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FISCAL IMPACT REPORT

SPONSOR Grubestic **ORIGINAL DATE** 1/19/07
LAST UPDATED 2/14/07 **HB** _____
SHORT TITLE Reliable Eyewitness Identification Act **SB** 5a/SFL1,2,3,4,5,6,7,8
ANALYST Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defender Department (PDD)

Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of SFI#8 Amendment

Senate Floor Amendment 8 to SB 5 changes shall to may, to read “a suspect may not be shown to an eyewitness outside a lineup procedure for the purpose of identification”.

Synopsis of SFI#7 Amendment

Senate Floor Amendment 7 to SB 5 changes may to shall, to read “a suspect shall not be shown to an eyewitness outside a lineup procedure for the purpose of identification”.

Synopsis of SFI#6 Amendment

Senate Floor Amendment 6 to SB 5 adds that eyewitness may be shown members of a lineup sequentially.

Synopsis of SFl#5 Amendment

Senate Floor Amendment 5 to SB 5 allows for a suspect's attorney to present during a lineup.

Synopsis of SFl#4 Amendment

Senate Floor Amendment 4 to SB 5 allows a suspect be shown to an eyewitness outside a lineup procedure for the purpose of identification if, considering the totality of the circumstances, the suspect was found in reasonable proximity in time and place to the event seen by the eyewitness.

Synopsis of SFl#3 Amendment

Senate Floor Amendment 3 to SB 5 allows a suspect be shown to an eyewitness outside a lineup procedure for the purpose of identification if the suspect is shown within three hour after the subject was seen by the eyewitness.

Synopsis of SFl#2 Amendment

Senate Floor Amendment 2 to SB 5 makes for members of a lineup to be shown sequentially, not simultaneously, in a first viewing. After a first viewing, members of a lineup may be shown simultaneously.

Synopsis of SFl#1 Amendment

Senate Floor Amendment 1 to SB 5 strikes the word "written" so that an eyewitness provides a description but it may be recorded, transcribed or written.

Synopsis of Original Bill

Senate Bill 5, The Reliable Eyewitness Identification bill, creates a new statute providing procedures for law enforcement to use in line-up eyewitness identification procedures. The procedures to be followed include: the eyewitness providing a written description before the line-up takes place; the presence of at least six individuals in a live line-up and ten photos in a photographic line-up; and, the members of the line-up must be shown sequentially rather than simultaneously.

Additionally, the bill discourages, but does not explicitly prohibit, a show-up identification – the presentation of one suspect to the eyewitness outside of a normal line-up procedure.

FISCAL IMPLICATIONS

There will be additional resources expended by law enforcement agencies. Additional hearings will be held on eyewitness cases. As this is a new requirement, no documentation exists as to what additional expense will be incurred.

SIGNIFICANT ISSUES

The guidelines provided for in the bill appear to be in line with those recommended by the United States Department of Justice in a report entitled *Eyewitness Evidence: A Guide for Law Enforcement*, available at <http://www.ncjrs.gov/pdffiles1/nij/178240.pdf>

A procedure such as is contemplated by the bill will likely reduce mistaken identifications, by improving the reliability of identifications and thus improving confidence in the criminal justice system. If these procedures are followed, it will likely reduce the number of hearings on motions to suppress identifications and may reduce the number of cases proceeding to trial.

PERFORMANCE IMPLICATIONS

It may be difficult for rural areas to implement because of the limited population from which to draw line-up participants.

OTHER SUBSTANTIVE ISSUES

According to the Administrative Office of the District Attorneys, enacting this bill could result in less identification of criminals and is an additional imposition on crime victims and witnesses.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Defendants' rights will continue to be protected by both state and federal constitutions.

EO/mt