BILL ANALYSIS

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Mistaken eyewitness identification of an innocent person is the leading documented factor in causing mistaken convictions that have been overturned in this country. To date, of the 28 DNA exonerations in Texas, 22 were wrongfully convicted based on incorrect eyewitness identifications. This legislation is designed to reduce the incidence of wrongful convictions by improving the accuracy and reliability of eyewitness identification procedures used by police departments in Texas. Research and experience show that the reliability of eyewitness identification can be significantly increased through this subtle change in the eyewitness identification process. The reforms in this bill are endorsed and recommended by the United States Department of Justice.

C.S.S.B. 799 creates the Texas EyewitnessIdentification Working Group (group) and requires the group to adopt and distribute to local law enforcement agencies model comprehensive policies and procedures and associated training materials related to improving live lineup identification.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 38, Code of Criminal Procedure, by adding Article 38.20, as follows:

> Art. 38.20. TEXAS EYEWITNESS IDENTIFICATION WORKING GROUP

> Sec. 1. CREATION. Creates the Texas Eyewitness Identification Working Group (group).

> Sec. 2. COMPOSITION. (a) Provides that the group is composed of three specific members.

>> (b) Requires the group to elect a presiding officer from among its members.

>> (c) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the size, composition, or duration of the group.

> Sec. 3. MODEL COMPREHENSIVE POLICIES AND PROCEDURES; TRAINING MATERIALS. (a) Requires the group to develop, adopt, and disseminate to all state and local law enforcement agencies in this state model comprehensive policies and procedures and associated training materials regarding the administration of photograph and live lineup identification procedures.

>> (b) Requires that the model policies and procedures be designed to reduce the potential for erroneous identifications and articulate best practices to enhance the objectivity and reliability of eyewitness identifications. Requires that the model

policies and procedures be informed by scientific research on eyewitness memory and to address certain procedures related to live lineup identification.

(c) Provides that the model policies and procedures are advisory only.

Sec. 4. ADVISORY PANEL. (a) Requires the group to consult with an advisory panel to assist in the development of the model policies and procedures and the associated training materials. Requires the advisory panel to provide guidance and recommendations to the group, including feedback on draft policies, procedures, and training materials.

(b) Requires the advisory panel to be composed of certain members.

(c) Requires the police officers, for purposes of Subsection (b)(1), to represent police departments of certain sizes.

(d) Requires the sheriff's deputies, for purposes of Subsection (b)(2), to represent sheriff's departments of certain sizes.

Sec. 5. CONSTRUCTION OF LAW. Prohibits this section and the model policies and procedures and the training materials developed and adopted under this article from being construed as affecting the admissibility of eyewitness identification testimony in the courts of this state or be held to constitute a best practice in civil litigation.

Sec. 6. BIENNIAL REVIEW. Requires the group to complete a biennial review of the policies, procedures, and training materials developed and adopted under this article and requires the group to modify the policies, procedures, and materials as necessary.

SECTION 2. Requires the group to adopt and distribute to local law enforcement agencies in this state the model comprehensive policies and procedures and the associated training materials required by Article 38.20, Code of Criminal Procedure, as added by this Act, not later than July 1, 2008.

SECTION 3. Effective date: upon passage or September 1, 2007.