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MODEL LEGISLATION, 2006 STATE LEGISLATIVE SESSIONS

**AN ACT TO CREATE A TASK FORCE TO RECOMMEND PROCEDURES AND PRACTICES TO IMPROVE THE ACCURACY OF EYEWITNESS IDENTIFICATIONS**

SECTION 1. LEGISLATIVE INTENT

Because the goal of a police investigation is to apprehend the person or persons responsible for a crime's commission; because studies of eyewitness identification procedures indicate that the criminal justice system can significantly decrease the rate of erroneous eyewitness identifications by implementing changes to identification procedures; because decreased erroneous eyewitness identifications increase the ability of police and prosecutors to convict the guilty and protect our communities; and because new policies and procedures such as those recommended by the National Institute of Justice and the growing body of peer-reviewed research on the subject are readily available and reforms have proven effective in other jurisdictions, it is useful to create a task force to identify and recommend policies and procedures to improve the accuracy of eyewitness identifications.

SECTION 2. DEFINITIONS

For the purposes of this Act:

- A. "Administrator" means the person conducting the photo or live lineup.
- B. "Blind" means when the administrator does not know who among the members of the photo or live lineup being viewed by the eyewitness is the suspect;
- C. "Filler" means either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure; and

D. “Sequential” means lineup procedures where the eyewitness views only one member of the lineup at a time and is shown all photographs or persons even if an identification has been made before all the photographs or persons have been viewed.

### SECTION 3. TASK FORCE

A. The task force is comprised of the [state’s] Chief State’s Attorney, the Chief Public Defender and the Attorney General.

B. The task force or their assigned designees, in consultation with eyewitness identification practitioners and experts, shall develop guidelines for policies, procedures and training with respect to the collection and handling of eyewitness evidence in criminal investigations by law enforcement agencies in [State]. The purpose of the guidelines is to provide law enforcement agencies with information regarding policies and procedures proven to increase the accuracy of the crime investigation process, thus also reducing the possibility of erroneous convictions.

C. Such guidelines shall include procedures for the blind administration of live and photo lineups and instructions that will increase the accuracy of eyewitness identifications.

Specifically, the guidelines shall include recommendations regarding:

1. The use of blind administration of live and photo lineups;
2. Specific instructions to be given to the eyewitness before and during the identification procedure to increase the accuracy of any identification, including that the purpose of the identification procedure is to exculpate the innocent as well as to identify the actual perpetrator;
3. The number and selection of fillers to be used in live and photo lineups;
4. The use of sequential lineups;
5. The inclusion of only one suspect in any live or photo lineup;
6. The timing of when the administrator should request and record the eyewitness’s



statement of his confidence in his selection;

7. The value of refraining from providing of any confirmatory information to the eyewitness;
8. The photographing or other visual recording of the lineup; and
9. What training, if any, should be made available to law-enforcement personnel in the use of these procedures.

#### SECTION 4. REPORTING

Not later than April 1, 2007, the task force shall submit a report on the guidelines developed and recommendations concerning their use. Minority reports may also be issued. These reports shall be presented to the Governor, the Chief Justice, and the standing committees of the Legislature having cognizance of matters relating to criminal law and procedure, in accordance with [the appropriate provisions] of the general statutes. The task force shall terminate on the date that it submits such report or April 1, 2007, whichever is earlier.