

1 A bill to be entitled
 2 An act relating to eyewitness identification; providing a
 3 short title; defining terms; requiring lineups conducted
 4 by state, county, municipal, and other law enforcement
 5 agencies to meet specified requirements; requiring an
 6 eyewitness to sign an acknowledgement that he or she
 7 received lineup instructions; specifying remedies for
 8 failing to adhere to eyewitness identification procedures;
 9 requiring the Criminal Justice Standards and Training
 10 Commission to create educational materials and conduct
 11 training programs on how to conduct lineups in compliance
 12 with the act; providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Eyewitness identification.—

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

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

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

23 (b) "Filler" means a person or a photograph of a person
 24 who is not suspected of an offense but is included in a lineup.

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

CS/HB 821

2011

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

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

39 (3) 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 photo lineup eyewitness identification procedure may be
46 conducted using an alternative method specified and approved by
47 the Criminal Justice Standards and Training Commission. Any
48 alternative method must be carefully structured to achieve
49 neutral administration and to prevent the administrator from
50 knowing which photograph is being presented to the eyewitness
51 during the identification procedure. Alternative methods may
52 include any of the following:

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

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

62 3. Any other procedure that achieves neutral
63 administration.

64 (b) Before a lineup, the eyewitness shall be instructed
65 that:

66 1. The perpetrator may or may not be in the lineup;

67 2. The lineup administrator is unaware of which person in
68 the lineup is the suspect;

69 3. The eyewitness should not feel compelled to make an
70 identification;

71 4. It is as important to exclude innocent persons as it is
72 to identify the perpetrator; and

73 5. The investigation will continue with or without an
74 identification.

75
76 The eyewitness shall acknowledge, in writing, having received a
77 copy of the lineup instructions. If the eyewitness refuses to
78 sign a document acknowledging receipt of the instructions, the
79 lineup administrator shall indicate on the acknowledgement the
80 refusal of the eyewitness to sign the acknowledgement and then
81 sign the acknowledgement himself or herself.

82 (4) REMEDIES.—All of the following remedies are available
83 when a person does not comply with the requirements of this
84 section:

CS/HB 821

2011

85 (a) A person's failure to comply with any requirement of
86 this section shall be:

87 1. Considered by the court when adjudicating motions to
88 suppress eyewitness identification.

89 2. Admissible in support of claims of eyewitness
90 misidentification as long as such evidence is otherwise
91 admissible.

92 (b) When evidence of compliance or noncompliance with any
93 requirement of this section has been presented at trial, the
94 jury shall be instructed that it may consider credible evidence
95 of compliance or noncompliance to determine the reliability of
96 eyewitness identifications.

97 (5) EDUCATION AND TRAINING.—The Criminal Justice Standards
98 and Training Commission, in consultation with the Department of
99 Law Enforcement, shall create educational materials and conduct
100 training programs on how to conduct lineups in compliance with
101 this section.

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