

AN ACT concerning criminal law.

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

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

Section 5. Legislative findings and intent.

(a) The General Assembly finds that:

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

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

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

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

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

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

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

Section 10. Definitions. For purposes of this Act:

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

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

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

Illinois Controlled Substances Act.

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

Section 15. Establishment of the Pilot Program.

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

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

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

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

(b) 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 the Circuit Court of Cook County to determine whether a recovered substance is illegal cannabis, cocaine, or heroin. The Superintendent shall provide field test training and inventory procedures consistent with this purpose.

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

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

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

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

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

Section 20. Data collection. 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. 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.

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

Section 30. Pilot Program Study Committee.

(a) The Mayor of the City of Chicago or his or her designee, the Superintendent of Police for the City of Chicago, Cook County State's Attorney, the head of the Division of Forensic Services of the Department of State Police, Executive Director of the Cook County Justice Advisory Council, and Director of the Cook County Department of Corrections shall each appoint one member to the Pilot Program Study Committee no later than 30 days after the effective date of this Act. The Cook County Board President shall appoint one member of a community based organization to the Pilot Program Study Committee no later than 30 days after the effective date of this Act.

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

(c) The Pilot Program Study Committee shall submit preliminary reports to the General Assembly on a quarterly basis. The reports shall include:

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

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

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

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

The preliminary reports shall be submitted to the General Assembly on: December 31, 2015; March 31, 2016; and June 30, 2016.

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

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

(2) the economic impact of using drug analysis field tests in lieu of drug chemistry laboratory reports for

preliminary examinations;

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

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

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

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

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

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

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