

Introduced by Senator CorreaFebruary 15, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

SB 329, as introduced, Correa. County penalties: forensic laboratories.

(1) Existing law, the DNA Fingerprint, Unresolved Crime and Innocence Protection Act, an initiative measure, requires an additional penalty of one dollar 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 requires 25% of the moneys in the county fund to be transferred to the state's DNA Identification Fund and specifies the purposes for which funds in the county's and the state's DNA Identification Funds 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 purpose to enhance the use of DNA identification evidence for the purpose of accurate and expeditious crime solving and exonerating the innocent.

This bill would require, for the purposes of providing supplemental funding for the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, as specified, an additional penalty to be levied in an

unspecified amount in each county for the late payment of any fine, penalty, or forfeiture imposed by the courts for any violation of the Vehicle Code, or a local ordinance adopted pursuant to the Vehicle Code, that is committed by the driver of a vehicle while it is in motion. Pursuant to the provisions described above, the penalty proceeds would be deposited into each county’s and the state’s DNA Identification Fund for the purposes specified above.

The bill would declare that its provisions further the initiative act and are consistent with its purposes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

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

3 76104.6. (a) (1) Except as otherwise provided in this section,
4 for the purpose of implementing the DNA Fingerprint, Unsolved
5 Crime and Innocence Protection Act (Proposition 69), as approved
6 by the voters at the November 2, 2004, statewide general election,
7 there shall be levied an additional penalty of one dollar for every
8 ten dollars (\$10), or part of ten dollars (\$10), in each county upon
9 every fine, penalty, or forfeiture imposed and collected by the
10 courts for all criminal offenses, including all offenses involving a
11 violation of the Vehicle Code or a local ordinance adopted pursuant
12 to the Vehicle Code.

13 (2) *Except as otherwise provided in this section, for the purposes*
14 *of providing supplemental funding for the DNA Fingerprint,*
15 *Unsolved Crime and Innocence Protection Act, and clearing the*
16 *backlog of DNA crime scene samples from cases in which DNA*
17 *evidence would be useful in identifying or prosecuting suspects,*
18 *there shall be levied an additional penalty of ____ dollars (\$____),*
19 *in each county for the late payment of any fine, penalty, or*
20 *forfeiture imposed by the courts for any violation of the Vehicle*
21 *Code, or a local ordinance adopted pursuant to the Vehicle Code,*
22 *that is committed by the driver of a vehicle while it is in motion.*

23 ~~(2)~~

24 (3) ~~The penalty penalties~~ imposed by this section shall be
25 collected together with and in the same manner as the amounts
26 established by Section 1464 of the Penal Code. The moneys shall

1 be taken from fines and forfeitures deposited with the county
2 treasurer prior to any division pursuant to Section 1463 of the
3 Penal Code. The board of supervisors shall establish in the county
4 treasury a DNA Identification Fund into which shall be deposited
5 the moneys collected pursuant to this section. The moneys of the
6 fund shall be allocated pursuant to subdivision (b).

7 ~~(3)~~

8 (4) The additional ~~penalty does~~ *penalties do* not apply to the
9 following:

10 (A) A restitution fine.

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

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

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

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

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

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

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

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

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

1 (A) To reimburse local sheriff or other law enforcement agencies
2 ~~to collect for the collection of~~ DNA specimens, samples, and print
3 impressions pursuant to this chapter; ~~for~~.

4 (B) For expenditures and administrative costs made or incurred
5 to comply with the requirements of paragraph (5) of subdivision
6 (b) of Section 298 of the Penal Code, including the procurement
7 of equipment and software integral to confirming that a person
8 qualifies for entry into the Department of Justice DNA and Forensic
9 Identification Database and Data Bank Program; ~~and to~~.

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

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

24 (A) Of the amount transferred pursuant to subparagraph (A) of
25 paragraph (2) of subdivision (b), 90 percent to the Department of
26 Justice DNA Laboratory, first, to comply with the requirements
27 of Section 298.3 of the Penal Code and, second, for expenditures
28 and administrative costs made or incurred in connection with the
29 processing, analysis, tracking, and storage of DNA specimens and
30 samples including the procurement of equipment and software for
31 the processing, analysis, tracking, and storage of DNA samples
32 and specimens obtained pursuant to the DNA and Forensic
33 Identification Database and Data Bank Act of 1998, as amended
34 by Chapter 6 (commencing with Section 295) of Title 9 of Part 1
35 of the Penal Code, and 10 percent to the Department of Justice
36 Information Bureau Criminal History Unit for expenditures and
37 administrative costs that have been approved by the Chief of the
38 Department of Justice Bureau of Forensic Services made or
39 incurred to update equipment and software to facilitate compliance

1 with the requirements of subdivision (e) of Section 299.5 of the
2 Penal Code.

3 (B) Of the amount transferred pursuant to subparagraph (B) of
4 paragraph (2) of subdivision (b), funds shall be allocated by the
5 Department of Justice DNA Laboratory, first, to comply with the
6 requirements of Section 298.3 of the Penal Code and, second, for
7 expenditures and administrative costs made or incurred in
8 connection with the processing, analysis, tracking, and storage of
9 DNA specimens and samples including the procurement of
10 equipment and software for the processing, analysis, tracking, and
11 storage of DNA samples and specimens obtained pursuant to the
12 DNA and Forensic Identification Database and Data Bank Act of
13 1998, as amended.

14 (C) Of the amount transferred pursuant to subparagraph (C) of
15 paragraph (2) of subdivision (b), funds shall be allocated by the
16 Department of Justice to the DNA Laboratory to comply with the
17 requirements of Section 298.3 of the Penal Code and for
18 expenditures and administrative costs made or incurred in
19 connection with the processing, analysis, tracking, and storage of
20 DNA specimens and samples including the procurement of
21 equipment and software for the processing, analysis, tracking, and
22 storage of DNA samples and specimens obtained pursuant to the
23 DNA and Forensic Identification Database and Data Bank Act of
24 1998, as amended.

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

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

1 (e) Upon approval of the DNA Fingerprint, Unsolved Crime
2 and Innocence Protection Act, the Legislature shall lend the
3 Department of Justice General Fund in the amount of seven million
4 dollars (\$7,000,000) for purposes of implementing the act. The
5 loan shall be repaid with interest calculated at the rate earned by
6 the Pooled Money Investment Account at the time the loan is made.
7 Principal and interest on the loan shall be repaid in full no later
8 than four years from the date the loan was made and shall be repaid
9 from revenue generated pursuant to this section.

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

20 SEC. 2. The Legislature hereby finds and declares that the
21 amendments made by this act to Section 76104.6 of the
22 Government Code further the DNA Fingerprint, Unresolved Crime
23 and Innocence Protection Act, as enacted by the approval of
24 Proposition 69 at the November 3, 2004, general election, and is
25 consistent with the act's purposes.