

MARCH 14, 2023

# Analysis of Proposed DNA Identification Fund Backfill

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PRESENTED TO: Assembly Budget Subcommittee No. 4 on State Administration  
Hon. Wendy Carrillo, Chair



LEGISLATIVE ANALYST'S OFFICE

## **Bureau of Forensic Services (BFS) Provides Various Services to Government Entities**

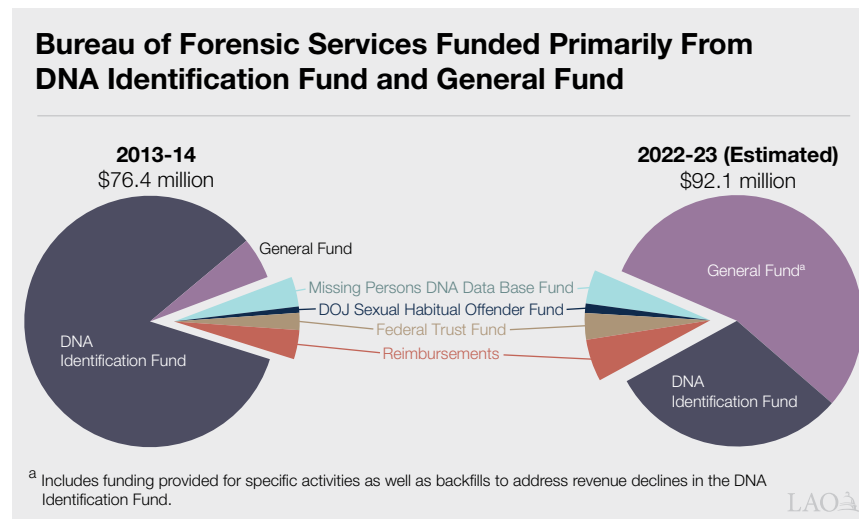
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- The BFS within the Department of Justice (DOJ) maintains ten regional laboratories that provide criminal laboratory services—such as DNA testing, controlled substances analysis, and on-site crime scene investigative support—generally at no charge to local law enforcement and prosecutorial agencies in 46 counties that do not have access to such services.
- BFS also assists the 12 counties and 8 cities that operate their own laboratories where BFS offers services their laboratories lack. (Local agencies also contract with private or other governmental laboratories for service.)
- Additionally, BFS provides nonlocal government entities, such as the California Highway Patrol, with criminal laboratory services.
- BFS operates the state’s DNA laboratory as well as the state’s criminalistics training institute.



## BFS Supported Primarily by DNA Identification Fund and State General Fund

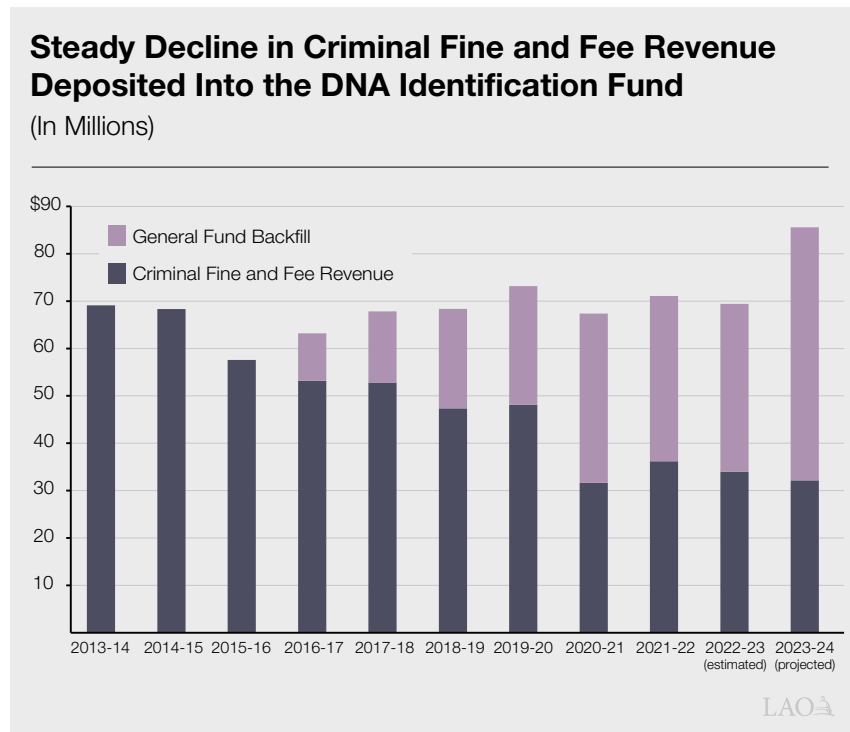
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- As shown above, BFS receives support from various fund sources, with most of the funding from the DNA Identification Fund—a state special fund that receives criminal fine and fee revenues—and the state General Fund. Support from these two funds totaled 89 percent of total BFS funding in 2013-14 and 86 percent in 2022-23. However, the proportion of General Fund needed has increased.



## DNA Identification Revenues Steadily Declined Over Time



- As shown in the above figure, the amount of criminal fine and fee revenue deposited into the DNA Identification Fund has steadily declined over the past decade—from a high of \$69 million in 2013-14 to \$34 million in 2022-23 (a decline of 51 percent).
- The state has provided an increasing amount of one-time General Fund to backfill this reduction in order to maintain BFS service levels.
- This is part of a broader decline in state and local criminal fine and fee revenue that has occurred since 2010-11 due to various factors, such as fewer traffic tickets being issued. This has resulted in various state funds (and the programs they support) facing insolvency. The state has addressed this in various ways—such as by shifting costs (including to the General Fund), reducing expenditures, and attempting to increase revenue collections.



## Legislature Required DOJ Report on Potential Funding Options Other Than General Fund

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- The 2021-22 budget package required DOJ to identify various options—other than the General Fund—to support BFS annual operations. DOJ was also specifically directed to consider an option that would require local agencies share in the support of BFS costs.
- DOJ identified five alternative funding options: (1) a general tax increase; (2) increasing the surcharge added to criminal history background check fees and allowing it to also cover BFS costs; (3) increasing the fee added when people are convicted of criminal offenses, which is deposited in the DNA Identification Fund; (4) requiring the judicial branch to help fund BFS; and (5) requiring nonlocal government entities to pay for their share of BFS services.
- DOJ also provided the benefits and drawback of four different methods for implementing a cost-sharing model with local agencies.



# Governor's Proposals

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## **Increases DNA Identification Fund Support for BFS**

- The Governor's budget proposes \$17.3 million in increased annual funding from the DNA Identification Fund to support BFS. This amount consists of:
  - \$10 million to restore historical spending levels from the fund. In prior years, spending levels from the DNA Identification Fund were reduced by \$10 million with \$10 million in General Fund redirected to BFS from another program within DOJ. The redirected General Fund was then backfilled by revenues from another special fund. This prior-year action is no longer sustainable.
  - \$7.3 million to support equipment replacement (\$5.8 million) and facility maintenance (\$1.5 million).

## **Provides Ongoing General Fund Backfill of DNA Identification Fund**

- The Governor's budget proposes to transfer \$53.4 million General Fund on an ongoing basis to the DNA Identification Fund to backfill reductions in criminal fine and fee revenue and support the proposed increased expenditures.
- The Governor's budget also proposes provisional budget language authorizing the Department of Finance—after 30-day legislative notification—to provide additional General Fund if revenues deposited into the DNA Identification Fund decline further and are unable to support BFS operations.



# Assessment

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## Proposal Permanently Addresses Ongoing Decline in DNA Identification Fund Revenues

## Increased DNA Identification Fund Support for BFS Reasonable Due to Sufficient Workload Justification

## Requiring Users of BFS Services to Partially Support BFS Merits Consideration

- ***BFS Provides Certain Local Governments Substantial Benefits.*** Local law enforcement and prosecutorial agencies are responsible for collecting and submitting forensic evidence for testing and using it to pursue convictions. However, the current system is inequitable as it substantially benefits only some of these agencies. Specifically, 46 counties generally do not have to use any of their resources for forensic services—as BFS effectively subsidizes them with tens of millions of dollars in services annually. This is in contrast to the 12 counties and 8 cities that use their own resources to support local laboratories.
- ***Users of BFS Services Lack Incentive to Use BFS Cost-Effectively.*** In contrast to local governments that pay for forensic service, local agencies receiving BFS services lack incentive to prioritize what is collected and submitted for testing. This is because BFS does not charge for services. Similarly, the nonlocal government entities also lack this incentive.



# Assessment

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(Continued)

## Most Alternative Funding Options Identified by DOJ Raise Concerns

- **General Tax Increase.** A proposed general tax increase would effectively be an increase in General Fund resources as such taxes are typically deposited into the state's General Fund to support various purposes.
- **Criminal History Background Check Fee Increase.** BFS work does not seem consistent with the intent of fees typically assessed to cover DOJ costs for providing criminal history information for employment and licensing purposes.
- **Criminal Conviction Fee Increase.** Given the state's complex formula for distributing criminal fine and fee revenue, there is no guarantee that increasing this fee would actually increase the amount deposited in the DNA Identification Fund annually.
- **Requiring Judicial Branch Provide Support.** Local prosecutorial agencies and law enforcement—not the judicial branch—are responsible for determining whether a criminal case is to be filed and the type and quality of evidence needed to prosecute such cases.





## Recommendations

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### **Require Forensic Services Users Partially Support BFS Beginning in 2024-25**

- We recommend the Legislature require local governments—as well as nonlocal government entities—partially support BFS beginning in 2024-25. Agencies would be required to pay for a portion of the services they receive—providing greater incentive to prioritize workload submitted to BFS.
- For local governments, this would be more equitable than the existing system in which certain local governments receive substantial benefit from services at no charge, while others pay to operate their own laboratories.
- Delaying implementation until 2024-25 provides time for the implementation of the new funding structure and to allow agencies to adapt.

### **Require DOJ Develop Plan for Calculating User Share of BFS Support**

- We recommend the Legislature direct DOJ to submit a plan for calculating each agency's share of total BFS services it uses and report on this plan no later than October 1, 2023. We also recommend the Legislature provide DOJ with direction on how much revenue must come from such payments (such as one-third or one-half of BFS operation costs).
- DOJ would have flexibility in such calculations—such as requiring more or less payment based on the type of forensic service or the size of the agency. While developing such a plan may be difficult, it would increase user incentive to use BFS services cost-effectively, promote equity among local governments, and reduce the General Fund backfill needed in 2024-25 and in future years.



## Recommendations

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### **Approve Funding Level and Provide Backfill for One Year**

- We recommend the Legislature approve the requested funding level, but only provide the \$53.4 million requested backfill for one year. This would ensure BFS service levels are maintained while the new funding structure is implemented.

