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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2006**

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A N A C T

RELATING TO CRIMINAL PROCEDURE - ARREST

Introduced By: Representatives Almeida, Slater, and Diaz

Date Introduced: February 02, 2006

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 12-7 of the General Laws entitled "Arrest" is hereby amended by  
2 adding thereto the following sections:

3           **12-7-22. Eyewitness identification procedures.** -- (a) Not later than January 1, 2007,  
4 each municipal police department and the state police shall adopt protocols for the conducting of  
5 photo lineups and live lineups that include the following recommended best law enforcement  
6 practices:

7           (1) When practicable, the investigator conducting the identification procedure shall be a  
8 person who is not aware of which person in the photo lineup or live lineup is suspected as the  
9 perpetrator of the offense; and

10           (2) The eyewitness shall be instructed prior to the identification procedure that the  
11 perpetrator may not be among the persons in the photo lineup or the live lineup and that the  
12 eyewitness should not feel compelled to make an identification; and

13           (3) That when administering a live lineup or photo lineup each photograph or person will  
14 be viewed one at a time, not simultaneously; and

15           (i) the photographs or persons will be displayed in random order so as not to suggest any  
16 specific photograph or person; and

17           (ii) the eyewitness shall take as much time as needed in making a decision about each  
18 photograph or person before removing the photograph or person from sight and moving on to the  
19 next one; and

1           (iii) all photographs or persons will be shown to the eyewitness even if an identification  
2 is made before all have been viewed; and

3           (iv) if requested by the eyewitness she/he may view a photograph or person which has  
4 been previously shown to them.

5           (4) The investigator shall make a written record of the identification procedure signed by  
6 the eyewitness that includes the following:

7           (i) all positive and non-positive identification results of all identification procedures  
8 conducted; and

9           (ii) the eyewitness' own words as to their confidence level that the person identified  
10 during the identification procedure is the perpetrator; and

11           (iii) the names of all persons present at the identification procedure; and

12           (iv) the date and time the identification procedure started and when it was completed.

13           **12-7-23. Eyewitness identification procedures.** -- (a) Evidence of a failure to comply  
14 with any of the provisions of Rhode Island General Laws section 12-7-22 shall be considered by  
15 the trial courts in adjudicating motions to suppress eyewitness identification.

16           (b) Evidence of a failure to comply with any of the provisions of Rhode Island General  
17 Laws section 12-7-22 shall be admissible in support of claims of eyewitness misidentification as  
18 long as such evidence is otherwise admissible pursuant to the rules of evidence and criminal  
19 procedure.

20           SECTION 2. This act shall take effect on January 1, 2007.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL PROCEDURE - ARREST

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- 1           This act would require municipal police departments and the state police to adopt certain
- 2 protocols for conducting photo lineups and live lineups.
- 3           This act would take effect upon on January 1, 2007.

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