

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Snyder offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 329-424 and insert:

5 Section 25. (1) Eyewitness identification.-

6 (1) This section may be cited as the "2011 Eyewitness
7 Identification Policies Act."

8 (2) The Legislature finds that it is critical to establish
9 appropriate standards for the effective administration of live
10 lineups and photograph lineups in an effort to promote accurate
11 and reliable eyewitness identification and to minimize the
12 possibility of erroneous eyewitness identifications.

13 (3) Each state and local law enforcement agency shall
14 establish and implement written policies and procedures
15 addressing eyewitness identification. The policies and
16 procedures must include, at a minimum, the following:

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17 (a) A description of how live lineups and photograph
18 lineups will be created and conducted to maintain neutrality,
19 which shall include using an administrator who does not know
20 whether the person of interest is in the photograph array or who
21 otherwise through the procedure being used cannot discern when
22 the witness is viewing the photograph of the person of interest.

23 (b) A standard set of instructions that the witness must
24 be given before reviewing the live lineup or photograph array
25 which includes the following:

- 26 1. The person of interest might or might not be in the
27 lineup or photograph array;
28 2. The witness is not required to make an identification;
29 3. It is as important to exclude innocent persons as it is
30 to identify the perpetrators; and
31 4. The investigation will continue with or without an
32 identification.

33 (c) A description of how an eyewitness will indicate that
34 a positive identification has been made.

35 (d) A description of how an eyewitness will acknowledge
36 receipt of the instructions outlined in paragraph (b).

37 (e) A description of any other documentation requirements
38 deemed necessary by the agency to conduct live lineups or
39 photograph lineups.

40 (4) Each state and local law enforcement agency must
41 submit such policies and procedures to its respective state
42 attorney by November 1, 2011. Each state attorney shall maintain
43 the policies and procedures submitted to him or her.

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44 (5) By July 1, 2011, the Florida Prosecuting Attorneys
45 Association shall develop draft jury instructions regarding
46 evaluating eyewitness identification testimony in criminal cases
47 and forward such jury instructions to the appropriate Supreme
48 Court committee for consideration.

49 (6) The Criminal Justice Standards and Training
50 Commission, in consultation with the Department of Law
51 Enforcement, shall create and make available educational
52 materials and training programs regarding the minimum standards
53 for eyewitness identification procedures and practices described
54 in subsection (3) to state and local law enforcement agencies.
55 Each state and local law enforcement agency shall provide
56 eyewitness identification procedures training to its law
57 enforcement personnel.

58 (2) This section shall take effect July 1, 2011.

59 Section 26. Except as otherwise expressly provided in this
60 act and except for this section, which shall take effect upon
61 this act becoming a law, this act shall take effect January 1,
62 2012.

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66 **T I T L E A M E N D M E N T**

67 Remove lines 64-76 and insert:

68 provisions to changes made by the act; providing a short
69 title; providing legislative findings; requiring state and
70 local law enforcement agencies to establish and implement
71 written policies and procedures addressing eyewitness

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72 identification; specifying the requirements of the
73 policies and procedures; requiring state and local law
74 enforcement agencies to submit such policies and
75 procedures to the state attorney by a specified date;
76 requiring the Florida Prosecuting Attorneys Association to
77 develop draft jury instructions by a specified date to be
78 submitted to the Supreme Court for consideration;
79 requiring the Criminal Justice Standards and Training
80 Commission and the Department of Law Enforcement to create
81 and make available to state and local law enforcement
82 agencies educational materials and training programs
83 regarding the standards for eyewitness identification
84 procedures and practices in compliance with the act;
85 requiring state and local law enforcement agencies to
86 provide eyewitness identification procedures training to
87 their law enforcement personnel; providing effective
88 dates.