



In bill text the following has special meaning

underline text

~~struck out text denotes deleted text~~

2006 MD H 807

AUTHOR: Rosenberg

VERSION: Introduced

VERSION DATE: 02/08/2006

UNOFFICIAL COPY OF HOUSE BILL 807

D3 6lr1608 CF 6lr3299

By: Delegates Rosenberg, Anderson, Dumais, Gutierrez, Kelley, Lee, Marriott, Menes, and Smigiel

Introduced and read first time: February 8, 2006

Assigned to: Judiciary

A BILL ENTITLED

AN ACT concerning

Criminal Procedure - Eyewitness Identification Evidence - Inadmissible -
Exception

FOR the purpose of establishing that certain eyewitness identification evidence is not admissible unless a certain record of the identification procedure that produced the eyewitness evidence was preserved and certain information related to the procedure was provided to the defendant in a certain manner; requiring that records of certain identification procedures include certain information; providing that, with a certain exception, the in-court identification of a defendant that was not previously made by a certain identification procedure is inadmissible; providing for the application of this Act; and generally relating to eyewitness identification evidence in a criminal proceeding.

BY adding to Article - Courts and Judicial Proceedings Section 10-921 Annotated Code of Maryland (2002 Replacement Volume and 2005 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Courts and Judicial Proceedings

10-921.

(A) (1) EYEWITNESS IDENTIFICATION EVIDENCE IS NOT ADMISSIBLE IN THE STATE'S CASE IN A CRIMINAL PROCEEDING UNLESS A RECORD OF THE IDENTIFICATION PROCEDURE IS PRESERVED, AND ALL MATERIAL AND INFORMATION RELATED TO THE IDENTIFICATION PROCEDURE WAS PROVIDED TO THE DEFENDANT IN A TIMELY MANNER

BEFORE THE COMMENCEMENT OF THE PROCEEDING IN WHICH THE EVIDENCE IS OFFERED.

(2) A RECORD OF AN IDENTIFICATION PROCEDURE SHALL INCLUDE:

(I) ALL IDENTIFICATION AND NONIDENTIFICATION RESULTS OBTAINED DURING THE PROCEDURE;

(II) THE DATE AND TIME OF THE PROCEDURE;

(III) A STATEMENT IN THE EYEWITNESS'S OWN WORDS REGARDING THE LEVEL OF THE EYEWITNESS'S CERTAINTY OF ANY IDENTIFICATION, MADE CONTEMPORANEOUSLY WITH THE IDENTIFICATION PROCEDURE;

(IV) THE SIGNATURE OF THE WITNESS; AND

(V) ANY OTHER RELEVANT INFORMATION.

(3) A RECORD OF AN IDENTIFICATION PROCEDURE THAT USES A PHOTOGRAPHIC LINEUP OR ARRAY SHALL ALSO INCLUDE:

(I) THE PHOTOGRAPHS USED IN THE LINEUP OR ARRAY;

(II) THE ORDER AND NUMBER OF TIMES IN WHICH THE PHOTOGRAPHS WERE DISPLAYED TO THE EYEWITNESS; AND

(III) THE SOURCES OF ALL PHOTOGRAPHS USED IN THE LINEUP.

(4) A RECORD OF AN IDENTIFICATION PROCEDURE THAT USES A LIVE LINEUP SHALL ALSO INCLUDE A PHOTOGRAPHIC OR OTHER VISUAL RECORDING OF THE LINEUP THAT:

(I) INCLUDES ALL PERSONS WHO PARTICIPATED IN THE LINEUP; AND

(II) REFLECTS THE ORDER IN WHICH THE PERSONS WERE DISPLAYED TO THE EYEWITNESS.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN IN-COURT IDENTIFICATION OF A CRIMINAL DEFENDANT BY AN EYEWITNESS THAT WAS NOT PREVIOUSLY MADE BY AN EXTRAJUDICIAL IDENTIFICATION PROCEDURE UNDER SUBSECTION (A) OF THIS SECTION IS INADMISSIBLE.

(2) ON MOTION OF THE STATE, AND AFTER A HEARING, A COURT MAY ADMIT AN IN-COURT EYEWITNESS IDENTIFICATION OF A CRIMINAL DEFENDANT ON A FINDING THAT THE IDENTIFICATION:

(I) IS RELIABLE AND RELEVANT; AND

(II) HAS PROBATIVE VALUE THAT SUBSTANTIALLY OUTWEIGHS THE DANGER OF UNFAIR PREJUDICE TO THE DEFENDANT, CONFUSION OF THE ISSUES, MISLEADING A JURY, UNDUE DELAY, WASTE OF TIME, OR THE NEEDLESS PRESENTATION OF CUMULATIVE EVIDENCE.

SECTION 2. AND BE IT FURTHER ENACTED, That Section 10-921(a) of the Courts Article as enacted

by this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any extrajudicial identifications that occur before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 10-921(b) of the Courts Article as enacted by this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any criminal proceedings commenced before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2006.

Copyright 2006 State Net. All Rights Reser ved.

