

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number: S.184 Name of Bill: An Act Relating To Eyewitness Identification Policy

Agency/Dept: VSP Author of Bill Review: Det. Sgt. Tara Thomas

Date of Bill Review: 1/15/14 Status of Bill: (check one):

 Upon Introduction As passed by 1st body X As passed by both bodies

Recommended Position:

 X Support Oppose Remain Neutral Support with modifications identified in # 8 below

Analysis of Bill

1. **Summary of bill and issue it addresses.** This bill is intended for all law enforcement agencies to adopt a protocol and establish a policy regarding eyewitness identification. The bill is designed to avoid eyewitness misidentification and select the wrong person as the perpetrator of the crime. The policy would give formal instructions to the eyewitness prior to all identification procedures and the eyewitness would be told that the perpetrator may or may not be in the lineup. The identification would be conducted by a "blind administrator", a third party who has no knowledge of who the perpetrator may or may not be in the lineup, in an effort to eliminate any chance of influence toward the eyewitness.
2. **Is there a need for this bill?** Yes. This bill would help eliminate eyewitness misidentification and protect innocent people from being wrongly accused and/or convicted. The Department of Public Safety began training members of the Vermont State Police in Eyewitness Identification in 2012 and to date a majority of the department has attended the training.
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?** This bill should have little to no fiscal implication on the department. Training can be done in house and through the Vermont Criminal Justice Training Council when recruits are going through the Academy as the training requires only a few hour block of instruction. This bill could actually avoid a potential lawsuit to the state in the future for possible wrongful convictions. It could also save the state money on imprisoned funds of an innocent person.
4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** Same as above for other law enforcement agencies.
5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** There should be no fiscal or programmatic implications of this bill to others.
6. **Other Stakeholders:** The American Civil Liberties Union and The Vermont Information and Analysis Center.

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6.1 Who else is likely to support the proposal and why? The Innocence Project. The Innocence Project is dedicated to exonerating wrongfully convicted people through DNA testing as eyewitness misidentification played a role in over 75% of convictions in the 1970 and 1980's, which were overturned through DNA testing.

6.2 Who else is likely to oppose the proposal and why? It is unknown who would reasonably oppose this bill.

- 7. Rationale for recommendation:** This bill should be supported in an effort to eliminate eyewitness misidentification. The arrest of the right person would ultimately prevent future crimes from occurring. In a study conducted by The Innocence Project, 111 offenders who had committed a crime that an innocent person was being accused of, had committed 80 violent crimes before the innocent person was exonerated and the right offender was apprehended. This bill could potentially save the state from the funds accrued in a potential lawsuit. Studies also support that juries respond more favorably when police agencies use reform procedures.
- 8. Specific modifications that would be needed to recommend support of this bill:** It is recommended that this bill not require annual training as the elements of the policy would be basic and the steps on how to conduct the arrays would be accessible on the eyewitness identification instructional forms. It is not a complex process that would require annual training.

Secretary/Commissioner has reviewed this document



Date: 5/27/14

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