



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB0356

by Rep. Michael J. Zalewski

#### 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 the 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 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 September 1, 2015 or 30 days after the effective date of the Act. Provides that the Act is repealed on January 1, 2017. Effective immediately.

LRB099 00120 RLC 20120 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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 number of persons held in  
10 custody 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 the Circuit Court of  
18 Cook County to determine whether a recovered substance is  
19 illegal cannabis, cocaine, or heroin. The Superintendent shall  
20 provide field test training and inventory procedures  
21 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 September 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: December 31, 2015; March 31, 2016; and June 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 November 1, 2016 or 60 days  
13          after the conclusion of the Pilot Program.

14          (g) Upon issuance of the report required under this  
15          Section, the Pilot Program Study Committee shall dissolve.

16          Section 35. Repeal. This Act is repealed on January 1,  
17          2017.

18          Section 99. Effective date. This Act takes effect upon  
19          becoming law.