

By the Committee on Criminal Justice; and Senator Negron

591-03236-11

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1                   A bill to be entitled  
2           An act relating to eyewitness identification;  
3           providing a short title; defining terms; requiring  
4           state, county, municipal, and other law enforcement  
5           agencies that conduct lineups to follow certain  
6           specified procedures; requiring the eyewitness to sign  
7           an acknowledgement that he or she received the  
8           instructions about the lineup procedures from the law  
9           enforcement agency; specifying remedies for failing to  
10          adhere to the eyewitness identification procedures;  
11          requiring the Criminal Justice Standards and Training  
12          Commission to create educational materials and conduct  
13          training programs on how to conduct lineups in  
14          compliance with the act; providing an effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18           Section 1. Eyewitness identification.-

19           (1) SHORT TITLE.-This section may be cited as the  
20 "Eyewitness Identification Reform Act."

21           (2) DEFINITIONS.-As used in this section, the term:

22           (a) "Eyewitness" means a person whose identification by  
23 sight of another person may be relevant in a criminal  
24 proceeding.

25           (b) "Filler" means a person or a photograph of a person who  
26 is not suspected of an offense but is included in a lineup.

27           (c) "Independent administrator" means a person who is not  
28 participating in the investigation of a criminal offense and is  
29 unaware of which person in the lineup is the suspect.

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30 (d) "Lineup" means a photo lineup or live lineup.

31 (e) "Lineup administrator" means the person who conducts a  
32 lineup.

33 (f) "Live lineup" means a procedure in which a group of  
34 people is displayed to an eyewitness for the purpose of  
35 determining if the eyewitness is able to identify the  
36 perpetrator of a crime.

37 (g) "Photo lineup" means a procedure in which an array of  
38 photographs is displayed to an eyewitness for the purpose of  
39 determining if the eyewitness is able to identify the  
40 perpetrator of a crime.

41 (3) EYEWITNESS IDENTIFICATION PROCEDURES.—Lineups conducted  
42 in this state by state, county, municipal, and other law  
43 enforcement agencies must meet all of the following  
44 requirements:

45 (a) A lineup must be conducted by an independent  
46 administrator.

47 (b) Before a lineup, the eyewitness shall be instructed  
48 that:

49 1. The perpetrator might or might not be in the lineup;  
50 2. The lineup administrator does not know the suspect's  
51 identity;

52 3. The eyewitness should not feel compelled to make an  
53 identification;

54 4. It is as important to exclude innocent persons as it is  
55 to identify the perpetrator; and

56 5. The investigation will continue with or without an  
57 identification.

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59 The eyewitness shall acknowledge, in writing, having received a  
60 copy of the lineup instructions. If the eyewitness refuses to  
61 sign a document acknowledging receipt of the instructions, the  
62 lineup administrator shall document the refusal of the  
63 eyewitness to sign the writing and then sign the acknowledgement  
64 himself or herself.

65 (4) REMEDIES.—All of the following remedies are available  
66 as consequence of a person not complying with the requirements  
67 of this section:

68 (a)1. A failure on the part of a person to comply with any  
69 requirement of this section shall be considered by the court  
70 when adjudicating motions to suppress eyewitness identification.

71 2. A failure on the part of a person to comply with any  
72 requirement of this section is admissible in support of claims  
73 of eyewitness misidentification, as long as such evidence is  
74 otherwise admissible.

75 (b) When evidence of compliance or noncompliance with the  
76 requirements of this section has been presented at trial, the  
77 jury shall be instructed that it may consider credible evidence  
78 of compliance or noncompliance to determine the reliability of  
79 eyewitness identifications.

80 (5) EDUCATION AND TRAINING.—The Criminal Justice Standards  
81 and Training Commission, in consultation with the Department of  
82 Law Enforcement, shall create educational materials and conduct  
83 training programs on how to conduct lineups in compliance with  
84 this section.

85 Section 2. This act shall take effect July 1, 2011.