



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB0720

Introduced 2/3/2015, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

New Act

Creates the Cook County Drug Analysis Field Test Pilot Program Act. Creates the Cook County Drug Analysis Field Test Pilot Program. Provides that within 30 days after the effective date of this Act, the Superintendent of Police for the City of Chicago shall create a pilot program that allows officers to use drug analysis field test devices for use in both Branch 38 and Branch 50 of the Circuit Court of Cook County to determine whether a recovered substance is illegal cannabis, cocaine, or heroin. Provides that the Superintendent shall provide field test training and inventory procedures consistent with this purpose. Provides that the Superintendent of Police for the City of Chicago shall notify the Director of the Cook County Department of Corrections each time a defendant is entered into custody subject to a drug analysis field test. Provides that the Superintendent, Cook County State's Attorney, and Director of the Cook County Department of Corrections shall tally the number of days each defendant remains in custody as part of the Pilot Program from arrest until preliminary examination and report this information to the Pilot Program Study Committee. Provides that the Pilot Program shall operate one year from the later of July 1, 2015 or 30 days after the effective date of the Act. Provides that the General Assembly may appropriate funds to the Chicago Police Department, to be used solely for the purchase of drug analysis field tests and to carry out obligations of the Cook County Drug Analysis Field Test Pilot Program, including, but not limited to, the preparation and submission of reports to the General Assembly. Provides that the Act is repealed on January 1, 2017. Effective immediately.

LRB099 07489 RLC 27611 b

FISCAL NOTE ACT
MAY APPLY

STATE 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 1. Short title. This Act may be cited as the Cook
5 County Drug Analysis Field Test Pilot Program Act.

6 Section 5. Legislative findings and intent.

7 (a) The General Assembly finds that:

8 (1) The Cook County Jail consistently faces
9 overcrowding issues, with the total persons held in custody
10 often near or exceeding the jail's capacity limits.

11 (2) The Cook County Jail population includes
12 defendants held in custody, pending a preliminary
13 examination to determine whether there is probable cause to
14 believe that the defendant committed a criminal offense.

15 (3) Each person held in custody at the Cook County Jail
16 costs the taxpayers of Cook County at least an estimated
17 \$143 per day, with even higher costs for those people in
18 custody who require mental health treatment and services.

19 (4) If a person in custody is awaiting preliminary
20 examination on an illegal substance offense in Cook County,
21 the preliminary examination will not commence until the
22 Cook County State's Attorney has received a drug chemistry
23 laboratory report from the Department of State Police

1 Division of Forensic Services indicating that a recovered
2 substance in fact tested positive as an illegal substance.
3 This process can take several weeks.

4 (5) Drug analysis field test devices are not currently
5 utilized by law enforcement agencies in Cook County for
6 preliminary examinations. If utilized, drug analysis field
7 test devices may allow the Cook County State's Attorney to
8 immediately determine whether probable cause exists to
9 believe that a recovered substance is an illegal drug or
10 narcotic.

11 (b) It is the intent of the General Assembly to create a
12 pilot program making drug analysis field test devices available
13 for use by law enforcement agencies within Cook County. It is
14 also the intent of the General Assembly to explicitly allow the
15 Cook County State's Attorney to use drug analysis field tests
16 to establish probable cause at a preliminary examination, in
17 lieu of waiting for the Department of State Police drug
18 chemistry reports.

19 Section 10. Definitions. For purposes of this Act:

20 "Cannabis" has the meaning ascribed to it in Section 3 of
21 the Cannabis Control Act.

22 "Cocaine" is the same as described in paragraph (4) of
23 subsection (b) of Section 206 of the Illinois Controlled
24 Substances Act.

25 "Heroin" is the same as described in Section 204 of the

1 Illinois Controlled Substances Act.

2 "Pilot Program" means the Cook County Drug Analysis Field
3 Test Pilot Program.

4 Section 15. Establishment of the pilot program.

5 (a) The Cook County Drug Analysis Field Test Pilot Program
6 is hereby authorized. The Pilot Program shall assess whether
7 the use of field tests in Cook County will:

8 (1) reduce the number of days a person would otherwise
9 remain in custody awaiting drug chemistry reports;

10 (2) result in expedited preliminary examinations for
11 cannabis, cocaine, or heroin offenses; and

12 (3) reduce the overall Cook County Jail population at a
13 substantial cost savings to Cook County taxpayers.

14 (b) Within 30 days after the effective date of this Act,
15 the Superintendent of Police for the City of Chicago shall
16 create a pilot program that allows officers to use drug
17 analysis field test devices for use in both Branch 38 and
18 Branch 50 of the Circuit Court of Cook County to determine
19 whether a recovered substance is illegal cannabis, cocaine, or
20 heroin. The Superintendent shall provide field test training
21 and inventory procedures consistent with this purpose.

22 (c) But for good cause shown, the results of each field
23 test performed under this Pilot Program shall be documented and
24 offered by the Cook County State's Attorney as evidence to
25 determine probable cause at a preliminary examination.

1 (d) For purposes of the preliminary examination only, the
2 field test results shall be used in lieu of drug chemistry
3 laboratory reports from the Department of State Police Division
4 of Forensic Services. Where field test results indicate a
5 recovered substance has tested positive for the presence of
6 cannabis, cocaine, or heroin, the Cook County State's Attorney
7 shall proceed to a preliminary examination as soon as
8 practicable, regardless as to whether drug chemistry
9 laboratory reports are available.

10 (e) For purposes of determining probable cause at a
11 preliminary examination under Section 109-3 of the Code of
12 Criminal Procedure of 1963 and in accordance with this Pilot
13 Program:

14 (1) Evidence of results of a properly performed drug
15 analysis field test is admissible in a preliminary
16 examination solely to establish that the substance tested
17 is cannabis, cocaine, or heroin.

18 (2) Evidence of results of a properly performed drug
19 analysis field test is sufficient to establish that the
20 substance tested is cannabis, cocaine, or heroin for the
21 purposes of a preliminary examination.

22 Section 20. Data collection. The Superintendent of Police
23 for the City of Chicago shall notify the Director of the Cook
24 County Department of Corrections each time a defendant is
25 entered into custody subject to a drug analysis field test. The

1 Superintendent, Cook County State's Attorney, and Director of
2 the Cook County Department of Corrections shall tally the
3 number of days each defendant remains in custody as part of the
4 Pilot Program from arrest until preliminary examination and
5 report this information to the Pilot Program Study Committee.

6 Section 25. Duration. The Pilot Program shall operate one
7 year from the later of July 1, 2015 or 30 days after the
8 effective date of this Act.

9 Section 30. Pilot Program Study Committee.

10 (a) The Superintendent of Police for the City of Chicago,
11 Cook County State's Attorney, the head of the Division of
12 Forensic Services of the Department of State Police, Executive
13 Director of the Cook County Justice Advisory Council, and
14 Director of the Cook County Department of Corrections shall
15 each appoint one member to the Pilot Program Study Committee no
16 later than 30 days after the effective date of this Act. The
17 Cook County Board President shall appoint one member of a
18 community based organization to the Pilot Program Study
19 Committee no later than 30 days after the effective date of
20 this Act.

21 (b) The Committee may seek research or staff support of
22 advocacy and policy groups to assist in the evaluation of the
23 Pilot Program.

24 (c) The Pilot Program Study Committee shall submit

1 preliminary reports to the General Assembly on a quarterly
2 basis. The reports shall include:

3 (1) the number of persons entered into custody subject
4 to a drug analysis field test;

5 (2) the number of persons released from custody at any
6 point before a preliminary examination subject to a drug
7 analysis field test;

8 (3) the number of days each defendant remains in
9 custody from arrest until preliminary examination; and

10 (4) any other information the Study Committee deems
11 relevant.

12 The preliminary reports shall be submitted to the General
13 Assembly on: October 31, 2015; January 31, 2016; and April 30,
14 2016.

15 (d) Upon conclusion of the Pilot Program, the Pilot Program
16 Study Committee shall issue a final report to the General
17 Assembly, evaluating and analyzing the following to the fullest
18 extent possible, but subject to available resources:

19 (1) the length of custody in the Cook County Jail for a
20 cannabis, cocaine, or heroin offender under the Cook County
21 Drug Analysis Field Test Pilot Program, as compared to a
22 similarly situated drug or narcotics offender not under the
23 Cook County Drug Analysis Field Test Pilot Program;

24 (2) the economic impact of using drug analysis field
25 tests in lieu of drug chemistry laboratory reports for
26 preliminary examinations;

1 (3) the impact on the Cook County Jail population as a
2 result of using drug analysis field tests, and the
3 estimated jail population impact if drug analysis field
4 tests were expanded for use in all drug-related preliminary
5 examinations; and

6 (4) the proposed findings and recommendations on the
7 use and efficacy of drug analysis field tests in Cook
8 County.

9 (e) The Committee shall hold regularly scheduled meetings
10 and make minutes publicly accessible.

11 (f) The final report shall be submitted to the General
12 Assembly on or before the later of October 1, 2016 or 60 days
13 after the conclusion of the Pilot Program.

14 (g) If the final report is not submitted to the General
15 Assembly by the date designated in subsection (f) of this
16 Section, the amount of time that a person may be held in
17 custody in Cook County awaiting a preliminary examination,
18 under Section 109-3.1 of the Code of Criminal Procedure, shall
19 be reduced from 30 days to 10 days.

20 (h) Upon issuance of the report required under this
21 Section, the Pilot Program Study Committee shall dissolve.

22 Section 35. Appropriations. The General Assembly may
23 appropriate funds to the Chicago Police Department, to be used
24 solely for the purchase of drug analysis field tests and to
25 carry out obligations of the Cook County Drug Analysis Field

1 Test Pilot Program, including, but not limited to, the
2 preparation and submission of reports to the General Assembly.

3 Section 40. Repeal. This Act is repealed on January 1,
4 2017.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.