

REGULATE EYEWITNESS IDENTIFICATION

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4922

Sponsor: Rep. Steve Bieda

Committee: Judiciary

Complete to 9-23-08

A SUMMARY OF HOUSE BILL 4922 AS INTRODUCED 6-14-07

The bill would create a new act to:

- Regulate eyewitness identifications.
- Define terms.
- Require municipal police departments, county sheriff's departments, and the Department of State Police to adopt procedures specified in the bill for conducting live and photo lineups.
- Prescribe procedures for the conducting of photo lineups and live lineups, including requiring, when practicable, the lineup be conducted by an investigator who was unaware of which person in the lineup was the suspect and that the lineup be presented sequentially. (The lineup would have to be presented simultaneously if the investigator was aware of which person was the suspect).
- Require certain instructions be given eyewitnesses prior to the identification process.
- Require a written report of the identification procedure, presumably by the investigator, and specify the information to be included in the report.
- Subject to appropriations, require the Department of State Police to create, administer, and conduct training programs for law enforcement and recruits on the methods and technical aspects of the identification practices and procedures established by the bill.

Further, the bill would specify that evidence of a failure to comply with any provisions of the requirements for lineups, eyewitness instructions, or the written report of the lineup would have to be considered by the trial court in adjudicating motions to suppress eyewitness identification and also would be admissible in support of claims of eyewitness misidentification as long as that evidence were otherwise admissible. When evidence of a failure to comply with any provision of the bill were presented at trial, the jury would have to be instructed that it could consider credible evidence of noncompliance in determining the reliability of eyewitness identifications.

The bill would define "eyewitness" to mean a person who observes another person at or near the scene of a criminal offense. "Investigator" would mean the person conducting a live or photo lineup.

"Sequential" would mean a procedure in a live lineup or photo lineup in which the eyewitness viewed only one member of the lineup at a time and was shown all persons or photographs even if identification had been made before all the persons or photographs had been viewed.

"Simultaneous" would mean a procedure in a live or photo lineup in which the eyewitness viewed all of the members of a lineup in a live lineup at the same time or was shown all of the photographs in a photo lineup at the same time.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact, but some administrative costs may be incurred by the Department of State Police and MCOLES for administering this information and for training police officers. There would be a negligible fiscal impact on the Judiciary.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Jan Wisniewski
Ben Gielczyk

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.