

1 A bill to be entitled
2 An act relating to eyewitness identification; amending
3 s. 92.70, F.S.; providing definitions; revising
4 eyewitness identification procedures; requiring
5 documentation of an eyewitness's description of the
6 possible perpetrator of a crime; requiring officers to
7 have an evidence-based reason to include a person in a
8 lineup; limiting the use of facial recognition
9 technology in certain circumstances; specifying the
10 composition of a lineup; limiting the number of
11 identification procedures that may be conducted as to
12 certain persons; specifying that lineups are
13 preferable to show-ups or first-time-in-court
14 identifications; specifying the circumstances in which
15 a show-up or in-court identification may be performed;
16 specifying that instructions must be given to an
17 eyewitness before any identification procedure;
18 revising such instructions; requiring a lineup
19 administrator to document any identification or
20 nonidentification in a specified manner; requiring
21 audio and video recording of an identification
22 procedure; providing an exception; providing that
23 certain attorneys may be present at an identification
24 procedure; specifying the permissible conduct of such
25 attorneys during the procedure; providing an effective

26 | date.

27 |

28 | Be It Enacted by the Legislature of the State of Florida:

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30 | **Section 1. Subsections (2) and (3) of section 92.70,**
 31 | **Florida Statutes, are amended to read:**

32 | 92.70 Eyewitness identification.—

33 | (2) DEFINITIONS.—As used in this section, the term:

34 | (a) "Eyewitness" means a person whose identification by
 35 | sight of another person may be relevant in a criminal
 36 | proceeding.

37 | (b) "Facial recognition technology" means an automated or
 38 | semiautomated tool that captures biometric information that
 39 | analyzes facial features and is used for identification,
 40 | verification, or tracking the location of an individual. The
 41 | term does not include the use of search terms to sort images in
 42 | a database.

43 | (c) "Filler" means a person or a photograph of a person
 44 | who is not suspected of a crime under investigation and is
 45 | included in an identification procedure.

46 | (d) "Identification procedure" means a live lineup, photo
 47 | lineup, or show-up.

48 | (e) ~~(b)~~ "Independent administrator" means a person who is
 49 | not participating in the investigation of a criminal offense and
 50 | is unaware of which person in the lineup is the suspect.

51 (f)~~(e)~~ "Lineup" means a photo lineup or live lineup.

52 (g)~~(d)~~ "Lineup administrator" means the person who
53 conducts a lineup.

54 (h)~~(e)~~ "Live lineup" means a procedure in which a group of
55 people is displayed to an eyewitness for the purpose of
56 determining if the eyewitness can identify the perpetrator of a
57 crime.

58 (i)~~(f)~~ "Photo lineup" means a procedure in which an array
59 of photographs is displayed to an eyewitness for the purpose of
60 determining if the eyewitness can identify the perpetrator of a
61 crime.

62 (j) "Show-up" means a procedure in which an eyewitness is
63 presented with a single suspect for the purpose of determining
64 whether the eyewitness identifies the person as the perpetrator
65 of a crime.

66 (3) EYEWITNESS IDENTIFICATION PROCEDURES.—A lineup
67 conducted in this state by a state, county, municipal, or other
68 law enforcement agency must meet all of the following
69 requirements:

70 (a) The lineup must be conducted by an independent
71 administrator. However, in lieu of using an independent
72 administrator, a law enforcement agency may conduct a photo
73 lineup eyewitness identification procedure using an alternative
74 method specified in subparagraph 1., subparagraph 2., or
75 subparagraph 3. Any alternative method must be carefully

76 | structured to achieve neutral administration and to prevent the
77 | lineup administrator from knowing which photograph is being
78 | presented to the eyewitness during the identification procedure.
79 | Alternative methods may include any of the following:

80 | 1. An automated computer program that can automatically
81 | administer the photo lineup directly to an eyewitness and
82 | prevent the lineup administrator from seeing which photograph
83 | the eyewitness is viewing until after the procedure is
84 | completed.

85 | 2. A procedure in which photographs are placed in folders,
86 | randomly numbered, and shuffled and then presented to an
87 | eyewitness such that the lineup administrator cannot see or
88 | track which photograph is being presented to the eyewitness
89 | until after the procedure is completed.

90 | 3. Any other procedure that achieves neutral
91 | administration and prevents the lineup administrator from
92 | knowing which photograph is being presented to the eyewitness
93 | during the identification procedure.

94 | (b) Before an identification procedure, a law enforcement
95 | officer shall record as complete a description as possible of
96 | the perpetrator of a crime, provided by the eyewitness in the
97 | eyewitness's own words, and shall include the description in the
98 | offense report. This statement shall also include, from the
99 | eyewitness's point of view, information regarding the conditions
100 | under which the eyewitness observed the perpetrator including

101 location, time, distance, obstructions, lighting, weather
102 conditions, and other impairments, including, but not limited to
103 alcohol, drugs, stress, and visual or auditory disabilities.

104 (c) To include a suspect in a lineup, a law enforcement
105 officer or agency must have an evidence-based reason to believe
106 that such suspect committed the crime under investigation. If
107 facial recognition technology is used to identify a suspect, a
108 law enforcement officer or agency may not conduct a lineup
109 unless there is a basis, independent of the use of facial
110 recognition technology, to support a belief that the suspect
111 committed the crime under investigation.

112 (d) A lineup shall be composed of the suspect and at least
113 five fillers who generally resemble the eyewitness's description
114 of the perpetrator, and law enforcement must ensure that the
115 suspect does not stand out from the fillers in appearance. The
116 photograph of the suspect that is included in a photo lineup
117 shall be contemporary and shall resemble the suspect's
118 appearance at the time of the crime under investigation. The
119 photographs and the background context in which such photographs
120 are placed shall be free from any characteristics that make any
121 photograph stand out.

122 1. If there is more than one suspect, only one suspect may
123 be included in each identification procedure. If the eyewitness
124 has previously viewed a lineup in connection with the
125 identification of another person suspected of involvement in the

126 crime under investigation, the fillers in the lineup in which
127 the current suspect is included must be different from the
128 fillers used in any prior lineups.

129 2. If there are multiple eyewitnesses to a crime under
130 investigation, each eyewitness shall view the identification
131 procedure separately and the suspect shall be placed in a
132 different position in the lineup for each eyewitness.

133 3. Only one identification procedure involving the same
134 eyewitness and suspect may be conducted.

135 (e) A law enforcement officer or agency shall make efforts
136 to perform a lineup instead of a show-up or a first-time-in-
137 court identification.

138 1. Show-ups may only be performed using a live suspect and
139 only in exigent circumstances that require the immediate display
140 of a suspect to an eyewitness close to the time and place of the
141 crime scene. In the event of a show-up, the eyewitness shall be
142 transported to a neutral, non-law enforcement location where the
143 suspect is detained for the purpose of a show-up. Unless
144 impractical, a show-up may not be conducted when the suspect is
145 in a patrol car, noticeably handcuffed, or physically restrained
146 by officers.

147 2. An eyewitness may not identify the defendant for the
148 first time in court unless the prosecutor provides a good reason
149 for the failure to conduct an out-of-court identification
150 procedure. A relationship of close familiarity that minimizes

151 the risk of misidentification, such as that of an immediate
152 family member, close friend, or daily coworker shall constitute
153 a good reason.

154 (f) ~~(b)~~ Before an identification procedure ~~a lineup~~, the
155 eyewitness must be instructed that:

156 1. The perpetrator might or might not be in the lineup or,
157 in the case of a show-up, might or might not be the person that
158 is presented to the eyewitness;

159 2. The lineup administrator does not know the suspect's
160 identity, except that this instruction need not be given when a
161 specified and approved alternative method of neutral
162 administration is used;

163 3. The eyewitness should not feel compelled to make an
164 identification;

165 4. It is as important to exclude innocent persons as it is
166 to identify the perpetrator; ~~and~~

167 5. The investigation will continue with or without an
168 identification;

169 6. After an identification, the administrator will ask the
170 eyewitness to state, in his or her own words, how certain he or
171 she is of the identification; and

172 7. The eyewitness may not discuss the identification
173 procedure or results with any other eyewitnesses involved in the
174 investigation and may not speak with the media about such
175 identification procedure.

176
177 The eyewitness shall acknowledge, in writing, having received a
178 copy of the lineup instructions. If the eyewitness refuses to
179 sign a document acknowledging receipt of the instructions, the
180 lineup administrator must document the refusal of the eyewitness
181 to sign a document acknowledging receipt of the instructions,
182 and the lineup administrator must sign the acknowledgment
183 document himself or herself.

184 (g) After an identification procedure, the lineup
185 administrator shall document any identification or
186 nonidentification. Such documentation shall include a clear
187 statement from the eyewitness, at the time of the identification
188 and in the eyewitness's own words, as to the eyewitness's
189 confidence level that the person he or she identified is the
190 perpetrator of the crime under investigation.

191 (h) All identification procedures shall be captured by
192 audio and video recording unless visual recording is
193 unavailable, in which case the recording of audio alone is
194 permissible.

195 (i) The prosecuting attorney and the suspect's attorney
196 may be present during a lineup to observe the manner in which
197 the lineup is conducted. Such persons shall be out of the view
198 of the eyewitness and shall be instructed to remain silent
199 during the procedure and to refrain from exercising any
200 influence on the procedure.

HB 875

2026

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Section 2. This act shall take effect July 1, 2026.