

FIRST REGULAR SESSION

HOUSE BILL NO. 589

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES TALBOY (Sponsor), JONES (117), COLONA, WALTON GRAY, PACE, ENGLUND, HUGHES, BURNETT, CURLS, LOW, SKAGGS AND HOLSMAN (Co-sponsors).

0039L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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 known as section 491.500, to read as follows:

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

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

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

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

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

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

(6) "Live lineup", an identification procedure in which a group of persons, including the suspected 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 identifies the suspect as the perpetrator;

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.

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, 2010, 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, 2010.

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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