

Chapter 90

2020 Regular Session

Subject Eyewitness identification policies

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Overview

There has been significant research on the reliability of eyewitness identifications. In 2014, the National Academies of Science (NAS) published a comprehensive look at the research and made five recommendations relating to police lineups which it considered to be the best practices. The five recommendations were:

- officers should employ a double-blind or blinded procedure;
- photo arrays should include at least six photographs of other persons that meet the general description of the suspect;
- Instructions should state that the suspect may or may not be in the lineup and should make it clear that the witness does not need to make an identification;
- officers should obtain a statement by the witness regarding that person's certainty in the identification; and
- there should be a video recording of the identification process.

Several states, the federal government, and many Minnesota law enforcement agencies have adopted policies consistent with the recommendations. The Minnesota Supreme Court Rules of Evidence Advisory Committee has recommended that the admissibility of eyewitness identification be tested, in part, based on the first four NAS recommendations.

This bill would require the Peace Officers Standards and Training (POST) Board to develop a model policy for eyewitness identification that is consistent with the first four NAS recommendations, and further require law enforcement agencies to adopt policies that are substantially similar to the model policy.

Summary

Section	Description
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1	Eyewitness identification policies required.
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Requires the POST Board to develop, and law enforcement agencies to adopt, policies on eyewitness identification.

Subd. 1. Statewide model policy required. Directs the Board of Peace Officers Standards and Training to develop a model policy by November 1, 2020, that articulates best practices for eyewitness identification. The policy must require that: (1) the person administering a lineup be unaware of the suspect or be unaware of which lineup member is being viewed; (2) the witness be given introductory instructions including the statement that the perpetrator may or may not be in the lineup; (3) the lineup include “fillers” that match the description of the suspect; and (4) the witness give a statement that articulates the level of confidence in the identification.

Subd. 2. Agency policies required. Requires chief law enforcement officers to adopt and implement a policy that is substantially similar to the policy developed under subdivision 1. The policy must be adopted by February 1, 2021.

Subd. 3. Admissibility of evidence not impacted. Provides that nothing in this section precludes the admissibility of relevant evidence or otherwise affects the standards governing the admissibility of evidence under the state or federal constitutions.



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