

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 846

Introduced by Pansing Brooks, 28; Morfeld, 46; Schumacher, 22; Williams,
36.

Read first time January 08, 2016

Committee:

- 1 A BILL FOR AN ACT relating to witnesses; to require law enforcement
- 2 agencies to adopt a policy on suspect identification by witnesses as
- 3 prescribed.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) On or before January 1, 2017, the Nebraska State
2 Patrol, the county sheriffs, all city and village police departments, and
3 any other law enforcement agency of this state or of any political
4 subdivision of this state shall adopt a written policy on suspect
5 identification by witnesses and provide a copy of such policy to the
6 Nebraska Commission on Law Enforcement and Criminal Justice.

7 (2) The policy required by this section shall, at a minimum, include
8 the following best practices recommended by the National Research
9 Council, the International Association of Chiefs of Police, and the
10 American Bar Association:

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

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

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

21 (d) If the witness makes an identification, the officer shall elicit
22 and document the witness's level of certainty, in his or her own words,
23 immediately after the identification is made.

24 (3) The Nebraska Commission on Law Enforcement and Criminal Justice
25 shall develop and distribute a suggested model written policy on suspect
26 identification by witnesses that includes the best practices described in
27 subsection (2) of this section. The commission shall not require any law
28 enforcement agency to adopt the model policy except for any law
29 enforcement agency which fails to create its own policy under subsection
30 (1) of this section.