



H.B. 163

126th General Assembly
(As Reported by H. Criminal Justice)

Reps. Widener, McGregor, Wagner, C. Evans, Setzer, Kearns, Oelslager, Widowfield, Seaver, Schaffer, Latta, Wagoner, Reidelbach, Webster, D. Evans, Hughes, Willamowski

BILL SUMMARY

- Authorizes a court sentencing a drug abuse offender or imposing disposition on a delinquent child for committing an act that would be a drug abuse offense if committed by an adult to order the offender or child to reimburse involved law enforcement agencies for the costs of tests that determined that a substance involved in the offense contained a controlled substance.
- Specifies that no court can order a delinquent child or offender to pay the costs of tests performed on a substance if the results of the tests do not indicate that the substance tested contained any controlled substance.

CONTENT AND OPERATION

Reimbursement of the cost of certain drug tests

Under current law, in a criminal prosecution for a violation of the Drug Law (R.C. Chapter 2925.) or the Controlled Substances Law (R.C. Chapter 3719.), a laboratory report that states that the substance that is the basis of the alleged offense has been weighed and analyzed, states the content, weight, and identity of the substance, and states that it contains a controlled substance may be used in a criminal prosecution as prima facie evidence that the substance is a controlled substance and prima facie evidence of the content, identity, and weight of the controlled substance (R.C. 2925.51, *not in the bill*).

The bill provides that a court imposing sentence upon an offender who is convicted of or pleads guilty to a drug abuse offense¹ or a juvenile court making

¹ See **COMMENT**.

disposition of a child adjudicated a delinquent child for committing an act that would be a drug abuse offense if committed by an adult may order the offender or delinquent child to pay to the state, municipal, or county law enforcement agencies that handled the investigation and prosecution all of the costs that the state, municipal corporation, or county reasonably incurred in having tests performed under R.C. 2925.51 or in any other manner on any substance that was the basis of, or involved in, the offense to determine whether the substance contained any amount of a controlled substance if the results of the tests indicate that the substance tested contained any controlled substance. For an adult offender, the bill provides that this sanction is in addition to the financial sanctions authorized or required under R.C. 2929.18 and 2929.28 and to any costs otherwise authorized or required under any provision of law. For a juvenile offender, the bill provides that this sanction is in addition to the dispositions authorized or required under R.C. 2152.20 and to any costs otherwise authorized or required under any provision of law.

The bill further specifies that no court may order a delinquent child or offender to pay the costs of tests performed on a substance if the results of the tests do not indicate that the substance tested contained any controlled substance. To determine the amount of costs to be imposed pursuant to this new provision, the bill directs the court to hold a hearing. This hearing may be a part of the dispositional hearing for a child or as part of an adult offender's sentencing hearing. (R.C. 2152.20 and 2925.511.)

COMMENT

A "drug abuse offense" means any of the following (R.C. 2925.01(G)):

(1) A violation of R.C. 2913.02(A) that constitutes theft of drugs, or a violation of R.C. 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 2925.37;

(2) A violation of an existing or former law of Ohio or any other state or of the United States that is substantially equivalent to any section listed in paragraph (1), above;

(3) An offense under an existing or former law of Ohio or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise dealing with a controlled substance is an element;

(4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit any offense under paragraph (1), (2), or (3), above.

HISTORY

ACTION	DATE
Introduced	04-05-05
Reported, H. Criminal Justice	01-18-06

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