

HOUSE JOINT RESOLUTION NO. 14

INTRODUCED BY F. GARNER

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A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO EXAMINE EYEWITNESS IDENTIFICATION POLICIES AND PROCEDURES AT STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

WHEREAS, eyewitness misidentification is the leading contributing factor in wrongful conviction cases proven by DNA evidence, playing a role in 72% of the nation's 321 DNA exonerations; and

WHEREAS, improving the accuracy of eyewitness identifications and reducing the risk of misidentifications can enhance law enforcement investigations, protect the innocent, and improve public safety; and

WHEREAS, on October 2, 2014, the National Academy of Sciences, the nation's premier source of independent expert advice on scientific issues, released a report recommending that law enforcement adopt the following best practices to improve the accuracy of eyewitness identifications:

(1) blind or blinded administration, in which the officer administering the lineup does not know the suspect's identity or may know the suspect's identity but cannot tell which photo the witness is viewing at any given time;

(2) witness instructions that the perpetrator may or may not be present and that the investigation will continue regardless of whether the witness makes an identification; and

(3) documenting witness confidence statements in which, immediately after an identification is made, the eyewitness is asked to describe in the witness's own words the level of certainty in the identification; and

WHEREAS, the Montana Law Enforcement Academy issued an eyewitness identification model policy in 2012 that includes all of the best practices recommended in the National Academy of Sciences' report; and

WHEREAS, the Montana Law Enforcement Academy is training new officers with the evidence-based best practices recommended by the National Academy of Sciences, but veteran officers may not have been trained in these techniques; and

WHEREAS, ensuring that law enforcement agencies across the state uniformly adopt and implement eyewitness identification best practices will enhance the fair administration of justice in Montana.

1 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
2 STATE OF MONTANA:

3 That the Legislative Council be requested to designate an appropriate interim committee, pursuant to
4 section 5-5-217, MCA, or direct sufficient staff resources to study eyewitness identification policies at state and
5 local law enforcement agencies, including:

6 (1) identifying current written eyewitness identification policies and procedures in place at law
7 enforcement agencies throughout the state;

8 (2) creating a plan for a uniform, statewide adoption of the eyewitness identification model policy
9 developed by the Montana Law Enforcement Academy by law enforcement agencies;

10 (3) identifying resources to assist law enforcement with the adoption of eyewitness identification best
11 practices that comport with the Montana Law Enforcement Academy policy;

12 (4) recommending essential components of training programs for law enforcement officers on eyewitness
13 identification procedures;

14 (5) developing a compliance mechanism to ensure that law enforcement agencies have adopted
15 evidence-based eyewitness policies; and

16 (6) identifying any statutory changes needed to implement the policies.

17 BE IT FURTHER RESOLVED, that the committee involve relevant stakeholders in the study, including
18 the Department of Justice, the Montana Law Enforcement Academy, county and local law enforcement agencies,
19 the Office of State Public Defender, organizations dedicated to investigating postconviction claims of innocence,
20 and other stakeholders identified by the committee, in order to develop a clear road map for uniform adoption of
21 the Montana Law Enforcement Academy identification model policy at the county and local law enforcement
22 agency level.

23 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be
24 presented to and reviewed by an appropriate committee designated by the Legislative Council.

25 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
26 requirements, be concluded prior to September 15, 2016.

27 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
28 comments, or recommendations of the appropriate committee, be reported to the 65th Legislature.

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