



Ohio Revised Code

Section 5120.63 Random drug testing of state prisoners.

Effective: April 7, 2009

Legislation: House Bill 130 - 127th General Assembly

(A) As used in this section:

(1) "Random drug testing" means a procedure in which blood or urine specimens are collected from individuals chosen by automatic, random selection and without prearrangement or planning, for the purpose of scientifically analyzing the specimens to determine whether the individual ingested or was injected with a drug of abuse.

(2) "State correctional institution" has the same meaning as in section 2967.01 of the Revised Code.

(3) "Stated prison term" has the same meaning as in section 2929.01 of the Revised Code.

(B) The department of rehabilitation and correction shall establish and administer a statewide random drug testing program in which all persons who were convicted of or pleaded guilty to a felony offense and are serving a stated prison term in a state correctional institution shall submit to random drug testing. The department may enter into contracts with laboratories or entities in the state that are accredited by the national institute on drug abuse to perform blood or urine specimen collection, documentation, maintenance, transportation, preservation, storage, and analyses and other duties required under this section in the performance of random drug testing of prisoners in those correctional institutions. The terms of any contract entered into under this division shall include a requirement that the laboratory or entity and its employees, the superintendents, managing officers, and employees of state correctional institutions, all employees of the department, and all other persons comply with the standards for the performance of random drug testing as specified in the policies and procedures established by the department under division (D) of this section. If no laboratory or entity has entered into a contract as specified in this division, the department shall cause a prisoner to submit to random drug testing performed by a reputable public laboratory to determine whether the prisoner ingested or was injected with a drug of abuse.

(C) A prisoner who is subjected to random drug testing under this section and whose test indicates



that the prisoner ingested or was injected with a drug of abuse shall pay the fee for that positive test and other subsequent test fees as a sanction specified by the department of rehabilitation and correction pursuant to division (D)(6) of this section.

(D) The department of rehabilitation and correction shall establish policies and procedures to implement the random drug testing program established under this section. The policies and procedures shall include, but are not limited to, provisions that do the following:

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

(a) The collection by the laboratory or entity described in division (B) of this section 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 described in division (B) of this section 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 described in division (B) of this section 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 described in division (B) of this section 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 described in division (B) of this section of 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 described in division (B) of this section 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.

(2) Specify the frequency of performing random drug testing of prisoners in a state correctional institution;

(3) Prescribe procedures for the automatic, random selection of prisoners in a state correctional institution to submit to random drug testing under this section;

(4) Provide for reasonable safeguards for the transmittal from the laboratory or entity described in division (B) of this section to the department of the results of the random drug testing of prisoners in state correctional institutions pursuant to division (F) of this section;

(5) Establish a reasonable fee to cover the costs associated with random drug testing and analyses performed by a laboratory or entity under this section and establish procedures for the collection of those fees from the prisoners subjected to the drug test;

(6) Establish guidelines for imposing sanctions upon a prisoner whose test results indicate that the prisoner ingested or was injected with a drug of abuse.

(E) The warden of each correctional institution, pursuant to the contract entered into under division (B) of this section or, if no contract was entered into under that division, pursuant to the policies and procedures established by the department of rehabilitation and correction under division (D) of this section, shall facilitate the collection, documentation, maintenance, and transportation by the laboratory or entity described in division (B) of this section, of the blood or urine specimens of the prisoners in the state correctional institution who are subject to random drug testing.



(F) A laboratory or entity that performs random drug testing of prisoners and analyses of blood or urine specimens under this section shall transmit the results of each drug test to the department of rehabilitation and correction. The department shall file for record the results of the drug tests that indicate whether or not each prisoner in the state correctional institution who was subjected to the drug test ingested or was injected with a drug of abuse. The department shall send a copy of the results of the drug tests to the warden of the state correctional institution in which the prisoner who was subjected to the drug test is confined. The warden shall give appropriate notice of the drug test results to each prisoner who was subjected to the drug test and whose drug test results indicate that the prisoner ingested or was injected with a drug of abuse. In accordance with institutional disciplinary procedures, the warden shall afford that prisoner an opportunity to be heard regarding the results of the drug test and to present contrary evidence at a hearing held before the warden within thirty days after notification to the prisoner under this division. After the hearing, if a hearing is held, the warden shall make a determination regarding any evidence presented by the prisoner. If the warden rejects the evidence presented by the prisoner at the hearing or if no hearing is held under this division, the warden may subject the prisoner to sanctions that include payment of the fee for the test.

(G) All fees for random drug tests collected from prisoners under this section or collected by the adult parole authority under section 2929.15, 2951.05, or 2967.131 of the Revised Code shall be forwarded to the treasurer of state for deposit in the offender financial responsibility fund created in division (I) of section 5120.56 of the Revised Code.