

LC00836

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2004

A N A C T

RELATING TO CRIMINAL PROCEDURE - EYEWITNESS IDENTIFICATION

Introduced By: Senators Perry, Pichardo, McCaffrey, Connors, and Paiva-Weed

Date Introduced: February 03, 2004

Referred To: Senate 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 section:

3 **12-7-20.2. Eyewitness identification procedure. - - (a) Legislative purpose. The**
4 **purpose of this section is to improve the reliability and accuracy of eyewitness identification**
5 **procedures as mandated by the United States and Rhode Island Supreme courts by requiring that**
6 **the protocols contained in subsections (b) through (g) be adhered to by all state law enforcement**
7 **agencies when conducting live lineups and photographic displays as part of their investigations**
8 **into criminal matters. The protocols contained in subsections (b) through (g) shall serve as**
9 **predicates for the admissibility of evidence of live lineups and photographic displays at trial.**

10 **(b) When conducting live lineups and photographic displays the police department shall**
11 **ensure that the person conducting them should not be aware of which member of the live lineup**
12 **or photographic display is the suspect.**

13 **(c) Eyewitnesses shall be explicitly told that:**

14 **(1) the suspected perpetrator might not be in the live lineup or photographic display and**
15 **therefore they are not required to make an identification; and**

16 **(2) they should not assume that the person administering the live lineup or photographic**
17 **display knows which person is the suspect in the case.**

18 **(d) When an eyewitness is asked to view a live lineup or photographic display a**
19 **sequential viewing procedure shall be used so that the eyewitness views only one member of the**

1 live lineup or photographic display at a time and makes a decision that the person viewed is the
2 perpetrator or not individually and before viewing another member of the live lineup or
3 photographic display.

4 (e) Suspects shall not stand out in the live lineup or photographic display as being
5 different from the nonsuspects, based upon the eyewitness' previous description of the
6 perpetrator, or based on other factors that would draw attention to the suspect.

7 (f) A clear written statement shall be made of any statements made by the eyewitness at
8 the time of the live lineup or photographic display as to his or her confidence that the identified
9 person is or is not the perpetrator. This statement shall be recorded prior to any further interviews
10 with the eyewitness by the police.

11 (g) When such equipment is available the police shall videotape live lineups or
12 photographic displays, including the witness' confidence statement.

13 SECTION 2. This act shall take effect upon passage.

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

1 This act would improve the reliability and accuracy of eyewitness identifications in
2 criminal cases.

3 This act would take effect upon passage.

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