

**95TH GENERAL ASSEMBLY****State of Illinois****2007 and 2008****SB2340**

Introduced 2/14/2008, by Sen. A. J. Wilhelmi

SYNOPSIS AS INTRODUCED:

720 ILCS 570/510 new

Amends the Illinois Controlled Substances Act. Provides that in a prosecution for a violation relating to the unlawful manufacture, delivery, possession, or possession with intent to manufacture or deliver a controlled substance, other than methamphetamine, or a counterfeit substance, controlled substance analog, or look-alike substance, a law enforcement agency or an agent acting on behalf of the law enforcement agency must preserve, subject to a continuous chain of custody, specified amounts of controlled substances and must maintain sufficient documentation to locate that evidence. Provides that the court may, before trial, transfer excess quantities of any substance containing any of the controlled substances to the sheriff of the county, or may in its discretion transfer such evidence to the Department of State Police, for destruction after notice is given to the defendant's attorney of record or to the defendant if the defendant is proceeding pro se. Provides that after a judgment of conviction is entered and the charged quantity is no longer needed for evidentiary purposes with respect to a prosecution for the offense, the court may transfer any substance containing any of the controlled substances to the sheriff of the county, or may, in its discretion, transfer such evidence to the Department of State Police, for destruction after notice is given to the defendant's attorney of record or to the defendant if the defendant is proceeding pro se. Provides that no evidence shall be disposed of until 30 days after the judgment is entered, and if a notice of appeal is filed, no evidence shall be disposed of until the mandate has been received by the circuit court from the Appellate Court. Effective immediately.

LRB095 19681 RLC 46032 b

FISCAL NOTE ACT
MAY APPLYSTATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT**A BILL FOR**

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Controlled Substances Act is
5 amended by adding Section 510 as follows:

6 (720 ILCS 570/510 new)

7 Sec. 510. Preservation of evidence for laboratory testing.

8 (a) Before or after the trial in a prosecution for a
9 violation of any Section of Article IV of this Act, a law
10 enforcement agency or an agent acting on behalf of the law
11 enforcement agency must preserve, subject to a continuous chain
12 of custody, not less than:

13 (1) 2 kilograms of any substance containing a
14 detectable amount of heroin;

15 (2) 10 kilograms of any substance containing a
16 detectable amount of: (A) coca leaves, except coca leaves
17 and extract of coca leaves from which cocaine, ecgonine,
18 and derivatives of ecgonine or their salts have been
19 removed; (B) cocaine, its salts, optical and geometric
20 isomers, and salts of isomers; (C) ecgonine, its
21 derivatives, their salts, isomers, and salts of isomers; or
22 (D) any combination of the substances described in
23 subdivisions (A) through (C) of this paragraph (a) (2);

1 (3) 10 kilograms of a mixture of substances described
2 in subdivision (B) of paragraph (a)(2) that contains a
3 cocaine base;

4 (4) 200 grams of phencyclidine (also referred to as
5 "PCP") or 2 kilograms of any substance containing a
6 detectable amount of phencyclidine;

7 (5) 20 grams of any substance containing a detectable
8 amount of lysergic acid diethylamide (also referred to as
9 "LSD");

10 (6) 800 grams of a mixture or substance containing a
11 detectable amount of fentanyl, or 2 grams of any substance
12 containing a detectable amount of any analog of fentanyl;
13 with respect to the offenses enumerated in this subsection (a)
14 and must maintain sufficient documentation to locate that
15 evidence. Excess quantities with respect to the offenses
16 enumerated in this subsection (a) cannot practicably be
17 retained by a law enforcement agency because of its size, bulk,
18 and physical character.

19 (b) The court may, before trial, transfer excess quantities
20 of any substance containing any of the controlled substances
21 enumerated in subsection (a) with respect to a prosecution for
22 any offense enumerated in subsection (a) to the sheriff of the
23 county, or may, in its discretion, transfer such evidence to
24 the Department of State Police, for destruction after notice is
25 given to the defendant's attorney of record or to the defendant
26 if the defendant is proceeding pro se.

1 (c) After a judgment of conviction is entered and the
2 charged quantity is no longer needed for evidentiary purposes
3 with respect to a prosecution for any offense enumerated in
4 subsection (a), the court may transfer any substance containing
5 any of the controlled substances enumerated in subsection (a)
6 to the sheriff of the county, or may, in its discretion,
7 transfer such evidence to the Department of State Police, for
8 destruction after notice is given to the defendant's attorney
9 of record or to the defendant if the defendant is proceeding
10 pro se. No evidence shall be disposed of until 30 days after
11 the judgment is entered, and if a notice of appeal is filed, no
12 evidence shall be disposed of until the mandate has been
13 received by the circuit court from the Appellate Court.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.