

As Amended by House Committee

*{As Amended by Senate Committee of the Whole}*

Session of 2016

Substitute for SENATE BILL No. 428

By Committee on Judiciary

2-19

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to eyewitness identification.

3  
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) All law enforcement agencies in this state shall adopt a  
6 detailed, written policy relating to the procedures to be employed when a  
7 citizen is asked to identify a person in the context of a criminal  
8 investigation.

9 (b) All law enforcement agencies in this state shall collaborate with  
10 the county or district attorney in the appropriate jurisdiction to adopt  
11 written policies regarding eyewitness procedures. Such policies shall be  
12 made available to all officers of such agency.

13 (c) Policies adopted pursuant to this section shall be implemented by  
14 all Kansas law enforcement agencies within two years after the effective  
15 date of this act. Such policies shall be available for public inspection  
16 during normal business hours. ~~*The procedures should include:*~~

17 ~~*(1) Use of blind and blinded procedures;*~~

18 ~~*(2) instructions to the witness that the perpetrator may or may not*~~  
19 ~~*be present;*~~

20 ~~*(3) use of non-suspect fillers who are reasonably similar to the*~~  
21 ~~*perpetrator and do not make the suspect stand out; and*~~

22 ~~*(4) after an identification is made by the witness, eliciting a*~~  
23 ~~*confidence statement, in the witness's own words, regarding the level of*~~  
24 ~~*certainty in the selection.*~~

25 (d) The policies adopted pursuant to this section shall include, but not  
26 be limited to, identifying the procedures the law enforcement agency  
27 should employ when asking a citizen to identify a person in the context of  
28 a criminal investigation. **The procedures should include:**

29 **(1) Use of blind and blinded procedures;**

30 **(2) instructions to the witness that the perpetrator may or may**  
31 **not be present;**

32 **(3) use of non-suspect fillers who are reasonably similar to the**  
33 **perpetrator and do not make the suspect stand out; and**

34 **(4) after an identification is made by the witness, eliciting a**

1 **confidence statement, in the witness's own words, regarding the level**  
2 **of certainty in the selection.**

3       Sec. 2. This act shall take effect and be in force from and after its  
4 publication in the statute book.