

Adopted: 11/17/94  
Amended: 11/20/97  
Amended: 1/29/10

## **Amendment to Parameters and Guidelines**

Penal Code Section 2625

Statutes 1991, Chapter 820

*Prisoner Parental Rights*

05-PGA-40 (CSM 4427)

This amendment is effective beginning with claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement.

### **I. Summary of Mandate**

Statutes 1991, chapter 820, amended Penal Code section 2625, to expand juvenile court actions eligible for parental attendance rights to include legal guardianship proceedings. Because the Trial Court Funding Act prohibits counties from claiming reimbursement for activities related to “court operations”, the Commission on State Mandates found that only the activities of transporting prisoners to and from the court, and housing prisoners if required in the course of transport, are reimbursable activities.

### **II. Commission on State Mandates Decision**

The Commission on State Mandates found a state-reimbursable mandate in these activities at its hearing of September 23, 1993, and adopted the Statement of Decision for this claim at its hearing of November 18, 1993.

### **III. Eligible Claimants**

Cities and counties.

### **IV. Period of Reimbursement**

This amendment is effective beginning with claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement.

Statutes 1991, chapter 820, became operative January 1, 1992. Government Code section 17557 states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed by the County of San Bernardino on December 31, 1992. Therefore, reimbursement claims may be filed for costs incurred on or after January 1, 1992.

Actual costs for one fiscal year should be included in each claim. Estimated costs for the subsequent fiscal year may be included in the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d), subpart (3), all claims for reimbursement of costs shall be submitted within 120 days of notification by the State Controller of the enactment of the claims bill.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be

allowed, except as otherwise provided by Government Code section 17564.

## **V. Reimbursable Costs**

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge." Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

### **A. Scope of Mandate**

Eligible claimants shall be reimbursed for the costs to execute a court order for the removal and production of a prisoner parent before the superior court for the following juvenile court actions:

Welfare and Institutions Code section 366.26 -- Minors who are made dependent children of the juvenile court, the termination of parental rights, or the establishment of legal guardianships.

Welfare and Institutions Code section 300, subdivisions:

- (c) -- Minors suffering serious emotional damage or at substantial risk, as a result of the conduct of the parent or guardian.
- (e) -- Minors under the age of 5 suffering severe physical abuse.
- (f) -- Minors whose parent has been convicted of causing the death of another child.
- (i) -- Minors subjected to acts of cruelty.
- (j) -- Minors whose sibling has been abused and who are also at risk.

B. Reimbursable Activities

For each eligible claimant, the following activities are reimbursable:

1. Transporting Prisoners

The costs of retrieving the prisoners from the institution, transporting them to the court, holding them safely, and then returning them to the institution.

2. Housing Prisoners

The costs of housing prisoners, if required during the course of transport.

**VI. Claim Preparation**

Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a listing of each item for which reimbursement is claimed under this mandate.

A. Reporting by Components

Claimed costs must be allocated according to the components of reimbursable activities described in Section V.B.

B. Supporting Documentation

Claimed costs should be supported by the following information:

1. Employee Salaries and Benefits

Show the name of the employee involved, the classification of the employee involved, mandated functions performed, number of hours devoted to the function, productive hourly rate and benefits.

2. Services and Supplies

Only expenditures which can be identified as a direct cost as a result of the mandate can be claimed. List cost of materials or equipment acquired which have been consumed or expended specifically for the purposes of this mandate.

3. Allowable Overhead Costs

Indirect costs may be claimed either by using ten percent of direct labor as an indirect cost rate or by preparing a departmental indirect cost rate proposal to determine the rate.

**VII. Records Retention**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for

actual costs filed by a local agency or school district pursuant to this chapter<sup>1</sup> is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section V, must be retained during the period subject to audit. If the Controller has initiated an audit during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

#### **VIII. Offsetting Savings and Other Reimbursements**

Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for the costs of these mandated activities received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.

#### **IX. State Controller's Office Required Certification**

An authorized representative of the claimant will be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by the statute for which reimbursement is requested.

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<sup>1</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.