Local Mandate Fiscal Impact Estimate Kentucky Legislative Research Commission 2016 Regular Session

Part I: Measure Information

Bill Request #: 1267 R1					
Bill #: HB 387					
Bill Subject/Title: AN ACT relating to eyewitness identification.					
Sponsor: Representative Johnny Bell					
Unit of Government:XCityXCountyXUrban-CountyXCharter CountyXConsolidated LocalXGovernment					
Office(s) Impacted: Local law enforcement agencies.					
Requirement: Mandatory X_ Optional					
Effect on Powers & Duties: Modifies Existing _X_ Adds New Eliminates Existing					

Part II: Purpose and Mechanics

HB 387 adds the following definitions to KRS Chapter 421.

"Blind" means the administrator of a live lineup or photo array does not know the identity of the suspect.

"Blinded" means the administrator of a photo array may know who the suspect is but does not know in which position the suspect is placed.

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

"Filler" means either a person or a photo of a person who is not suspected of the offense, but is included in a live lineup or photo array.

"Live Lineup" means an identification procedure in which a group of persons, including the suspected perpetrator of an offense, is displayed to an eyewitness for the purposes of determining whether the eyewitness can identify the perpetrator. "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): <u>LRC Staff</u>

Preparer:	Wendell F. Butler	Reviewer:	JWN	Date:	2/9/16
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