

SENATE BILL No. 22

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2; IC 35-33-4.5.

Synopsis: Eyewitness identification procedures. Establishes a procedure to be used by a law enforcement agency in conducting a lineup. Makes conforming amendments.

Effective: July 1, 2025.

Glick

January 8, 2025, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session of the 124th General Assembly (2025)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2024 Regular Session of the General Assembly.

SENATE BILL No. 22



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-31.5-2-126.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2025]: **Sec. 126.5. "Eyewitness", for purposes**
4 **of IC 35-33-4.5, has the meaning set forth in IC 35-33-4.5-1.**

5 SECTION 2. IC 35-31.5-2-132.3 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2025]: **Sec. 132.3. "Filler", for purposes of**
8 **IC 35-33-4.5, has the meaning set forth in IC 35-33-4.5-2.**

9 SECTION 3. IC 35-31.5-2-183, AS AMENDED BY P.L.144-2018,
10 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2025]: Sec. 183. (a) "Law enforcement agency," for purposes
12 of receiving information concerning a violation of IC 35-42-3.5-1
13 through IC 35-42-3.5-1.4 (human trafficking), means:
14 (1) an agency or department of:
15 (A) the state; or
16 (B) a political subdivision of the state;
17 whose principal function is the apprehension of criminal



1 offenders; and

2 (2) the attorney general.

3 (b) "Law enforcement agency", for purposes of **IC 35-33-4.5 and**
4 **IC 35-47-15**, has the meaning set forth in IC 35-47-15-2.

5 SECTION 4. IC 35-31.5-2-187.3 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2025]: **Sec. 187.3. "Lineup", for purposes of**
8 **IC 35-33-4.5, has the meaning set forth in IC 35-33-4.5-3.**

9 SECTION 5. IC 35-31.5-2-187.4 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2025]: **Sec. 187.4. "Lineup administrator",**
12 **for purposes of IC 35-33-4.5, has the meaning set forth in**
13 **IC 35-33-4.5-4.**

14 SECTION 6. IC 35-31.5-2-187.5 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2025]: **Sec. 187.5. "Live lineup", for purposes**
17 **of IC 35-33-4.5, has the meaning set forth in IC 35-33-4.5-5.**

18 SECTION 7. IC 35-31.5-2-235.6 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2025]: **Sec. 235.6. "Photo lineup", for**
21 **purposes of IC 35-33-4.5, has the meaning set forth in**
22 **IC 35-33-4.5-6.**

23 SECTION 8. IC 35-33-4.5 IS ADDED TO THE INDIANA CODE
24 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2025]:

26 **Chapter 4.5. Eyewitness Identification Procedures**

27 **Sec. 1. As used in this chapter, "eyewitness" means a person**
28 **whose identification by sight of another person may be relevant in**
29 **a criminal proceeding.**

30 **Sec. 2. As used in this chapter, "filler" means a person or a**
31 **photograph of a person who is not suspected of the offense under**
32 **investigation and is included in a lineup.**

33 **Sec. 3. As used in this chapter, "lineup" means a photo lineup or**
34 **a live lineup.**

35 **Sec. 4. As used in this chapter, "lineup administrator" means**
36 **the person who conducts a lineup and who is:**

37 (1) a current employee of a law enforcement agency,
38 regardless of the person's primary job description;

39 (2) not participating in the investigation of a criminal offense;
40 and

41 (3) unaware of which person in the lineup is the suspect.

42 **Sec. 5. As used in this chapter, "live lineup" means a procedure**



1 in which a group of people is displayed to an eyewitness for the
 2 purpose of determining if the eyewitness can identify the
 3 perpetrator of a crime.

4 Sec. 6. As used in this chapter, "photo lineup" means a
 5 procedure in which an array of photographs is displayed to an
 6 eyewitness for the purpose of determining if the eyewitness can
 7 identify the perpetrator of a crime.

8 Sec. 7. (a) Except as provided in subsection (b), a lineup
 9 conducted by a law enforcement agency, or an employee of a law
 10 enforcement agency, shall be conducted in accordance with this
 11 chapter.

12 (b) If it is impossible or impracticable to:

13 (1) use a lineup administrator who is not participating in the
 14 investigation of a criminal offense or who is unaware of which
 15 person in the lineup is the suspect; or

16 (2) otherwise follow the procedures set forth in this chapter;
 17 a law enforcement agency may conduct a lineup using an
 18 alternative procedure approved by the law enforcement training
 19 board.

20 (c) Failure to comply with any of the requirements of this
 21 chapter, or, if applicable, an alternative procedure approved by the
 22 law enforcement training board, is admissible to support a claim
 23 of eyewitness misidentification, if the evidence is not otherwise
 24 inadmissible.

25 Sec. 8. Except as provided in section 7 of this chapter, a lineup
 26 must be conducted as follows:

27 (1) A lineup administrator shall conduct the lineup.

28 (2) Only one (1) suspect may be included in the lineup.

29 (3) No one may speak to the eyewitness concerning the
 30 suspect's position in the lineup or regarding anything that
 31 might influence the eyewitness's identification.

32 (4) Each filler in the lineup must generally resemble the
 33 eyewitness's description of the perpetrator.

34 (5) The composition of the lineup must ensure that the suspect
 35 does not unduly stand out from the fillers.

36 (6) The lineup must include at least five (5) fillers who
 37 resemble, as much as practicable, the eyewitness description
 38 of the perpetrator in significant features, including any
 39 unique or unusual features.

40 (7) If the eyewitness has previously viewed a lineup in
 41 connection with the identification of another person suspected
 42 of involvement in the offense, the fillers in the lineup in which



1 the current suspect participates must be different from the
2 fillers used in any prior lineups.

3 (8) If there are multiple eyewitnesses, the suspect must be
4 placed in a different position in the lineup for each eyewitness.

5 (9) If the eyewitness makes an identification during the lineup,
6 the lineup administrator shall document a clear statement
7 from the eyewitness, in the eyewitness's own words, as to the
8 eyewitness's confidence level that the person identified in the
9 lineup is the perpetrator.

10 Sec. 9. If the eyewitness is presented with a photo lineup, in
11 addition to the procedures set forth in section 8 of this chapter, the
12 following procedures must be followed:

13 (1) The lineup administrator must present each photograph
14 to the eyewitness sequentially, with each photograph
15 presented to the eyewitness separately, in a previously
16 determined order, and removed after it is viewed and before
17 the next photograph is presented.

18 (2) The photograph of the suspect must be recent and, to the
19 extent practicable, must resemble the suspect's appearance at
20 the time of the offense.

21 Sec. 10. If the eyewitness is presented with a live lineup, in
22 addition to the procedures set forth in section 8 of this chapter, the
23 following procedures must be followed:

24 (1) All lineup participants must be out of view of the
25 eyewitness before the lineup.

26 (2) Any identifying actions, such as speech, gestures, or other
27 movements, shall be performed by all lineup participants.

28 (3) Unless it is not practicable, a video record shall be made.

29 Sec. 11. (a) Before conducting a lineup, the lineup administrator
30 shall instruct the eyewitness that:

31 (1) the perpetrator may or may not be in the lineup;

32 (2) the lineup administrator does not know the suspect's
33 identity;

34 (3) the eyewitness is not required to make an identification;

35 (4) it is as important to exclude innocent persons as it is to
36 identify the perpetrator; and

37 (5) the investigation will continue with or without an
38 identification.

39 (b) The eyewitness shall acknowledge, in writing, having
40 received a copy of the lineup instructions.

41 (c) If the eyewitness refuses to sign a document acknowledging
42 receipt of the instructions, the lineup administrator must document



1 the refusal, and the lineup administrator must sign the
2 acknowledgment document.

3 Sec. 12. (a) Except as provided in subsection (b), upon a motion
4 to suppress, a court may suppress eyewitness identification
5 evidence on the grounds that a law enforcement agency, or an
6 employee of a law enforcement agency, failed to follow the
7 procedures set forth in this chapter.

8 (b) A court may not suppress eyewitness identification evidence
9 if:

10 (1) the motion to suppress is based on an immaterial defect in
11 the procedures used to procure an eyewitness identification;
12 or

13 (2) the law enforcement agency has substantially complied
14 with an eyewitness identification procedure approved by the
15 law enforcement training board.

