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SENATE BILL NO. 464

INTRODUCED BY J. TREBAS, L. BREWSTER, D. EMRICH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO EYEWITNESS LINEUPS;
PROVIDING REQUIRED PROCEDURES ~~AND REMEDIES FOR NONCOMPLIANCE~~; AND PROVIDING
DEFINITIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. As used in [sections 1 and 2], unless the context clearly indicates otherwise, the following definitions apply:

- (1) "Eyewitness" means a person whose identification by sight of another person may be relevant in a criminal proceeding.
- (2) "Live lineup" means a group of people displayed to an eyewitness for the purpose of determining if the eyewitness can identify the perpetrator of a crime.
- (3) "Photographic lineup" means an array of photographs displayed to an eyewitness for the purpose of determining if the eyewitness can identify the perpetrator of a crime.

NEW SECTION. Section 2. Lineup procedure. A lineup conducted by a law enforcement agency of this state or any political subdivision must meet the following requirements:

- (1) The peace officer who is the administrator of a live or photographic lineup must be unaware of which person in the lineup is the suspected perpetrator of the crime under investigation or, if that is not practicable, the administrator shall use a photographic lineup that prevents the administrator from seeing which member of the photographic lineup is being viewed by the eyewitness.
- (2) Before the lineup is administered, the eyewitness must be instructed that the suspected perpetrator may or may not be in the lineup.
- (3) Any person who is not the suspected perpetrator in the lineup must be substantially similar to the eyewitness's description of the suspected perpetrator.

1 (4) Immediately after an identification is made, the eyewitness shall provide a statement in the
2 eyewitness's own words that articulates the level of the eyewitness's confidence in the identification.

3 ~~(5) A failure to comply with any of the requirements of this section must be:~~

4 ~~(a) considered by a court in adjudicating a motion to suppress eyewitness identification; and~~

5 ~~(b) admissible in support of a claim of eyewitness misidentification if the evidence is otherwise~~
6 ~~admissible.~~

7
8 NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified
9 as an integral part of Title 46, chapter 4, and the provisions of Title 46, chapter 4, apply to [sections 1 and 2].

10 - END -