

AMENDED IN SENATE APRIL 9, 2007

SENATE BILL

No. 756

Introduced by Senator Ridley-Thomas

February 23, 2007

~~An act to add Section 806 to the Evidence Code and to add Section 686.3~~*An act to add Sections 686.3 and 686.31 to the Penal Code, relating to criminal investigations.*

LEGISLATIVE COUNSEL'S DIGEST

SB 756, as amended, Ridley-Thomas. Criminal investigations: eyewitness identifications.

Existing case law regulates suspect identification procedures to ensure that they are not unduly suggestive.

This bill would provide that it is the intent of the Legislature that law enforcement officials study and consider the adoption of new policies and procedures, as specified, to ensure that eyewitness identification procedures in California minimize the chance of misidentification of a suspect.

This bill would require that on or before December 31, 2008, the Department of Justice, and specified law enforcement-related entities, develop guidelines for policies and procedures with respect to collection and handling of eyewitness evidence in criminal investigations by all law enforcement agencies operating in California, as specified. The guidelines would be transmitted to the Legislature with recommendations for any legislation needed to enforce the guidelines.

The bill would require that on or before December 31, 2009, the Attorney General report to the Legislature, describing the voluntary implementation of the guidelines and the training implemented by California law enforcement agencies.

Existing law does not regulate how law enforcement officials prepare or conduct eyewitness photo or live lineup identifications.

~~This bill declares legislative intent that law enforcement officials study and consider adoption of policies and procedures regulating eyewitness lineup identifications so as to ensure a decrease in the number of misidentifications.~~

~~Existing law allows opinion testimony from expert witnesses to be admitted at trial upon specified showings.~~

~~This bill would allow expert testimony regarding the reliability of an eyewitness identification to be admitted at trial if the proponent of the evidence establishes relevancy and proper qualifications of the witness.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 686.3 is added to the Penal Code, to read:
- 2 686.3. (a) The goal of a law enforcement criminal investigation
- 3 is to find and apprehend the person or persons responsible for
- 4 committing a crime.
- 5 (b) A comprehensive body of peer-reviewed studies of eyewitness
- 6 identification procedures indicates that the criminal justice system
- 7 can improve the accuracy of eyewitness identifications by
- 8 implementing changes to identification procedures.
- 9 (c) Improving the accuracy of eyewitness identifications will
- 10 increase public trust in the criminal justice system.
- 11 (d) Policies and procedures such as those recommended by the
- 12 National Institute of Justice and the California Commission on
- 13 the Fair Administration of Justice are readily available and have
- 14 proven effective in other jurisdictions.
- 15 (e) It is the intent of the Legislature that law enforcement
- 16 officials study and consider adoption of new policies and
- 17 procedures similar to those recommended by the National Institute
- 18 of Justice and the California Commission on the Fair
- 19 Administration of Justice in order to ensure that eyewitness
- 20 identification procedures in California minimize the chance of
- 21 misidentification of a suspect.
- 22 (f) On or before December 31, 2008, the Department of Justice,
- 23 and the Commission on Peace Officers Standards and Training,
- 24 in consultation with local law enforcement agencies, prosecutors,

1 *defense attorneys, and other legal experts, including*
2 *representatives of the California District Attorney's Association,*
3 *the Los Angeles District Attorney, the California Public Defenders*
4 *Association, and the California Attorneys for Criminal Justice,*
5 *shall develop guidelines for policies and procedures with respect*
6 *to collection and handling of eyewitness evidence in criminal*
7 *investigations by all law enforcement agencies operating in*
8 *California. These guidelines shall be developed to ensure reliable*
9 *and accurate suspect identifications and shall be consistent with*
10 *the reliable evidence supporting best practices, including*
11 *consideration of the recommendations of the California*
12 *Commission on the Fair Administration of Justice. The guidelines*
13 *shall be transmitted to the Legislature with recommendations of*
14 *any legislation needed to enforce the guidelines.*

15 *SEC. 2. Section 686.31 is added to the Penal Code, to read:*

16 *686.31. On or before December 31, 2009, the Attorney General*
17 *shall report to the Legislature, describing the voluntary*
18 *implementation of the guidelines and the training implemented by*
19 *California law enforcement agencies.*

20 ~~SECTION 1. Section 806 is added to the Evidence Code, to~~
21 ~~read:~~

22 ~~806. Consistent with existing law, expert testimony may be~~
23 ~~admitted regarding factors that affect the reliability of eyewitness~~
24 ~~identification if the proponent of the evidence establishes relevancy~~
25 ~~and proper qualifications of the witness.~~

26 ~~SEC. 2. Section 686.3 is added to the Penal Code, to read:~~

27 ~~686.3. (a) The goal of a law enforcement criminal investigation~~
28 ~~is to find and apprehend the person or persons responsible for~~
29 ~~committing a crime.~~

30 ~~(b) A comprehensive body of peer-reviewed studies of~~
31 ~~eyewitness identification procedures indicate that the criminal~~
32 ~~justice system can improve the accuracy of eyewitness~~
33 ~~identifications by implementing changes to identification~~
34 ~~procedures.~~

35 ~~(c) Improving the accuracy of eyewitness identifications will~~
36 ~~increase public trust in the criminal justice system.~~

37 ~~(d) Policies and procedures such as those recommended by the~~
38 ~~National Institute of Justice and the California Commission on the~~
39 ~~Fair Administration of Justice are readily available and have proven~~
40 ~~effective in other jurisdictions.~~

1 ~~(e) It is the intent of the Legislature that law enforcement~~
2 ~~officials study and consider adoption of new policies and~~
3 ~~procedures similar to those recommended by the National Institute~~
4 ~~of Justice and the California Commission on the Fair~~
5 ~~Administration of Justice in order to ensure that eyewitness~~
6 ~~identification procedures in California minimize the chance of~~
7 ~~misidentification of a suspect.~~

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