

Assembly Bill No. 2009

Passed the Assembly August 12, 2010

Chief Clerk of the Assembly

Passed the Senate August 9, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 76104.6 of the Government Code, relating to county penalties.

LEGISLATIVE COUNSEL'S DIGEST

AB 2009, Logue. County penalties: funding for DNA analysis: expedited processing.

Existing law, the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, an initiative measure, creates in the State Treasury the state's DNA Identification Fund, and makes its revenue, upon appropriation by the Legislature, available to the Attorney General solely to support DNA testing and to offset the impacts of increased testing. That act also provides for an increase in criminal penalties allocated to state and local government to fund the expansion of DNA collection as required by the act. Existing law allocates 70% of the funds, attributable to that increase in fees, to the state within the first 2 years following the approval of the act; 50% of the funds, attributable to the increase in the fees, to the state in the 3rd year; and thereafter, 25% of the funds, attributable to the increase in the fees, to the state, with the remaining funds allocated to local governments. Existing law provides that any funds remaining in a county's share of the increase in fees may be used for specified purposes, including expenditures made in connection with the processing, analysis, tracking, and storage of DNA crime scene samples from cases in which DNA evidence would be useful in identifying or prosecuting suspects, which includes the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA crime scene samples.

This bill would specifically provide that a county's remaining share of funds attributable to the increase in fees as required by the act may, if authorized by a resolution of the board of supervisors, be used by a local sheriff, police, district attorney, or regional state crime laboratory for expenditures and administrative costs made or incurred for utilizing an authorized laboratory for the processing and analysis of forensic identification samples and testimony related to that analysis in order to expedite the analysis

of crime scene samples in order to expedite and proceed with a pending criminal action or investigation within that county.

The DNA Fingerprint, Unsolved Crime and Innocence Protection Act specifies that its provisions may be amended by the Legislature if the amendment furthers the act and is consistent with the purpose of the act to enhance the use of DNA identification evidence for the purpose of accurate and expeditious crime solving and for exonerating the innocent.

This bill also contains the Legislature's finding that this bill furthers, and is consistent with, the purpose of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act to enhance the use of DNA identification evidence for the purpose of accurate and expeditious crime solving and for exonerating the innocent by accelerating the testing of DNA samples that cannot be handled in an expeditious manner without the use of an outside laboratory.

The people of the State of California do enact as follows:

SECTION 1. Section 76104.6 of the Government Code is amended to read:

76104.6. (a) (1) Except as otherwise provided in this section, for the purpose of implementing the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, there shall be levied an additional penalty of one dollar (\$1) for every ten dollars (\$10), or part of ten dollars (\$10), in each county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(2) The penalty imposed by this section shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The board of supervisors shall establish in the county treasury a DNA Identification Fund into which shall be deposited the collected moneys pursuant to this section. The moneys of the fund shall be allocated pursuant to subdivision (b).

(3) This additional penalty does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) (1) The fund moneys described in subdivision (a), together with any interest earned thereon, shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Deposits to the fund may continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified herein.

(2) On the last day of each calendar quarter of the year specified in this subdivision, the county treasurer shall transfer fund moneys in the county's DNA Identification Fund to the State Controller for credit to the state's DNA Identification Fund, which is hereby established in the State Treasury, as follows:

(A) In the first two calendar years following the effective date of this section, 70 percent of the amounts collected, including interest earned thereon;

(B) In the third calendar year following the effective date of this section, 50 percent of the amounts collected, including interest earned thereon;

(C) In the fourth calendar year following the effective date of this section and in each calendar year thereafter, 25 percent of the amounts collected, including interest earned thereon.

(3) Funds remaining in the county's DNA Identification Fund shall be used only for the following purposes:

(A) To reimburse a local sheriff or other law enforcement agency to collect DNA specimens, samples, and print impressions pursuant to this chapter; for expenditures and administrative costs made or incurred to comply with the requirements of paragraph (5) of subdivision (b) of Section 298 of the Penal Code including the procurement of equipment and software integral to confirming that a person qualifies for entry into the Department of Justice DNA Database and Data Bank Program.

(B) If authorized by a resolution of the county board of supervisors, to reimburse a local sheriff, police, district attorney,

or regional state crime laboratory for expenditures and administrative costs made or incurred for utilizing a laboratory that meets state and federal requirements, including the Federal Bureau of Investigation Quality Assurance Standards, and that is accredited by an organization approved by the National DNA Index System Procedures Board for the processing and analysis of forensic identification samples and testimony related to that analysis in order to expedite the analysis of crime scene samples in order to expedite and proceed with a pending criminal action or investigation within that county.

(C) To reimburse a local sheriff, police, district attorney, or regional state crime laboratory for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA crime scene samples from cases in which DNA evidence would be useful in identifying or prosecuting suspects, including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA crime scene samples from unsolved cases.

(4) The state's DNA Identification Fund shall be administered by the Department of Justice. Funds in the state's DNA Identification Fund, upon appropriation by the Legislature, shall be used by the Attorney General only to support DNA testing in the state and to offset the impacts of increased testing and shall be allocated as follows:

(A) Of the amount transferred pursuant to subparagraph (A) of paragraph (2) of subdivision (b), 90 percent to the Department of Justice DNA Laboratory, first, to comply with the requirements of Section 298.3 of the Penal Code and, second, for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and Databank Act, as amended, and 10 percent to the Department of Justice Information Bureau Criminal History Unit for expenditures and administrative costs that have been approved by the Chief of the Department of Justice Bureau of Forensic Services made or incurred to update equipment and software to facilitate compliance with the requirements of subdivision (e) of Section 299.5 of the Penal Code.

(B) Of the amount transferred pursuant to subparagraph (B) of paragraph (2) of subdivision (b), funds shall be allocated by the Department of Justice DNA Laboratory, first, to comply with the requirements of Section 298.3 of the Penal Code and, second, for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and Databank Act, as amended.

(C) Of the amount transferred pursuant to subparagraph (C) of paragraph (2) of subdivision (b), funds shall be allocated by the Department of Justice to the DNA Laboratory to comply with the requirements of Section 298.3 of the Penal Code and for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and Databank Act, as amended.

(c) On or before April 1 in the year following adoption of this section, and annually thereafter, the board of supervisors of each county shall submit a report to the Legislature and the Department of Justice. The report shall include the total amount of fines collected and allocated pursuant to this section, and the amounts expended by the county for each program authorized pursuant to paragraph (3) of subdivision (b) of this section. The Department of Justice shall make the reports publicly available on the department's Internet Web site.

(d) All requirements imposed on the Department of Justice pursuant to the DNA Fingerprint, Unsolved Crime and Innocence Protection Act are contingent upon the availability of funding and are limited by revenue, on a fiscal year basis, received by the Department of Justice pursuant to this section and any additional appropriation approved by the Legislature for purposes related to implementing this measure.

(e) Upon approval of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, the Legislature shall loan the

Department of Justice General Fund in the amount of \$7,000,000 for purposes of implementing that act. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time the loan is made. Principal and interest on the loan shall be repaid in full no later than four years from the date the loan was made and shall be repaid from revenue generated pursuant to this section.

(f) Notwithstanding any other provision of law, the Controller may use the state's DNA Identification Fund, created pursuant to paragraph (2) of subdivision (b), for loans to the General Fund as provided in Sections 16310 and 16381. Any such loan shall be repaid from the General Fund with interest computed at 110 percent of the Pooled Money Investment Account rate, with the interest commencing to accrue on the date the loan is made from the fund. This subdivision does not authorize any transfer that will interfere with the carrying out of the object for which the state's DNA Identification Fund was created.

SEC. 2. The Legislature finds and declares that this bill furthers, and is consistent with, the purpose of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act to enhance the use of DNA identification evidence for the purpose of accurate and expeditious crime solving and for exonerating the innocent by accelerating the testing of DNA samples that cannot be handled in an expeditious manner without the use of an outside laboratory.

Approved _____, 2010

Governor