

## Senate Bill No. 654

### CHAPTER 475

An act to amend Section 76104.5 of the Government Code, and to amend Sections 290.7, 296, 297, 299.5, 299.6, 3060.5, and 11170 of the Penal Code, relating to DNA and forensic identification.

[Approved by Governor September 23, 1999. Filed  
with Secretary of State September 23, 1999.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 654, Schiff. DNA and forensic identification.

(1) Existing law, part of the DNA and Forensic Identification Data Base and Data Bank Act of 1998, requires any person who is convicted of, or pleads guilty or no contest to, any specified crime, or is found not guilty by reason of insanity of any of the specified crimes, to provide 2 specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand for law enforcement identification analysis. The act also requires any person who is required to register as a sex offender because of the commission, or attempt to commit, any specified felony offense, or who is convicted of murder or felony assault and battery, and who is committed to a term of imprisonment in the state prison, a county jail, or any institution under the jurisdiction of the Department of the Youth Authority, granted probation, or released from a state hospital for which he or she was committed as a mentally disordered sex offender, to provide samples.

This bill would revise the latter provision by deleting references to any person who is convicted of murder or felony assault and battery, by requiring samples from any person who is or was committed to a state hospital as a mentally disordered sex offender, and by clarifying the type of required samples. With respect to the former provision, the bill would delete exceptions provided for lewd and lascivious conduct and various forms of disorderly conduct, and revise the reference to murder. This bill would also require the prosecuting attorney, at sentencing or disposition, to verify in writing that the samples described above are required by law, and that they have been taken, or are scheduled to be taken before the release of the defendant. The bill also would require the abstract of judgment issued by the court to indicate that the court has ordered the person to comply with the requirements of this provision and that the person shall be included in the state's DNA and Forensic Identification Data Base and Data Bank program and be subject to the DNA and Forensic Identification Data Base and Data Bank Act of 1998. By



increasing the duties of local law enforcement entities, the bill would impose a state-mandated local program.

(2) Existing law authorizes a biological sample obtained from a suspect in a criminal investigation for the commission of any crime to be analyzed for forensic identification profiles, including DNA profiles, by the DNA Laboratory of the Department of Justice, which is accredited by the ASCLD/LAB, or any crime laboratory designated by the Department of Justice that is accredited by the ASCLD/LAB. Existing law also provides that nothing in the section precludes laboratories meeting Technical Working Group on DNA Analysis Methods (TWGDAM) guidelines.

This bill would provide that the accreditation specified in this provision may also be furnished by any certifying body approved by the ASCLD/LAB and likewise that the requirement that all laboratories contributing DNA profiles for inclusion in California's DNA Data Bank be accredited by the ASCLD/LAB include as an alternative any certifying body approved by the ASCLD/LAB. This bill would provide, in addition, that nothing in the provisions summarized in this paragraph precludes laboratories from meeting Scientific Working Group on DNA Analysis guidelines.

(3) Existing law provides that DNA and other forensic identification information shall be released only to law enforcement agencies at the request of the agency, except as specified. Under existing law, this information shall be available to defense counsel upon court order. Existing law also prohibits any of these provisions from precluding a court from ordering appropriate discovery.

This bill would specify that the latter provision applies to criminal defense counsel and that the court order be made pursuant to a specified provision of law. The bill would specify that the court is to order discovery pursuant to a certain provision of law.

(4) Existing law authorizes the population data base and data bank of the DNA Laboratory of the Department of Justice to be made available to and searched by the FBI and any other agency participating in the FBI's CODIS System.

This bill would authorize any other agency participating in any other national law enforcement data bank system to access the population data base and data bank of the DNA Laboratory of the Department of Justice.

(5) Existing law requires any local public DNA laboratory that collects DNA typing information to comply with and be subject to all of the rules, regulations, and restrictions of the DNA and Forensic Identification Data Base and Data Bank Act of 1998, and to follow the policies of the DNA Laboratory of the Department of Justice.

This bill instead would require any local public DNA laboratory that produces DNA profiles of known reference samples for inclusion within the permanent files of the state's DNA Data Bank program to comply with and be subject to all of the rules, regulations, and



restrictions of the DNA and Forensic Identification Data Base and Data Bank Act of 1998 and to follow the policies of the DNA Laboratory of the Department of Justice.

(6) This bill would make additional conforming changes.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. Section 76104.5 of the Government Code is amended to read:

76104.5. (a) For the purpose of assisting any county in the establishment of automated photographic or DNA (genetic fingerprint) identification systems, or any new technology in the county, the board of supervisors may establish in the county treasury a DNA Identification Fund into which shall be deposited the amounts specified in the resolutions adopted by the board of supervisors as authorized in accordance with this title, up to fifty cents (\$0.50) for every seven dollars (\$7) collected pursuant to Section 76000. The moneys of the fund shall be payable only for the purchase, lease, operation, including personnel and related costs, and maintenance of automated photographic or DNA (genetic fingerprint) identification systems, or any new technology.

(b) 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.

(c) For purposes of this section, "DNA (genetic fingerprint) identification system" means equipment, procedures, and methodologies compatible with and meeting the standards set for DNA testing by the Department of Justice pursuant to the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1 of the Penal Code).



SEC. 2. Section 290.7 of the Penal Code is amended to read:

290.7. The Department of Corrections shall provide samples of blood and saliva taken from a prison inmate pursuant to the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1 of the Penal Code) to the county in which the inmate is to be released if the county maintains a local DNA testing laboratory.

SEC. 3. Section 296 of the Penal Code is amended to read:

296. (a) (1) Any person who is convicted of, or pleads guilty or no contest to, any of the following crimes, or is found not guilty by reason of insanity of any of the following crimes, shall, regardless of sentence imposed or disposition rendered, be required to provide two specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand for law enforcement identification analysis:

(A) Any offense or attempt to commit any felony offense described in Section 290, or any felony offense that imposes upon a person the duty to register in California as a sex offender under Section 290.

(B) Murder in violation of Section 187, 190, 190.05, or any degree of murder as set forth in Chapter 1 (commencing with Section 187) of Title 8 of Part 1 of the Penal Code, or any attempt to commit murder.

(C) Voluntary manslaughter in violation of Section 192 or an attempt to commit voluntary manslaughter.

(D) Felony spousal abuse in violation of Section 273.5.

(E) Aggravated sexual assault of a child in violation of Section 269.

(F) A felony offense of assault or battery in violation of Section 217.1, 220, 241.1, 243, 243.1, 243.3, 243.4, 243.7, 244, 245, 245.2, 245.3, or 245.5.

(G) Kidnapping in violation of subdivisions (a) to (e), inclusive, of Section 207, or Section 208, 209, 209.5, or 210, or an attempt to commit any of these offenses.

(H) Mayhem in violation of Section 203 or aggravated mayhem in violation of Section 205, or an attempt to commit either of these offenses.

(I) Torture in violation of Section 206 or an attempt to commit torture.

(2) Any person who is required to register under Section 290 because of the commission of, or the attempt to commit, a felony offense specified in Section 290, and who is committed to any institution under the jurisdiction of the Department of the Youth Authority where he or she was confined, or is granted probation, or is or was committed to a state hospital as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall be required to provide two specimens of blood, a saliva sample, right



thumbprints, and a full palm print impression of each hand to that institution or, in the case of a person granted probation, to a person and at a location within the county designated for testing.

(b) The provisions of this chapter and its requirements for submission to testing as soon as administratively practicable to provide specimens, samples, and print impressions as described in subdivision (a) shall apply regardless of placement or confinement in any mental hospital or other public or private treatment facility, and shall include, but not be limited to, the following persons, including juveniles:

(1) Any person committed to a state hospital or other treatment facility as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(2) Any person who has a severe mental disorder as set forth within the provisions of Article 4 (commencing with Section 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

(3) Any person found to be a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(c) The provisions of this chapter are mandatory and apply whether or not the court advises a person, including any juvenile, that he or she must provide the data bank and data base specimens, samples, and print impressions as a condition of probation, parole, or any plea of guilty, no contest, or not guilty by reason of insanity, to any of the offenses described in subdivision (a).

(d) At sentencing or disposition, the prosecuting attorney shall verify in writing that the requisite samples are required by law, and that they have been taken, or are scheduled to be taken before the offender is released on probation, or other scheduled release. However, a failure by the prosecuting attorney or any other law enforcement agency to verify sample requirement or collection shall not relieve a person of the requirement to provide samples.

(e) The abstract of judgment issued by the court shall indicate that the court has ordered the person to comply with the requirements of this chapter and that the person shall be included in the state's DNA and Forensic Identification Data Base and Data Bank program and be subject to this chapter. However, failure by the court to enter these facts in the abstract of judgment shall not invalidate a plea, conviction, or disposition, or otherwise relieve a person from the requirements of this chapter.

SEC. 4. Section 297 of the Penal Code is amended to read:

297. (a) The laboratories of the Department of Justice that are accredited by the American Society of Crime Laboratory Directors Laboratory Accreditation Board (ASCLD/LAB) or any certifying body approved by the ASCLD/LAB, and any crime laboratory designated by the Department of Justice that is accredited by the



ASCLD/LAB or any certifying body approved by the ASCLD/LAB, are authorized to analyze crime scene samples and other samples of known and unknown origin and to compare and check the forensic identification profiles, including DNA profiles, of these samples against available DNA and forensic identification data banks and data bases in order to establish identity and origin of samples for identification purposes.

(b) A biological sample obtained from a suspect in a criminal investigation for the commission of any crime may be analyzed for forensic identification profiles, including DNA profiles, by the DNA Laboratory of the Department of Justice, which is accredited by the ASCLD/LAB or any certifying body approved by the ASCLD/LAB, or any crime laboratory designated by the Department of Justice that is accredited by the ASCLD/LAB or any certifying body approved by the ASCLD/LAB. Samples obtained from a suspect shall only be compared to samples taken from the criminal investigation for which he or she is a suspect and for which the sample was originally taken either by court order or voluntarily.

(c) All laboratories, including the Department of Justice DNA laboratories, contributing DNA profiles for inclusion in California's DNA Data Bank shall be accredited by the ASCLD/LAB or any certifying body approved by the ASCLD/LAB. Additionally, each laboratory shall submit to the Department of Justice for review the annual report required by the ASCLD/LAB or any certifying body approved by the ASCLD/LAB which documents the laboratory's adherence to ASCLD/LAB standards or the standards of any certifying body approved by the ASCLD/LAB. The requirements of this subdivision apply to California laboratories only and do not preclude DNA profiles developed in California from being searched in the National DNA Data Base (CODIS).

(d) Nothing in this section precludes laboratories meeting Technical Working Group on DNA Analysis Methods (TWGDAM) or Scientific Working Group on DNA Analysis Methods (SWGDM) guidelines or standards promulgated by the DNA Advisory Board as established pursuant to Section 14131 of Title 42 of the United States Code, from performing forensic identification analyses, including DNA profiling, independent of the Department of Justice DNA and Forensic Identification Data Base and Data Bank program.

(e) The limitation on the types of offenses set forth in subdivision (a) of Section 296 as subject to the collection and testing procedures of this chapter is for the purpose of facilitating the administration of this chapter. The detention, arrest, wardship, or conviction of a person based upon a data bank match or data base information is not invalidated if it is later determined that the specimens, samples, or print impressions were obtained or placed in a data bank or data base by mistake.

SEC. 5. Section 299.5 of the Penal Code is amended to read:



299.5. (a) All DNA and forensic identification profiles retained by the Department of Justice pursuant to this chapter are exempt from any law requiring disclosure of information to the public and shall be confidential except as otherwise provided in this chapter.

(b) Non-DNA forensic identification information may be filed with the offender's file maintained by the Sex Registration Unit of the Department of Justice or in other computerized data bank systems maintained by the Department of Justice.

(c) The DNA and other forensic identification information retained by the Department of Justice pursuant to this chapter shall not be included in the state summary criminal history information. However, nothing in this chapter precludes law enforcement personnel from entering into a person's criminal history information or offender file maintained by the Department of Justice the fact that the specimens, samples, and print impressions required by this chapter have or have not been collected from that person.

(d) The fact that the blood specimens, saliva samples, and print impressions required by this chapter have been received by the DNA Laboratory of the Department of Justice shall be included in the state summary criminal history information.

The full palm prints of each hand shall be filed and maintained by the Automated Latent Print Section of the Bureau of Criminal Identification and Information of the Department of Justice, and may be included in the state summary criminal history information.

(e) DNA and other forensic identification information shall be released only to law enforcement agencies, including, but not limited to, parole officers of the Department of Corrections, hearing officers of the parole authority, and district attorneys' offices, at the request of the agency, except as specified in this section. Dissemination of this information to law enforcement agencies and district attorneys' offices outside this state shall be performed in conformity with the provisions of this section. This information shall be available to defense counsel upon court order made pursuant to Chapter 10 (commencing with Section 1054) of Title 6 of Part 2.

(f) Any person who knowingly discloses DNA or other forensic identification information developed pursuant to this section to an unauthorized individual or agency, or for other than identification purposes or purposes of parole or probation supervision, is guilty of a misdemeanor.

(g) Furnishing DNA or other forensic identification information of the defendant to his or her defense counsel for criminal defense purposes in compliance with discovery is not a violation of this section.

(h) It is not a violation of this section to disseminate statistical or research information obtained from the offender's file, the computerized data bank system, any of the DNA laboratory's data bases, or the full palm print file, provided that the subject of the file



is not identified and cannot be identified from the information disclosed. It is not a violation of this section to include information obtained from a file in a transcript or record of a judicial proceeding, or in any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law. All requests for statistical or research information obtained from the DNA data bank shall be cataloged by the Department of Justice. Commencing January 1, 2000, the department shall submit an annual letter to the Legislature including, with respect to each request, the requester's name or agency, the purpose of the request, whether the request is related to a criminal investigation or court proceeding, whether the request was granted or denied, any reasons for denial, costs incurred or estimates of the cost of the request, and the date of the request.

(i) The Department of Justice shall make public the methodology and procedures to be used in its DNA program prior to the commencement of DNA testing in its laboratories. The Department of Justice shall review and consider on an ongoing basis the findings and results of any peer review and validation studies submitted to the department by members of the relevant scientific community experienced in the use of DNA technology. This material shall be available to criminal defense counsel upon court order made pursuant to Chapter 10 (commencing with Section 1054) of Title 6 of Part 2.

(j) In order to maintain the computer system security of the Department of Justice DNA and forensic identification data base and data bank program, the computer software and data base structures used by the DNA Laboratory of the Department of Justice to implement this chapter are confidential.

(k) Nothing in this section shall preclude a court from ordering discovery pursuant to Chapter 10 (commencing with Section 1054) of Title 6 of Part 2.

SEC. 6. Section 299.6 of the Penal Code is amended to read:

299.6. (a) Nothing in this chapter shall prohibit the sharing or disseminating of population data base or data bank information with any of the following:

- (1) Federal, state, or local law enforcement agencies.
- (2) Crime laboratories, whether public or private, that serve federal, state, and local law enforcement agencies that have been approved by the Department of Justice.
- (3) The attorney general's office of any state.
- (4) Any third party that the Department of Justice deems necessary to assist the department's crime laboratory with statistical analyses of the population data base or to assist in the recovery or identification of human remains for humanitarian purposes, including identification of missing persons.



(b) Nothing in this chapter shall prohibit the sharing or disseminating of protocol and forensic DNA analysis methods and quality control procedures with any of the following:

(1) Federal, state, or local law enforcement agencies.

(2) Crime laboratories, whether public or private, that serve federal, state, and local law enforcement agencies that have been approved by the Department of Justice.

(3) The attorney general's office of any state.

(4) Any third party that the Department of Justice deems necessary to assist the department's crime laboratory with analyses of forensic protocol, research methods, or quality control procedures.

(c) The population data base and data bank of the DNA Laboratory of the Department of Justice may be made available to and searched by the FBI and any other agency participating in the FBI's CODIS System or any other national law enforcement data bank system.

(d) The Department of Justice may provide portions of the blood specimens and saliva samples collected pursuant to this chapter to local public DNA laboratories for identification purposes provided that the privacy provisions of this section are followed by the local laboratory and if each of the following conditions is met:

(1) The procedures used by the local public DNA laboratory for the handling of specimens and samples and the disclosure of results are the same as those established by the Department of Justice pursuant to Sections 297, 298, and 299.5.

(2) The methodologies and procedures used by the local public DNA laboratory for DNA or forensic identification analysis are compatible with those established by the Department of Justice pursuant to subdivision (i) of Section 299.5, or otherwise are determined by the Department of Justice to be valid and appropriate for identification purposes.

(3) Only tests of value to law enforcement for identification purposes are performed and a copy of the results of the analysis are sent to the Department of Justice.

(4) All provisions of this section concerning privacy and security are followed.

(5) The local public DNA laboratory assumes all costs of securing the specimens and samples and provides appropriate tubes, labels, and instructions necessary to secure the samples.

(e) Any local public DNA laboratory that produces DNA profiles of known reference samples for inclusion within the permanent files of the state's DNA Data Bank program shall comply with and be subject to all of the rules, regulations, and restrictions of this chapter and shall follow the policies of the DNA Laboratory of the Department of Justice.

SEC. 7. Section 3060.5 of the Penal Code is amended to read:



3060.5. Notwithstanding any other provision of law, the parole authority shall revoke the parole of any prisoner who refuses to sign a parole agreement setting forth the general and any special conditions applicable to the parole, refuses to sign any form required by the Department of Justice stating that the duty of the prisoner to register under Section 290 has been explained to the prisoner, unless the duty to register has not been explained to the prisoner, or refuses to provide samples of blood or saliva as required by the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1), and shall order the prisoner returned to prison. Confinement pursuant to any single revocation of parole under this section shall not, absent a new conviction and commitment to prison under other provisions of law, exceed six months, except as provided in subdivision (c) of Section 3057.

SEC. 8. Section 11170 of the Penal Code is amended to read:

11170. (a) (1) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(2) The department shall act only as a repository of reports of suspected child abuse to be maintained in the Child Abuse Central Index pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible for ensuring that the Child Abuse Central Index accurately reflects the report it receives from the submitting agency.

(3) Information from an inconclusive or unsubstantiated report filed pursuant to subdivision (a) of Section 11169 shall be deleted from the Child Abuse Central Index after 10 years if no subsequent report concerning the same suspected child abuser is received within that time period. If a subsequent report is received within that 10-year period, information from any prior report, as well as any subsequently filed report, shall be maintained on the Child Abuse Central Index for a period of 10 years from the time the most recent report is received by the department.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the



appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code.

(4) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State Child Death Review Council, information maintained in the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 relating to the death of one or more children and any prior child abuse investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(5) The department shall make available to child protective agencies, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interests of the child. Upon receipt of relevant information concerning child abuse investigation reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency or court investigator shall



notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(6) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), or a child protective agency or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (5), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, or placement of a child.

(B) If Child Abuse Central Index information is requested by a child protective agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(7) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs



incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1), and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1).

(c) The Department of Justice shall make available to any child protective agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency shall also notify in writing the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

If Child Abuse Central Index information is requested by a child protective agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(d) The department shall make available any information maintained pursuant to Section 11169 to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse only when an agency makes the request for information in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary



investigative teams, and shall cite the criminal penalties for unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision. In the absence of a specified out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(e) Any person may determine if he or she is listed in the Child Abuse Central Index by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (13) of subdivision (a) of Section 11167.5.

(f) If a person is listed in the Child Abuse Central Index only as a victim of child abuse, and that person is 18 years of age or older, that person may have his or her name removed from the index by making a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.

SEC. 9. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

