

HB 436 - AS AMENDED BY THE HOUSE

7Apr2021... 0587h

2021 SESSION

21-0683

04/10

HOUSE BILL            **436**

AN ACT                relative to eyewitness identification procedures.

SPONSORS:            Rep. Cushing, Rock. 21; Rep. Harriott-Gathright, Hills. 36; Rep. Welch, Rock. 13

COMMITTEE:          Criminal Justice and Public Safety

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ANALYSIS

This bill adds remedies for noncompliance with eyewitness identification procedures.

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Explanation:        Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears ~~[in brackets and struckthrough]~~  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT relative to eyewitness identification procedures.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1       1 Eyewitness Identification; Policy Required. Amend RSA 595-C:2 to read as follows:

2       595-C:2 Written Policy Required. Each state, county, and local law enforcement agency that  
3 conducts photo lineups, live lineups, or show-ups shall adopt a written policy that sets forth the  
4 manner in which ~~[they]~~ **such lineups** shall be conducted. Such policy shall conform to the  
5 standards and procedures established by the office of the attorney general and as contained in the  
6 latest version of the law enforcement manual pertaining to pretrial identification procedures. Such  
7 written policy shall be kept on file and available for inspection by the attorney general.

8       2 New Section; Eyewitness Identification; Remedies. Amend RSA 595-C by inserting after  
9 section 2 the following new section:

10       595-C:3 Remedies.

11           I. The court shall consider the failure to comply with any provision of this chapter in  
12 adjudicating a motion to suppress eyewitness identification.

13           II. The court may consider the failure to comply with any provision of this chapter as  
14 grounds for the suppression of the eyewitness identification.

15           III. The failure to comply with any provision of this chapter shall be admissible in support of  
16 a claim of eyewitness misidentification, provided such evidence is otherwise admissible.

17           IV. The jury shall be instructed that it may consider credible evidence of compliance or  
18 noncompliance with the provisions of this chapter which has been presented at trial to determine the  
19 reliability of eyewitness identification.

20       3 Effective Date. This act shall take effect 60 days after its passage.