



“Photo array” means a process by which a group of photos, including a photo of the suspected perpetrator, is displayed to an eyewitness either in hard copy or electronically for the purpose of determining whether the eyewitness can identify the perpetrator.

“Showup” means an identification procedure in which an eyewitness is presented with a single individual in person for the purpose of determining whether the eyewitness can identify the individual as the perpetrator.

HB 387 requires that any law enforcement agency that **may** use any eyewitness identification procedure as part of a criminal investigation **shall** adopt written policies and procedures including but not limited to the following:

Blind administration of both photo arrays and live lineups, and the recommended use of a blinded administration of the photo array.

Implementing uniform, easily understood instructions to be provided to the eyewitness.

Developing uniform instructions for the law enforcement agency regarding the choice and use of fillers.

Requiring written or video documentation of the eyewitness’s level of confidence at the time the eyewitness first makes an identification and to thoroughly document the entire identification process including all comments or observations made by the eyewitness.

Adopting uniform practices to enhance the reliability of an eyewitness participating in a showup procedure to include but not be limited to the following:

Identifying the circumstance warranting a showup.

Conducting showups close to the time the offense was committed.

Instructing the eyewitness that the person he or she is seeing may not be the perpetrator.

Transporting the eyewitness to a neutral, non-law enforcement location where the detained suspect is being held.

Where practical, electronically recording the entirety of the photo and live lineup and the showup procedure.

Noncompliance to the above requirements by the law enforcement agency shall be relevant evidence as to the weight accorded an eyewitness identification.

Local law enforcement policies and procedures relating to eyewitness identification shall be subject to disclosure pursuant to the provisions of KRS 61.870 to 61.884, the Open Records statutes.

**Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost**

**The fiscal impact of HB 387 on local governments is expected to be minimal.**

There will be cost involved in formulating new procedures or amending current procedures, and dispersing the new procedures.

**Data Source(s):** LRC Staff

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