

Senate Bill No. 133

CHAPTER 67

An act to amend Sections 1001.15 and 1001.16 of the Penal Code, relating to diversion fees.

[Approved by Governor July 5, 1995. Filed with
Secretary of State July 6, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 133, Boatwright. Diversion fees: apportionment.

Existing law authorizes a judge to require a defendant accused of a felony or a misdemeanor pursuant to violations of the California Uniform Controlled Substances Act to pay an administrative fee as part of an enrollment fee in a diversion program to cover the actual cost of any criminalistics laboratory analysis, the actual cost of processing a request or application for diversion, and the actual cost of supervising the divertee. One-third of the fee collected is required to be deposited in the criminalistics laboratory fund in the county treasury and the remaining $\frac{2}{3}$ is required to be used to cover the administrative cost of processing the request or application and the cost of supervising the divertee.

This bill would repeal this apportionment formula and would provide that the fee established pursuant to these provisions may not exceed the actual costs required for the programs authorized to be reimbursed by the fee. The bill would also require that all proceeds from the fee established pursuant to these provisions be allocated only for the programs authorized to be reimbursed by the fee.

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

SECTION 1. Section 1001.15 of the Penal Code is amended to read:

1001.15. (a) In addition to the fees authorized or required by other provisions of law, a judge may require the payment of an administrative fee, as part of an enrollment fee in a diversion program, by a defendant accused of a felony to cover the actual cost of any criminalistics laboratory analysis, the actual cost of processing a request or application for diversion, and the actual cost of supervising the divertee pursuant to Chapter 2.5 (commencing with Section 1000), not to exceed five hundred dollars (\$500). The fee shall be payable at the time of enrollment in the diversion program. The court shall take into consideration the defendant's ability to pay, and no defendant shall be denied diversion because of his or her inability to pay.

(b) As used in this section, “criminalistics laboratory” means a laboratory operated by, or under contract with a city, county, or other public agency, including a criminalistics laboratory of the Department of Justice, which has not less than one regularly employed forensic scientist engaged in the analysis of solid dose material and body fluids for controlled substances, and which is registered as an analytical laboratory with the Drug Enforcement Administration of the United States Department of Justice for the processing of all scheduled controlled substances.

(c) In addition to the fees authorized or required by other provisions of law, a judge may require the payment of an administrative fee, as part of an enrollment fee in a diversion program, by a defendant accused of an act charged as, or reduced to, a misdemeanor to cover the actual cost of processing a request or application for diversion pursuant to Chapter 2.6 (commencing with Section 1000.6), the actual costs of reporting to the court on a defendant’s eligibility and suitability for diversion, the actual cost of supervising the divertee, and for the actual costs of performing any duties required pursuant to Section 1000.9, not to exceed three hundred dollars (\$300). The fee shall be payable at the time of enrollment in the diversion program. The fee shall be determined on a sliding scale according to the defendant’s ability to pay, and no defendant shall be denied diversion because of his or her inability to pay.

(d) The fee established pursuant to this section may not exceed the actual costs required for the programs authorized to be reimbursed by this fee. All proceeds from the fee established pursuant to this section shall be allocated only for the programs authorized to be reimbursed by this fee.

SEC. 2. Section 1001.16 of the Penal Code is amended to read:

1001.16. (a) In addition to the fees authorized or required by other provisions of law, a judge may require the payment of an administrative fee, as part of an enrollment fee in a diversion program, by a defendant accused of a misdemeanor to cover the actual cost of any criminalistics laboratory analysis in a case involving a violation of the California Uniform Controlled Substances Act under Division 10 (commencing with Section 11000) of the Health and Safety Code, the actual cost of processing a request or application for diversion, and the actual cost of supervising the divertee, not to exceed three hundred dollars (\$300). The fee shall be payable at the time of enrollment in the diversion program. The court shall take into consideration the defendant’s ability to pay, and no defendant shall be denied diversion because of his or her inability to pay.

(b) As used in this section, “criminalistics laboratory” means a laboratory operated by, or under contract with, a city, county, or other public agency, including a criminalistics laboratory of the Department of Justice, which has not less than one regularly



employed forensic scientist engaged in the analysis of solid dose material and body fluids for controlled substances and which is registered as an analytical laboratory with the Drug Enforcement Administration of the United States Department of Justice for the processing of all scheduled controlled substances.

(c) This section shall apply to all misdemeanor pretrial diversion programs established pursuant to this title.

(d) The fee established pursuant to this section may not exceed the actual costs required for the programs authorized to be reimbursed by this fee. All proceeds from the fee established pursuant to this section shall be allocated only for the programs authorized to be reimbursed by this fee.

