

2004 SESSION

ENROLLED

HOUSE JOINT RESOLUTION NO. 79

Directing the Virginia State Crime Commission to study mistaken identification in criminal cases. Report.

Agreed to by the House of Delegates, February 17, 2004

Agreed to by the Senate, March 9, 2004

WHEREAS, of the first 40 cases in the United States in which DNA profiling was used to exonerate persons convicted of a crime, 90 percent involved mistaken identification by one or more eyewitnesses; and

WHEREAS, traditional police lineups or photographic review may create a situation where eyewitnesses identify the person in the lineup or in the photograph who looks most like the suspect relative to the others in the lineup or photo array; and

WHEREAS, in a study by Iowa State University, of 63 wrongful convictions, 53 were based on eyewitness identification; and

WHEREAS, in virtually all of these cases, the actual criminal did not appear in the lineups; and

WHEREAS, the United States Justice Department now recommends the Iowa State-developed sequential method as being less error prone when one person, or photo, at a time is brought before an eyewitness rather than a half dozen or so individuals at the same time; and

WHEREAS, New Jersey became the first state to adopt this sequential method as standard procedure and other states are now examining the use of a similar process; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to study mistaken identification in criminal cases. In conducting its study, the Commission shall (i) review the cases in the United States in which DNA profiling was used to exonerate persons convicted of a crime; (ii) examine the procedures used in traditional police lineups or photographic review; and (iii) consider the sequential method as a procedure for identifying suspects.

Technical assistance shall be provided to the Commission by the Department of Criminal Justice Services' Division of Forensic Science. All agencies of the Commonwealth shall provide assistance to the Commission for this study, upon request.

The Virginia State Crime Commission shall complete its meetings by November 30, 2004, and the Chairman of the Commission shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2005 Regular Session of the General Assembly. The executive summary shall state whether the Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

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