

SECOND REGULAR SESSION

# HOUSE BILL NO. 2488

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES TALBOY (Sponsor), JONES (117), PARSON, BURNETT,  
SKAGGS, HUGHES, HOLSMAN, BLAND, CURLS, JOHNSON, DAUS, RUCKER,  
LOW (39) AND ROORDA (Co-sponsors).

Read 1st time March 27, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5404L.01I

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### AN ACT

To amend chapter 491, RSMo, by adding thereto one new section relating to eyewitness identification.

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

Section A. Chapter 491, RSMo, is amended by adding thereto one new section, to be  
2 known as section 491.500, to read as follows:

**491.500. 1. As used in this section, the following terms shall mean:**

2 **(1) "Administrator", the person conducting the photograph or live lineup;**

3 **(2) "Blind administrator", an administrator who does not know the identity of the**  
4 **suspect;**

5 **(3) "Blinded administrator", an administrator who may know which lineup**  
6 **member is the suspect but does not know which lineup member is being viewed by the**  
7 **eyewitness;**

8 **(4) "Eyewitness", a person who observes another person at or near the scene of an**  
9 **offense;**

10 **(5) "Filler", a person or photograph of a person who is not suspected of an offense**  
11 **and is included in an identification procedure;**

12 **(6) "Live lineup", an identification procedure in which a group of persons,**  
13 **including the suspected perpetrator of an offense and other persons not suspected of the**

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.

14 offense, is displayed to an eyewitness for the purpose of determining whether the  
15 eyewitness identifies the suspect as the perpetrator;

16 (7) "Photo lineup", an identification procedure in which an array of photographs,  
17 including a photograph of the suspected perpetrator of an offense and additional  
18 photographs of other persons not suspected of the offense, is displayed to an eyewitness for  
19 the purpose of determining whether the eyewitness identifies the suspect as the  
20 perpetrator;

21 (8) "Showup", an identification procedure in which an eyewitness is presented with  
22 a single suspect for the purpose of determining whether the eyewitness identifies such  
23 individual as the perpetrator;

24 (9) "Suspect", the person believed by law enforcement to be the possible  
25 perpetrator of the crime.

26 2. By January 1, 2009, any criminal justice entity conducting eyewitness  
27 identification procedures shall adopt written policies for using an eyewitness to identify a  
28 suspect upon viewing the suspect in person in a live lineup or showup, or upon viewing a  
29 representation of the suspect in a photo lineup. Each government entity in this state that  
30 administers eyewitness identification procedures shall provide a copy of its written policies  
31 to the director of the department of public safety by February 1, 2009.

32 3. A law enforcement agency shall biennially review policies adopted under this  
33 section. In developing and revising policies under this section, a law enforcement agency  
34 shall consider those practices shown by reliable evidence to enhance the accuracy of  
35 identification procedures. Each government entity in this state that administers eyewitness  
36 identification procedures shall submit its updated written policies to the director of the  
37 department of public safety no later than February first of each odd-numbered year.

38 4. A law enforcement agency shall consider practices to enhance the objectivity and  
39 reliability of eyewitness identifications and to minimize the possibility of mistaken  
40 identifications, including the following:

41 (1) Having a blind or blinded administrator perform the live or photo lineup;

42 (2) Providing the eyewitness with instructions that minimize the likelihood of an  
43 inaccurate identification;

44 (3) Composing the lineup so that the fillers generally resemble the eyewitness's  
45 description of the perpetrator, and so that the suspect does not unduly stand out;

46 (4) Having the administrator seek and document a clear statement from an  
47 eyewitness, at the time of the identification and in the eyewitness's own words, as to the  
48 eyewitness's confidence level that the person identified is the person who committed the  
49 crime;

50           **(5) Minimizing factors that influence an eyewitness to identify a suspect or**  
51 **overstate his or her confidence level in identifying a suspect, including verbal or nonverbal**  
52 **reactions of the administrator;**

53           **(6) Presenting lineup members one at a time;**

54           **(7) Adopting relevant practices shown to enhance the reliability of an eyewitness**  
55 **participating in a showup procedure, such as:**

56           **(a) Identifying the circumstances under which a showup is warranted;**

57           **(b) Transporting the eyewitness to the neutral law enforcement location of the**  
58 **detained suspect;**

59           **(c) Removing the suspect from the law enforcement squad car;**

60           **(d) Removing the restraints from the suspect when he or she is being observed by**  
61 **the eyewitness; and**

62           **(e) Administering the showup procedure close in time to the commission of the**  
63 **crime; and**

64           **(8) Video recording the entirety of the photo and live lineup and, where practicable,**  
65 **the showup procedure.**

66           **5. All written department eyewitness identification policies shall be made available**  
67 **to the public upon request.**

68           **6. The director of the department of public safety shall create, administer, and**  
69 **conduct training programs for law enforcement officers and recruits on the methods and**  
70 **technical aspects of the eyewitness identification practices and procedures shown by**  
71 **reliable evidence to enhance the accuracy of eyewitness evidence.**

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