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SENATE BILL NO. 806

Offered January 12, 2011

Prefiled January 5, 2011

A *BILL to amend and reenact § 8.01-401.1 of the Code of Virginia, relating to expert witnesses; literature designations.*

Patron—Obenshain

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-401.1 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-401.1. Opinion testimony by experts; hearsay exception.

In any civil action any expert witness may give testimony and render an opinion or draw inferences from facts, circumstances or data made known to or perceived by such witness at or before the hearing or trial during which he is called upon to testify. The facts, circumstances or data relied upon by such witness in forming an opinion or drawing inferences, if of a type normally relied upon by others in the particular field of expertise in forming opinions and drawing inferences, need not be admissible in evidence.

The expert may testify in terms of opinion or inference and give his reasons therefor without prior disclosure of the underlying facts or data, unless the court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

To the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals or pamphlets, on a subject of history, medicine, or other science or art, established as a reliable authority by testimony or by stipulation shall not be excluded as hearsay. If admitted, the statements may be read into evidence but may not be received as exhibits. If the statements are to be introduced through an expert witness upon direct examination, copies of the *specific* statements shall be provided to opposing parties ~~thirty~~ 30 days prior to trial unless otherwise ordered by the court. *If an opposing party intends to rely on statements in the previously designated treatises, periodicals, or pamphlets during the direct examination of his own expert witness, copies of those specific statements shall be provided to all parties within 10 days after receipt of the statements from the opposing party unless otherwise ordered by the court.*

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