

CS/CS/HB 821

2011

1 A bill to be entitled
2 An act relating to eyewitness identification; providing a
3 short title; providing legislative findings; requiring
4 state and local law enforcement agencies to establish and
5 implement written policies and procedures addressing
6 eyewitness identification; specifying the requirements of
7 the policies and procedures; requiring state and local law
8 enforcement agencies to submit such policies and
9 procedures to the state attorney by a specified date;
10 requiring the Florida Prosecuting Attorneys Association to
11 develop draft jury instructions by a specified date to be
12 submitted to the Supreme Court for consideration;
13 requiring the Criminal Justice Standards and Training
14 Commission and the Department of Law Enforcement to create
15 and make available to state and local law enforcement
16 agencies educational materials and training programs
17 regarding the standards for eyewitness identification
18 procedures and practices in compliance with the act;
19 requiring state and local law enforcement agencies to
20 provide eyewitness identification procedures training to
21 their law enforcement personnel; providing an effective
22 date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Eyewitness identification.—

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

29 (2) The Legislature finds that it is critical to establish
30 appropriate standards for the effective administration of live
31 lineups and photograph arrays in an effort to promote accurate
32 and reliable eyewitness identification and to minimize the
33 possibility of erroneous eyewitness identifications.

34 (3) Each state and local law enforcement agency shall
35 establish and implement written policies and procedures
36 addressing eyewitness identification. The policies and
37 procedures must include, at a minimum, the following:

38 (a) A description of how live lineups and photograph
39 arrays will be created and conducted to maintain the neutrality
40 and impartiality of the identification process.

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

44 1. The person of interest might or might not be in the
45 lineup or photograph array;

46 2. The witness is not required to make an identification;

47 3. It is as important to exclude innocent persons as it is
48 to identify the perpetrators; and

49 4. The investigation will continue with or without an
50 identification.

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

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

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55 (e) A description of any other documentation requirements
56 deemed necessary by the agency to conduct live lineups or
57 photograph arrays.

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

62 (5) By July 1, 2011, the Florida Prosecuting Attorneys
63 Association shall develop draft jury instructions regarding
64 evaluating eyewitness identification testimony in criminal cases
65 and forward such jury instructions to the appropriate Supreme
66 Court committee for consideration.

67 (6) The Criminal Justice Standards and Training
68 Commission, in consultation with the Department of Law
69 Enforcement, shall create and make available educational
70 materials and training programs regarding the minimum standards
71 for eyewitness identification procedures and practices described
72 in subsection (3) to state and local law enforcement agencies.
73 Each state and local law enforcement agency shall provide
74 eyewitness identification procedures training to its law
75 enforcement personnel.

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