



1 suspect but not the position in which the suspect is placed in the  
2 photo array when it is viewed by the eyewitness;

3 3. "Eyewitness" means a person who observed another person at  
4 or near the scene of an offense;

5 4. "Filler" means either a person or a photograph of a person  
6 included in an identification procedure who is not suspected of the  
7 offense in question;

8 5. "Folder shuffle method" means a blinded procedure in which:

9 a. the suspect photo and filler photos are each placed in  
10 separate folders for a total of six photographs and  
11 then shuffled,

12 b. four blank folders are placed behind the six folders  
13 that contain photographs, and

14 c. each folder is then presented to an eyewitness such  
15 that the administrator cannot see which photos are  
16 being presented to the eyewitness until after the  
17 procedure is completed;

18 6. "Live lineup" means an eyewitness identification procedure  
19 in which a group of persons, including the suspected perpetrator of  
20 an offense and other persons who are not suspected of the offense,  
21 is displayed to an eyewitness for the purpose of determining whether  
22 the eyewitness identifies the suspect as the perpetrator;

23 7. "Photo array" means an identification procedure in which an  
24 array of photographs, including a photograph of the suspected

1 perpetrator of an offense and additional photographs of other  
2 persons who are not suspected of the offense, is displayed to an  
3 eyewitness either in hard copy form or via electronic means for the  
4 purpose of determining whether the eyewitness identifies the suspect  
5 as the perpetrator; and

6 8. "Show-up" means an identification procedure in which an  
7 eyewitness is presented with a single suspect in person for the  
8 purpose of determining whether the eyewitness identifies the  
9 individual as the perpetrator.

10 B. All law enforcement agencies in this state that conduct  
11 eyewitness identification procedures shall adopt a detailed, written  
12 policy that shall include, but not be limited to, the following  
13 requirements:

14 1. All photo arrays and live lineups shall be conducted using a  
15 blind administrator or a technique of blinded administration, such  
16 as the folder shuffle method;

17 2. The eyewitness shall be informed before the identification  
18 procedure that the person who committed the offense may or may not  
19 be present in the procedure;

20 3. Fillers shall be selected who match the description of the  
21 perpetrator provided by the eyewitness and do not make the suspect  
22 noticeably stand out;

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1 4. After the eyewitness makes an identification, the eyewitness  
2 shall be asked to state in his or her own words the level of  
3 certainty in the selection, and the statement shall be documented;

4 5. A protocol guiding the use of show-ups procedures, including  
5 that show-ups should only be used when a suspect is detained within  
6 a reasonably short time frame following the offense; and

7 6. A protocol for documenting eyewitness identification  
8 procedures.

9 SECTION 2. This act shall become effective November 1, 2019.

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11 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03/27/2019 - DO  
12 PASS.

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