

**Senate Study Bill 1055 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON LABOR AND BUSINESS  
RELATIONS BILL BY  
CHAIRPERSON WHITING)

**A BILL FOR**

1 An Act concerning private sector employee drug testing.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 730.5, subsection 7, paragraph j,  
2 subparagraph (1), Code 2021, is amended to read as follows:  
3 (1) If a confirmed positive test result for drugs or alcohol  
4 for a current employee is reported to the employer by the  
5 medical review officer, the employer shall notify the employee  
6 in writing delivered in person or by certified mail, return  
7 ~~receipt requested,~~ electronic notification of the results  
8 of the test, the employee's right to request and obtain a  
9 confirmatory test of the second sample collected pursuant to  
10 paragraph "b" at an approved laboratory of the employee's  
11 choice, and the fee payable by the employee to the employer for  
12 reimbursement of expenses concerning the test. The fee charged  
13 an employee shall be an amount that represents the costs  
14 associated with conducting the second confirmatory test, which  
15 shall be consistent with the employer's cost for conducting  
16 the initial confirmatory test on an employee's sample.  
17 If the employee, in person or by ~~certified mail, return~~  
18 ~~receipt requested~~ electronic notification, requests a second  
19 confirmatory test, identifies an approved laboratory to conduct  
20 the test, and pays the employer the fee for the test within  
21 seven days from the date the employer ~~mails by certified mail,~~  
22 ~~return receipt requested,~~ delivered in person or electronically  
23 the written notice to the employee of the employee's right to  
24 request a test, a second confirmatory test shall be conducted  
25 at the laboratory chosen by the employee. The results of the  
26 second confirmatory test shall be reported to the medical  
27 review officer who reviewed the initial confirmatory test  
28 results and the medical review officer shall review the results  
29 and issue a report to the employer on whether the results of  
30 the second confirmatory test confirmed the initial confirmatory  
31 test as to the presence of a specific drug or alcohol. If  
32 the results of the second test do not confirm the results of  
33 the initial confirmatory test, the employer shall reimburse  
34 the employee for the fee paid by the employee for the second  
35 test and the initial confirmatory test shall not be considered

1 a confirmed positive test result for drugs or alcohol for  
2 purposes of taking disciplinary action pursuant to subsection  
3 10.

4 Sec. 2. Section 730.5, subsection 9, paragraph a,  
5 subparagraphs (1) and (2), Code 2021, are amended to read as  
6 follows:

7 (1) Drug or alcohol testing or retesting by an employer  
8 shall be carried out within the terms of a written policy which  
9 has been provided to every employee subject to testing, and is  
10 available for review by employees and prospective employees.  
11 If an employee or prospective employee is a minor, the employer  
12 shall provide a copy of the written policy to a parent of the  
13 employee or prospective employee and shall obtain a receipt or  
14 acknowledgment from the parent that a copy of the policy has  
15 been received. Providing a copy of the written policy to a  
16 parent of a minor ~~by certified mail, return receipt requested,~~  
17 in person or by electronic notification shall satisfy the  
18 requirements of this subparagraph.

19 (2) In addition, the written policy shall provide that any  
20 notice required by [subsection 7](#), paragraph "j", to be provided  
21 to an individual pursuant to a drug or alcohol test conducted  
22 pursuant to [this section](#), shall also be provided to the parent  
23 of the individual in person or by electronic notification if the individual  
24 ~~receipt requested,~~ electronic notification if the individual  
25 tested is a minor.

26 Sec. 3. Section 730.5, subsection 15, paragraph a,  
27 subparagraph (1), Code 2021, is amended to read as follows:

28 (1) A person who violates [this section](#) or who aids in the  
29 violation of [this section](#) is liable to an aggrieved employee  
30 or prospective employee for affirmative relief including  
31 reinstatement or hiring, with or without back pay, or any other  
32 equitable relief as the court deems appropriate including  
33 reasonable attorney fees and court costs. An aggrieved  
34 employee or prospective employee has the burden of proving by  
35 clear and convincing evidence that a violation of this section

1 directly caused any damages for which affirmative relief is  
2 sought.

3

EXPLANATION

4           The inclusion of this explanation does not constitute agreement with  
5           the explanation's substance by the members of the general assembly.

6       This bill relates to Code section 730.5, concerning private  
7 sector employee drug testing.

8       The bill provides that various notifications required under  
9 current law to be provided by certified mail, return receipt  
10 requested, shall instead be provided in person or by electronic  
11 notification.

12       The bill provides that attorney fees awarded to an aggrieved  
13 employee or prospective employee as part of affirmative relief  
14 in a civil action for a violation of Code section 730.5 must  
15 be reasonable. In such an action, the bill provides that  
16 an aggrieved employee or prospective employee has the burden  
17 of proving by clear and convincing evidence that a violation  
18 of Code section 730.5 directly caused any damages for which  
19 affirmative relief is sought.