

House Bill 997

By: Representatives Benfield of the 85th, Ralston of the 7th, Mumford of the 95th, Mangham of the 94th, Levitas of the 82nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 35 of the Official Code of Georgia Annotated, relating to law enforcement
2 officers and agencies, so as to provide for written policies for enhancing witness
3 identification and related protocol; to provide for a short title; to provide for definitions; to
4 provide for training in enhancing witness identification accuracy; to amend Chapter 4 of Title
5 17 of the Official Code of Georgia Annotated, relating to arrest of persons, so as to provide
6 for implementation of procedures for enhancing witness identification accuracy; to provide
7 for related matters; to provide for an effective date; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Witness Identification Accuracy
12 Enhancement Act."

13 **SECTION 2.**

14 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
15 agencies, is amended in Chapter 1, relating to general provisions for law enforcement
16 officers and agencies, by adding new Code sections to read as follows:

17 "35-1-15.

18 (a) As used in this Code section, the term:

19 (1) 'Filler' means a person or photograph of a person who is not a suspect in the crime
20 under investigation and is made part of a physical lineup or a photographic lineup and
21 presented to a witness.

22 (2) 'In-service' means continuing education for peace officers which is in addition to the
23 basic training course set forth in Code Section 35-8-9.

24 (3) 'Peace officer' shall have the same meaning as set forth in Code Section 35-8-2.

1 (4) 'Photographic lineup' means a selected group of photographs of persons presented to
 2 a witness containing a single suspect and several fillers for the purpose of determining
 3 whether the witness is able to identify the suspect as the perpetrator of the crime.

4 (5) 'Physical lineup' means a selected group of persons presented to a witness containing
 5 a suspect and several fillers for the purpose of determining whether the witness is able
 6 to identify the suspect as the perpetrator of the crime.

7 (6) 'Showup' means a witness views a single suspect for purposes of identification of the
 8 suspect as the perpetrator of the crime.

9 (7) 'Suspect' means a person under investigation for participation in a crime.

10 (b) Prior to July 1, 2008, the Georgia Peace Officer Standards and Training Council shall
 11 establish guidelines and procedures for conducting showups, photographic lineups, and
 12 physical lineups and the Georgia Public Safety Training Center shall develop a
 13 comprehensive in-service training program for providing instruction on such procedures.
 14 Such guidelines, procedures, and training shall be for use by peace officers monitored by
 15 the Georgia Peace Officer Standards and Training Council and monitored and funded by
 16 the Georgia Public Safety Training Center in all courses for which it has responsibility and
 17 oversight.

18 35-1-16.

19 On and after January 1, 2009, each law enforcement unit, as such term is defined in Code
 20 Section 35-8-2, that conducts showups, photographic lineups, or physical lineups, as such
 21 terms are defined in Code Section 35-1-15, shall adopt written policies that set forth the
 22 manner in which such operations shall be conducted and shall contain minimum and
 23 aspirational specifications for each such procedure. Each law enforcement unit may create
 24 its own such policies or adopt an existing model. Law enforcement units which do not
 25 comply with the requirements of this Code section shall be subject to the withholding of
 26 any state funding or state administered federal funding."

27 **SECTION 3.**

28 Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to arrest of persons,
 29 is amended by adding a new article to the end of the chapter to read as follows:

30 "ARTICLE 5

31 17-4-70.

32 On and after July 1, 2011, all photographic lineups and physical lineups shall be conducted
 33 by peace officers, as such terms are defined in Code Section 35-1-15, who have

1 successfully completed in-service training on conducting photographic lineups and physical
2 lineups as set forth in Code Section 35-1-15. The failure to have such trained peace
3 officers conduct a photographic lineup or physical lineup shall not, in and of itself,
4 preclude testimony and evidence related to witness identification being admissible into
5 evidence."

6 **SECTION 4.**

7 This Act shall become effective upon its approval by the Governor or upon its becoming law
8 without such approval.

9 **SECTION 5.**

10 All laws and parts of laws in conflict with this Act are repealed.