

AMENDMENTS TO LB846

Introduced by Judiciary.

1 1. Strike the original section and insert the following new section:

2 Section 1. (1) On or before January 1, 2017, the Nebraska State
3 Patrol, each county sheriff, each city or village police department, and
4 any other law enforcement agency of this state or of a political
5 subdivision of this state shall adopt a written eyewitness
6 misidentification prevention policy and provide a copy of such policy to
7 the Nebraska Commission on Law Enforcement and Criminal Justice.

8 (2) The policy required by this section shall, at a minimum, include
9 the following:

10 (a) Blind or blinded administration of the lineup, in which the
11 officer conducting the lineup is unaware of the suspect's identity or, if
12 that is not practical, the officer uses a blinded procedure that prevents
13 him or her from seeing which photograph is being viewed by the witness at
14 a given time;

15 (b) Instructions to the eyewitness, including that the perpetrator
16 may or may not be among the persons in the identification procedure;

17 (c) Use of nonsuspect fillers that do not make the suspect
18 noticeably stand out and that generally match the witness's description
19 of the perpetrator; and

20 (d) A requirement that, if the witness makes an identification, the
21 officer shall elicit and document the witness's level of certainty, in
22 the witness's own words, immediately after the identification is made.

23 (3) The Nebraska Commission on Law Enforcement and Criminal Justice
24 shall develop and distribute a suggested model written eyewitness
25 misidentification prevention policy that includes the policies described
26 in subsection (2) of this section. If a law enforcement agency fails to
27 adopt its own policy as required under subsection (1) of this section,

- 1 the commission shall require such law enforcement agency to adopt the
- 2 model policy.