



General Assembly

Substitute Bill No. 6344

January Session, 2011

* _____HB06344GAE___051711_____*

AN ACT CONCERNING EYEWITNESS IDENTIFICATION.

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

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

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

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

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

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

18 (5) "Filler" means either a person or a photograph of a person who is

19 not suspected of an offense and is included in an identification
20 procedure.

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

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

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

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

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

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

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

42 (4) If the eyewitness has previously viewed a photo lineup or live
43 lineup in connection with the identification of another person
44 suspected of involvement in the offense, the fillers in the lineup in
45 which the person suspected as the perpetrator participates shall be
46 different from the fillers used in any prior lineups;

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

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

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

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

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

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

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

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

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

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

- 75 (B) The names of all persons present at the identification procedure;
- 76 (C) The date and time of the identification procedure;
- 77 (D) In a photo lineup, the photographs themselves;
- 78 (E) In a photo lineup, identification information and the sources of
79 all photographs used; and
- 80 (F) In a live lineup, identification information on all persons who
81 participated in the lineup.

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

91 (b) The task force shall consist of the following members or their
92 designees: The chairpersons and ranking members of the joint
93 standing committee of the General Assembly on the judiciary; the
94 Chief State's Attorney; the Chief Public Defender; the Victim Advocate;
95 an active or retired judge appointed by the Chief Justice of the
96 Supreme Court; a municipal police chief appointed by the president of
97 the Connecticut Police Chiefs Association; a representative of the
98 Police Officer Standards and Training Council; a representative of the
99 criminal defense bar appointed by the president of the Connecticut
100 Criminal Defense Lawyers Association; a representative from the
101 Innocence Project; and six public members, including the dean of a law
102 school located in this state and a social scientist, appointed one each by
103 the president pro tempore of the Senate, the speaker of the House of
104 Representatives, the majority leader of the Senate, the majority leader
105 of the House of Representatives, the minority leader of the Senate, and

106 the minority leader of the House of Representatives.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>from passage</i>	New section

JUD *Joint Favorable Subst.*

GAE *Joint Favorable*