

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-252—sHB 6344

Judiciary Committee

Government Administration and Elections Committee

Public Safety and Security Committee

AN ACT CONCERNING EYEWITNESS IDENTIFICATION

SUMMARY: By January 1, 2012, this act requires the Department of Public Safety and municipal police departments to adopt procedures for photo and live lineups that meet certain requirements. These requirements cover who can be included in a lineup, how it is conducted, what information is shared with an eyewitness, and creating a written record at the end of the lineup procedure.

The act also creates a 19-member Eyewitness Identification Task Force to study eyewitness identification in criminal investigations and the use of sequential live and photo lineups. It must examine:

1. the science of conducting sequential lineups,
2. use of sequential lineups in other states,
3. the practical implications of state law requiring sequential lineups, and
4. other related topics deemed appropriate.

The task force must report its findings and recommendations to the Judiciary Committee by April 1, 2012. It can solicit and accept gifts, donations, grants, or funds from public or private sources to help perform its duties.

EFFECTIVE DATE: Upon passage for the task force and October 1, 2011 for the lineup requirements.

LINEUP REQUIREMENTS

Under the act, a “photo lineup” is a procedure showing an array of photographs to an eyewitness to determine whether the eyewitness can identify the suspect as the perpetrator. The lineup includes a photo of the suspect and photos of non-suspects. A “live lineup” is a procedure with a group of people displayed to an eyewitness to determine whether the eyewitness can identify the suspect as the perpetrator. The lineup includes the suspect and non-suspects.

The act requires the procedures for photo and live lineups to comply with the following.

1. When practicable, the person conducting the identification procedure must be someone who is not aware which person in the lineup is the suspect.
2. The eyewitness must be instructed before the procedure that (a) the perpetrator may not be in the lineup, (b) the eyewitness should not feel compelled to make an identification, and (c) the eyewitness should take as much time as needed to decide.
3. The fillers (non-suspects) in the lineup must generally fit the suspect’s description and, in a photo lineup, the photo of the suspect must resemble

OLR PUBLIC ACT SUMMARY

- his or her appearance at the time of the offense and not unduly stand out.
4. If the eyewitness has already viewed a lineup to identify another suspect, the fillers in the lineup in which the suspect participates or in which the suspect's photo is included must be different from the fillers in prior lineups.
 5. In addition to the suspect, there must be at least five fillers in a photo lineup and four in a live lineup.
 6. In a photo lineup, there cannot be any writings or information about a suspect's previous arrests visible to the eyewitness.
 7. In a live lineup, any actions such as speaking, gestures, or movements must be performed by all participants.
 8. In a live lineup, all participants must be out of the eyewitness' view at the start of the procedure.
 9. The suspect must be the only suspect in the procedure.
 10. Nothing can be said about the suspect's position in the lineup.
 11. Nothing can be said that might influence the eyewitness' selection of the suspect.
 12. If the eyewitness identifies someone, he or she must not be given any information about that person before the eyewitness states that he or she is certain of the selection.
 13. There must be a written record of the procedure, including (a) all results from the procedure signed by the eyewitness with his or her own words about how certain he or she is of the selection; (b) the names of everyone present; (c) its date and time; (d) the photos in a photo lineup, identifying information on all people in the photos, and the sources of the photos used; and (e) in a live lineup, identifying information on everyone who participated in the lineup.

TASK FORCE MEMBERS

The task force consists of the following 19 members:

1. Judiciary Committee chairpersons and ranking members,
2. chief state's attorney,
3. chief public defender,
4. victim advocate,
5. active or retired judge appointed by the Superior Court chief justice,
6. municipal police chief appointed by the Connecticut Police Chiefs Association president,
7. Police Officers Standards and Training Council representative,
8. State Police Training School representative appointed by the public safety commissioner,
9. criminal defense attorney appointed by the Connecticut Criminal Defense Lawyers Association president,
10. Innocence Project representative, and
11. one member of the public appointed by each of the six top legislative leaders. (Appointments must include a dean from a Connecticut law school and a social scientist.)

OLR PUBLIC ACT SUMMARY

OLR Tracking: CR:VR:PF:ts