



528852

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2011	.	
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The Committee on Criminal Justice (Dean) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Eyewitness identification.-

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

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

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

(b) "Filler" means a person or a photograph of a person who



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13 is not suspected of an offense but is included in a lineup.

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

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

18 (e) "Lineup administrator" means the person who conducts a  
19 lineup.

20 (f) "Live lineup" means a procedure in which a group of  
21 people is displayed to an eyewitness for the purpose of  
22 determining if the eyewitness is able to identify the  
23 perpetrator of a crime.

24 (g) "Photo lineup" means a procedure in which an array of  
25 photographs is displayed to an eyewitness for the purpose of  
26 determining if the eyewitness is able to identify the  
27 perpetrator of a crime.

28 (3) EYEWITNESS IDENTIFICATION PROCEDURES.—Lineups conducted  
29 in this state by state, county, municipal, and other law  
30 enforcement agencies must meet all of the following  
31 requirements:

32 (a) A lineup must be conducted by an independent  
33 administrator.

34 (b) Before a lineup, the eyewitness shall be instructed  
35 that:

36 1. The perpetrator might or might not be in the lineup;  
37 2. The lineup administrator does not know the suspect's  
38 identity;

39 3. The eyewitness should not feel compelled to make an  
40 identification;

41 4. It is as important to exclude innocent persons as it is



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42 to identify the perpetrator; and

43 5. The investigation will continue with or without an  
44 identification.

45  
46 The eyewitness shall acknowledge, in writing, having received a  
47 copy of the lineup instructions. If the eyewitness refuses to  
48 sign a document acknowledging receipt of the instructions, the  
49 lineup administrator shall document the refusal of the  
50 eyewitness to sign the writing and then sign the acknowledgement  
51 himself or herself.

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

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

58 2. A failure on the part of a person to comply with any  
59 requirement of this section is admissible in support of claims  
60 of eyewitness misidentification, as long as such evidence is  
61 otherwise admissible.

62 (b) When evidence of compliance or noncompliance with the  
63 requirements of this section has been presented at trial, the  
64 jury shall be instructed that it may consider credible evidence  
65 of compliance or noncompliance to determine the reliability of  
66 eyewitness identifications.

67 (5) EDUCATION AND TRAINING.—The Criminal Justice Standards  
68 and Training Commission, in consultation with the Department of  
69 Law Enforcement, shall create educational materials and conduct  
70 training programs on how to conduct lineups in compliance with



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71 this section.

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

73

74 ===== T I T L E A M E N D M E N T =====

75 And the title is amended as follows:

76 Delete everything before the enacting clause

77 and insert:

78 A bill to be entitled

79 An act relating to eyewitness identification;

80 providing a short title; defining terms; requiring

81 state, county, municipal, and other law enforcement

82 agencies that conduct lineups to follow certain

83 specified procedures; requiring the eyewitness to sign

84 an acknowledgement that he or she received the

85 instructions about the lineup procedures from the law

86 enforcement agency; specifying remedies for failing to

87 adhere to the eyewitness identification procedures;

88 requiring the Criminal Justice Standards and Training

89 Commission to create educational materials and conduct

90 training programs on how to conduct lineups in

91 compliance with the act; providing an effective date.