

1                                   A bill to be entitled  
 2           An act relating to eyewitness identification;  
 3           providing a short title; providing definitions;  
 4           requiring state, county, municipal, and other law  
 5           enforcement agencies that conduct lineups to follow  
 6           specified procedures; requiring an eyewitness to sign  
 7           an acknowledgement that he or she received  
 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. This act may be cited as the "Eyewitness  
 19 Identification Reform Act."

20           Section 2. Eyewitness identification.—

21           (1) 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) "Independent administrator" means a person who is not  
 26 participating in the investigation of a criminal offense and is

27 unaware of which person in the lineup is the suspect.

28 (c) "Lineup" means a photographic lineup or live lineup.

29 (d) "Lineup administrator" means the person who conducts a  
30 lineup.

31 (e) "Live lineup" means a procedure in which a group of  
32 people is displayed to an eyewitness for the purpose of  
33 determining whether the eyewitness is able to identify the  
34 perpetrator of a crime.

35 (f) "Photographic lineup" means a procedure in which an  
36 array of photographs is displayed to an eyewitness for the  
37 purpose of determining whether the eyewitness is able to  
38 identify the perpetrator of a crime.

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

43 (a) A lineup must be conducted by an independent  
44 administrator. In lieu of using an independent administrator, a  
45 photographic lineup eyewitness identification procedure may be  
46 conducted using an alternative method specified and approved by  
47 the Criminal Justice Standards and Training Commission. An  
48 alternative method must be carefully structured to achieve  
49 neutral administration and to prevent the lineup administrator  
50 from knowing which photograph is being presented to the  
51 eyewitness during the identification procedure. Alternative  
52 methods may include any of the following:

53 1. An automated computer program that can automatically  
54 administer the photographic lineup directly to an eyewitness and  
55 prevent the lineup administrator from seeing which photograph  
56 the eyewitness is viewing until after the procedure is  
57 completed.

58 2. A procedure in which photographs are placed in folders  
59 that are randomly numbered, shuffled, and then presented to an  
60 eyewitness such that the lineup administrator cannot see or  
61 track which photograph is being presented to the eyewitness  
62 until after the procedure is completed.

63 3. Any other procedure that achieves neutral  
64 administration and prevents the lineup administrator from  
65 knowing which photograph is being presented to the eyewitness  
66 during the identification procedure.

67 (b) Before a lineup, the eyewitness shall be instructed  
68 that:

69 1. The perpetrator may or may not be in the lineup.

70 2. The lineup administrator does not know the suspect's  
71 identity, except that this instruction need not be given when a  
72 specified and approved alternative method of neutral  
73 administration is used.

74 3. The eyewitness should not feel compelled to make an  
75 identification.

76 4. It is as important to exclude innocent persons as it is  
77 to identify the perpetrator.

78 5. The investigation will continue with or without an

79 identification.

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81 The eyewitness shall sign a written document acknowledging that  
82 he or she received a copy of the lineup instructions from the  
83 law enforcement agency. If the eyewitness refuses to sign a  
84 document acknowledging receipt of the instructions, the lineup  
85 administrator shall document the refusal of the eyewitness to  
86 sign the document and then sign the document himself or herself.

87 (3) REMEDIES.—All of the following remedies are available  
88 as consequence of a person's noncompliance with the requirements  
89 of this section:

90 (a) A failure on the part of a person to comply with a  
91 requirement of this section shall be considered by the court  
92 when adjudicating motions to suppress eyewitness identification.

93 (b) A failure on the part of a person to comply with a  
94 requirement of this section is admissible in support of claims  
95 of eyewitness misidentification as long as such evidence is  
96 otherwise admissible.

97 (c) When evidence of compliance or noncompliance with the  
98 requirements of this section has been presented at trial, the  
99 jury shall be instructed that it may consider credible evidence  
100 of compliance or noncompliance to determine the reliability of  
101 eyewitness identification.

102 (4) EDUCATION AND TRAINING.—The Criminal Justice Standards  
103 and Training Commission, in consultation with the Department of  
104 Law Enforcement, shall create educational materials and conduct

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105 | training programs on how to conduct lineups in compliance with  
106 | this section.

107 |       Section 3.   This act shall take effect October 1, 2014.