

HB1129



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB1129

Introduced 2/17/2021, by Rep. Emanuel Chris Welch

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-6.5

Amends the Code of Criminal Procedure of 1963. Makes a technical change in a Section concerning a drug testing program.

LRB102 03144 RLC 13157 b

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 Code of Criminal Procedure of 1963 is
5 amended by changing Section 110-6.5 as follows:

6 (725 ILCS 5/110-6.5)

7 Sec. 110-6.5. Drug testing program. The ~~The~~ Chief Judge of
8 the circuit may establish a drug testing program as provided
9 by this Section in any county in the circuit if the county
10 board has approved the establishment of the program and the
11 county probation department or pretrial services agency has
12 consented to administer it. The drug testing program shall be
13 conducted under the following provisions:

14 (a) The court, in the case of a defendant charged with a
15 felony offense or any offense involving the possession or
16 delivery of cannabis or a controlled substance, shall:

17 (1) not consider the release of the defendant on his
18 or her own recognizance, unless the defendant consents to
19 periodic drug testing during the period of release on his
20 or her own recognizance, in accordance with this Section;

21 (2) consider the consent of the defendant to periodic
22 drug testing during the period of release on bail in
23 accordance with this Section as a favorable factor for the

1 defendant in determining the amount of bail, the
2 conditions of release or in considering the defendant's
3 motion to reduce the amount of bail.

4 (b) The drug testing shall be conducted by the pretrial
5 services agency or under the direction of the probation
6 department when a pretrial services agency does not exist in
7 accordance with this Section.

8 (c) A defendant who consents to periodic drug testing as
9 set forth in this Section shall sign an agreement with the
10 court that, during the period of release, the defendant shall
11 refrain from using illegal drugs and that the defendant will
12 comply with the conditions of the testing program. The
13 agreement shall be on a form prescribed by the court and shall
14 be executed at the time of the bail hearing. This agreement
15 shall be made a specific condition of bail.

16 (d) The drug testing program shall be conducted as
17 follows:

18 (1) The testing shall be done by urinalysis for the
19 detection of phencyclidine, heroin, cocaine, methadone and
20 amphetamines.

21 (2) The collection of samples shall be performed under
22 reasonable and sanitary conditions.

23 (3) Samples shall be collected and tested with due
24 regard for the privacy of the individual being tested and
25 in a manner reasonably calculated to prevent substitutions
26 or interference with the collection or testing of reliable

1 samples.

2 (4) Sample collection shall be documented, and the
3 documentation procedures shall include:

4 (i) Labeling of samples so as to reasonably
5 preclude the probability of erroneous identification
6 of test results; and

7 (ii) An opportunity for the defendant to provide
8 information on the identification of prescription or
9 nonprescription drugs used in connection with a
10 medical condition.

11 (5) Sample collection, storage, and transportation to
12 the place of testing shall be performed so as to
13 reasonably preclude the probability of sample
14 contamination or adulteration.

15 (6) Sample testing shall conform to scientifically
16 accepted analytical methods and procedures. Testing shall
17 include verification or confirmation of any positive test
18 result by a reliable analytical method before the result
19 of any test may be used as a basis for any action by the
20 court.

21 (e) The initial sample shall be collected before the
22 defendant's release on bail. Thereafter, the defendant shall
23 report to the pretrial services agency or probation department
24 as required by the agency or department. The pretrial services
25 agency or probation department shall immediately notify the
26 court of any defendant who fails to report for testing.

1 (f) After the initial test, a subsequent confirmed
2 positive test result indicative of continued drug use shall
3 result in the following:

4 (1) Upon the first confirmed positive test result, the
5 pretrial services agency or probation department, shall
6 place the defendant on a more frequent testing schedule
7 and shall warn the defendant of the consequences of
8 continued drug use.

9 (2) A second confirmed positive test result shall be
10 grounds for a hearing before the judge who authorized the
11 release of the defendant in accordance with the provisions
12 of subsection (g) of this Section.

13 (g) The court shall, upon motion of the State or upon its
14 own motion, conduct a hearing in connection with any defendant
15 who fails to appear for testing, fails to cooperate with the
16 persons conducting the testing program, attempts to submit a
17 sample not his or her own or has had a confirmed positive test
18 result indicative of continued drug use for the second or
19 subsequent time after the initial test. The hearing shall be
20 conducted in accordance with the procedures of Section 110-6.

21 Upon a finding by the court that the State has established
22 by clear and convincing evidence that the defendant has
23 violated the drug testing conditions of bail, the court may
24 consider any of the following sanctions:

25 (1) increase the amount of the defendant's bail or
26 conditions of release;

- 1 (2) impose a jail sentence of up to 5 days;
- 2 (3) revoke the defendant's bail; or
- 3 (4) enter such other orders which are within the power
- 4 of the court as deemed appropriate.

5 (h) The results of any drug testing conducted under this

6 Section shall not be admissible on the issue of the

7 defendant's guilt in connection with any criminal charge.

8 (i) The court may require that the defendant pay for the

9 cost of drug testing.

10 (Source: P.A. 88-677, eff. 12-15-94.)