



Substitute House Bill No. 6344

Public Act No. 11-252

AN ACT CONCERNING EYEWITNESS IDENTIFICATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2011*) (a) For the purposes of this section:

(1) "Eyewitness" means a person who observes another person at or near the scene of an offense;

(2) "Photo lineup" means a procedure in which an array of photographs, including a photograph of the person suspected as the perpetrator of an offense and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator;

(3) "Live lineup" means a procedure in which a group of persons, including the person suspected as the perpetrator of an offense and other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness is able to identify the suspect as the perpetrator;

(4) "Identification procedure" means either a photo lineup or a live lineup; and

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(5) "Filler" means either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure.

(b) Not later than January 1, 2012, each municipal police department and the Department of Public Safety shall adopt procedures for the conducting of photo lineups and live lineups that comply with the following requirements:

(1) When practicable, the person conducting the identification procedure shall be a person who is not aware of which person in the photo lineup or live lineup is suspected as the perpetrator of the offense;

(2) The eyewitness shall be instructed prior to the identification procedure:

(A) That the perpetrator may not be among the persons in the photo lineup or the live lineup;

(B) That the eyewitness should not feel compelled to make an identification; and

(C) That the eyewitness should take as much time as needed in making a decision;

(3) The photo lineup or live lineup shall be composed so that the fillers generally fit the description of the person suspected as the perpetrator and, in the case of a photo lineup, so that the photograph of the person suspected as the perpetrator resembles his or her appearance at the time of the offense and does not unduly stand out;

(4) If the eyewitness has previously viewed a photo lineup or live lineup in connection with the identification of another person suspected of involvement in the offense, the fillers in the lineup in

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which the person suspected as the perpetrator participates or in which the photograph of the person suspected as the perpetrator is included shall be different from the fillers used in any prior lineups;

(5) At least five fillers shall be included in the photo lineup and at least four fillers shall be included in the live lineup, in addition to the person suspected as the perpetrator;

(6) In a photo lineup, no writings or information concerning any previous arrest of the person suspected as the perpetrator shall be visible to the eyewitness;

(7) In a live lineup, any identification actions, such as speaking or making gestures or other movements, shall be performed by all lineup participants;

(8) In a live lineup, all lineup participants shall be out of the view of the eyewitness at the beginning of the identification procedure;

(9) The person suspected as the perpetrator shall be the only suspected perpetrator included in the identification procedure;

(10) Nothing shall be said to the eyewitness regarding the position in the photo lineup or the live lineup of the person suspected as the perpetrator;

(11) Nothing shall be said to the eyewitness that might influence the eyewitness's selection of the person suspected as the perpetrator;

(12) If the eyewitness identifies a person as the perpetrator, the eyewitness shall not be provided any information concerning such person prior to obtaining the eyewitness's statement that he or she is certain of the selection; and

(13) A written record of the identification procedure shall be made that includes the following information:

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(A) All identification and nonidentification results obtained during the identification procedure, signed by the eyewitness, including the eyewitness's own words regarding how certain he or she is of the selection;

(B) The names of all persons present at the identification procedure;

(C) The date and time of the identification procedure;

(D) In a photo lineup, the photographs themselves;

(E) In a photo lineup, identification information on all persons whose photograph was included in the lineup and the sources of all photographs used; and

(F) In a live lineup, identification information on all persons who participated in the lineup.

Sec. 2. (*Effective from passage*) (a) There is established an Eyewitness Identification Task Force to study issues concerning eyewitness identification in criminal investigations and the use of sequential live and photo lineups. The task force shall examine: (1) The science of sequential methods of conducting a live lineup and a photo lineup, (2) the use of sequential lineups in other states, (3) the practical implications of a state law mandating sequential lineups, and (4) such other topics as the task force deems appropriate relating to eyewitness identification and the provision of sequential lineups.

(b) The task force shall consist of the following members or their designees: The chairpersons and ranking members of the joint standing committee of the General Assembly on the judiciary; the Chief State's Attorney; the Chief Public Defender; the Victim Advocate; an active or retired judge appointed by the Chief Justice of the Supreme Court; a municipal police chief appointed by the president of the Connecticut Police Chiefs Association; a representative of the

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Police Officer Standards and Training Council; a representative of the State Police Training School appointed by the Commissioner of Public Safety; a representative of the criminal defense bar appointed by the president of the Connecticut Criminal Defense Lawyers Association; a representative from the Innocence Project; and six public members, including the dean of a law school located in this state and a social scientist, appointed one each by the president pro tempore of the Senate, the speaker of the House of Representatives, the majority leader of the Senate, the majority leader of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.

(c) The task force may solicit and accept gifts, donations, grants or funds from any public or private source to assist the task force in carrying out its duties.

(d) The task force shall report its findings and recommendations to the joint standing committee of the General Assembly on the judiciary in accordance with section 11-4a of the general statutes not later than April 1, 2012.

Approved July 13, 2011