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NC lawmakers approve lineup, interrogation recording standards

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RALEIGH, N.C. - Police departments statewide would have to follow new standards for conducting eyewitness lineups and recording homicide interrogations next year in bills given final legislative approval Monday.

Along with a DNA testing bill that also received final approval, the two measures received bipartisan, unanimous support from both the House and Senate on the way to Gov. Mike Easley's desk for his signature.

Rep. Rick Glazier, D-Cumberland, a primary sponsor of all three bills, said the changes "will lead to significant improvements in the administration of criminal justice in North Carolina and will make it more likely that we are truly confident that we are convicting the guilty and lessening the chance of any innocent persons being prosecuted and convicted."

The "Eyewitness Identification Reform Act" requires uniform procedures for conducting a lineup in which a witness attempts to identify a perpetrator by reviewing photos or live people standing behind a glass window.

But academic studies and criminal cases have shown eyewitness identification isn't as reliable as once believed. Misidentification plays a role in 75 percent of convictions overturned through DNA testing, according to the Innocence Project, a legal clinic that handles DNA-related post-conviction cases.

In North Carolina, Ronald Cotton spent about a decade in prison for a rape - based in part on a positive identification in a photo lineup by his alleged victim - until DNA tests later showed he was not the perpetrator.

And attorneys for three Duke University lacrosse players once accused of sexually assaulting a stripper complained that the photo lineup method was "unnecessarily suggestive" because the stripper only was shown photos of lacrosse players.

Under the new rules, many of which some local police departments already follow voluntarily, a lineup would be administered by someone not in the investigation and has no information about the potential suspect, with some exceptions.

The lineup would be administered by presenting photos or individuals to the eyewitness one at a time, rather than all at once, as a way to lead to an accurate outcome. Investigators also must document the witness' confidence level of an identification.

Another change would require all interrogations in a homicide investigation to be recorded by video or audio as a way to ensure that officers perform them properly.

The recordings could be presented in evidence at trial, and a judge could cite failure to follow the rules in suppressing lineups or interrogations as evidence.

Commissions that oversee training for law enforcement officers will be required to ensure their training meets lineup and interrogation rules. The new rules must be followed statewide

beginning March 1, 2008.

The DNA bill, which also takes effect in March, would allow a person accused of a crime to have DNA evidence tested again before a trial if a more accurate method is developed and there's is a "reasonable possibility" of a different result. Criminal investigators also would have to retain DNA material for a set period of time after a conviction.

The General Assembly in 2001 approved an "Innocence Protection Act" that provided defendants greater access to DNA testing before and after trial.

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