

By the Committee on Criminal Justice; and Senator Negron

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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.