party in  
29 order to satisfy the requirements of Articles 702 through 705 of the  
30 Louisiana Code of Evidence at trial.

31 (c) A decision by the judge as to whether or not a person shall be  
32 allowed to testify under Articles 702 through 705 of the Louisiana Code of  
33 Evidence at trial.

34 (d) The reasons of the judge detailing in law and fact why a person  
35 shall be allowed or disallowed to testify under Articles 702 through 705 of  
36 the Louisiana Code of Evidence based upon the evidence presented at this  
37 hearing.

38 (5) A ruling of the court pursuant to the provisions of this Subsection  
39 shall be subject to appellate review as provided by law.

40 (6) Notwithstanding the time limitations set forth in Paragraphs (1),  
41 (2), and (3), by unanimous consent of the parties, and with approval by the  
42 court, a motion under this Subsection may be filed, heard, and ruled upon  
43 by the court at any time prior to trial. The ruling by the court on such  
44 motion shall include findings of fact and reasons for judgment complying  
45 with the provisions of Paragraph (4).

46 (7) The provisions of this Subsection shall not apply to testimony in  
47 an action for divorce or annulment of marriage, or to testimony in any  
48 ancillary proceedings or matters arising from such actions."

1 AMENDMENT NO. 3

2 On page 3, delete lines 1 through 15.

3 AMENDMENT NO. 4

4 On page 3, delete lines 16 and 17 and insert

5 "Section 2. The provisions of this Act shall not affect any action set for trial prior  
6 to the effective date of this Act."