

By Senator Joyner

19-01170-14

20141004\_\_

1                   A bill to be entitled  
2       An act relating to eyewitness identification; creating  
3       s. 92.70, F.S.; providing a short title; defining  
4       terms; requiring a state, county, municipal, or other  
5       law enforcement agency that conducts lineups to follow  
6       certain specified procedures; requiring an eyewitness  
7       to sign an acknowledgement that he or she received the  
8       instructions about the lineup procedures from the law  
9       enforcement agency; specifying remedies for failure to  
10      adhere to the eyewitness identification procedures;  
11      requiring the Criminal Justice Standards and Training  
12      Commission to create educational materials and  
13      administer training programs on how to conduct lineups  
14      in compliance with the act; providing an effective  
15      date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19       Section 1. Section 92.70, Florida Statutes, is created to  
20 read:

21       92.70 Eyewitness identification.-

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

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

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

28       (b) "Independent administrator" means a person who is not  
29 participating in the investigation of a criminal offense and is

19-01170-14

20141004\_\_

30 unaware which person in a lineup is the suspect.

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

32 (d) "Lineup administrator" means the person who conducts a  
33 lineup.

34 (e) "Live lineup" means a procedure in which a group of  
35 people is displayed to an eyewitness for the purpose of  
36 determining if the eyewitness can identify the perpetrator of a  
37 crime.

38 (f) "Photo lineup" means a procedure in which an array of  
39 photographs is displayed to an eyewitness for the purpose of  
40 determining if the eyewitness can identify the perpetrator of a  
41 crime.

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

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

56 1. An automated computer program that can automatically  
57 administer the photo lineup directly to an eyewitness and  
58 prevent the lineup administrator from seeing which photo the

19-01170-14

20141004\_\_

59 eyewitness is viewing until after the procedure is completed.

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

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

69 (b) Before a lineup, the eyewitness shall be instructed  
70 that:

71 1. The perpetrator might or might not be in the lineup;

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

76 3. The eyewitness should not feel compelled to make an  
77 identification;

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

80 5. The investigation will continue with or without an  
81 identification.

82 (c) The eyewitness must acknowledge in writing that he or  
83 she received a copy of the lineup instructions. If the  
84 eyewitness refuses to sign a document acknowledging receipt of  
85 the instructions, the lineup administrator shall document the  
86 refusal of the eyewitness to sign the writing and shall sign the  
87 acknowledgement himself or herself.

19-01170-14

20141004\_\_

88       (4) REMEDIES.—A person's failure to comply with a  
89 requirement of this section shall be considered by the court  
90 when adjudicating a motion to suppress eyewitness identification  
91 and is admissible in support of claims of eyewitness  
92 misidentification if such evidence is otherwise admissible. If  
93 evidence of compliance or noncompliance with the requirements of  
94 this section has been presented at trial, the court shall  
95 instruct the jury that it may consider credible evidence of  
96 compliance or noncompliance to determine the reliability of an  
97 eyewitness identification.

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

103       Section 2. This act shall take effect October 1, 2014.