S T A T E O F N E W Y O R K

5875--A

2015-2016 Regular Sessions

I N S E N A T E

June 9, 2015

Introduced by Sens. NOZZOLIO, GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, the family court act and the executive law, in relation to statements of those accused of crimes and eyewitness identifications, to enhance criminal investigations and prosecutions and to promote confidence in the criminal justice system of this state

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 60.45 of the criminal procedure law is amended by adding a new subdivision 3 to read as follows:

3. (A) WHERE A PERSON IS SUBJECT TO CUSTODIAL INTERROGATION BY A PUBLIC SERVANT AT A DETENTION FACILITY, THE ENTIRE CUSTODIAL INTERROGATION, INCLUDING THE GIVING OF ANY REQUIRED ADVICE OF THE RIGHTS OF THE INDIVIDUAL BEING QUESTIONED, AND THE WAIVER OF ANY RIGHTS BY THE INDIVIDUAL, SHALL BE RECORDED BY AN APPROPRIATE VIDEO RECORDING DEVICE IF THE INTERROGATION INVOLVES A CLASS A-1 FELONY, EXCEPT ONE DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THE PENAL LAW; FELONY OFFENSES DEFINED IN SECTION 130.95 AND 130.96 OF THE PENAL LAW; OR A FELONY OFFENSE DEFINED IN ARTICLE ONE HUNDRED TWENTY-FIVE OR ONE HUNDRED THIRTY OF SUCH LAW THAT IS DEFINED AS A CLASS B VIOLENT FELONY OFFENSE IN SECTION 70.02 OF THE PENAL LAW. FOR PURPOSES OF THIS PARAGRAPH, THE TERM "DETENTION FACILITY" SHALL MEAN A POLICE STATION, CORRECTIONAL FACILITY, HOLDING FACILITY FOR PRISONERS, PROSECUTOR'S OFFICE OR OTHER FACILITY WHERE PERSONS ARE HELD IN DETENTION IN CONNECTION WITH CRIMINAL CHARGES THAT HAVE BEEN OR MAY BE FILED AGAINST THEM.

(B) NO CONFESSION, ADMISSION OR OTHER STATEMENT SHALL BE SUBJECT TO A MOTION TO SUPPRESS PURSUANT TO SUBDIVISION THREE OF SECTION 710.20 OF THIS CHAPTER BASED SOLELY UPON THE FAILURE TO VIDEO RECORD SUCH INTERRO-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD11568-02-5

GATION IN A DETENTION FACILITY AS DEFINED IN PARAGRAPH (A) OF THIS SUBDIVISION. HOWEVER, WHERE THE PEOPLE OFFER INTO EVIDENCE A CONFESSION, ADMISSION OR OTHER STATEMENT MADE BY A PERSON IN CUSTODY WITH RESPECT TO HIS OR HER PARTICIPATION OR LACK OF PARTICIPATION IN AN OFFENSE SPECIFIED IN PARAGRAPH (A) OF THIS SUBDIVISION, THAT HAS NOT BEEN VIDEO RECORDED, THE COURT SHALL CONSIDER THE FAILURE TO RECORD AS A FACTOR, BUT NOT AS THE SOLE FACTOR, IN ACCORDANCE WITH PARAGRAPH (C) OF THIS SUBDIVISION IN DETERMINING WHETHER SUCH CONFESSION, ADMISSION OR OTHER STATEMENT SHALL BE ADMISSIBLE.

(C) NOTWITHSTANDING THE REQUIREMENT OF PARAGRAPH (A) OF THIS SUBDIVISION, UPON A SHOWING OF GOOD CAUSE BY THE PROSECUTOR, THE CUSTODIAL INTERROGATION NEED NOT BE RECORDED. GOOD CAUSE SHALL INCLUDE, BUT NOT BE LIMITED TO:

(I) IF ELECTRONIC RECORDING EQUIPMENT MALFUNCTIONS.

(II) IF ELECTRONIC RECORDING EQUIPMENT IS NOT AVAILABLE BECAUSE IT WAS OTHERWISE BEING USED.

(III) IF STATEMENTS ARE MADE IN RESPONSE TO QUESTIONS THAT ARE ROUTINELY ASKED DURING ARREST PROCESSING.

(IV) IF THE STATEMENT IS SPONTANEOUSLY MADE BY THE SUSPECT AND NOT IN RESPONSE TO POLICE QUESTIONING.

(V) IF THE STATEMENT IS MADE DURING AN INTERROGATION THAT IS CONDUCTED WHEN THE INTERVIEWER IS UNAWARE THAT A QUALIFYING OFFENSE HAS OCCURRED.

(VI) IF THE STATEMENT IS MADE AT A LOCATION OTHER THAN THE "INTERVIEW ROOM" BECAUSE THE SUSPECT CANNOT BE BROUGHT TO SUCH ROOM, E.G., THE SUSPECT IS IN A HOSPITAL OR THE SUSPECT IS OUT OF STATE AND THAT STATE IS NOT GOVERNED BY A LAW REQUIRING THE RECORDATION OF AN INTERROGATION.

(VII) IF THE STATEMENT IS MADE AFTER A SUSPECT HAS REFUSED TO PARTICIPATE IN THE INTERROGATION IF IT IS RECORDED, AND APPROPRIATE EFFORT TO DOCUMENT SUCH REFUSAL IS MADE.

(VIII) IF SUCH STATEMENT IS NOT RECORDED AS A RESULT OF AN INADVERTENT ERROR OR OVERSIGHT, NOT THE RESULT OF ANY INTENTIONAL CONDUCT BY LAW ENFORCEMENT PERSONNEL.

(IX) IF IT IS LAW ENFORCEMENT'S REASONABLE BELIEF THAT SUCH RECORDING WOULD JEOPARDIZE THE SAFETY OF ANY PERSON OR REVEAL THE IDENTITY OF A CONFIDENTIAL INFORMANT.

(X) IF SUCH STATEMENT IS MADE AT A LOCATION NOT EQUIPPED WITH A VIDEO RECORDING DEVICE AND THE REASON FOR USING THAT LOCATION IS NOT TO SUBVERT THE INTENT OF THE LAW. FOR PURPOSES OF THIS SECTION, THE TERM "LOCATION" SHALL INCLUDE THOSE LOCATIONS SPECIFIED IN PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION 305.2 OF THE FAMILY COURT ACT.

(D) IN THE EVENT THE COURT FINDS THAT THE PEOPLE HAVE NOT SHOWN GOOD CAUSE FOR THE NON-RECORDING OF THE CONFESSION, ADMISSION, OR OTHER STATEMENT, BUT DETERMINES THAT A NON-RECORDED CONFESSION, ADMISSION OR OTHER STATEMENT IS NEVERTHELESS ADMISSIBLE BECAUSE IT WAS VOLUNTARILY MADE THEN, UPON REQUEST OF THE DEFENDANT, THE COURT MUST INSTRUCT THE JURY THAT THE PEOPLE'S FAILURE TO RECORD THE DEFENDANT'S CONFESSION, ADMISSION OR OTHER STATEMENT AS REQUIRED BY THIS SECTION MAY BE WEIGHED AS A FACTOR, BUT NOT AS THE SOLE FACTOR, IN DETERMINING WHETHER SUCH CONFESSION, ADMISSION OR OTHER STATEMENT WAS VOLUNTARILY MADE, OR WAS MADE AT ALL.

(E) VIDEO RECORDING AS REQUIRED BY THIS SECTION SHALL BE CONDUCTED IN ACCORDANCE WITH STANDARDS ESTABLISHED BY RULE OF THE DIVISION OF CRIMINAL JUSTICE SERVICES.

S 2. Subdivision 3 of section 344.2 of the family court act is renumbered subdivision 4 and a new subdivision 3 is added to read as follows:

3. WHERE A RESPONDENT IS SUBJECT TO CUSTODIAL INTERROGATION BY A PUBLIC SERVANT AT A FACILITY SPECIFIED IN SUBDIVISION FOUR OF SECTION 305.2 OF THIS ARTICLE, THE ENTIRE CUSTODIAL INTERROGATION, INCLUDING THE GIVING OF ANY REQUIRED ADVICE OF THE RIGHTS OF THE INDIVIDUAL BEING QUESTIONED, AND THE WAIVER OF ANY RIGHTS BY THE INDIVIDUAL, SHALL BE RECORDED AND GOVERNED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPHS (A), (B), (C), (D) AND (E) OF SUBDIVISION THREE OF SECTION 60.45 OF THE CRIMINAL PROCEDURE LAW.

S 3. Section 60.25 of the criminal procedure law, subparagraph (ii) of paragraph (a) of subdivision 1 as amended by chapter 479 of the laws of 1977, is amended to read as follows:

S 60.25 Rules of evidence; identification by means of previous recognition, in absence of present identification.

1. In any criminal proceeding in which the defendant's commission of an offense is in issue, testimony as provided in subdivision two may be given by a witness when:

(a) Such witness testifies that:

(i) He OR SHE observed the person claimed by the people to be the defendant either at the time and place of the commission of the offense or upon some other occasion relevant to the case; and

(ii) On a subsequent occasion he OR SHE observed, under circumstances consistent with such rights as an accused person may derive under the constitution of this state or of the United States, a person OR, WHERE THE OBSERVATION IS MADE PURSUANT TO A BLIND OR BLINDED PROCEDURE AS DEFINED IN PARAGRAPH (C) OF THIS SUBDIVISION, A PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION OF A PERSON whom he OR SHE recognized as the same person whom he OR SHE had observed on the first or incriminating occasion; and

(iii) He OR SHE is unable at the proceeding to state, on the basis of present recollection, whether or not the defendant is the person in question; and

(b) It is established that the defendant is in fact the person whom the witness observed and recognized OR WHOSE PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION THE WITNESS OBSERVED AND RECOGNIZED on the second occasion. Such fact may be established by testimony of another person or persons to whom the witness promptly declared his OR HER recognition on such occasion AND BY SUCH PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION.

(C) FOR PURPOSES OF THIS SECTION, A "BLIND OR BLINDED PROCEDURE" IS ONE IN WHICH THE WITNESS IDENTIFIES A PERSON IN AN ARRAY OF PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTIONS UNDER CIRCUMSTANCES WHERE, AT THE TIME THE IDENTIFICATION IS MADE, THE PUBLIC SERVANT ADMINISTERING SUCH PROCEDURE: (I) DOES NOT KNOW WHICH PERSON IN THE ARRAY IS THE SUSPECT, OR (II) DOES NOT KNOW WHERE THE SUSPECT IS IN THE ARRAY VIEWED BY THE WITNESS. THE FAILURE OF A PUBLIC SERVANT TO FOLLOW SUCH A PROCEDURE SHALL BE ASSESSED SOLELY FOR PURPOSES OF THIS ARTICLE AND SHALL RESULT IN THE PRECLUSION OF TESTIMONY REGARDING THE IDENTIFICATION PROCEDURE AS EVIDENCE IN CHIEF, BUT SHALL NOT CONSTITUTE A LEGAL BASIS TO SUPPRESS EVIDENCE MADE PURSUANT TO SUBDIVISION SIX OF SECTION 710.20 OF THIS CHAPTER. THIS ARTICLE NEITHER LIMITS NOR EXPANDS SUBDIVISION SIX OF SECTION 710.20 OF THIS CHAPTER.

2. Under circumstances prescribed in subdivision one OF THIS SECTION, such witness may testify at the criminal proceeding that the person whom he OR SHE observed and recognized OR WHOSE PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION HE OR SHE OBSERVED AND RECOGNIZED on the second occasion is the same person whom he OR SHE

observed on the first or incriminating occasion. Such testimony, together with the evidence that the defendant is in fact the person whom the witness observed and recognized OR WHOSE PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION HE OR SHE OBSERVED AND RECOGNIZED on the second occasion, constitutes evidence in chief.

S 4. Section 60.30 of the criminal procedure law, as amended by chapter 479 of the laws of 1977, is amended to read as follows:

S 60.30 Rules of evidence; identification by means of previous recognition, in addition to present identification.

In any criminal proceeding in which the defendant's commission of an offense is in issue, a witness who testifies that (a) he OR SHE observed the person claimed by the people to be the defendant either at the time and place of the commission of the offense or upon some other occasion relevant to the case, and (b) on the basis of present recollection, the defendant is the person in question and (c) on a subsequent occasion he OR SHE observed the defendant, OR WHERE THE OBSERVATION IS MADE PURSUANT TO A BLIND OR BLINDED PROCEDURE, AS DEFINED IN THE CLOSING PARAGRAPH OF SUBDIVISION ONE OF SECTION 60.25 OF THIS ARTICLE, A PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION OF THE DEFENDANT, under circumstances consistent with such rights as an accused person may derive under the constitution of this state or of the United States, and then also recognized him OR HER OR THE PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION OF HIM OR HER as the same person whom he OR SHE had observed on the first or incriminating occasion, may, in addition to making an identification of the defendant at the criminal proceeding on the basis of present recollection as the person whom he OR SHE observed on the first or incriminating occasion, also describe his OR HER previous recognition of the defendant and testify that the person whom he OR SHE observed OR WHOSE PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION HE OR SHE OBSERVED on such second occasion is the same person whom he OR SHE had observed on the first or incriminating occasion. Such testimony AND SUCH PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION constitutes evidence in chief.

S 5. Subdivision 6 of section 710.20 of the criminal procedure law, as amended by chapter 8 of the laws of 1976 and as renumbered by chapter 481 of the laws of 1983, is amended to read as follows:

6. Consists of potential testimony regarding an observation of the defendant either at the time or place of the commission of the offense or upon some other occasion relevant to the case, which potential testimony would not be admissible upon the prospective trial of such charge owing to an improperly made previous identification of the defendant OR OF A PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION OF THE DEFENDANT by the prospective witness. A CLAIM THAT THE PREVIOUS IDENTIFICATION OF THE DEFENDANT OR OF A PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION OF THE DEFENDANT BY A PROSPECTIVE WITNESS DID NOT COMPLY WITH PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION 60.25 OF THIS CHAPTER OR WITH THE PROTOCOL PROMULGATED IN ACCORDANCE WITH SUBDIVISION TWENTY OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW SHALL NOT CONSTITUTE A LEGAL BASIS TO SUPPRESS EVIDENCE PURSUANT TO THIS SUBDIVISION. A CLAIM THAT A PUBLIC SERVANT FAILED TO COMPLY WITH PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION 60.25 OF THIS CHAPTER OR OF SUBDIVISION TWENTY OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW SHALL NEITHER EXPAND NOR LIMIT THE RIGHTS AN ACCUSED PERSON MAY DERIVE UNDER THE CONSTITUTION OF THIS STATE OR OF THE UNITED STATES.

S 6. Subdivision 1 of section 710.30 of the criminal procedure law, as separately amended by chapters 8 and 194 of the laws of 1976, is amended to read as follows:

1. Whenever the people intend to offer at a trial (a) evidence of a statement made by a defendant to a public servant, which statement if involuntarily made would render the evidence thereof suppressible upon motion pursuant to subdivision three of section 710.20, or (b) testimony regarding an observation of the defendant either at the time or place of the commission of the offense or upon some other occasion relevant to the case, to be given by a witness who has previously identified him OR HER OR A PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION OF HIM OR HER as such, they must serve upon the defendant a notice of such intention, specifying the evidence intended to be offered.

S 7. Section 343.3 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

S 343.3. Rules of evidence; identification by means of previous recognition in absence of present identification. 1. In any juvenile delinquency proceeding in which the respondent's commission of a crime is in issue, testimony as provided in subdivision two may be given by a witness when:

(a) such witness testifies that:

(i) he OR SHE observed the person claimed by the presentment agency to be the respondent either at the time and place of the commission of the crime or upon some other occasion relevant to the case; and

(ii) on a subsequent occasion he OR SHE observed, under circumstances consistent with such rights as an accused person may derive under the constitution of this state or of the United States, a person, OR, WHERE THE OBSERVATION IS MADE PURSUANT TO A BLIND OR BLINDED PROCEDURE AS DEFINED HEREIN, A PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION OF A PERSON whom he OR SHE recognized as the same person whom he OR SHE had observed on the first incriminating occasion; and

(iii) he OR SHE is unable at the proceeding to state, on the basis of present recollection, whether or not the respondent is the person in question; and

(b) it is established that the respondent is in fact the person whom the witness observed and recognized OR WHOSE PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION THE WITNESS OBSERVED AND RECOGNIZED on the second occasion. Such fact may be established by testimony of another person or persons to whom the witness promptly declared his OR HER recognition on such occasion AND BY SUCH PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION.

(C) FOR PURPOSES OF THIS SECTION, A "BLIND OR BLINDED PROCEDURE" IS ONE IN WHICH THE WITNESS IDENTIFIES A PERSON IN AN ARRAY OF PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTIONS UNDER CIRCUMSTANCES WHERE, AT THE TIME THE IDENTIFICATION IS MADE, THE PUBLIC SERVANT ADMINISTERING SUCH PROCEDURE: (I) DOES NOT KNOW WHICH PERSON IN THE ARRAY IS THE SUSPECT, OR (II) DOES NOT KNOW WHERE THE SUSPECT IS IN THE ARRAY VIEWED BY THE WITNESS. THE FAILURE OF A PUBLIC SERVANT TO FOLLOW SUCH A PROCEDURE SHALL BE ASSESSED SOLELY FOR PURPOSES OF THIS ARTICLE AND SHALL RESULT IN THE PRECLUSION OF TESTIMONY REGARDING THE IDENTIFICATION PROCEDURE AS EVIDENCE IN CHIEF, BUT SHALL NOT CONSTITUTE A LEGAL BASIS TO SUPPRESS EVIDENCE MADE PURSUANT TO SUBDIVISION SIX OF SECTION 710.20 OF THE CRIMINAL PROCEDURE LAW. THIS ARTICLE NEITHER

LIMITS NOT EXPANDS SUBDIVISION SIX OF SECTION 710.20 OF THE CRIMINAL PROCEDURE LAW.

2. Under circumstances prescribed in subdivision one, such witness may testify at the proceeding that the person whom he OR SHE observed and recognized OR WHOSE PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION HE OR SHE OBSERVED AND RECOGNIZED on the second occasion is the same person whom he OR SHE observed on the first or incriminating occasion. Such testimony, together with the evidence that the respondent is in fact the person whom the witness observed and recognized OR WHOSE PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION HE OR SHE OBSERVED AND RECOGNIZED on the second occasion, constitutes evidence in chief.

S 8. Section 343.4 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

S 343.4. Rules of evidence; identification by means of previous recognition, in addition to present identification. In any juvenile delinquency proceeding in which the respondent's commission of a crime is in issue, a witness who testifies that: (a) he OR SHE observed the person claimed by the presentment agency to be the respondent either at the time and place of the commission of the crime or upon some other occasion relevant to the case, and (b) on the basis of present recollection, the respondent is the person in question, and (c) on a subsequent occasion he OR SHE observed the respondent, OR, WHERE THE OBSERVATION IS MADE PURSUANT TO A BLIND OR BLINDED PROCEDURE, A PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION OF THE RESPONDENT under circumstances consistent with such rights as an accused person may derive under the constitution of this state or of the United States, and then also recognized him OR HER OR THE PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION OF HIM OR HER as the same person whom he OR SHE had observed on the first or incriminating occasion, may, in addition to making an identification of the respondent at the delinquency proceeding on the basis of present recollection as the person whom he OR SHE observed on the first or incriminating occasion, also describe his OR HER previous recognition of the respondent and testify that the person whom he OR SHE observed OR WHOSE PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION HE OR SHE OBSERVED on such second occasion is the same person whom he OR SHE had observed on the first or incriminating occasion. Such testimony AND SUCH PICTORIAL, PHOTOGRAPHIC, ELECTRONIC, FILMED OR VIDEO RECORDED REPRODUCTION constitutes evidence in chief. FOR PURPOSES OF THIS SECTION, A "BLIND OR BLINDED PROCEDURE" SHALL BE AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION 343.3 OF THIS PART.

S 9. Section 837 of the executive law is amended by adding a new subdivision 20 to read as follows:

20. PROMULGATE A STANDARDIZED AND DETAILED WRITTEN PROTOCOL THAT IS GROUNDED IN EVIDENCE-BASED PRINCIPLES FOR THE ADMINISTRATION OF PHOTOGRAPHIC ARRAY AND LIVE LINEUP IDENTIFICATION PROCEDURES FOR POLICE AGENCIES AND STANDARDIZED FORMS FOR USE BY SUCH AGENCIES IN THE REPORTING AND RECORDING OF SUCH IDENTIFICATION PROCEDURE. THE PROTOCOL SHALL ADDRESS THE FOLLOWING TOPICS:

(A) THE SELECTION OF PHOTOGRAPHIC ARRAY AND LIVE LINEUP FILLER PHOTOGRAPHS OR PARTICIPANTS;

(B) INSTRUCTIONS GIVEN TO A WITNESS BEFORE CONDUCTING A PHOTOGRAPHIC ARRAY OR LIVE LINEUP IDENTIFICATION PROCEDURE;

(C) THE DOCUMENTATION AND PRESERVATION OF RESULTS OF A PHOTOGRAPHIC ARRAY OR LIVE LINEUP IDENTIFICATION PROCEDURE;

(D) PROCEDURES FOR ELICITING AND DOCUMENTING THE WITNESS'S CONFIDENCE IN HIS OR HER IDENTIFICATION FOLLOWING A PHOTOGRAPHIC ARRAY OR LIVE LINEUP IDENTIFICATION PROCEDURE, IN THE EVENT THAT AN IDENTIFICATION IS MADE; AND

(E) PROCEDURES FOR ADMINISTERING A PHOTOGRAPHIC ARRAY OR LIVE LINEUP IDENTIFICATION PROCEDURE IN A MANNER DESIGNED TO PREVENT OPPORTUNITIES TO INFLUENCE THE WITNESS.

S 10. Subdivision 4 of section 840 of the executive law is amended by adding a new paragraph (c) to read as follows:

(C) DISSEMINATE THE WRITTEN POLICIES AND PROCEDURES PROMULGATED IN ACCORDANCE WITH SUBDIVISION TWENTY OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THIS ARTICLE TO ALL POLICE DEPARTMENTS IN THIS STATE AND IMPLEMENT A TRAINING PROGRAM FOR ALL CURRENT AND NEW POLICE OFFICERS REGARDING THE POLICIES AND PROCEDURES ESTABLISHED PURSUANT TO SUCH SUBDIVISION.

S 11. This act shall take effect on the thirtieth day after it shall have become a law; provided, however, sections one and two of this act shall take effect June 1, 2017 and apply to confessions, admissions or statements made on or after such effective date; provided, further, sections three through ten of this act shall take effect November 1, 2015.