

SECOND REGULAR SESSION

HOUSE BILL NO. 2049

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SKAGGS (Sponsor) AND TALBOY (Co-sponsor).

Read 1st time February 7, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4965L.01I

AN ACT

To amend chapter 544, RSMo, by adding thereto one new section relating to a task force for guidelines for eyewitness evidence in criminal investigations.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 544, RSMo, is amended by adding thereto one new section, to be known as section 544.175, to read as follows:

- 544.175. 1. As used in this section, the following terms shall mean:**
- (1) "Administrator", the person conducting the photo or live lineup;**
 - (2) "Blind", when the administrator does not know who among the members of the photo or live lineup being viewed by the eyewitness is the suspect;**
 - (3) "Filler", a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure;**
 - (4) "Sequential", lineup procedures where the eyewitness views only one member of the lineup at a time and is shown all photographs or persons even if an identification has been made before all the photographs or persons have been viewed.**
- 2. There is hereby established a task force to be comprised of the following persons:**
- (1) The attorney general, or the attorney general's designee;**
 - (2) The state public defender director, or the director's designee;**
 - (3) The executive director of the office of prosecutorial services, or the director's designee;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (4) Two members of the senate, one from each political party, appointed by the
16 president pro tempore of the senate and the minority leader of the senate; and

17 (5) Two members of the house of representatives, one from each political party,
18 appointed by the speaker of the house and the minority leader of the house.

19
20 The task force, in consultation with eyewitness identification practitioners and experts,
21 shall develop guidelines for policies, procedures, and training with respect to the collection
22 and handling of eyewitness evidence in criminal investigations by law enforcement agencies
23 in this state. The purpose of the guidelines is to provide law enforcement agencies with
24 information regarding policies and procedures proven to increase the accuracy of the crime
25 investigation process, thus reducing the possibility of erroneous convictions.

26 3. The guidelines required in subsection 2 of this section shall include procedures
27 for the blind administration of live and photo lineups and instructions that will increase
28 the accuracy of eyewitness identifications. Specifically, the guidelines shall include the
29 following recommendations:

30 (1) The use of blind administration of live and photo lineups;

31 (2) Specific instructions to be given to the eyewitness before and during the
32 identification procedure to increase the accuracy of any identification, including that the
33 purpose of the identification procedure is to exculpate the innocent as well as to identify
34 the actual perpetrator;

35 (3) The number and selection of fillers to be used in live and photo lineups;

36 (4) The use of sequential lineups;

37 (5) The inclusion of only one suspect in any live or photo lineup;

38 (6) The timing of when the administrator should request and record the eyewitness'
39 statement of his or her confidence in his or her selection;

40 (7) The value of refraining from providing of any confirmatory information to the
41 eyewitness;

42 (8) The photographing or other visual recording of the lineup; and

43 (9) What training, if any, should be made available to law enforcement personnel
44 in the use of such procedures.

45 4. On or before April 1, 2009, the task force shall submit a report on the guidelines
46 developed and recommendations concerning their use. Minority reports may also be
47 issued. Such reports shall be submitted to the governor, the chief justice of the Missouri
48 supreme court, and the standing committees of the general assembly having cognizance of
49 matters relating to criminal law and procedure. The task force shall terminate on the date
50 the report or reports are submitted in accordance with this section.

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