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By: **Senator Kelley**

Introduced and read first time: February 9, 2006

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 16, 2006

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 2, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure Public Safety - Eyewitness Identification Evidence-**  
 3 **Inadmissible - Exception - Written Policies**

4 FOR the purpose of ~~establishing that certain eyewitness identification evidence is not~~  
 5 ~~admissible unless a certain record of the identification procedure that produced~~  
 6 ~~the eyewitness evidence was preserved and certain information related to the~~  
 7 ~~procedure was provided to the defendant in a certain manner; requiring that~~  
 8 ~~records of certain identification procedures include certain information;~~  
 9 ~~providing that, with a certain exception, the in court identification of a~~  
 10 ~~defendant that was not previously made by a certain identification procedure is~~  
 11 ~~inadmissible; providing for the application of this Act; requiring each law~~  
 12 ~~enforcement agency in the State to adopt written policies relating to eyewitness~~  
 13 ~~identification that comply with certain standards by a certain date; requiring~~  
 14 ~~each law enforcement agency to file a copy of a certain policy with the~~  
 15 ~~Department of State Police by a certain date; requiring the Department to~~  
 16 ~~compile certain policies and allow public inspection of certain policies by a~~  
 17 ~~certain date; and generally relating to eyewitness identification evidence in a~~  
 18 criminal proceeding.

19 ~~BY adding to~~  
 20 ~~Article Courts and Judicial Proceedings~~  
 21 ~~Section 10-921~~  
 22 ~~Annotated Code of Maryland~~  
 23 ~~(2002 Replacement Volume and 2005 Supplement)~~

24 BY adding to

1 Article - Public Safety  
2 Section 3-504  
3 Annotated Code of Maryland  
4 (2003 Replacement Volume and 2005 Supplement)

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

7 **~~Article—Courts and Judicial Proceedings~~**

8 ~~40-921.~~

9 ~~(A) (1) EYEWITNESS IDENTIFICATION EVIDENCE IS NOT ADMISSIBLE IN~~  
10 ~~THE STATE'S CASE IN A CRIMINAL PROCEEDING UNLESS A RECORD OF THE~~  
11 ~~IDENTIFICATION PROCEDURE IS PRESERVED, AND ALL MATERIAL AND~~  
12 ~~INFORMATION RELATED TO THE IDENTIFICATION PROCEDURE WAS PROVIDED TO~~  
13 ~~THE DEFENDANT IN A TIMELY MANNER BEFORE THE COMMENCEMENT OF THE~~  
14 ~~PROCEEDING IN WHICH THE EVIDENCE IS OFFERED.~~

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

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

18 ~~(II) THE DATE AND TIME OF THE PROCEDURE;~~

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

22 ~~(IV) THE SIGNATURE OF THE WITNESS; AND~~

23 ~~(V) ANY OTHER RELEVANT INFORMATION.~~

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

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

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

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

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

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

34 ~~AND~~



1 SECTION 4. 2. AND BE IT FURTHER ENACTED, That this Act shall take  
2 effect October 1, 2006.