

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 863

(Senator Kelley)

Judicial Proceedings

Judiciary

Public Safety - Eyewitness Identification - Written Policies

This bill requires each law enforcement agency in the State to adopt a written policy relating to eyewitness identification by December 1, 2006. The policies must comply with the U.S. Department of Justice standards on obtaining accurate eyewitness identification.

Law enforcement agencies must file copies of these policies with the State Police by January 1, 2007. The State Police must compile the policy of each law enforcement agency by February 1, 2007 and allow public inspection of each policy compiled.

Fiscal Summary

State Effect: Development of written eyewitness identification policies by the State law enforcement agencies could be handled with existing resources.

Local Effect: Development of written eyewitness identification policies by the local law enforcement agencies could be handled with existing local resources.

Small Business Effect: None.

Analysis

Current Law: Eyewitness identification testimony and in-court identification of a criminal defendant are generally admissible.

Lineups and other extrajudicial identifications that are “unnecessarily suggestive and conducive to irreparable mistaken identification” violate a criminal defendant’s due process rights. *See Stovall v. Deno*, 388 U.S. 293, 302 (1967). When confronting due process challenges to identification procedures, courts evaluate whether the identification was reliable in spite of the suggestive procedures under a totality of the circumstances.

Additional Information

Prior Introductions: None.

Cross File: HB 807 (Delegate Rosenberg, *et al.*) – Judiciary.

Information Source(s): State’s Attorneys’ Association; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of State Police; *Criminal Procedure Handbook*, Fifth Amendment § 2:28, Thomson West (2006); Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2006
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