CS for SB 312

By the Committee on Criminal Justice; and Senator Baxley

	591-01907-17 2017312c1
1	A bill to be entitled
2	An act relating to eyewitness identification; creating
3	s. 92.70, F.S.; providing a short title; defining
4	terms; requiring state, county, municipal, or other
5	law enforcement agencies that conduct lineups to
6	follow specified procedures; requiring eyewitnesses to
7	sign an acknowledgment that they have received the
8	instructions about the lineup procedures from the law
9	enforcement agency; requiring lineup administrators to
10	document the refusal of an eyewitness to acknowledge
11	such receipt; specifying remedies for failing to
12	adhere to the eyewitness identification procedures;
13	requiring the Criminal Justice Standards and Training
14	Commission to create educational materials and provide
15	training programs on how to conduct lineups; providing
16	an effective date.
17	
18	Be It Enacted by the Legislature of the State of Florida:
19	
20	Section 1. Section 92.70, Florida Statutes, is created to
21	read:
22	92.70 Eyewitness identification
23	(1) SHORT TITLE This section may be cited as the
24	"Eyewitness Identification Reform Act."
25	(2) DEFINITIONSAs used in this section, the term:
26	(a) "Eyewitness" means a person whose identification by
27	sight of another person may be relevant in a criminal
28	proceeding.
29	(b) "Independent administrator" means a person who is not

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30 participating in the investigation of a criminal offense and is 31 unaware of which person in the lineup is the suspect. 32 (c) "Lineup" means a photo lineup or live lineup. 33 (d) "Lineup administrator" means the person who conducts a 34 lineup. 35 (e) "Live lineup" means a procedure in which a group of 36 people is displayed to an eyewitness for the purpose of 37 determining if the eyewitness can identify the perpetrator of a 38 crime. 39 (f) "Photo lineup" means a procedure in which an array of 39 photographs is displayed to an eyewitness for the purpose of 30 determining if the eyewitness can identify the perpetrator of a 31 crime. 32 (f) "Photo lineup" means a procedure in which an array of 33 photographs is displayed to an eyewitness for the purpose of 34 determining if the eyewitness can identify the perpetrator of a 35 crime. 36 (3) EYEWITNESS IDENTIFICATION PROCEDURES.—A lineup 37 (a) EYEWITNESS IDENTIFICATION PROCEDURES.—A lineup 38 requirements: 39 (a) The lineup must be conducted by an independent 39 administrator. However, in lieu of using an independent 30 administrator. However, in lieu of using an independent 31 administrator, a law enforcement agency may conduct a photo 39 lineup eyewitness identification procedure using an alternative 30 method specified in subparagraph 1., subparagraph 2., or 30 subparagraph 3. Any alternative method must be carefully 31 structured to achieve neutral administration and to prevent the 32 lineup administrator from knowing which photograph is being 35 presented to the eyewitness during the identification procedure. 36 Alternative methods may include any of the following: 37 1. An automated computer program that can automatically 38 administer the photo lineup directly to an eyewitness and 35 presented to hence program that can automatically 39 administer the photo lineup directly to an eyewitness and 35 presented to the eyewitness during the identification procedure. 39 Alternative method sub a procedure using an eyewitness and 30 presented to the eyewitne		591-01907-17 2017312c1
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59	prevent the lineup administrator from seeing which photograph
60	the eyewitness is viewing until after the procedure is
61	completed.
62	2. A procedure in which photographs are placed in folders,
63	randomly numbered, and shuffled and then presented to an
64	eyewitness such that the lineup administrator cannot see or
65	track which photograph is being presented to the eyewitness
66	until after the procedure is completed.
67	3. Any other procedure that achieves neutral administration
68	and prevents the lineup administrator from knowing which
69	photograph is being presented to the eyewitness during the
70	identification procedure.
71	(b) Before a lineup, the eyewitness must be instructed
72	that:
73	1. The perpetrator might or might not be in the lineup;
74	2. The lineup administrator does not know the suspect's
75	identity, except that this instruction need not be given when a
76	specified and approved alternative method of neutral
77	administration is used;
78	3. The eyewitness should not feel compelled to make an
79	identification;
80	4. It is as important to exclude innocent persons as it is
81	to identify the perpetrator; and
82	5. The investigation will continue with or without an
83	identification.
84	
85	The eyewitness shall acknowledge, in writing, having received a
86	copy of the lineup instructions. If the eyewitness refuses to
87	sign a document acknowledging receipt of the instructions, the

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591-01907-17 2017312c1 88 lineup administrator must document the refusal of the eyewitness 89 to sign a document acknowledging receipt of the instructions, and the lineup administrator must sign the acknowledgment 90 91 document himself or herself. 92 (4) REMEDIES.—All of the following remedies are available 93 as consequences of compliance or noncompliance with any 94 requirement of this section: 95 (a)1. A failure on the part of a person to comply with any 96 requirement of this section shall be considered by the court 97 when adjudicating motions to suppress eyewitness identification. 98 2. A failure on the part of a person to comply with any 99 requirement of this section is admissible in support of a claim of eyewitness misidentification, as long as such evidence is 100 101 otherwise admissible. 102 (b) If evidence of compliance or noncompliance with any 103 requirement of this section is presented at trial, the jury 104 shall be instructed that the jury may consider credible evidence 105 of compliance or noncompliance to determine the reliability of 106 eyewitness identifications. 107 (5) EDUCATION AND TRAINING.-The Criminal Justice Standards 108 and Training Commission, in consultation with the Department of 109 Law Enforcement, shall create educational materials and provide training programs on how to conduct lineups in compliance with 110 this section. 111 112 Section 2. This act shall take effect October 1, 2017.

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