



Ohio Revised Code

Section 753.33 Contracts for random drug testing of municipal prisoners.

Effective: September 22, 2000

Legislation: House Bill 349 - 123rd General Assembly

(A) As used in this section:

- (1) "Joint board" means the joint board established pursuant to section 753.15 of the Revised Code.
- (2) "Municipal prisoner" means a prisoner who is confined in a municipal jail, municipal workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse for being convicted of or pleading guilty to a criminal offense.
- (3) "Multicounty-municipal" has the same meaning as in section 307.93 of the Revised Code.
- (4) "Random drug testing" has the same meaning as in section 5120.63 of the Revised Code.

(B) The director of public safety or a joint board may enter into a contract with a laboratory or entity to perform blood or urine specimen collection, documentation, maintenance, transportation, preservation, storage, and analyses and other duties required in the performance of random drug testing of municipal prisoners. The terms of any contract entered into under this division shall include a requirement that the laboratory or entity and its employees, the director of public safety or the joint board, the superintendent or chief administrative officer specified in division (D) of this section, the employees of the correctional facilities listed in division (A)(1) of this section, and all other persons comply with the standards for the performance of random drug testing as specified in rules adopted under division (C) of this section.

(C) Prior to entering into a contract with a laboratory or entity under division (B) of this section, a director of public safety or a joint board shall adopt rules for the random drug testing of municipal prisoners. The rules shall include, but are not limited to, provisions that do the following:

- (1) Require the laboratory or entity to seek, obtain, and maintain accreditation from the national



institute on drug abuse;

(2) Establish standards for the performance of random drug testing of municipal prisoners that include, but are not limited to, standards governing the following:

(a) The collection by the laboratory or entity of blood or urine specimens of individuals in a scientifically or medically approved manner and under reasonable and sanitary conditions;

(b) The collection and testing by the laboratory or entity of blood or urine specimens with due regard for the privacy of the individual being tested and in a manner reasonably calculated to prevent substitutions or interference with the collection and testing of the specimens;

(c) The documentation of blood or urine specimens collected by the laboratory or entity and documentation procedures that reasonably preclude the possibility of erroneous identification of test results and that provide the individual being tested an opportunity to furnish information identifying any prescription or nonprescription drugs used by the individual in connection with a medical condition;

(d) The collection, maintenance, storage, and transportation by the laboratory or entity of blood or urine specimens in a manner that reasonably precludes the possibility of contamination or adulteration of the specimens;

(e) The testing by the laboratory or entity of a blood or urine specimen of an individual to determine whether the individual ingested or was injected with a drug of abuse, in a manner that conforms to scientifically accepted analytical methods and procedures and that may include verification or confirmation of any positive test result by a reliable analytical method;

(f) The analysis of an individual's blood or urine specimen by an employee of the laboratory or entity who is qualified by education, training, and experience to perform that analysis and whose regular duties include the analysis of blood or urine specimens to determine the presence of a drug of abuse and whether the individual who is the subject of the test ingested or was injected with a drug of abuse.



- (3) Specify the frequency of performing random drug testing on municipal prisoners;
- (4) Prescribe procedures for the automatic, random selection of municipal prisoners to submit to random drug testing under this section;
- (5) Provide for reasonable safeguards for the transmittal of the results of the random drug testing of municipal prisoners from the contracting laboratory or entity to the director of public safety or the joint board pursuant to division (E) of this section;
- (6) Establish a reasonable fee to cover the costs associated with random drug testing and analysis performed by a contracting laboratory or entity under this section and establish procedures pursuant to division (E) of this section for the collection of those fees from the municipal prisoners subjected to the drug tests.
- (D) If a director of public safety or a joint board enters into a contract pursuant to division (B) of this section, the superintendent or chief administrative officer of a correctional facility listed in division (A)(2) of this section in which municipal prisoners are confined, pursuant to the terms of the contract and the rules adopted under division (C) of this section, shall facilitate the collection, documentation, maintenance, and transportation by the contracting laboratory or entity of the blood or urine specimens of the municipal prisoners who are confined in that correctional facility and who are subject to random drug testing.
- (E) If a director of public safety or a joint board enters into a contract pursuant to division (B) of this section and the contracting laboratory or entity performs the random drug testing as provided in the contract, the laboratory or entity shall transmit the results of the drug test to the director of public safety or the joint board, as appropriate, that entered into the contract. The director or the joint board shall file for record the results of the random drug tests that indicate whether or not each municipal prisoner who was subjected to the drug test ingested or was injected with a drug of abuse. The director or the joint board shall give appropriate notice of the drug test results to each municipal prisoner who was subjected to a drug test and whose drug test results indicate that the municipal prisoner ingested or was injected with a drug of abuse. The director or the joint board shall afford that municipal prisoner an opportunity to be heard regarding the results of the drug test and to present contrary evidence at a hearing held before the director or the joint board within thirty days



after notification of the municipal prisoner under this division. After the hearing, if a hearing is held, the director or the joint board shall make a determination regarding any evidence presented by the municipal prisoner. If the director or the joint board rejects the evidence presented by the municipal prisoner at the hearing or if no hearing is held under this division, the director or the joint board may assess a reasonable fee, determined pursuant to division (C) of this section, for the costs associated with the random drug test to be paid by the municipal prisoner whose drug test results indicate that the prisoner ingested or was injected with a drug of abuse. The director or the joint board may collect the fee pursuant to section 753.02, 753.04, or 753.16 of the Revised Code.