

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 12-111—sHB 5501

Judiciary Committee

Public Safety and Security Committee

AN ACT CONCERNING EYEWITNESS IDENTIFICATION PROCEDURES

SUMMARY: This act refines police techniques for conducting eyewitness identifications involving both photographic and live lineups. It includes provisions:

1. directing the Police Officer Standards Council (POST) and Division of State Police to jointly develop and promulgate uniform, mandatory policies and guidelines for conducting eyewitness identifications and (b) delaying the deadline for police departments to develop conforming procedures;
2. adding more instructions and information police must give to eyewitnesses participating in lineups; and
3. assigning the Eyewitness Identification Task Force new functions.

The act also makes minor and technical changes.

EFFECTIVE DATE: Upon passage for the task force, July 1, 2012 for changes in the eyewitness identification procedures, and October 1, 2012 for the police officer training.

POST AND DSP POLICIES

By February 1, 2013, the act requires that POST and the State Police jointly develop and promulgate uniform policies and appropriate guidelines, based on best practices, that municipal and state law enforcement agencies must follow when conducting eyewitness identifications. They must also develop a standard form for use in conducting and recording such identifications.

The act also requires basic and review training programs offered by POST, State Police, and municipal police to include segments on administering the eyewitness identification procedures POST and the State Police develop.

Applicability to Police and the Department of Emergency Services and Public Protection (DESPP) Procedures

Prior law required each municipal police department and DESPP to adopt its own procedures for conducting photo and live lineups by January 1, 2012. The act extends the deadline to May 1, 2013. It requires the procedures to be in accordance with POST and State Police policies and guidelines.

IDENTITY OF SUSPECT

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Sequential Viewing

The act requires that each possible suspect in photo and live lineups be presented sequentially so that an eyewitness views only one photograph or person at a time, in accordance with the uniform policies and guidelines.

Keeping Identity of Suspect Hidden from Person Conducting Lineup

Where practicable, existing law requires that police officers conducting lineups not know which person is the suspect. Under the act, when an officer conducting a photo lineup knows which photo depicts the suspect, he or she must “shuffle” the files (similar to shuffling a deck of cards) or use a computer program or comparable method that prevents him or her from knowing which photo is being shown to the eyewitness.

INSTRUCTIONS TO EYEWITNESSES

The act increases the information that police officers must give to eyewitnesses about a photo or live lineup. Existing law requires the officers to tell them that they should (1) not feel compelled to make an identification and (2) take as much time as needed to make a decision.

The act requires that they also be told that:

1. they will be asked to view an array of photographs or a group of people and that each photograph or person will be presented one at a time;
2. it is as important to exclude the innocent as it is to identify the perpetrator;
3. a person in a lineup may not look exactly as he or she did at the time of the offense because features like facial and head hair can change;
4. the perpetrator “may or may not” (prior law just said “may not”) be in the lineup; and
5. the police will continue to investigate the crime regardless of whether the eyewitness makes an identification.

The act also instructs police personnel to give any other instructions required by POST and DSP.

Information About the Suspect

When an eyewitness identified a suspect during a lineup, prior law prohibited the police from giving him or her information about the suspect without obtaining a signed statement indicating that he or she was certain that the identification was correct. The act, instead, requires that the statement indicate how certain the eyewitness is that the identification is correct.

EYEWITNESS IDENTIFICATION TASKFORCE

The act assigns new functions to the 19-member Eyewitness Identification Task Force created by PA 11-252. The task force was initially assigned to study issues relating to eyewitness identification and the use of sequential photo and live lineups in criminal investigations. It submitted its findings and recommendations to the Judiciary Committee on February 8, 2012.

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New Functions

Under the act, the task force will be responsible for:

1. helping POST and the State Police develop their eyewitness identification policies and guidelines;
2. researching and evaluating best practices for conducting eyewitness identification proceedings, and making recommendations to POST and the State Police when such practices are revised;
3. collecting statistics on the conduct of eyewitness procedures by law enforcement agencies; and
4. monitoring the implementation of the eyewitness identification procedures.

The task force must report to the Judiciary Committee on the results of its activities and recommendations for proposed legislation by February 5, 2014.

OLR Tracking: SP:KM:VR:ro:eh