

## Assembly Bill No. 434

### CHAPTER 195

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

[Approved by Governor August 31, 2011. Filed with  
Secretary of State August 31, 2011.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 434, Logue. County penalties: forensic laboratories.

Existing law, the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, an initiative measure, requires an additional penalty of \$1 for every \$10 or part thereof to be levied in each county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, as specified. The act requires the county board of supervisors to establish in the county treasury a DNA Identification Fund, into which the collected penalties are to be deposited. The act specifies the purposes for which funds in the county's DNA Identification Fund may be used, including to reimburse local sheriff, police, district attorney, and regional state crime laboratories for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA crime scene samples, as specified. The act provides for its amendment by the Legislature if the amendments further the act and are consistent with its purposes to enhance the use of DNA identification evidence for the purpose of accurate and expeditious crime solving and exonerating the innocent.

This bill would provide that, if authorized by a resolution of the board of supervisors, a local sheriff or police department, or the district attorney's office, may use funds remaining in the county's DNA Identification Fund, either independently or in combination with remaining funds from another county, to provide supplemental funding to a qualified local or regional state forensic laboratory, as defined, for expenditures and administrative costs made or incurred in connection with the processing, analysis, and comparison of DNA crime scene samples and forensic identification samples, and testimony related to that analysis, as specified. The bill would declare that its provisions further the initiative act, and are consistent with its purposes.

*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 (Proposition 69), as approved by the voters at the November 2, 2004, statewide general election, 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 a 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. The 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 moneys collected pursuant to this section. The moneys of the fund shall be allocated pursuant to subdivision (b).

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

(A) A restitution fine.

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

(C) A 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 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 local sheriff or other law enforcement agencies for the collection of DNA specimens, samples, and print impressions pursuant to this chapter.

(B) 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 and Forensic Identification Database and Data Bank Program.

(C) To reimburse local sheriff, police, district attorney, and regional state crime laboratories 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.

(D) (i) If authorized by a resolution of the board of supervisors, and after the distributions provided in subparagraphs (A), (B), and (C), a local sheriff or police department, or the district attorney's office, may use remaining funds, either independently or in combination with remaining funds from another county, to provide supplemental funding to a qualified local or regional state forensic laboratory for expenditures and administrative costs made or incurred in connection with the processing, analysis, and comparison of DNA crime scene samples and forensic identification samples, and testimony related to that analysis. This subparagraph shall apply only to those counties that do not have a local public law enforcement laboratory, and does not authorize any transfer that will interfere with the operation of subparagraph (A). Any supplemental funding provided pursuant to this subparagraph shall not be used to supplant funds already allocated to a qualified local or regional state forensic laboratory by the state's DNA Identification Fund.

(ii) For purposes of this subparagraph, a qualified local or regional state forensic laboratory is a Department of Justice regional forensic laboratory or a local law enforcement agency forensic laboratory that meets state and federal requirements for contributing DNA profiles for inclusion in California's DNA databank, including the FBI Quality Assurance Standards and accreditation requirements, and shall be accredited by an organization approved by the National DNA Index System (NDIS) Procedures Board.

(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 Data Bank Act of 1998, as amended by Chapter 6 (commencing with Section 295) of Title 9 of Part 1 of the Penal Code, 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 Data Bank Act of 1998, 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 Data Bank Act of 1998, 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). The Department of Justice shall make the reports publicly available on the department's Internet Web site.

(d) All the 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 act.

(e) Upon approval of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, the Legislature shall lend the Department of Justice General Fund in the amount of seven million dollars (\$7,000,000)

for purposes of implementing the act. The 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 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 hereby finds and declares that the amendments made by this act to Section 76104.6 of the Government Code further the DNA Fingerprint, Unsolved Crime and Innocence Protection Act as enacted by the approval of Proposition 69 at the November 3, 2004, general election, and is consistent with the act's purposes.