

**Introduced by Senator Correa**February 15, 2011

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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.