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CSM-4484  
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## Proposed Amendment to Parameters and Guidelines

Government Code Sections 14205, 14206, 14207, 14210, 14213  
Chapter 1456, Statutes of 1988  
Chapter 59, Statutes of 1993

### *Missing Person Reports III*

#### I. SUMMARY & SCOPE OF THE MANDATE

Chapter 1456, Statutes of 1988 added Title 12 (commencing with section 17200) to Part 4 of the Penal Code, and repealed and recast sections 11114, 11114.1 and 11114.3 of the Penal Code relating to missing persons. The repealed sections were the basis for the Missing Persons Reports II. Subsequent legislation, Chapter 59, Statutes of 1993, amended *only* Penal Code section 14206<sup>1</sup> to make it permissive rather than mandatory for the law enforcement agency, in cases involving persons under the age of 18 years old reported missing or not found within 45 days, to confer with the coroner or medical examiner and submit its report to the Attorney General. Chapter 59/93 was *intended* to repeal all of the activities mandated by Chapter 1456/88, rather than amending only section 14206. The “Missing Persons Reports III” mandate had been suspended in the three previous Budget Acts pursuant to Section 17581 of the Government Code. Because all mandated activities were not repealed by Chapter 59/93, however, local agencies were required to continue to process reports of missing persons in a specific manner during the 1994-95 fiscal year and are now seeking reimbursement for the costs of those activities, since the 1994 Budget Act did not provide funding for that purpose.<sup>2</sup> However, federal law (PL 101-647), which enacted the “National Child Search Assistance Act of 1990,” requires the reporting of specified basic information on persons under age 18 who are reported missing. The scope of the state mandate is therefore limited, as described in section IX. Limitations on Reimbursement, to those elements of the state requirements which are not found in the federal law. No such limitation exists for preparing missing person reports for persons over age 18.

#### II. COMMISSION DECISION

On April 26, 1990, the Commission found that Chapter 1456/88 increased the level of service of an existing program.<sup>3</sup> Later, Chapter 59/93 amended section 14206 to make much of it permissive, but failed to repeal *all* of the activities mandated by Chapter 1456/88. This proposed amendment to the Chapter 1456/88 parameters and guidelines

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<sup>1</sup> Unless otherwise indicated, “section” refers to the Penal Code.

<sup>2</sup> The remaining mandated activities were again suspended in the 1995 Budget Act and then made non-mandatory by the enactment of Chapter 914, Statutes of 1995 (AB 818).

<sup>3</sup> Statement of Decision, *Missing Person Reports III*

which had been adopted by the Commission on February 28, 1991 reflects the federal law (PL 101-647) limitations on reimbursement as well as the Chapter 59/93 changes.

### III. ELIGIBLE CLAIMANTS

Any city, county, or special district which incurs increased costs as a result of these mandates is eligible to claim reimbursement of those costs.

### IV. PERIOD OF REIMBURSEMENT

Section 17557 of the Government Code 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.<sup>4</sup> The Commission received claimant's proposed amendment to the Chapter 1456/88 parameters and guidelines on September 13, 1995. Therefore, all costs mandated by the state incurred on or after July 1, 1994, through June 30, 1995, for the implementation of the specified activities included in sections 14205, 14206, 14207, 14210 and 14213, as last amended by Chapter 59, Statutes of 1993, are reimbursable with the exception of the activities required by federal law (PL 101-647), as described under section IX. Limitations on Reimbursement.

Pursuant to section 17561, subdivision (d), subpart (3), of the Government Code, all claims for reimbursement of initial years' costs shall be submitted within 120 days of the date the State Controller issues the initial claiming instructions.<sup>5</sup>

If total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

### V. REQUIRED REIMBURSABLE ACTIVITIES

Local jurisdictions will be reimbursed for costs associated with the following mandated activities:

#### **Section 14205, subdivisions (a) and (b)**

The following activities are required of local police and sheriff's departments with regards to missing persons and runaways:

- Accept any report, including any telephonic report, of a missing person, including runaways, without delay and give priority to the handling of these reports over the handling of reports relating to crimes involving property.
- Immediately take the report and make an assessment of reasonable steps to be taken to locate the person.

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<sup>4</sup> In this case, claimant filed a proposed amendment to the existing parameters and guidelines for Chapter 1456/88 rather than filing a new test claim. The only substantive changes in the proposed amendment are the deletion of the section 14206 activities made permissive by Chapter 59/93, the limitations on reimbursement due to federal law (PL 101-647) and the update to the period of reimbursement.

<sup>5</sup> In this case, no additional funding for any subsequent years' costs is required since the remaining mandated activities were again suspended in the 1995 Budget Act and then made non-mandatory by the enactment of Chapter 914, Statutes of 1995 (AB 818).

- If the missing person is under 12 years of age, or there is evidence that the person is at risk, the department shall broadcast a “Be On the Look-Out” bulletin, without delay, within its jurisdiction, and submit the report to the Attorney General’s office within four hours after accepting the report.
- Note: The California Law Enforcement Telecommunications System On-line Missing Persons Registry, referred to as MUPS (Missing/Unidentified Persons System), is now operational. Therefore, the reports shall be submitted, within four hours after accepting the report, to the Attorney General’s office through the use of this system.

**Section 14205, subdivision (c)**

In cases where the report is taken by a department other than that of the city or county of residence of the missing person or runaway, the department shall:

- Without delay, notify and forward a copy of the report to the police or sheriff’s department(s) having jurisdiction of the residence address of the missing person or runaway and of the place the person was last seen.
- In cases involving children under 12 years of age, or where there was evidence that the missing person was at risk, within no more than 24 hours, notify and forward a copy of the report to the police or sheriff’s department(s) having jurisdiction of the residence address of the missing person or runaway and of the place the person was last seen.

**Section 14206, subdivision (a), subpart (1)**

The following activities are required of the police department, sheriff’s department, district attorney’s office, or other law enforcement agencies in regards to missing persons:

- Provide the required forms from the Department of Justice to any person making a missing person report. This includes a statement authorizing the release of the following:
  - A recent photograph of any missing person under 18 years of age.\*

\*New requirement for District Attorney only.

The following activity is required of the police department, sheriff’s department, district attorney’s office, or other law enforcement agencies in regards to missing persons if the person reported missing is still missing 30 days after the report is made:

- When no family or next of kin exists or can be located, execute a written declaration signed by a peace officer stating that an active investigation seeking the location of the missing person is being conducted and that the dental or skeletal records, or both, are necessary for the exclusive purpose of furthering the investigation.

**Section 14206, subdivision (a), subpart (2)**

The following activities are required of the police department, sheriff's department, or other law enforcement authority within 24 hours when the missing person is under 18 years of age and the law enforcement agency determines that the disappearance involves evidence that the person is at risk:

- Prepare the missing person report.
- When no family or next of kin exists or can be located, execute a written declaration signed by a peace officer stating that an active investigation seeking the location of the missing person is being conducted, and that the dental or skeletal records, or both, are necessary for the exclusive purpose of furthering the investigation.
  - Obtain the dental or skeletal X-rays, or both, from the missing person's dentist, physician and surgeon, or medical facility.

The following activities are required by the police department, sheriff's department, or other local law enforcement authorities within 24 hours if the missing person is under 12 years of age and has been missing at least 14 days:

- Prepare the missing persons report.
- When no family or next of kin exists or can be located, execute a written declaration signed by a peace officer stating that an active investigation seeking the location of the missing person is being conducted, and that the dental or skeletal records, or both, are necessary for the exclusive purpose of furthering the investigation.
  - Obtain the dental or skeletal X-rays, or both, from the missing person's dentist, physician and surgeon, or medical facility.

**Section 14207, subdivisions (a), (b) and (c)**

When a person reported missing is found, the following shall be performed:

- The sheriff, chief of police, coroner or medical examiner, or the law enforcement agency locating the missing person shall immediately report that information to the Attorney General's Office.
- When a child under 12 years of age, or a missing person where there was evidence that the person was at risk, is found, the report indicating that the person is found shall be made not later than 24 hours after the person is found. A report shall also be made to the law enforcement agency that made the initial missing person report.
- In the event that a missing person is found alive or dead in less than 24 hours and the local police or sheriff's department has reason to believe that the person had been abducted, the department shall submit a report to the Violent Crime Information Center in a format established by the Attorney General. In the event that a missing person has been found before he or she has been reported missing to the center, the information related to the incident shall be submitted to the center.

**Section 14210**

- All law enforcement agencies must immediately assist any person who is attempting to make a report of a missing person or runaway.

**Section 14213, subdivisions (a), (b), (c), (d), (e) and (f)**

Definitions in regards to missing persons:

- This Title expands the class of “missing person” by specifically defining this term to include a child who has been taken, detained, concealed, enticed away, or retained by a parent, and who is missing voluntarily or involuntarily, or under circumstances not conforming to his or her ordinary habits or behavior and who may be in need of assistance. Further, this Title changes the condition to be met for initiating certain missing person procedures from “suspicious circumstances” to evidence that the person is at risk.
- As used in this title, “evidence that the person is at risk” includes, but is not limited to, evidence or indications of any of the following:
  - (1) The person missing is the victim of a crime or foul play.
  - (2) The person missing is in need of medical attention.
  - (3) The person missing has no pattern of running away or disappearing.
  - (4) The person missing may be the victim of parental abduction.
  - (5) The person missing is mentally impaired.
- As used in this title, “child” is any person under the age of 18; “center” means the Violent Crime Information Center; “dependent adult” is any person described in subdivision (e) of section 368; and, “dental or medical records or X-rays” include all those records or X-rays which are in the possession of a dentist, physician and surgeon, or medial facility.

**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.

- Description of Activity.
- Supporting Documentation.

Claimed cost should be supported by the following:

1. Employee Salaries and Benefits

Identify the employee(s) and their job classification, describe the mandated functions performed, and specify the actual number of hours devoted to each function, the productive hourly rate, and related benefits. The staff time claimed must be supported by source documentation, such as time reports, however, the average number of hours devoted to each function may be claimed if supported by a documented time study.

## 2. Services and Supplies

Only the expenditures that can be identified as a direct cost of the mandate can be claimed. List the cost of materials consumed or expended specifically for the purpose of this mandate.

## 3. Allowable Overhead Costs

Indirect costs may be claimed in the manner prescribed by the State Controller in his claiming instructions.

## VII. SUPPORTING DATA

Pursuant to Government Code section 17558.5, documentation in support of claimed costs must be kept on file by the agency submitting the claim for the appropriate time period specified in the section and made available on the request of the State Controller.

## VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, i.e., service fees collected, federal funds, including, but not limited to grants received pursuant to section 406 of the Missing Children's Assistance Act, other state funds, etc., shall be identified and deducted from this claim.

## IX. LIMITATIONS ON REIMBURSEMENT

Because federal law (PL 101-647), which was in effect during the 1994-95 fiscal year, requires that certain information be reported on missing persons under age 18, the costs of obtaining and reporting the following information on such persons are not reimbursable and cannot be claimed.

- the name, date of birth, sex, race, height, weight and eye color of the person;
- the date and location of the last known contact with the person; and
- the category under which the person is reported missing

This limitation does not apply to any costs associated with providing the required forms from the Department of Justice (DOJ) to any person making a missing person report. In addition, the costs of obtaining the dental or skeletal X-rays, or both, from a missing person's (under age 18) dentist, physician and surgeon, or medical facility are not reimbursable because federal law requires that they be obtained.

## X. 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 state contained therein.

