



September 26, 2025

Mr. Chris Hill  
Department of Finance  
915 L Street, 8th Floor  
Sacramento, CA 95814

Mr. Rajiv Narayan  
Office of the County Counsel  
County of Santa Clara  
70 West Hedding Street  
San Jose, CA 95110

*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**Re: Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**  
*Child Physical Abuse and Neglect Exams, 24-TC-05*  
Statutes 2023, Chapter 841 (AB 1402); Penal Code Section 11171(f), effective  
January 1, 2024  
County of Santa Clara, Claimant

Dear Mr. Hill and Mr. Narayan:

The Draft Proposed Decision for the above-captioned matter is enclosed for your review and comment.

**Written Comments:** Written comments may be filed on the Draft Proposed Decision no later than **5:00 pm on October 17, 2025**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.<sup>1</sup>

You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(c)(1).) Refer to <https://www.csm.ca.gov/dropbox.shtml> on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon approval of a written request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(c)(2).)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

---

<sup>1</sup> Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

**Hearing:** This matter is set for hearing on **Friday, February 13, 2026** at 10:00 a.m. The Proposed Decision will be issued on or about January 30, 2026.

If you plan to address the Commission on this item, please notify the Commission Office not later than noon on the Tuesday prior to the hearing, **February 10, 2026**. Please also include the names of the people who will be speaking for inclusion on the witness list and the names and emails addresses of the people who will be speaking both in person and remotely to receive a hearing panelist link in Zoom. When calling or emailing, please identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Very truly yours,



Juliana F. Gmur  
Executive Director

**ITEM \_\_\_\_**  
**TEST CLAIM**  
**DRAFT PROPOSED DECISION**

Penal Code Section 11171(f), Effective January 1, 2024

Statutes 2023, Chapter 841 (AB 1402)

*Child Physical Abuse and Neglect Exams*

24-TC-05

County of Santa Clara, Claimant

---

**EXECUTIVE SUMMARY**

**Overview**

This Test Claim alleges new state-mandated activities and costs arising from Penal Code section 11171(f), which prohibits counties from billing the victim or the victim's insurance for child physical abuse and neglect exams, as of January 1, 2024. Instead of counties billing the victim or the victim's insurance for child physical abuse and neglect exams, a system of state funding was created by the test claim statute in Penal Code section 11171(g) ("The costs associated with these medical evidentiary exams shall be funded by the state, subject to appropriation by the Legislature"), but no appropriation has yet been made.<sup>1</sup> Formerly, from January 1, 2004, until December 31, 2023, the counties billed the child's private insurance, if available, and Medi-Cal or the State Victim Compensation Board (VCB).

For reasons stated in the analysis, staff recommends the Commission partially approve this Test Claim.

**Procedural History**

The claimant filed the Test Claim on December 31, 2024.<sup>2</sup> The Department of Finance (Finance) filed comments on the Test Claim on April 10, 2025.<sup>3</sup> Kern County

---

<sup>1</sup> Exhibit B, Finance's Comments on the Test Claim, page 1 ("AB 1402 also requires the costs of such exams to be funded by the state, subject to appropriation by the Legislature, and be submitted to Cal OES for reimbursement. However, no appropriation has been provided to Cal OES for this purpose.").

<sup>2</sup> Exhibit A, Test Claim.

<sup>3</sup> Exhibit B, Finance's Comments on the Test Claim.

Department of Human Services filed late comments on the Test Claim on April 11, 2025.<sup>4</sup> The claimant filed rebuttal comments on May 7, 2025.<sup>5</sup>

Commission staff issued the Draft Proposed Decision on September 26, 2025.<sup>6</sup>

### **Commission Responsibilities**

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly situated local agencies or school districts must file a test claim with the Commission. “Test claim” means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>7</sup>

### **Claims**

The following chart provides a brief summary of the claims and issues raised and staff’s recommendation.

<b>Issue</b>	<b>Description</b>	<b>Staff Recommendation</b>
Was the Test Claim timely filed?	Government Code section 17551(c) requires test claims “be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.” Section 1183.1(c) of the Commission’s regulations	<i>Yes, the Test Claim was timely filed.</i>  The claimant filed the Test Claim on December 31, 2024 (during FY 2024-2025); thus, the potential period of reimbursement under Government Code section 17557(e) would begin at the start of the prior fiscal year, which is July 1, 2023.

---

<sup>4</sup> Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim.

<sup>5</sup> Exhibit C, Claimant’s Rebuttal Comments.

<sup>6</sup> Exhibit E, Draft Proposed Decision.

<sup>7</sup> *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1281 citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

Issue	Description	Staff Recommendation
	<p>defines “12 months” as 365 days.</p> <p>Government Code section 17557(e) requires: “A test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that year.”</p>	<p>However, since the test claim statute has a later effective date, the potential period of reimbursement begins on the statute’s effective date, or January 1, 2024.</p>
<p>Does Penal Code 11171(f) as added by the test claim statute impose a reimbursable state-mandated program on counties?</p>	<p>Penal Code section 11171(f) - (h) was added by the test claim statute as follows:</p> <p>“(f) The costs associated with the medical evidentiary examination of a victim of child physical abuse or neglect shall be separate from diagnostic treatment and procedure costs associated with medical treatment. <b><i>Costs for the medical evidentiary portion of the examination shall not be charged directly or indirectly to the victim of child physical abuse or neglect.</i></b></p> <p>(g) Each county’s board of supervisors shall authorize a designee to approve the Sexual Assault Response Teams (SART), Sexual Assault Forensic Examiner (SAFE) teams, or other qualified medical evidentiary examiners to receive reimbursement through the Office of Emergency Services for the performance of medical evidentiary examinations for victims of child physical</p>	<p>Yes. The test claim statute imposes a partial state-mandated new program or higher level of service on counties, under article XIII B, section 6(c), resulting in increased costs mandated by the state.</p> <p>Under prior law, counties had the authority to bill the victim’s private medical insurance, Medi-Cal, or the Victim’s Compensation Board (VCB) for the cost of the child physical abuse and neglect evidentiary exam.<sup>i</sup> Penal Code section 11171(f), as amended by the test claim statute, prohibits counties from billing the victim directly or indirectly for the cost of the exam, beginning January 1, 2024.</p> <p>The test claim statute does <i>not</i> mandate a new program or higher level of service for the increased costs of child physical abuse and neglect evidentiary exams when the costs could have been recovered directly from the victim or from the victim’s</p>

Issue	Description	Staff Recommendation
	<p>abuse or neglect and shall notify the Office of Emergency Services of this designation. <b><i>The costs associated with these medical evidentiary exams shall be funded by the state, subject to appropriation by the Legislature.</i></b> Each county's designated SART, SAFE, or other qualified medical evidentiary examiners shall submit invoices to the Office of Emergency Service, who shall administer the program. A flat reimbursement rate shall be established. Within one year upon initial appropriation, the Office of Emergency Service shall establish a 60-day reimbursement process. The Office of Emergency Service shall assess and determine a fair and reasonable reimbursement rate to be reviewed every five years.</p> <p>(h) Reimbursement shall not be subject to reduced reimbursement rates based on patient history or other reasons. Victims of child physical abuse or neglect may receive a medical evidentiary exam outside of the jurisdiction where the</p>	<p>private medical insurance. There is no new activity required by the test claim statute, the state has not shifted any costs which were previously the responsibility of the state under these circumstances, and increased costs alone do not constitute a reimbursable mandate under article XIII B, section 6.<sup>9</sup></p> <p>However, absent an appropriation from the state sufficient to cover the costs of the child physical abuse and neglect evidentiary exams, and where the state, through Medi-Cal or the VCB, previously paid for the child physical abuse and neglect medical evidentiary exams, the test claim statute shifts those costs from the state to the counties under article XIII B, section 6(c), resulting in a mandated new program or higher level of service. Counties are compelled to provide child physical abuse and neglect exams when the facts present themselves and section 11171(g) requires the counties to authorize a designee to approve the counties' Sexual Assault Response Teams (SART),</p>

<sup>9</sup> California Constitution, article XIII B, section 6(a) and (c); *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816 ("Section 6 was not intended to entitle local entities to reimbursement for *all* increased costs resulting from Legislative enactments, but only those costs mandated by a new program or an increased level of service imposed upon them by the State.").

Issue	Description	Staff Recommendation
	<p>crime occurred and that county's approved SART, SAFE teams, or qualified medical evidentiary examiners shall be reimbursed for the performance of these exams."<sup>8</sup></p> <p>To date, the Legislature has not appropriated funds to pay for the cost of the evidentiary exams pursuant to section 11171(g).</p> <p>Article XIII B, section 6(c), as added by Proposition 1A in 2004, defines a mandated new program or higher level of service to also include "a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility."</p>	<p>Sexual Assault Forensic Examiner (SAFE) teams, or other qualified medical evidentiary examiners to receive reimbursement through the California Office of Emergency Services (Cal OES) for the performance of medical evidentiary examinations for victims of child physical abuse or neglect. Thus, the cost of the exams, which has been shifted from the state to the counties with respect to previous Medi-Cal and VCB reimbursement for the exams, are a component of a mandated program.</p> <p>Finally, based on substantial evidence in the record, the mandated new program or higher level of service results in increased costs mandated by the state and none of the exceptions to reimbursement in Government Code section 17556 apply.<sup>10</sup></p>

### **Staff Analysis**

This Test Claim alleges new state-mandated activities and costs arising from Penal Code section 11171(f), which prohibits counties from billing the victim or the victim's insurance for child physical abuse and neglect exams, as of January 1, 2024. Instead of counties billing the victim or the victim's insurance for child physical abuse and neglect exams, a system of state funding was created by the test claim statute in Penal Code section 11171(g) ("The costs associated with these medical evidentiary exams shall be funded by the state, subject to appropriation by the Legislature"), but no

<sup>8</sup> Penal Code section 11171, as amended by Statutes 2023, chapter 841, section 1.

<sup>10</sup> Exhibit A, Test Claim, pages 35-36, paragraphs 9, 12-13 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

appropriation has yet been made.<sup>11</sup> Formerly, from January 1, 2004, until December 31, 2023, the counties billed the child's private insurance, if available, and Medi-Cal or the State Victim Compensation Board (VCB).

Staff finds the Test Claim is timely filed with a potential period of reimbursement beginning January 1, 2024.

Staff finds that the test claim statute does not mandate a new program or higher level of service for the increased costs of child physical abuse and neglect evidentiary exams when the costs could have been recovered directly from the victim or from the victim's private medical insurance. There is no new activity required by the test claim statute, the state has not shifted any costs which were previously the responsibility of the state, and increased costs alone do not constitute a reimbursable mandate under article XIII B, section 6.<sup>12</sup>

However, absent an appropriation from the state sufficient to cover the costs of the child physical abuse and neglect evidentiary exams, and where the state, through Medi-Cal or the VCB, previously paid for the child physical abuse and neglect medical evidentiary exams, the test claim statute shifts those costs from the state to the counties under article XIII B, section 6(c), resulting in a mandated new program or higher level of service. The voters added article XIII B, section 6(c) to the California Constitution in 2004 (Proposition 1A), recognizing reimbursable mandates in the transfer "of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility."

From January 1, 2004, to December 31, 2023, funds from Medi-Cal and the VCB reimbursed counties for the cost of child physical abuse and neglect medical evidentiary exams. Both billing options have been acknowledged on the Cal OES exam instructions since 2001.<sup>13</sup> Under Chapter IV, "Reimbursements for

---

<sup>11</sup> Exhibit B, Finance's Comments on the Test Claim, page 1 ("AB 1402 also requires the costs of such exams to be funded by the state, subject to appropriation by the Legislature, and be submitted to Cal OES for reimbursement. However, no appropriation has been provided to Cal OES for this purpose.").

<sup>12</sup> California Constitution, article XIII B, section 6(a) and (c); *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816 ("Section 6 was not intended to entitle local entities to reimbursement for *all* increased costs resulting from Legislative enactments, but only those costs mandated by a new program or an increased level of service imposed upon them by the State.").

<sup>13</sup> Exhibit A, Test Claim, page 235; Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025) (**"3. Payment methods have not been formally established. Options to pursue include: the patient's public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law enforcement agencies or Child Protective Services (CPS). Follow local policy."** Emphasis in original.).



Examinations,” the Cal OES Protocol stated before the test claim statute, attached to forms dated January 1, 2004:

In the majority of counties in California, charges for child physical abuse and neglect examinations **are billed to Medi-Cal** or to the patient’s private insurance. Standard diagnostic and procedural coding manuals are used to generate charges. For patients without insurance, or who are underinsured, reimbursement of **charges may be obtained through California Victim Compensation and Government Claims Board**.<sup>14</sup>

Since at least 1982, Medi-Cal assumed financial responsibility for abused and neglected children. The State Department of Healthcare Services advised all county directors in 1982 that individuals receiving “Emergency Assistance,” including “Abused, Neglected or Exploited Children (EA-ANEC)” were considered “public assistance recipients” and “will be eligible for Medi-Cal benefits and a Medi-Cal card.”<sup>15</sup> Social workers have since been applying on behalf of an abused or neglected child for “Retroactive Medi-Cal,” using Form MC 250.<sup>16</sup> Thus, if these children were not already enrolled in Medi-Cal, they would become enrolled by the social worker on an emergency basis.<sup>17</sup> Under

---

<sup>14</sup> Exhibit A, Test Claim, page 134; Exhibit X (6), California Medical Protocol For Examination of Child Physical Abuse and Neglect Victims, page 15, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025), emphasis added.

<sup>15</sup> Exhibit X (8), Department of Health Services Letter to All County Welfare Directors, August 17, 1982, Letter 82-44, page 1; Exhibit X (9), Department of Health Services Letter to All County Welfare Directors, December 22, 1982 Letter 82-72, pages 1-7; see also California Code of Regulations, title 22, section 50038.5 (defining “Emergency Assistance” as programs providing assistance for up to 30 days, including for “[t]hose children who are being, or are in immediate danger of being abused, neglected or exploited and to families of such children.”).

<sup>16</sup> Exhibit X (15), Retroactive Medi-Cal, page 1, [https://stgenssa.sccgov.org/debs/program\\_handbooks/foster\\_care/assets/28medi-cal/retromedical.htm?agt=index](https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/retromedical.htm?agt=index) (accessed on July 24, 2025); Exhibit X (10) Form MC 250, Application and Statement of Facts for Child Not Living with a Parent or Relative for Whom a Public Agency Is Assuming Some Financial Responsibility, pages 1-2, <https://www.dhcs.ca.gov/formsandpubs/forms/Forms/mc250.pdf> (accessed on July 24, 2025); California Code of Regulations, title 22, section 50251 (“(e) Children specified in (a)(3) shall be eligible and certified for Medi-Cal: (1) On the basis of the information provided by the public agency on form MC 250. (2) Without considering the property or income of the child or the child's parents.”).

<sup>17</sup> California Code of Regulations, title 22, section 50143(a)(3); see also Exhibit X (1), Aid Codes Master Chart, updated April 2022, pages 33 and 35, [https://mcweb.apps.prd.cammis.medi-cal.ca.gov/assets/869D30AF-4BC7-4132-AF6A-AF75893E9221/aidcodes.pdf?access\\_token=6UyVkRRfByXTZEWIh8j8QaYyIPyP5ULO](https://mcweb.apps.prd.cammis.medi-cal.ca.gov/assets/869D30AF-4BC7-4132-AF6A-AF75893E9221/aidcodes.pdf?access_token=6UyVkRRfByXTZEWIh8j8QaYyIPyP5ULO) (accessed on July 24, 2025) (Aid Code 45 provides: “FC. Covers children supported by

Continuing Eligibility for Children (CEC), coverage would then continue, uninterrupted at least until the next annual redetermination.<sup>18</sup>

Counties could also bill the VCB if a child was somehow uninsured or underinsured by Medi-Cal.<sup>19</sup> If counties pursued this option, they, or their contracted providers, could bill the VCB directly as a service provider, but had to accept the limits of the VCB payment schedule.<sup>20</sup>

The payments to counties or their providers from Medi-Cal and the VCB have been the responsibility of the state. The California Supreme Court has found that Medi-Cal “has been the responsibility of various state departments and agencies.”<sup>21</sup> Likewise, the VCB is a state agency.<sup>22</sup> The VCB has been in existence since 2002 under its current name and role.<sup>23</sup>

Accordingly, since the state, through Medi-Cal or the VCB, previously paid for the child physical abuse and neglect medical evidentiary exams, Penal Code section 11171(f), as amended by the test claim statute, which prohibits counties from billing the victim indirectly for the exams, shifts those costs from the state to the counties under article XIII B, section 6(c), resulting in a new program or higher level of service.

---

public funds other than AFDC-FC” with no share of costs.); see also Exhibit X (19), Short Doyle Medi-Cal Aid Code Chart, February 23, 2023, page 6, <https://www.dhcs.ca.gov/services/MH/Pages/medccc-library.aspx> (accessed on July 24, 2025) (Aid Code “5K” provides “Emergency Assistance (EA) Foster Care” with no share of costs).

<sup>18</sup> Exhibit X (7), Continuous Eligibility for Children (CEC), page 1, [https://stgenssa.sccgov.org/debs/program\\_handbooks/foster\\_care/assets/28medi-cal/contnuselgbly.htm](https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/contnuselgbly.htm) (accessed on July 24, 2025); California Code of Regulations, title 22, section 50189.

<sup>19</sup> Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025) (“**3. Payment methods have not been formally established. Options to pursue include: the patient’s public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law enforcement agencies or Child Protective Services (CPS). Follow local policy.**” Emphasis in original.).

<sup>20</sup> Government Code sections 13957.7(c)(1) and 13957.2; California Code of Regulations, title 2, section 649.23.

<sup>21</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 96.

<sup>22</sup> Government Code sections 11000 and 13950.

<sup>23</sup> Government Code sections 13950-13951, as added by Statutes 2002, chapter 1141, section 2.

In addition, counties are practically compelled to provide child physical abuse and neglect exams and, thus, the cost of the exams, which has been shifted from the state to the counties with respect to previous Medi-Cal and VCB reimbursement for the exams, are a component of a mandated program. Penal Code section 11171, which originally became effective on January 1, 2004, does not by its plain language require counties to perform child physical abuse and neglect exams.<sup>24</sup> Instead, it required what is now Cal OES to standardize child physical abuse and neglect exams by creating forms, protocols, and instructions to be used statewide.<sup>25</sup> These forms, protocols, and instructions set the “minimum legal standards”<sup>26</sup> for “adequate protection of victims of child physical abuse or neglect.”<sup>27</sup> Thus, there is no legal compulsion to perform the exams under the test claim statute.

However, counties have no choice but are compelled as a practical matter to ensure that a physical abuse and neglect exam is provided when the facts present themselves.<sup>28</sup> The Legislature declared in 1996 “that all children are entitled to be safe and free from abuse and neglect.”<sup>29</sup> In 2002, the Legislature set a floor of adequacy when it enacted the program of state standardized medical evidentiary exams. It declared that “adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.”<sup>30</sup> In addition, the counties’ obligation to provide child physical abuse and neglect exams stems from an existing requirement to investigate all incoming child abuse reports, a duty that has been confirmed by the courts.<sup>31</sup> Existing state law also requires counties to ensure that a child taken into protective custody undergo a physical examination

---

<sup>24</sup> Penal Code section 11171(a)-(e), as added by Statutes 2002, chapter 249, section 4 (SB 580).

<sup>25</sup> Penal Code section 11171, as added by Statutes 2002, chapter 249, section 4 (SB 580).

<sup>26</sup> Exhibit X (6), California Medical Protocol For Examination of Child Physical Abuse and Neglect Victims, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025); Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

<sup>27</sup> Penal Code section 11171(a)(1).

<sup>28</sup> *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 815-817.

<sup>29</sup> Welfare and Institutions Code section 16500, as amended by Statutes 1996, chapter 1084, section 10.

<sup>30</sup> Penal Code section 11171(a)(1), as added by Statutes 2002, chapter 249.

<sup>31</sup> Penal Code section 11166.3 (formerly 11166.1); see also *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180, 1185-1186.

performed by a medical practitioner who has specialized training in detecting and treating child abuse injuries and neglect, when appropriate and following allegations of physical abuse, and “whenever possible, shall ensure that this examination take place within 72 hours of the time the child was taken into protective custody, when there are allegations of physical abuse.”<sup>32</sup> Where a child is not immediately taken into protective custody under Welfare and Institutions Code section 324.5, other statutory duties compel the physical abuse and neglect exams. If allegations of abuse or neglect are made in a family court child custody proceeding, for example, “the court may request that the local child welfare services agency conduct an investigation of the allegations pursuant to Section 328 of the Welfare and Institutions Code.”<sup>33</sup> Although this statute uses the word “may,” it is a court’s duty to protect the child, and thus the investigations prompted on this case by case basis are practically compelled.<sup>34</sup> And section 11171(g), as amended by the test claim statute, states that counties “shall” set up the reimbursement system with Cal OES and designate SART, SAFE, or other “qualified medical evidentiary examiners” to obtain reimbursement if the Legislature appropriates funds for this program.<sup>35</sup>

Finally, the claimant submitted evidence that the test claim statute imposes costs mandated by the state and none of the exceptions to costs mandated by the state in Government Code section 17556 apply. The claimant has no fee authority to offset the increased costs. There is no appropriation offsetting the costs, which Finance presently confirms.<sup>36</sup> And there is no change to any crime or penalty for any crime of child abuse or neglect.

## **Conclusion**

Based on the foregoing analysis, staff finds that Penal Code section 11171(f), as amended by the test claim statute, imposes a reimbursable state-mandated program beginning January 1, 2024, on counties within the meaning of article XIII B, section 6(c) of the California Constitution only for the following costs:

- Costs incurred for child physical abuse and neglect exams conducted in accordance with Penal Code section 11171, by the county’s designated Sexual Assault Response Teams (SART), Sexual Assault Forensic Examiner (SAFE) teams, or other qualified medical evidentiary examiners, when the child is eligible for Medi-Cal or Victim Compensation Board coverage.

---

<sup>32</sup> Welfare and Institutions Code section 324.5.

<sup>33</sup> Family Code section 3027(b).

<sup>34</sup> *In re Joshua S.* (1988) 205 Cal.App.3d 119, 125.

<sup>35</sup> Penal Code section 11171(g).

<sup>36</sup> Exhibit A, Test Claim, page 33, paragraph 20 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara); Exhibit B, Finance’s Comments on the Test Claim, page 1.

Reimbursement is ***not*** required to the extent the Legislature appropriates funds for child physical abuse and neglect exams under Penal Code section 11171(g).

**Staff Recommendation**

Staff recommends that the Commission adopt the Proposed Decision to partially approve the Test Claim and authorize staff to make any technical, non-substantive changes to the Proposed Decision following the hearing.

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM

Penal Code Section 11171(f)

Statutes 2023, Chapter 841 (AB 1402),  
Effective January 1, 2024

Filed on December 31, 2024

County of Santa Clara, Claimant

Case No.: 24-TC-05

*Child Physical Abuse and Neglect Exams*

DECISION PURSUANT TO  
GOVERNMENT CODE SECTION 17500  
ET SEQ.; CALIFORNIA CODE OF  
REGULATIONS, TITLE 2, DIVISION 2,  
CHAPTER 2.5, ARTICLE 7.

*(Adopted December 5, 2025)*

**DECISION**

The Commission on State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on February 13, 2026. [Witness list will be included in the adopted Decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified] the Proposed Decision to [approve/partially approve/deny] the Test Claim by a vote of [vote will be included in the adopted Decision], as follows:

Member	Vote
Lee Adams, County Supervisor	
Deborah Gallegos, Representative of the State Controller, Vice Chairperson	
Karen Greene Ross, Public Member	
Renee Nash, School District Board Member	
William Pahland, Representative of the State Treasurer	
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	
Alexander Powell, Representative of the Director of the Governor's Office of Land Use and Climate Innovation	

**Summary of the Findings**

This Test Claim alleges new state-mandated activities and costs arising from Penal Code section 11171(f), which prohibits counties from billing the victim or the victim's insurance for child physical abuse and neglect exams, as of January 1, 2024. Instead

of counties billing the victim or the victim's insurance for child physical abuse and neglect exams, a system of state funding was created by the test claim statute in Penal Code section 11171(g) ("The costs associated with these medical evidentiary exams shall be funded by the state, subject to appropriation by the Legislature"), but no appropriation has yet been made.<sup>37</sup> Formerly, from January 1, 2004, until December 31, 2023, the counties billed the child's private insurance, if available, and Medi-Cal or the State Victim Compensation Board (VCB).

The Commission finds the Test Claim is timely filed with a potential period of reimbursement beginning January 1, 2024.

The Commission finds that the test claim statute does not mandate a new program or higher level of service for the increased costs of child physical abuse and neglect evidentiary exams when the costs could have been recovered directly from the victim or from the victim's private medical insurance. There is no new activity required by the test claim statute, the state has not shifted any costs which were previously the responsibility of the state, and increased costs alone do not constitute a reimbursable mandate under article XIII B, section 6.<sup>38</sup>

However, absent an appropriation from the state sufficient to cover the costs of the child physical abuse and neglect evidentiary exams, and where the state, through Medi-Cal or the VCB, previously paid for the child physical abuse and neglect medical evidentiary exams, the test claim statute shifts those costs from the state to the counties under article XIII B, section 6(c), resulting in a mandated new program or higher level of service. The voters added article XIII B, section 6(c) to the California Constitution in 2004 (Proposition 1A), recognizing reimbursable mandates in the transfer "of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility."

From January 1, 2004, to December 31, 2023, funds from Medi-Cal and the VCB reimbursed counties for the cost of child physical abuse and neglect medical evidentiary exams. Both billing options have been acknowledged on the California Office of Emergency Services (Cal OES) exam instructions since 2001.<sup>39</sup> Under Chapter IV, "Reimbursements for Examinations," the Cal OES

---

<sup>37</sup> Exhibit B, Finance's Comments on the Test Claim, page 1 ("AB 1402 also requires the costs of such exams to be funded by the state, subject to appropriation by the Legislature, and be submitted to Cal OES for reimbursement. However, no appropriation has been provided to Cal OES for this purpose.").

<sup>38</sup> California Constitution, article XIII B, section 6(a) and (c); *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816 ("Section 6 was not intended to entitle local entities to reimbursement for *all* increased costs resulting from Legislative enactments, but only those costs mandated by a new program or an increased level of service imposed upon them by the State.").

<sup>39</sup> Exhibit A, Test Claim, page 235; Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance->



Protocol stated before the test claim statute, attached to forms dated January 1, 2004:

In the majority of counties in California, charges for child physical abuse and neglect examinations **are billed to Medi-Cal** or to the patient's private insurance. Standard diagnostic and procedural coding manuals are used to generate charges. For patients without insurance, or who are underinsured, reimbursement of **charges may be obtained through California Victim Compensation and Government Claims Board**.<sup>40</sup>

Since at least 1982, Medi-Cal assumed financial responsibility for abused and neglected children. The State Department of Healthcare Services advised all county directors in 1982 that individuals receiving "Emergency Assistance," including "Abused, Neglected or Exploited Children (EA-ANEC)" were considered "public assistance recipients" and "will be eligible for Medi-Cal benefits and a Medi-Cal card."<sup>41</sup> Social workers have since been applying on behalf of an abused or neglected child for "Retroactive Medi-Cal," using Form MC 250.<sup>42</sup> Thus, if these children were not already enrolled in Medi-Cal,

---

[administration/grants-management/victim-services/forms/](https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/) (accessed on June 20, 2025) ("3. Payment methods have not been formally established. Options to pursue include: the patient's public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law enforcement agencies or Child Protective Services (CPS). Follow local policy." Emphasis in original.).

<sup>40</sup> Exhibit A, Test Claim, page 134; Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025), emphasis added.

<sup>41</sup> Exhibit X (8), Department of Health Services Letter to All County Welfare Directors, August 17, 1982, Letter 82-44, page 1; Exhibit X (9), Department of Health Services Letter to All County Welfare Directors, December 22, 1982 Letter 82-72, pages 1-7; see also California Code of Regulations, title 22, section 50038.5 (defining "Emergency Assistance" as programs providing assistance for up to 30 days, including for "[t]hose children who are being, or are in immediate danger of being abused, neglected or exploited and to families of such children.").

<sup>42</sup> Exhibit X (15), Retroactive Medi-Cal, page 1, [https://stgenssa.sccgov.org/debs/program\\_handbooks/foster\\_care/assets/28medi-cal/retromedical.htm?agt=index](https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/retromedical.htm?agt=index) (accessed on July 24, 2025); Exhibit X (10) Form MC 250, Application and Statement of Facts for Child Not Living with a Parent or Relative for Whom a Public Agency Is Assuming Some Financial Responsibility, <https://www.dhcs.ca.gov/formsandpubs/forms/Forms/mc250.pdf> (accessed on July 24, 2025); California Code of Regulations, title 22, section 50251 ("(e) Children specified in (a)(3) shall be eligible and certified for Medi-Cal: (1) On the basis of the information provided by the public agency on form MC 250. (2) Without considering the property or income of the child or the child's parents.").



they would become enrolled by the social worker on an emergency basis.<sup>43</sup> Under Continuing Eligibility for Children (CEC), coverage would then continue, uninterrupted at least until the next annual redetermination.<sup>44</sup>

Counties could also bill the VCB if a child was somehow uninsured or underinsured by Medi-Cal.<sup>45</sup> If counties pursued this option, they, or their contracted providers, could bill the VCB directly as a service provider, but had to accept the limits of the VCB payment schedule.<sup>46</sup>

The payments to counties or their providers from Medi-Cal and the VCB have been the responsibility of the state. The California Supreme Court has found that Medi-Cal “has been the responsibility of various state departments and agencies.”<sup>47</sup> Likewise, the VCB is a state agency.<sup>48</sup> The VCB has been in existence since 2002 under its current name and role.<sup>49</sup>

---

<sup>43</sup> California Code of Regulations, title 22, section 50143(a)(3); see also Exhibit X (1), Aid Codes Master Chart, updated April 2022, pages 33 and 35, [https://mcweb.apps.prd.cammis.medi-cal.ca.gov/assets/869D30AF-4BC7-4132-AF6A-AF75893E9221/aidcodes.pdf?access\\_token=6UyVkRRfByXTZEWIh8j8QaYlPyP5ULO](https://mcweb.apps.prd.cammis.medi-cal.ca.gov/assets/869D30AF-4BC7-4132-AF6A-AF75893E9221/aidcodes.pdf?access_token=6UyVkRRfByXTZEWIh8j8QaYlPyP5ULO) (accessed on July 24, 2025) (Aid Code 45 provides: “FC. Covers children supported by public funds other than AFDC-FC” with no share of costs.); see also Exhibit X (19), Short Doyle Medi-Cal Aid Code Chart, February 23, 2023, page 6, <https://www.dhcs.ca.gov/services/MH/Pages/medccc-library.aspx> (accessed on July 24, 2025) (Aid Code “5K” provides “Emergency Assistance (EA) Foster Care” with no share of costs).

<sup>44</sup> Exhibit X (7), Continuous Eligibility for Children (CEC), page 1, [https://stgenssa.sccgov.org/debs/program\\_handbooks/foster\\_care/assets/28medi-cal/contnuseigblty.htm](https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/contnuseigblty.htm) (accessed on July 24, 2025); California Code of Regulations, title 22, section 50189.

<sup>45</sup> Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025) (“**3. Payment methods have not been formally established. Options to pursue include: the patient’s public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law enforcement agencies or Child Protective Services (CPS). Follow local policy.**” Emphasis in original.).

<sup>46</sup> Government Code sections 13957.7(c)(1) and 13957.2; California Code of Regulations, title 2, section 649.23.

<sup>47</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 96.

<sup>48</sup> Government Code sections 11000 and 13950.

<sup>49</sup> Government Code sections 13950-13951, as added by Statutes 2002, chapter 1141, section 2.

Accordingly, since the state, through Medi-Cal or the VCB, previously paid for the child physical abuse and neglect medical evidentiary exams, Penal Code section 11171(f), as amended by the test claim statute, which prohibits counties from billing the victim indirectly for the exams, shifts those costs from the state to the counties under article XIII B, section 6(c), resulting in a new program or higher level of service.

In addition, counties are practically compelled to provide child physical abuse and neglect exams and, thus, the cost of the exams, which has been shifted from the state to the counties with respect to previous Medi-Cal and VCB reimbursement for the exams, are a component of a mandated program. Penal Code section 11171, which originally became effective on January 1, 2004, does not by its plain language require counties to perform child physical abuse and neglect exams.<sup>50</sup> Instead, it required what is now Cal OES to standardize child physical abuse and neglect exams by creating forms, protocols, and instructions to be used statewide.<sup>51</sup> These forms, protocols, and instructions set the “minimum legal standards”<sup>52</sup> for “adequate protection of victims of child physical abuse or neglect.”<sup>53</sup> Thus, there is no legal compulsion to perform the exams under the test claim statute.

However, counties have no choice but are compelled as a practical matter to ensure that a physical abuse and neglect exam is provided when the facts present themselves.<sup>54</sup> The Legislature declared in 1996 “that all children are entitled to be safe and free from abuse and neglect.”<sup>55</sup> In 2002, the Legislature set a floor of adequacy when it enacted the program of state standardized medical evidentiary exams. It declared that “adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.”<sup>56</sup>

---

<sup>50</sup> Penal Code section 11171(a)-(e), as added by Statutes 2002, chapter 249, section 4 (SB 580).

<sup>51</sup> Penal Code section 11171, as added by Statutes 2002, chapter 249, section 4 (SB 580).

<sup>52</sup> Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025);

Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

<sup>53</sup> Penal Code section 11171(a)(1).

<sup>54</sup> *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 815-817.

<sup>55</sup> Welfare and Institutions Code section 16500, as amended by Statutes 1996, chapter 1084, section 10.

<sup>56</sup> Penal Code section 11171(a)(1), as added by Statutes 2002, chapter 249.

In addition, the counties' obligation to provide child physical abuse and neglect exams stems from an existing requirement to investigate all incoming child abuse reports, a duty that has been confirmed by the courts.<sup>57</sup> Existing state law also requires counties to ensure that a child taken into protective custody undergo a physical examination performed by a medical practitioner who has specialized training in detecting and treating child abuse injuries and neglect, when appropriate and following allegations of physical abuse, and "whenever possible, shall ensure that this examination take place within 72 hours of the time the child was taken into protective custody, when there are allegations of physical abuse."<sup>58</sup> Where a child is not immediately taken into protective custody under Welfare and Institutions Code section 324.5, other statutory duties compel the physical abuse and neglect exams. If allegations of abuse or neglect are made in a family court child custody proceeding, for example, "the court may request that the local child welfare services agency conduct an investigation of the allegations pursuant to Section 328 of the Welfare and Institutions Code."<sup>59</sup> Although this statute uses the word "may," it is a court's duty to protect the child, and thus the investigations prompted on this case by case basis are practically compelled.<sup>60</sup> And section 11171(g), as amended by the test claim statute, states that counties "shall" set up the reimbursement system with Cal OES and designate SART, SAFE, or other "qualified medical evidentiary examiners" to obtain reimbursement if the Legislature appropriates funds for this program.<sup>61</sup>

Finally, the claimant submitted evidence that the test claim statute imposes costs mandated by the state and none of the exceptions to costs mandated by the state in Government Code section 17556 apply. The claimant has no fee authority to offset the increased costs. There is no appropriation offsetting the costs, which the Department of Finance (Finance) presently confirms.<sup>62</sup> And there is no change to any crime or penalty for any crime of child abuse or neglect.

Accordingly, the Commission partially approves this test claim and finds that Penal Code section 11171(f), as amended by the test claim statute, imposes a reimbursable state-mandated program beginning January 1, 2024, on counties within the meaning of article XIII B, section 6(c) of the California Constitution and Government Code section 17514 only for the following costs:

---

<sup>57</sup> Penal Code section 11166.3 (formerly 11166.1); see also *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180, 1185-1186.

<sup>58</sup> Welfare and Institutions Code section 324.5.

<sup>59</sup> Family Code section 3027(b).

<sup>60</sup> *In re Joshua S.* (1988) 205 Cal.App.3d 119, 125.

<sup>61</sup> Penal Code section 11171(g).

<sup>62</sup> Exhibit A, Test Claim, page 33, paragraph 20 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara); Exhibit B, Finance's Comments on the Test Claim, page 1.

- Costs incurred for child physical abuse and neglect exams conducted in accordance with Penal Code section 11171, by the county’s designated Sexual Assault Response Teams (SART), Sexual Assault Forensic Examiner (SAFE) teams, or other qualified medical evidentiary examiners, when the child is eligible for Medi-Cal or Victim Compensation Board coverage.

Reimbursement is **not** required to the extent the Legislature appropriates funds for child physical abuse and neglect exams under Penal Code section 11171(g).

## **COMMISSION FINDINGS**

### **I. Chronology**

01/01/2024 Penal Code section 11171(f), as added by Statutes 2023, chapter 841 (AB 1402), became effective.

12/31/2024 The claimant filed the Test Claim.<sup>63</sup>

04/10/2025 The Department of Finance (Finance) filed comments on the Test Claim.<sup>64</sup>

04/11/2025 Kern County Department of Human Services filed late comments on the Test Claim.<sup>65</sup>

05/07/2025 The claimant filed rebuttal comments.<sup>66</sup>

09/26/2025 Commission staff issued the Draft Proposed Decision.<sup>67</sup>

### **II. Background**

#### **A. Prior Law**

Protecting children is a general county function subject to state law.<sup>68</sup> In 1968, the Legislature provided, under a chapter then entitled “State Protective Services for Children,” that the state, through itself and the counties, shall establish a statewide

---

<sup>63</sup> Exhibit A, Test Claim.

<sup>64</sup> Exhibit B, Finance’s Comments on the Test Claim.

<sup>65</sup> Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim.

<sup>66</sup> Exhibit C, Claimant’s Rebuttal Comments.

<sup>67</sup> Exhibit E, Draft Proposition Decision.

<sup>68</sup> Welfare and Institutions Code sections 300, 10800 and 16500; *In re Social Services Payment Cases* (2008) 166 Cal.App.4th 1249, 1256 (“The Legislature has determined that the provision of public social services, including foster care, is a county function and responsibility subject to any applicable state and federal statutes and regulations. (§ 10800.) Counties are responsible for a public system of statewide child welfare services, which includes providing for the investigation of possible abuse or neglect of a child warranting removal from parental custody. (§§ 300 et seq. & 16500 et seq.)”).

system of child protective services to be made available by all counties.<sup>69</sup> The counties' responsibility for this statewide child welfare system exists in a principal-agent relationship with the state.<sup>70</sup>

In 1996, the Legislature elaborated on its intent for the 1968 law directing the statewide system of protecting children. It declared "that all children are entitled to be safe and free from abuse and neglect."<sup>71</sup>

In addition to the general duty to protect, specific duties have been imposed on counties when receiving reports of suspected child abuse and neglect. These duties are to accept, to cross-report, and to investigate all such reports made to the counties. In 1980, the Legislature began requiring counties to cross-report "every instance of suspected child abuse."<sup>72</sup> In 1985, the Legislature began requiring "investigation of suspected child abuse cases" through "cooperative arrangements" between "law enforcement agencies and the county welfare or social services department," and it imposed reporting requirements on those agencies.<sup>73</sup> And in 2000, the Legislature required county welfare departments, along with police and other county departments, to accept *all* reports of suspected child abuse and neglect, stating in the legislation that counties "shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person."<sup>74</sup> In sum, counties must accept reports of

---

<sup>69</sup> Welfare and Institutions Code section 16500, as added by Statutes 1968, chapter 69, section 1.

<sup>70</sup> Welfare and Institutions Code sections 16501(a)(1)(B), 16501(a)(2), and 16501(c) ("The county shall provide child welfare services as needed pursuant to an approved service plan and in accordance with regulations promulgated, in consultation with the counties, by the [state] department."); *Ross v. Superior Court* (1977) 19 Cal.3d 899, 908; *Hassell v. Bird* (2018) 5 Cal.5th 522, 553, Kruger, J., concurring ("counties act on behalf of the state in administering welfare benefits"); *In re M.C.* (2011) 199 Cal.App.4th 784, 810 (county social service agency is an administrative agency of the executive branch when providing child welfare services, subject to supervision by Department of Social Services) citing Welfare and Institutions Code sections 202.5, 10000, 10051, 10800, 16500, 16500.1, and 16501, *Scott v. County of Los Angeles* (1994) 27 Cal.App.4th 125, 143-144, and *In re Danielle W.* (1989) 207 Cal.App.3d 1227, 1235-1236, n. 6.).

<sup>71</sup> Welfare and Institutions Code section 16500, as amended by Statutes 1996, chapter 1084, section 10.

<sup>72</sup> Penal Code section 11166(f), as added by Statutes 1980, chapter 1071, section 4 (subsequently renumbered as section 11166(j)).

<sup>73</sup> Penal Code section 11166.1(a), as added by Statutes 1985, chapter 1262, section 2 (subsequently renumbered as 11166.3, as amended by Statutes 1987, chapter 531, section 3.)

<sup>74</sup> Penal Code section 11165.9, as added by Statutes 2000, chapter 1214, section 8.

suspected child abuse from any person, must cross-report, and must investigate those reports.

In 1999, the Court of Appeal clarified the difference between the general and specific duties of counties to protect children.<sup>75</sup> The Court of Appeal found that while the police have a general duty of public protection, a duty to investigate *each* incoming report of suspected child abuse would require a specific statute. It found Penal Code section 11166 to be that statute.<sup>76</sup> The court thus found a specific statutory duty of investigation upon each individual report of suspected child abuse.<sup>77</sup>

Overlapping with the growth of law regarding child abuse investigation, various laws were added regarding medical evidentiary exams. Such exams are provided in suspected cases of sexual assault (adult or child), domestic violence, or, as relevant here, child physical abuse and neglect.

In 1985, the Legislature began requiring specific protocols for sexual assault medical evidentiary exams, including child sexual abuse.<sup>78</sup> These laws required counties to designate one acute care hospital to provide such exams.<sup>79</sup> They further required forms and extensive specific protocols for conducting the exams, and they set “minimum standards” for examinations of sexual abuse victims.<sup>80</sup>

In 1995, the Legislature passed Senate Bill 857, expanding the scope of medical evidentiary examinations from just sexual assault (adult or child) to the wider context of

---

<sup>75</sup> *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180.

<sup>76</sup> *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180, 1185-1186 (“First, the statute imposes a duty to investigate.”), disapproved on another ground in *B.H. v. County of San Bernardino* (2015) 62 Cal.4th 168; see also *Holman v. County of Butte* (2021) 68 Cal.App.5th 189 (county negligence case for failure to investigate and cross-report); see also Welfare and Institutions Code section 328 and Family Code section 3027.

<sup>77</sup> The Commission, in *Interagency Child Abuse and Neglect Investigation Reports*, 00-TC-22, found a mandate to investigate reports of suspected child abuse in Penal code section 11169(a), California Code of Regulations, title 11, section 903, and “Child Abuse Investigation Report” Form SS 8583. The claim therein under Penal Code section 11166 was denied as not unique to local government, but this does not contravene *Alejo*’s holding that the counties have a duty to investigate incoming reports of suspected child abuse or neglect. See Commission on State Mandates, Decision and Parameters and Guidelines on *Interagency Child Abuse and Neglect Investigation Reports*, 00-TC-22, adopted December 6, 2013, [https://www.csm.ca.gov/decisions/00-TC-22\\_adopitedSODandpsgs120613.pdf](https://www.csm.ca.gov/decisions/00-TC-22_adopitedSODandpsgs120613.pdf) (accessed on September 23, 2025), pages 38-40.

<sup>78</sup> Statutes 1985, chapter 812.

<sup>79</sup> Penal Code section 13823.9(c) as added by Statutes 1985, chapter 812, section 7.

<sup>80</sup> Penal Code sections 13823.7 and 13823.11, as added by Statutes 1985, chapter 812, sections 7-8.

“domestic violence, child abuse, elder abuse, and sexual assault.”<sup>81</sup> It further sought to ensure proper medical training for such exams.

The Legislature declared that “to provide comprehensive, competent evidentiary examinations for use by law enforcement agencies, it is necessary to take immediate steps to ensure there are appropriately trained medical professionals throughout California.”<sup>82</sup> To that end, the Legislature then defined the phrase “perform a medical evidentiary examination” as meaning to “evaluate, collect, preserve, and document evidence, interpret findings, and document examination results.”<sup>83</sup> SB 857 required creation of two hospital-based training centers, one in northern California and one in southern California, which would teach medical professionals how to conduct the medical evidentiary examinations, and to make “use of advanced medical technology in the evaluation of child victims of sexual or physical abuse or neglect, or of sexual assault, elder abuse, and domestic violence victims, or both.”<sup>84</sup>

In 2002, the Legislature changed its requirement of two training centers to one. The single training center is now known as the California Clinical Forensic Medical Training Center (CCFMTC).<sup>85</sup>

In 1999, the Legislature began requiring medical evidentiary exams for children taken into protective custody where abuse is suspected and where it is determined appropriate by a specialized medical practitioner.<sup>86</sup> This law also provides that where additional medical evidentiary exams may be needed, the same practitioner should provide them, and if not available, then another practitioner with the same specialized training should do so.<sup>87</sup>

In 2002, the program regarding child physical abuse and neglect exams began. By adding Penal Code section 11171, the Legislature declared that “adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.”<sup>88</sup> To ensure adequate protection against child physical abuse and neglect, the Legislature created a statewide program requiring

---

<sup>81</sup> Statutes 1995, chapter 860, section 1(c).

<sup>82</sup> Statutes 1995, chapter 860, section 1(c).

<sup>83</sup> Penal Code section 13823.93(a)(2), as added by Statutes 1995, chapter 860, section 2.

<sup>84</sup> Penal Code section 13823.93(c)(4), as added by Statutes 1995, chapter 860, section 2.

<sup>85</sup> Penal Code section 13823.93(b) – (d), as amended by Statutes 2002, chapter 256, section 1; Penal Code section 13823.93(b).

<sup>86</sup> Welfare and Institutions Code section 324.5.

<sup>87</sup> Welfare and Institutions Code section 324.5(b).

<sup>88</sup> Penal Code section 11171(a)(1).

creation and use of a standardized form, instructions and protocols for child physical abuse and neglect medical evidentiary exams.<sup>89</sup> The law required the following:

On or before January 1, 2004, the Office of Criminal Justice Planning<sup>90</sup> shall, in cooperation with the State Department of Social Services, the Department of Justice, the California Association of Crime Lab Directors, the California State District Attorneys Association, the California State Sheriffs Association, the California Peace Officers Association, the California Medical Association, the California Police Chiefs' Association, child advocates, the California Medical Training Center, child protective services, and other appropriate experts, establish medical forensic forms, instructions, and examination protocol for victims of child physical abuse or neglect using as a model the form and guidelines developed pursuant to Section 19823.5.<sup>91</sup>

The state standardized form was required to include:

- (1) Any notification of injuries or any report of suspected child physical abuse or neglect to law enforcement authorities or children's protective services, in accordance with existing reporting procedures.
- (2) Addressing relevant consent issues, if indicated.
- (3) The taking of a patient history of child physical abuse or neglect that includes other relevant medical history.
- (4) The performance of a physical examination for evidence of child physical abuse or neglect.
- (5) The collection or documentation of any physical evidence of child physical abuse or neglect, including any recommended photographic procedures.
- (6) The collection of other medical or forensic specimens, including drug ingestion or toxication, as indicated.
- (7) Procedures for the preservation and disposition of evidence.

---

<sup>89</sup> Penal Code section 11171, as added by Statutes 2002, chapter 249, section 4 (SB 580).

<sup>90</sup> The Office of Criminal Justice Planning was abolished on January 1, 2004. Its duties were largely transferred to Cal OES that same year. See Penal Code section 13820, as added by Statutes 2003, chapter 229, section 26, and as amended by Statutes 2013, chapter 352, section 428; Exhibit X (20), The history of Cal OES, page 2, <https://www.caloes.ca.gov/cal-oes/history/> (accessed on September 23, 2024) ("In 2004, the California Legislature merged OES and the Governor's Office of Criminal Justice Planning, which was responsible for providing state and federal grant funds to local communities to prevent crime and help crime victims.").

<sup>91</sup> Penal Code section 11171(b), as added by Statutes 2001, chapter 249, section 4.



- (8) Complete documentation of medical forensic exam findings with recommendations for diagnostic studies, including blood tests and X-rays.
- (9) An assessment as to whether there are findings that indicate physical abuse or neglect.<sup>92</sup>

The form created as required by Penal Code section 11171 is called Medical Report: Suspected Child Physical Abuse and Neglect Examination OES 2-900.<sup>93</sup> It is downloadable from the Cal OES website as well as the CCFMTC website.<sup>94</sup>

Instructions and Protocol were also issued as required. The Instructions state:

Required Use of Standard State Form: Penal Code § 11171 established the use of a standard form to record findings from examinations performed for suspected child physical abuse and neglect. This form is intended to facilitate identification of child physical abuse and neglect, and as such, is not a complete medical treatment record.<sup>95</sup>

The protocol is entitled California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims Medical Protocol for Examination of Child Physical Abuse and Neglect Victims.<sup>96</sup> Its preface by Cal OES represents Penal Code section 11171 as setting the “minimum legal standards” for performing the medical evidentiary examination, and then briefly summarizes the protocols:

Pioneers in the field of child physical abuse and neglect began in the field of medicine. They were subsequently joined by the disciplines of social work, nursing, law enforcement, psychology, psychiatry, and child development.

---

<sup>92</sup> Penal Code section 11171(c).

<sup>93</sup> Exhibit A, Test Claim, pages 226-233; Exhibit X (12), Medical Report: Suspected Child Physical Abuse and Neglect Examination Cal OES 2-900, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

<sup>94</sup> Exhibit A, Test Claim, page 225; Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 106, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025); Penal Code section 11171(e).

<sup>95</sup> Exhibit A, Test Claim, pages 234-241; Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

<sup>96</sup> Exhibit A, Test Claim, pages 120-233; Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

The history of this intervention movement is characterized by peaks and plateaus as the larger community assimilated new developments lead by the pioneering disciplines. Medicine began the movement with published observations by a pediatric radiologist, Dr. John Caffey, in the 1940's. Dr. Henry Kempe, a pediatrician, galvanized the movement by establishing the concept of the "battered child syndrome" in 1962. He took his concerns to Congress and by 1965, most states had enacted child abuse reporting laws.

Issuance of the CalOES 2-900 Medical Report for Suspected Child Physical Abuse and Neglect Examinations and Protocol takes the field to a new level. In 2002, the California Legislature and Governor declared that adequate protection of victims of child physical abuse and neglect has been hampered by the lack of consistent and comprehensive medical examinations. The Legislature enacted and the Governor signed SB 580, Statutes of 2002 (Figueroa), into law to address this need by establishing a standardized medical report form and protocol.

Many deserve recognition for the vision captured in these documents. The Children's Justice Act Task Force recommended the allocation of funds to accomplish this project; the Child Physical Abuse and Neglect Advisory Committee contributed wisdom, consultation, and guidance; and, the California Clinical Forensic Medical Training Center is commended for strong work, expertise, and dedication to the production of the form, instructions, and protocol. This collective effort moves the field forward on behalf of children.

The California Medical Protocol for Examination of Suspected Child Physical Abuse and Neglect Victims provides recommended methods for meeting the minimum legal standards established by Penal Code Section 11171 for performing medical examinations of physically abused and neglected children. This protocol contains the following information:

- Standard medical report form (CalOES 2-900) for documentation of findings from suspected child physical abuse and neglect examinations;
- Step-by-step procedures for conducting examinations opposite each page of the standard forms;
- Examination protocol for child physical abuse and neglect;
- Contextual information for performing examinations and implementing a multidisciplinary team approach; and
- Relevant and expanded information on patient consent, mandatory reporting laws, financial compensation for examinations, crime victim compensation, and evidence collection and preservation.<sup>97</sup>

---

<sup>97</sup> Exhibit A, Test Claim, page 121; Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 2,

Until the test claim statute, only minor and clarifying amendments were made to Penal Code section 11171. The examination requirements imposed on counties have continued, as has use of the Cal OES documents.

Also, according to the Cal OES Protocol, counties could bill Medi-Cal and, alternatively, the Victims Compensation Board (VCB) for the examination costs. Under Chapter IV, “Reimbursements for Examinations,” the Protocol stated:

In the majority of counties in California, charges for child physical abuse and neglect examinations are billed to Medi-Cal or to the patient’s private insurance. Standard diagnostic and procedural coding manuals are used to generate charges. For patients without insurance, or who are underinsured, reimbursement of charges may be obtained through California Victim Compensation and Government Claims Board.<sup>98</sup>

Also until the test claim statute, counties could seek Medi-Cal coverage on a child’s behalf.<sup>99</sup> Children in danger of abuse, neglect, or exploitation (ANEC) had been eligible for Medi-Cal since at least 1982 as a matter of emergency assistance (EA).<sup>100</sup> Many had also been eligible under other programs, such as Aid to Families with Dependent Children (AFDC),<sup>101</sup> as “categorically needy persons,”<sup>102</sup> or under the Medically Needy Program.<sup>103</sup>

---

<https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

<sup>98</sup> Exhibit A, Test Claim, page 134; Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

<sup>99</sup> Exhibit A, Test Claim, pages 32-33, paragraphs 12, 15, and 17 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara); Exhibit A, Test Claim, page 134; Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025); California Code of Regulations, title 22, section 50143(a)(3).

<sup>100</sup> California Code of Regulations, title 22, section 50038.5; Exhibit X (8), Department of Health Services Letter to All County Welfare Directors, August 17, 1982, Letter 82-44, page 1; Exhibit X (9), Department of Health Services Letter to All County Welfare Directors, December 22, 1982, Letter 82-72, pages 1-7.

<sup>101</sup> California Code of Regulations, title 22, section 50201(a).

<sup>102</sup> Welfare and Institutions Code sections 14005.1, 14050.1 and 14005.

<sup>103</sup> California Code of Regulations, title 22, sections 50203 and 50205.

Counties could alternatively recover costs directly from the VCB if the child were somehow uninsured or underinsured. In that case, their compensation would be capped by the VCB provider payment schedule.<sup>104</sup>

To cover medical expenses when a child is removed from the home by a social worker and taken for a medical evidentiary exam, the child is presumptively eligible for Medi-Cal. A Foster Care Eligibility Worker (FC EW) applies for Retroactive Medi-Cal on the child's behalf, resulting in three months retroactive coverage.<sup>105</sup> To do so, the FC EW completes a State of California Department of Health Care Services (DHCS) Form MC 250, which is entitled "Application and Statement of Facts For Child Not Living with a Parent or Relative For Whom A Public Agency is Assuming Some Financial Responsibility," using Medi-Cal Aid Code 45.<sup>106</sup> Aid Codes allow health care providers to confirm eligibility for Medi-Cal recipients through Medi-Cal's "automated eligibility

---

<sup>104</sup> Government Code section 13957.7(c)(1) ("The board may authorize direct payment to a provider of services that are reimbursable pursuant to this chapter and may make those payments prior to verification. However, the board may not, without good cause, authorize a direct payment to a provider over the objection of the victim or derivative victim.").

Government Code section 13957.2 ("A provider who accepts payment from the program for a service shall accept the program's rates as payment in full and shall not accept any payment on account of the service from any other source if the total of payments accepted would exceed the maximum rate set by the board for that service. A provider shall not charge a victim or derivative victim for any difference between the cost of a service provided to a victim or derivative victim and the program's payment for that service.").

See also California Code of Regulations, title 2, section 649.23 referring to "all cash payments or reimbursement for medical-related services of the victim," emphasis added; See also Exhibit X (11), Medical Providers New! CALVCB Online, pages 1-2, <https://victims.ca.gov/uploads/2022/08/Medical-and-Dental-Factsheet-3-17-20.pdf> (accessed on July 24, 2025).

<sup>105</sup> Exhibit X (15), Retroactive Medi-Cal, page 1, [https://stgenssa.sccgov.org/debs/program\\_handbooks/foster\\_care/assets/28medi-cal/retromedical.htm?agt=index](https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/retromedical.htm?agt=index) (accessed July on 24, 2025).

<sup>106</sup> Exhibit X (15), Retroactive Medi-Cal, page 1, [https://stgenssa.sccgov.org/debs/program\\_handbooks/foster\\_care/assets/28medi-cal/retromedical.htm?agt=index](https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/retromedical.htm?agt=index) (accessed on July 24, 2025); Exhibit X (10), Form MC 250, Application and Statement of Facts for Child Not Living with a Parent or Relative for Whom a Public Agency Is Assuming Some Financial Responsibility, pages 1-2, <https://www.dhcs.ca.gov/formsandpubs/forms/Forms/mc250.pdf> (accessed on July 24, 2025).

verification system.”<sup>107</sup> Aid Code 45 as well as Aid Code 5K confirm Medi-Cal eligibility for such children, with no share of cost.<sup>108</sup>

Coverage is designed to continue seamlessly. These children remain continuously eligible for Medi-Cal until at least the next annual redetermination.<sup>109</sup> Their health records become part of what is known as the child’s “health and education passport.”<sup>110</sup>

To ensure continuing coverage and care, DHCS has been expanding programming and comprehensive Medi-Cal coverage for children in the child welfare system. Per an Executive Summary in November of 2022, DHCS intends that “the child welfare system have streamlined access to reliable, high-quality, integrated, trauma-informed, strength-based, patient-centered, and family-centered care.”<sup>111</sup>

Until the test claim statute became effective and impacted the medical evidentiary exam process, Cal OES billing instructions on the Form 2-900 advised counties generally: “Payment methods have not been formally established. Options to pursue include: the patient’s public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law enforcement agencies or Child Protective Services (CPS). Follow local policy.”<sup>112</sup>

## **B. The Test Claim Statute**

In 2023, the Legislature passed Statutes 2023, chapter 841 (AB 1402), amending Penal code section 11171. AB 1402 added the following three provisions regarding child physical abuse and neglect medical evidentiary exams, the first of which prohibited billing the child’s Medi-Cal or other insurance as of January 1, 2024:

---

<sup>107</sup> Welfare and Institutions Code section 14042.

<sup>108</sup> Exhibit X (1), Aid Codes Master Chart, updated April 2022, pages 33 and 35, [https://mcweb.apps.prd.cammis.medi-cal.ca.gov/assets/869D30AF-4BC7-4132-AF6A-AF75893E9221/aidcodes.pdf?access\\_token=6UyVkrRfByXTZEWIh8j8QaYyIPyP5ULO](https://mcweb.apps.prd.cammis.medi-cal.ca.gov/assets/869D30AF-4BC7-4132-AF6A-AF75893E9221/aidcodes.pdf?access_token=6UyVkrRfByXTZEWIh8j8QaYyIPyP5ULO) (accessed on July 24, 2025); Exhibit X (19), Short Doyle Medi-Cal Aid Code Chart, page 6, February 23, 2023, <https://www.dhcs.ca.gov/services/MH/Pages/medccc-library.aspx> (accessed on July 24, 2025).

<sup>109</sup> Exhibit X (7), Continuous Eligibility for Children (CEC), page 1, [https://stgenssa.sccgov.org/debs/program\\_handbooks/foster\\_care/assets/28medi-cal/contnuseigblty.htm](https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/contnuseigblty.htm) (accessed on July 24, 2025); California Code of Regulations, title 22, section 50189.

<sup>110</sup> Welfare and Institutions Code section 16010.

<sup>111</sup> Exhibit X (14), Medi-Cal’s Foster Care Strategies, November 2022, page 1, <https://www.dhcs.ca.gov/Documents/DHCS-Medi-Cal-Foster-Care-Strategies-11-22-2022.pdf> (accessed on July 24, 2025).

<sup>112</sup> Exhibit A, Test Claim, page 235; Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

(f) The costs associated with the medical evidentiary examination of a victim of child physical abuse or neglect shall be separate from diagnostic treatment and procedure costs associated with medical treatment. ***Costs for the medical evidentiary portion of the examination shall not be charged directly or indirectly to the victim of child physical abuse or neglect.***

(g) Each county's board of supervisors shall authorize a designee to approve the Sexual Assault Response Teams (SART), Sexual Assault Forensic Examiner (SAFE) teams, or other qualified medical evidentiary examiners to receive reimbursement through the Office of Emergency Services for the performance of medical evidentiary examinations for victims of child physical abuse or neglect and shall notify the Office of Emergency Services of this designation. ***The costs associated with these medical evidentiary exams shall be funded by the state, subject to appropriation by the Legislature.*** Each county's designated SART, SAFE, or other qualified medical evidentiary examiners shall submit invoices to the Office of Emergency Service, who shall administer the program. A flat reimbursement rate shall be established. Within one year upon initial appropriation, the Office of Emergency Service shall establish a 60-day reimbursement process. The Office of Emergency Service shall assess and determine a fair and reasonable reimbursement rate to be reviewed every five years.

(h) Reimbursement shall not be subject to reduced reimbursement rates based on patient history or other reasons. Victims of child physical abuse or neglect may receive a medical evidentiary exam outside of the jurisdiction where the crime occurred and that county's approved SART, SAFE teams, or qualified medical evidentiary examiners shall be reimbursed for the performance of these exams.<sup>113</sup>

The claimant has expressly pled only subsection (f).<sup>114</sup> In short, subsection (f) prohibits counties from billing the victim directly or indirectly (i.e., billing their insurance, including Medi-Cal) for the medical evidentiary portion of a child abuse or neglect exam. By not allowing the victim or the victim's insurance to pay, only an unrelated volunteer or a government entity (but not through an insurance system for the child, such as Medi-Cal) could legally pay for the child physical abuse or neglect medical evidentiary exams.

State funding is intended to replace insurance billing. Subsection (g) states that "[t]he costs associated with these medical evidentiary exams shall be funded by the state,

---

<sup>113</sup> Penal Code section 11171, as amended by Statutes 2023, chapter 841, section 1, emphasis added.

<sup>114</sup> Exhibit A, Test Claim, page 13. The claimant is therefore not seeking reimbursement under subsection (g) for the costs of designating SART, SAFE, or other qualified medical examiners, or for submitting invoices to Cal OES.



subject to appropriation by the Legislature.” To date, however, the Legislature has not made an appropriation as provided for in subsection (g).<sup>115</sup>

### **C. Related Background Laws**

Similar medical evidentiary exam laws exist for victims of sexual assault and domestic violence, each likewise requiring standardized forms, instructions, and protocols for the medical evidentiary exams.<sup>116</sup> These laws have also been recently amended to prohibit billing the victim or their insurance and to replace that system with state funding.

In 2021, AB 145 directed Cal OES to determine reimbursement amounts to counties for the cost of sexual assault exams. These reimbursements were to be made from funds “available upon appropriation for this purpose.”<sup>117</sup> They are now reimbursed at \$911 per exam.<sup>118</sup>

In 2022, AB 2185 directed Cal OES to determine reimbursement amounts to counties for the cost of domestic violence exams. Like the test claim statute, AB 2185 stated “[t]he costs associated with these medical evidentiary exams shall be funded by the state, subject to appropriation by the Legislature.”<sup>119</sup> To date, no appropriation or reimbursement appears to have been made for the domestic violence exams. The only form available for reimbursement of a medical evidentiary exam on the Cal OES website is for the sexual assault examinations.<sup>120</sup>

---

<sup>115</sup> Exhibit B, Finance’s Comments on the Test Claim, page 1 (“However, no appropriation has been provided to Cal OES for this purpose.”).

<sup>116</sup> Penal Code sections 13823.95 and 11161.2.

<sup>117</sup> Penal Code section 13823.95(e), as added by Statutes 2021, chapter 80, section 25.

<sup>118</sup> Exhibit X (16), Senate Committee on Appropriations, August 21, 2023, on AB 1402, as amended March 30, 2023, page 3; Exhibit X (2), Assembly Committee on Appropriations, May 10, 2023, on AB 1402, as amended March 30, 2023, page 1; Exhibit X (5), Cal OES Invoice for Reimbursement for Medical Evidentiary Examination, 2021, page 1, [https://www.safeta.org/wp-content/uploads/2022/03/invoice\\_for\\_reimbursement\\_fo.pdf](https://www.safeta.org/wp-content/uploads/2022/03/invoice_for_reimbursement_fo.pdf) (accessed on July 31, 2025); Exhibit X (4), Cal OES Informational Bulletin Sexual Assault Medical Evidentiary Examination Reimbursement, May 2022, pages 1-2, <https://www.ccfmtc.org/wp-content/uploads/Informational-Bulletin-Medical-Evidentiary-Examination-Reimbursement-Rev.-5-22.pdf> (accessed on July 31, 2025).

<sup>119</sup> Penal Code section 11161.2(g), as added by Statutes 2022, chapter 557, section 1; Penal Code section 11171(g), as added by Statutes 2023, chapter 841.

<sup>120</sup> Exhibit X (4), Cal OES Informational Bulletin Sexual Assault Medical Evidentiary Examination Reimbursement, May 2022, pages 1-2, <https://www.ccfmtc.org/wp-content/uploads/Informational-Bulletin-Medical-Evidentiary-Examination-Reimbursement-Rev.-5-22.pdf> (accessed on July 31, 2025); Exhibit X (5) Cal OES Invoice for Reimbursement for Medical Evidentiary Examination, 2021, page 1,

Per legislative history, the test claim statute “mirrors the process set forth by AB 2185, to provide free medical evidentiary examinations for a victim of child physical abuse or neglect.”<sup>121</sup> That is, the test claim statute “mirrors” the domestic violence medical evidentiary exam law.

### **III. Positions of the Parties and Interested Parties**

#### **A. County of Santa Clara**

The claimant asserts the test claim statute imposes a reimbursable state-mandated program. The claimant states in the Test Claim:

As a result of [Penal Code section 11711] [s]ubdivision (f), county providers can no longer bill Medi-Cal or private insurance for physical abuse and neglect exams administered to children. Rather than charge Medi-Cal or private insurance for physical abuse and neglect exams, counties are now required to authorize a designee to approve providers who can perform these exams and send invoices to CalOES. (*Id.*, subd. (g).) CalOES, who administers the reimbursement program under Section 11171, must reimburse counties within 60 days and adjust reimbursement rates every five years. (*Ibid.*)

Notwithstanding the mandatory reimbursement provision of AB 1402, the Legislature has failed to appropriate any funding for child physical abuse and neglect exams. (See Stats. 2024, ch. 22, § 2.00; Stats. 2023, ch. 38; see also Sen. Comm. On Approps., Analysis of Assem. Bill No. 1402 (2023-2024 Reg. Sess.), p. 3 [“Staff notes that no funding has been included in the 2023-2024 budget for these purposes.”].) Nor has CalOES issued any guidance or form for AB 1402 reimbursements. (Declaration of Serena Sy, at p. 3 (“Sy Decl.”)) As a result, counties are now forced to absorb the costs of physical abuse or neglect exams for children.<sup>122</sup>

The claimant states that paying for the exams is a new reimbursable activity:

In other words, the new activity mandated by Subdivision (f) – and the corresponding new program or higher level of service – is the new requirement that the County assume the full cost of providing child abuse

---

[https://www.safeta.org/wp-content/uploads/2022/03/invoice\\_for\\_reimbursement\\_fo.pdf](https://www.safeta.org/wp-content/uploads/2022/03/invoice_for_reimbursement_fo.pdf) (accessed on July 31, 2025).

<sup>121</sup> Exhibit X (17), Senate Committee on Public Safety, June 27, 2023, on AB 1402, as amended March 30, 2023, page 3; Exhibit X (18), Senate Rules Committee, Office of Senate Floor Analyses, September 2, 2023, on AB 1402, as amended March 30, 2023, page 4; Exhibit X (3), Assembly Committee on Public Safety, April 25, 2023, on AB 1402, as amended March 30, 2023, page 4.

<sup>122</sup> Exhibit A, Test Claim, pages 13-14.



and neglect exams free of charge whenever the State declines to reimburse these costs.<sup>123</sup>

The claimant states that before the test claim statute, “counties [had] long provided child physical abuse and neglect exams under the State’s supervision,” but “were never responsible for funding these exams.”<sup>124</sup> Following the test claim statute, and without state reimbursement thereunder, “the County must now perform its existing duties – provide these exams consistent with the State’s guidance, protocols, and forms – *and* assume financial responsibility for these exams.”<sup>125</sup>

The claimant analogizes this claim to *County of San Diego v. State of California*, a California Supreme Court decision where the court found a new reimbursable program after the state had shifted costs for a class of Medi-Cal beneficiaries from itself to the counties.<sup>126</sup> The claimant argues that, as in *County of San Diego*, “[s]ubdivision (f) compels local governments to assume the full financial responsibility for these crucial exams whenever the State declines to provide reimbursement. Section 6 requires the State to reimburse these costs.”<sup>127</sup>

The claimant also argues that practical compulsion results in a new state-mandated program or higher level of service.<sup>128</sup> For example, the claimant analogizes child physical abuse and neglect exams to stormwater drainage systems as a matter of public health and safety, in that not providing them is “no alternative at all.”<sup>129</sup> Further, the claimant asserts that relying on non-expert exams would be inadequate:

Standard physical exams, such as well child visits and emergency room encounters, are not a reasonable substitute for child physical abuse and neglect exams. (Sturm Decl., at p. 5.) Child abuse pediatrics is a medical specialty within pediatrics, like pediatric cardiology or pediatric neurology. (*Id.* at p. 3.) Without specific and continuing education in child abuse pediatrics, general practitioners are not qualified to provide expert medical opinions about whether a child has endured and survived maltreatment or determine the best course of treatment. (*Ibid.*) Medical professionals who are not trained to identify child abuse and neglect miss opportunities for diagnosis and intervention. (*Id.* at p. 5.)<sup>130</sup>

---

<sup>123</sup> Exhibit A, Test Claim, page 16.

<sup>124</sup> Exhibit A, Test Claim, page 16.

<sup>125</sup> Exhibit A, Test, Claim, pages 16-17.

<sup>126</sup> Exhibit A, Test Claim, page 17 citing *County of San Diego v. State of California* (1997) 15 Cal.4th 68.

<sup>127</sup> Exhibit A, Test Claim, page 17.

<sup>128</sup> Exhibit A, Test Claim, page 20.

<sup>129</sup> Exhibit A, Test Claim, pages 20-21.

<sup>130</sup> Exhibit A, Test Claim, page 24.

The claimant asserts that child physical abuse and neglect exams, in many cases, are “necessary to uncover abuse and neglect.”<sup>131</sup> The claimant states that “counties – and more importantly, the infants and children they serve – face severe and certain consequences were counties to cease using child physical abuse and neglect exams as a tool in their child welfare investigations.”<sup>132</sup> The claimant also points to specific statutory law requiring such an exam within 72 hours when a medical specialist determines it necessary for a child in protective custody.<sup>133</sup> It concludes that not consulting the medical specialists upon a report of suspected child abuse is “not an acceptable alternative.”<sup>134</sup> The claimant then argues that the duty to investigate child abuse reports also requires these medical exams.<sup>135</sup>

Attached to the Test Claim are four declarations of County of Santa Clara employees:

1. Declarant Serena Sy is the Director of Primary Care Operations for Santa Clara Valley Healthcare (“SCVH”).<sup>136</sup> Ms. Sy oversees SCVH operations over primary care clinics and programs throughout the County of Santa Clara, including child physical abuse and neglect exams.<sup>137</sup>

Explaining the claimant’s work in child physical abuse and neglect exams, Ms. Sy declares that the “County conducts the vast majority of physical abuse and neglect exams to comply with child welfare investigations.”<sup>138</sup> Ms. Sy adds: “Physical abuse and neglect exams are also conducted pursuant to law enforcement investigations into potential crimes against children.”<sup>139</sup> As to the population of children served, Ms. Sy declares that the “County is one of [the] only providers of physical abuse and neglect exams in its region. SCVH and

---

<sup>131</sup> Exhibit A, Test Claim, page 23 citing page 47, paragraphs 18-19 and 21-22 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

<sup>132</sup> Exhibit A, Test Claim, page 21.

<sup>133</sup> Exhibit A, Test Claim, page 21 citing Welfare and Institutions Code section 324.5.

<sup>134</sup> Exhibit A, Test Claim, page 22.

<sup>135</sup> Exhibit A, Test Claim, page 22.

<sup>136</sup> Exhibit A, Test Claim, page 31, paragraph 2 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>137</sup> Exhibit A, Test Claim, page 31, paragraph 3 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>138</sup> Exhibit A, Test Claim, page 31, paragraph 7 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>139</sup> Exhibit A, Test Claim, page 31, paragraph 9 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

CAC frequently receive referrals from other agencies and hospitals to perform these exams for children.”<sup>140</sup>

Regarding billing, Ms. Sy declares “there is no entity the County can bill for child physical abuse and neglect exams.”<sup>141</sup> “To comply with Subdivision (f), the County can no longer bill Medi-Cal or private insurance.”<sup>142</sup>

2. Declarant Kiyomi Ross is the Director of Financial Planning and Performance for the County of Santa Clara.<sup>143</sup> Ms. Ross oversees the County’s cost accounting system, including for the county’s health system, which includes all its hospitals and clinics.<sup>144</sup> Ms. Ross provides cost data for the child physical abuse and neglect exams performed in the County of Santa Clara.<sup>145</sup>

Ms. Ross attests to “the costs of providing child physical abuse and neglect exams free of charge to patients and without reimbursement from the State.”<sup>146</sup> With explanations and exhibits, Ms. Ross declares that “the average cost of each exam is \$3,455” and that “the County provides an average of 15 such exams each month,” working out to an “expected annual average cost to the County of \$621,927.”<sup>147</sup> The County first incurred costs for performing a medical exam on

---

<sup>140</sup> Exhibit A, Test Claim, page 32, paragraph 11 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>141</sup> Exhibit A, Test Claim, page 33, paragraph 17 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>142</sup> Exhibit A, Test Claim, pages 33-34, paragraph 15 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>143</sup> Exhibit A, Test Claim, page 35, paragraph 2 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>144</sup> Exhibit A, Test Claim, page 35, paragraph 3 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>145</sup> Exhibit A, Test Claim, pages 35-36, paragraphs 5-13 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>146</sup> Exhibit A, Test Claim, page 35, paragraph 5 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>147</sup> Exhibit A, Test Claim, pages 35-36, paragraph 9 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

January 3, 2024, and in fiscal year 2023-2024 performed a total of 83 exams.<sup>148</sup> Costs are expected to reach \$717,496 for fiscal year 2024-2025.<sup>149</sup>

3. Declarant Melissa Suarez is a Social Services Program Manager III (“Bureau Manager”) for the Department of Family and Children’s Services (“DFCS”) for the County of Santa Clara.<sup>150</sup> Ms. Suarez oversees emergency social workers from South San Jose to the southernmost boundary of the County’s jurisdiction, and supports DFCS division managers in emergency response, court, and non-court services for the county’s welfare system.<sup>151</sup>

Ms. Suarez declares that “laws, rules, and regulations impose upon County social workers a duty to investigate allegations of child physical abuse so that they may determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced.”<sup>152</sup>

Ms. Suarez details many circumstances under which a child physical abuse and neglect exam may be prompted (i.e., reports from child, witness, daycare, school, community member, law enforcement, healthcare providers) and what indicia county social workers look for (i.e., disclosures, bruising, burns, fractures, unexplained injury, domestic violence, drug use) when considering requesting an exam.<sup>153</sup> She notes that “time is of the essence” because “[i]njuries may fade and heal, invisible injuries may worsen without treatment (e.g., brain bleeds), and the child may be at grave risk of harm the longer they remain in an unsafe environment.”<sup>154</sup>

---

<sup>148</sup> Exhibit A, Test Claim, page 36, paragraphs 10 and 12 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>149</sup> Exhibit A, Test Claim, page 36, paragraph 13 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>150</sup> Exhibit A, Test Claim, page 40, paragraphs 2-3 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

<sup>151</sup> Exhibit A, Test Claim, page 40, paragraph 4 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

<sup>152</sup> Exhibit A, Test Claim, page 40, paragraph 6 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

<sup>153</sup> Exhibit A, Test Claim, pages 41-42, paragraphs 15-16 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

<sup>154</sup> Exhibit A, Test Claim, page 42, paragraph 17 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

Ms. Suarez declares that the exams are “indispensable in the child welfare system,” stating that they allow assessments to be made “without having to depend on the observations of witnesses or the disclosure of children. Witnesses to child abuse and neglect are rare, the adults who perpetrate abuse and neglect rarely admit to their crimes, and children may be too traumatized to disclose their injuries (or may be retraumatized by having to disclose their injuries).”<sup>155</sup> Ms. Suarez speaks to the use of exams when “the victim or potential victim is an infant, pre-verbal, nonverbal, developmentally delayed, or otherwise unable to communicate their abuse or neglect” and conveys concern that without the exams as presently performed, “cases of actual abuse and neglect would be missed,” and “more children would be at risk of additional injury or death.”<sup>156</sup> She later adds: “Where social workers are unable to substantiate a report of child physical abuse or neglect, they risk returning the child to an unsafe environment, where the siblings may also be unsafe.”<sup>157</sup> Ms. Suarez declares the following severe consequences she is “certain based on [her] own experience and that of the County’s child welfare agency” would occur if the County were to cease providing the physical abuse and neglect exams:

- a. Law enforcement officials’ investigation into child abuse and neglect crimes would be severely limited;
- b. Social workers would be unable to substantiate suspected cases of child physical abuse or neglect, particularly for nonverbal, pre-verbal, disabled, and developmentally delayed children;
- c. Children and families who would otherwise receive support services following medical findings of abuse or neglect would not be assisted; and
- d. Children whose abuse or neglect would be uncovered by a physical abuse and neglect exam would remain in dangerous

---

<sup>155</sup> Exhibit A, Test Claim, pages 40-41, paragraph 9 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

<sup>156</sup> Exhibit A, Test Claim, page 41, paragraphs 10-12 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

<sup>157</sup> Exhibit A, Test Claim, page 41, paragraph 14 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

situations, and in some cases, would be severely harmed or killed.<sup>158</sup>

Ms. Suarez also declares that “[s]tandard physical exams, such as well child visits, are not a substitute for physical abuse and neglect exams. County social workers seek physical abuse and neglect exams from the County’s Child Advocacy Center (“CAC”) because the examiners there are trained to identify and assess the presence of child abuse and neglect. Our social workers’ experience is that standard physical exams do not reliably capture child abuse and neglect.”<sup>159</sup>

4. Declarant Marlene Sturm, MD is the Medical Director of the Children’s Advocacy Center (‘CAC’) at the Santa Clara Valley Medical Center (“SCVMC”).<sup>160</sup> Dr. Sturm has “supervised the County’s child abuse pediatrics program since 2017.”<sup>161</sup> Dr. Sturm directly supervises or herself provides child abuse medical examinations, consults with numerous hospital units, provides exams for adjacent counties, and works with social workers and law enforcement on investigations of child abuse and neglect.<sup>162</sup>

Dr. Sturm declares that the County receives over 20,000 child abuse reports annually, and that, “in many cases, expert medical evaluation for child physical abuse and neglect exams are *required* to diagnose missed cases of child abuse and neglect.”<sup>163</sup> Dr. Sturm explains, “a general pediatric examination may miss subtle fractures, injuries to internal organs, or retinal hemorrhages inside the eye.

---

<sup>158</sup> Exhibit A, Test Claim, pages 42-43, paragraph 18 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

<sup>159</sup> Exhibit A, Test Claim, page 41, paragraph 13 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

<sup>160</sup> Exhibit A, Test Claim, page 44, paragraphs 2 and 5 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

<sup>161</sup> Exhibit A, Test Claim, page 44, paragraph 2 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

<sup>162</sup> Exhibit A, Test Claim, page 44, paragraphs 5-6 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

<sup>163</sup> Exhibit A, Test Claim, pages 46-47, paragraphs 14 and 21 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

Of greatest concern, a child can have a relatively normal neurologic exam and ‘appear normal,’ yet have an evolving brain hemorrhage.”<sup>164</sup>

Echoing the Declaration of Melissa Suarez, Dr. Sturm extensively details medical literature and cites statistics of child abuse and neglect being missed through “standard physical exams.”<sup>165</sup> Dr. Sturm adds that, “without expert medical evaluations for child physical abuse and neglect, the County risks *underinclusive and overinclusive* child protection actions.”<sup>166</sup> In an underinclusive action, “social services may not have enough evidence to place the child in protective custody” when needed, and an overinclusive action could mean that a child is placed “in protective custody because of incomplete or inaccurate information,” which may “break apart families and treat innocent adults as perpetrators.”<sup>167</sup> In short, in Dr. Sturm’s “professional experience, expert medical evaluations for child physical abuse and neglect exams are necessary to ensure the safety of the child, to support effective collaboration with social services, and when appropriate, to file criminal charges.”<sup>168</sup>

The claimant declares it first incurred costs under the test claim statute on January 3, 2024.<sup>169</sup> It declares incurring \$221,046 for FY 2023-2024<sup>170</sup> and estimates

---

<sup>164</sup> Exhibit A, Test Claim, page 47, paragraph 21 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

<sup>165</sup> Exhibit A, Test Claim, pages 48-49, paragraph 24 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

<sup>166</sup> Exhibit A, Test Claim, page 48, paragraph 23 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

<sup>167</sup> Exhibit A, Test Claim, page 48, paragraph 23 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

<sup>168</sup> Exhibit A, Test Claim, page 47, paragraph 19 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

<sup>169</sup> Exhibit A, Test Claim, pages 11 and 36, paragraph 10 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>170</sup> Exhibit A, Test Claim, page 36, paragraph 12 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

costs of \$717,496 for FY 2024-2025.<sup>171</sup> It estimates a statewide cost of \$11,800,000 for FY 2024-2025.<sup>172</sup> The claimant declares this estimate is based on the Senate Committee on Appropriations analysis of the test claim statute, multiplying the average number of child abuse cases by the reimbursement amount that Cal OES currently provides for each sexual assault medical evidentiary exam, which is \$911 per exam.<sup>173</sup> However, the claimant also declares that each exam costs \$3,455.<sup>174</sup> The claimant declares it has received no funds from any state, federal, or other non-local agency for the program, and that its general funds must be used.<sup>175</sup>

The claimant asserts that the test claim statute imposes requirements unique to local government because the services to the public are provided by the counties.<sup>176</sup> It additionally asserts that the test claim statute carries out state policy of “public safety, child welfare, and guardianship” through the “free provision of child abuse and neglect exams” because the exams are the county’s responsibility whether performed in-house or through contractors.<sup>177</sup>

The claimant finally asserts that no condition exists creating an exception to reimbursement under Government Code section 17556.<sup>178</sup>

The claimant filed rebuttal comments on May 7, 2025.<sup>179</sup> In response to Finance’s comment that there is no increased level of governmental service being provided to the

---

<sup>171</sup> Exhibit A, Test Claim, page 36, paragraph 13 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>172</sup> Exhibit A, Test Claim, pages 11 and 33-34, paragraph 24 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>173</sup> Exhibit A, Test Claim, pages 33-34, paragraph 24 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara citing Senate Committee on Appropriations, August 21, 2023, on AB 1402, as amended March 30, 2023, page 3).

<sup>174</sup> Exhibit A, Test Claim, pages 35-36, paragraph 9 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>175</sup> Exhibit A, Test Claim, pages 12, 15 and 33, paragraphs 17 and 20 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara); pages 35-36, paragraphs 5 and 10-11 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>176</sup> Exhibit A, Test Claim, pages 26-27.

<sup>177</sup> Exhibit A, Test Claim, page 27.

<sup>178</sup> Exhibit A, Test Claim, pages 28-29.

<sup>179</sup> Exhibit C, Claimant’s Rebuttal Comments.



public, the claimant newly argues that the test claim statute does increase the quality of service to the public.<sup>180</sup> The claimant argues there is an enhanced quality of service because “the Test Claim statute makes these exams free of charge to make them more accessible to the public.”<sup>181</sup>

Further, the claimant disagrees with Finance’s comment that *Workers’ Compensation Disability Benefits for Government Employees*, 00-TC-20/02-TC-02 applies. The claimant summarizes the *Workers’ Compensation Disability Benefits* test claim statute as having “expanded a preexisting leave benefit to additional categories of employees.”<sup>182</sup> Here instead, the claimant states: “By shifting full financial responsibility from the State to counties, the Test Claim Statute and legislative action use county resources to finance this enhanced public service.”<sup>183</sup>

### **B. Department of Finance**

Finance contends that the test claim statute does not impose a reimbursable state-mandated program. Citing *Workers’ Compensation Disability Benefits for Government Employees*, 00-TC-20/02-TC-02, Finance asserts:

[T]here is not an increase in the actual level or quality of governmental service provided to the public. Penal Code section 11171(f) simply requires the county to absorb the cost of medical evidentiary exams that the county was already required to perform under existing law, instead of passing those costs along to a third party.<sup>184</sup>

### **C. Kern County Department of Human Services**

The Kern County Department of Human Services (KCDHS) is an interested person under section 1181.2(j) of the Commission’s regulations. KCDHS filed late comments on the Test Claim on April 11, 2025.<sup>185</sup>

KCDHS is “deeply concerned about the bill’s misalignment with child welfare’s legal mandate and the significant hidden operational and administrative burden it imposes on counties.”<sup>186</sup> As to the asserted misalignment with child welfare’s legal mandate, it states: “Requiring child welfare agencies to coordinate, oversee, and ensure reimbursement for medical evidentiary exams blurs a critical boundary between the civil

---

<sup>180</sup> Exhibit C, Claimant’s Rebuttal Comments, page 2.

<sup>181</sup> Exhibit C, Claimant’s Rebuttal Comments, page 2.

<sup>182</sup> Exhibit C, Claimant’s Rebuttal Comments, page 4.

<sup>183</sup> Exhibit C, Claimant’s Rebuttal Comments, page 4.

<sup>184</sup> Exhibit B, Finance’s Comments on the Test Claim, page 1.

<sup>185</sup> Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim, page 1.

<sup>186</sup> Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim, page 1.

and criminal systems.”<sup>187</sup> As to the operational and administrative burden, it states: “While AB 1402 outlines a reimbursement pathway through Cal OES, it does not account for the substantial non-reimbursable infrastructure counties must build to comply with this mandate, including designating and managing a pool of approved medical evidentiary examiners, training staff and community partners in evidentiary protocols and documentation and ensuring compliance and audit readiness for Cal OES reimbursement.”<sup>188</sup> KCDHS “strongly urge[s] the Commission to recognize the administrative burden and legal misalignment that AB 1402 imposes on counties.”<sup>189</sup>

That said, KCDHS “support[s] Santa Clara County’s test claim (24-TC-05) and respectfully request[s] that the Commission determine that AB 1402 constitutes an unfunded mandate under the California Constitution.”<sup>190</sup>

#### **IV. Discussion**

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service...

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”<sup>191</sup> Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government] ....”<sup>192</sup>

Reimbursement under article XIII B, section 6 is required when the following elements are met:

---

<sup>187</sup> Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim, page 1.

<sup>188</sup> Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim, page 1.

<sup>189</sup> Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim, page 1.

<sup>190</sup> Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim, page 1.

<sup>191</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

<sup>192</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity.<sup>193</sup>
2. The mandated activity constitutes a “program” that either:
  - a. Carries out the governmental function of providing a service to the public; or
  - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.<sup>194</sup>
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.<sup>195</sup>
4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.<sup>196</sup>

In 2004, article XIII B, section 6 was amended by the voter’s approval of Proposition 1A, which added subdivision (c) to define a mandated new program or higher level of service to also include:

a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.<sup>197</sup>

The Commission is vested with the exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.<sup>198</sup> The determination whether a statute or executive order

---

<sup>193</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

<sup>194</sup> *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles* (1987) 43 Cal.3d 46, 56).

<sup>195</sup> *San Diego Unified School District* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

<sup>196</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

<sup>197</sup> Proposition 1A, November 2004.

<sup>198</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 335.

imposes a reimbursable state-mandated program is a question of law.<sup>199</sup> In making its decisions, the Commission must strictly construe article XIII B, section 6 of the California Constitution, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>200</sup>

**A. The Test Claim Is Timely Filed with a Potential Period of Reimbursement Beginning January 1, 2024.**

A test claim must be filed within 12 months of the effective date of a statute or an executive order, or within 12 months of incurring increased costs as a result of the statute or executive order, whichever is later.<sup>201</sup> The Commission’s regulations clarify that “within 12 months of incurring costs” means “within 12 months (365 days) of *first* incurring costs as a result of a statute or executive order.”<sup>202</sup>

The effective date of the test claim statute is January 1, 2024.<sup>203</sup> The claimant filed the Test Claim on December 31, 2024.<sup>204</sup> As this is within 12 months of the effective date of the statute, the Test Claim is timely filed.

Government Code section 17557(e) provides that a Test Claim “shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.” Because the claimant filed the Test Claim on December 31, 2024 (during FY 2024-2025), the potential period of reimbursement under Government Code section 17557(e) would begin at the start of the prior fiscal year, which is July 1, 2023. However, since the test claim statute has a later effective date, the potential period of reimbursement begins on the statute’s effective date, or January 1, 2024.<sup>205</sup>

---

<sup>199</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.

<sup>200</sup> *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280 citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>201</sup> Government Code section 17551(c).

<sup>202</sup> California Code of Regulations, title 2, section 1183.1(c), emphasis added.

<sup>203</sup> California Constitution, article IV, section 8(c)(1); Government Code section 9600.

<sup>204</sup> Exhibit A, Test Claim.

<sup>205</sup> *Southern California Gas Co. v. Public Utilities Commission* (1985) 38 Cal.3d 64, 67 (“It is well settled that a statute has no force whatsoever until its effective date.”).

**B. The Test Claim Statute Mandates a New Program or Higher Level of Service Pursuant to Article XIII B, Section 6(c) of the California Constitution, Only in Fiscal Years the State Does Not Appropriate Funds to Counties Sufficient to Cover the Costs of Child Physical Abuse and Neglect Exams and Instead Shifts those Costs to Counties by Prohibiting Them from Billing State-Funded Medi-Cal or the Victims Compensation Board for the Costs of the Exams.**

Reimbursement under article XIII B, section 6, of the California Constitution is required only when:

- The state mandates local agencies to perform new activities, which impose a new program or higher level of service and result in costs mandated by the state;<sup>206</sup>
- or
- The state transfers from itself to local agencies the complete or partial financial responsibility for a required program for which the state previously had complete or partial financial responsibility and results in costs mandated by the state.<sup>207</sup>

As explained below, the test claim statute does not require the counties to perform any new activities. However, the test claim statute prohibits counties from charging the victim of the physical abuse or neglect, either directly or indirectly, for the costs of the medical evidentiary portion of the examination.<sup>208</sup>

The Commission finds that the test claim statute does not mandate a new program or higher level of service for the increased costs of child physical abuse and neglect evidentiary exams when the costs could have been recovered directly from the victim or from the victim's private medical insurance.

However, absent an appropriation from the state sufficient to cover the costs of the child physical abuse and neglect evidentiary exams, and where the state, through Medi-Cal or the VCB, previously paid for the child physical abuse and neglect medical evidentiary exams, the test claim statute shifts those costs from the state to the counties under article XIII B, section 6(c), resulting in a mandated new program or higher level of service.

---

<sup>206</sup> California Constitution, article XIII B, section 6(a).

<sup>207</sup> California Constitution, article XIII B, section 6(c).

<sup>208</sup> Penal Code section 11171(f), as added by Statutes 2023, chapter 841.

**1. Penal Code Section 11171(f), as Amended by the Test Claim Statute, Does Not Require the Counties to Perform Any New Activities And Does Not Shift Costs from the State to the Counties Under Article XIII B, Section 6(c) for the Costs of the Exam Previously Recoverable From the Victim's Private Insurance or from the Victim Directly and, Thus, Does Not Impose a State-Mandated New Program or Higher Level of Service Under These Circumstances.**

Penal Code section 11171(f), as amended by the test claim statute, does not require the counties to perform any new activities and does not shift costs from the state to the counties under article XIII B, section 6(c) for the costs of the exam previously recoverable from the victim's private insurance or from the victim directly.

As explained in the Background, counties have long been required to investigate all incoming child abuse reports, a duty that has been confirmed by the courts.<sup>209</sup> Existing state law also requires counties to ensure that a child taken into protective custody undergo a physical examination performed by a medical practitioner who has specialized training in detecting and treating child abuse injuries and neglect, when appropriate and following allegations of physical abuse, and "whenever possible, shall ensure that this examination take place within 72 hours of the time the child was taken into protective custody, when there are allegations of physical abuse."<sup>210</sup> In 2002, Penal Code section 11171 was added, and it has applied to all children in the state since January 1, 2004.<sup>211</sup> With the exception of amendments to the name of the office directed to lead the creation of the form, instructions, and examination protocols as the California Office of Emergency Services (Cal OES) after the Office of Criminal Justice Planning was dissolved, the requirements for the medical evidentiary exams ensured by the counties have been the same for two decades. At all times, the same standard nine components of the exam have been required:

- (1) Any notification of injuries or any report of suspected child physical abuse or neglect to law enforcement authorities or children's protective services, in accordance with existing reporting procedures.
- (2) Addressing relevant consent issues, if indicated.
- (3) The taking of a patient history of child physical abuse or neglect that includes other relevant medical history.
- (4) The performance of a physical examination for evidence of child physical abuse or neglect.

---

<sup>209</sup> Penal Code section 11166.3 (formerly 11166.1); see also *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180, 1185-1186.

<sup>210</sup> Welfare and Institutions Code section 324.5.

<sup>211</sup> Penal Code section 11171(a)-(e), as added by Statutes 2002, chapter 249, section 4 (SB 580).

- (5) The collection or documentation of any physical evidence of child physical abuse or neglect, including any recommended photographic procedures.
- (6) The collection of other medical or forensic specimens, including drug ingestion or toxication, as indicated.
- (7) Procedures for the preservation and disposition of evidence.
- (8) Complete documentation of medical forensic exam findings with recommendations for diagnostic studies, including blood tests and X-rays.
- (9) An assessment as to whether there are findings that indicate physical abuse or neglect.<sup>212</sup>

Cal OES issued the state standardized exam form on January 1, 2004.<sup>213</sup> This form, its protocols, and its instructions remain dated January 1, 2004.<sup>214</sup>

Thus, the counties' duties relating to the medical examination requirements for child physical abuse and neglect are not new.

What is new under the test claim statute is subdivisions (f) – (h) of Penal Code section 11171.<sup>215</sup> Subdivision (f), the only provision pled by the claimant, prohibits the counties from billing the victim directly or indirectly for the medical examination.<sup>216</sup> Before the enactment of the test claim statute, counties or their contracted providers could bill the victim or the victim's private insurance, Medi-Cal, or the VCB for child physical abuse and neglect exams. This was specified directly on the Cal OES Form 2-900 Instructions.<sup>217</sup> The Cal OES Protocol states that the "the majority of counties" billed

---

<sup>212</sup> Penal Code section 11171(c); See Penal Code section 11171, as added by Statutes 2002, chapter 249, section 4 (SB 580).

<sup>213</sup> Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 7, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

<sup>214</sup> Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, pages 7; 108-114; 116-122, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

<sup>215</sup> Penal Code section 11171, as amended by Statutes 2023, chapter 841, section 1.

<sup>216</sup> Penal Code section 11171(f).

<sup>217</sup> Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025) ("**3. Payment methods have not been formally established. Options to pursue include: the patient's public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law**

Medi-Cal or private insurance, and occasionally the VCB.<sup>218</sup> While subdivision (f) prohibits counties from billing the victim directly or indirectly, subdivision (g) now states that the costs associated with the medical evidentiary exams “shall be funded by the state, subject to appropriation by the Legislature” and requires the county’s designated SART, SAFE, or other qualified medical examiners to bill Cal OES for reimbursement.<sup>219</sup> And subdivision (h) requires that reimbursement not be reduced based on patient history; and that victims may receive exams outside of the jurisdiction where the crime occurred, and that the county’s SART, SAFE, or other qualified examiners will be reimbursed by Cal OES under those circumstances.<sup>220</sup> The Test Claim does not request reimbursement to designate a SART, SAFE, or other medical examiner to bill Cal OES for reimbursement and, thus, no mandate findings are made on that provision.

Accordingly, the test claim statute does not mandate counties to perform new activities and, thus, there is not a new program or higher level of service pursuant to article XIII B, section 6(a).

Moreover, Penal Code section 11171(f), as amended by the test claim statute, does not impose a state-mandated new program or higher level of service under article XIII B, section 6(c) for the costs of the child physical abuse and neglect evidentiary exams that were previously recoverable from the victim’s private insurance or from the victim directly because the state did not “previously [have] complete or partial financial responsibility” for those costs. Since 1971, Welfare and Institutions Code section 10025 has provided that the “state shall not reimburse any local government or any facility thereof, under Medi-Cal or under any other health program . . . , for care provided to a person covered under any disability insurance, health insurance, or prepaid health plan.”<sup>221</sup> Thus, victims who were not eligible for Medi-Cal were responsible for those costs under prior law. Now that the test claim statute in subdivision (f) prohibits counties from recovering the costs from the victim directly or indirectly through private insurance as of January 1, 2024, the counties do experience increased costs, but are not required to comply with a *new* state-mandated program. The courts have been

---

**enforcement agencies or Child Protective Services (CPS). Follow local policy.”** Emphasis in original.).

<sup>218</sup> Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15 <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

<sup>219</sup> Penal Code section 11171(g).

<sup>220</sup> Penal Code section 11171(h). Because the claimant has pled only subsection (f), the Commission need not determine whether this subsection’s statement that victims of child physical abuse or neglect “may receive a medical evidentiary exam outside of the jurisdiction where the crime occurred” is new.

<sup>221</sup> Welfare and Institutions Code section 10025 (Stats. 1971, ch. 812).



clear that increased costs alone do not create a reimbursable state-mandated program.<sup>222</sup>

Accordingly, the test claim statute does not impose a state-mandated new program or higher level of service under article XIII B, section 6 of the California Constitution for the costs of the child physical abuse and neglect evidentiary exams that were previously recoverable from the victim's private insurance or from the victim directly.

**2. Absent an Appropriation from the State, and Where the State, Through Medi-Cal or the VCB, Previously Paid for the Child Physical Abuse and Neglect Medical Evidentiary Exams, Penal Code Section 11171(f), as Amended by the Test Claim Statute, Shifts Those Costs from the State to the Counties Under Article XIII B, Section 6(c), Resulting in a Mandated New Program or Higher Level of Service.**

Absent an appropriation from the state, and where the state's Medi-Cal or the VCB programs previously paid for the child physical abuse and neglect medical evidentiary exams, the test claim statute shifts those costs from the state to the counties under article XIII B, section 6(c), resulting in a "mandated new program or higher level of service."<sup>223</sup> Article XIII B, section 6(c), added to the California Constitution by the voters in 2004 as Proposition 1A, states:

A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.

Proposition 1A was a constitutional amendment placed on the ballot by the Legislature (SCA 4) as part of the 2004-2005 budget agreement to protect property tax revenues of local agencies. It was proposed, in part, to address the court's ruling in *County of Sonoma v. Commission on State Mandates*, which denied reimbursement under article XIII B, section 6 for the reduction of county property tax revenue and allocation of that revenue into the Educational Revenue Augmentation Fund (ERAF) to fund K-14 schools, on the ground that the state had not assumed complete financial responsibility for K-14 education before adoption of section 6.<sup>224</sup> The court in *County of Sonoma* held that article XIII B, section 6 only "prohibits the state from shifting to counties the cost of state programs for which the state assumed *complete financial responsibility before*

---

<sup>222</sup> *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816 ("Section 6 was not intended to entitle local entities to reimbursement for *all* increased costs resulting from Legislative enactments, but only those costs mandated by a new program or an increased level of service imposed upon them by the State.").

<sup>223</sup> Penal Code section 11171(f)–(h).

<sup>224</sup> Exhibit X (21) Assembly Floor Analysis, July 27, 2004, on SCA 4, as amended July 27, 2004, page 5.

*adoption of section 6.*<sup>225</sup> Thus, Proposition 1A added section 6(c) to article XIII B, to expand the definition of a new program or higher level of service to include situations when the Legislature transfers from the state to a local agency “complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.”

- a. The test claim statute shifts the Medi-Cal and VCB costs, which were previously used to pay for the child physical abuse and neglect evidentiary exams, from the state to the counties and, thus, the test claim statute imposes a new program or higher level of service within the meaning of article XIII B, section 6(c).

From January 1, 2004, to December 31, 2023, funds from Medi-Cal and the VCB reimbursed counties for the cost of child physical abuse and neglect medical evidentiary exams. Both billing options have been acknowledged on the Cal OES exam instructions since 2001.<sup>226</sup> Under Chapter IV, “Reimbursements for Examinations,” the Cal OES Protocol stated before the test claim statute, attached to forms dated January 1, 2004:

In the majority of counties in California, charges for child physical abuse and neglect examinations **are billed to Medi-Cal** or to the patient’s private insurance. Standard diagnostic and procedural coding manuals are used to generate charges. For patients without insurance, or who are underinsured, reimbursement of **charges may be obtained through California Victim Compensation and Government Claims Board.**

Some counties have contracts with private hospitals for various medical services (e.g., indigent care) and include a provision for payment of these examinations **if there is no public or private insurance reimbursement.** Follow local policy.<sup>227</sup>

This information was also specified directly on the Cal OES Form 2-900 Instructions.<sup>228</sup> The Cal OES Protocol states that the “the majority of counties” billed Medi-Cal or private

---

<sup>225</sup> *County of Sonoma v. Commission on State Mandates* (2000), 84 Cal.App.4th 1264, 1286 citing *County of San Diego v. State of California* (1997), 15 Cal.4th 68, 99, fn. 20.

<sup>226</sup> Exhibit A, Test Claim, page 235; Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

<sup>227</sup> Exhibit A, Test Claim, page 134; Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025), emphasis added.

<sup>228</sup> Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the->

insurance, and occasionally the VCB.<sup>229</sup> The evidence corroborates that Medi-Cal was billed until January 1, 2024.<sup>230</sup>

As set forth in the Background, Medi-Cal had assumed financial responsibility for abused and neglected children since at least 1982. The State Department of Healthcare Services advised all county directors at that time that individuals receiving “Emergency Assistance,” including “Abused, Neglected or Exploited Children (EA-ANEC)” were considered “public assistance recipients” and “will be eligible for Medi-Cal benefits and a Medi-Cal card.”<sup>231</sup> Social workers have since been applying on behalf of an abused or neglected child for “Retroactive Medi-Cal,” using Form MC 250.<sup>232</sup> Thus,

---

[director/policy-administration/finance-administration/grants-management/victim-services/forms/](#) (accessed on June 20, 2025) (“**3. Payment methods have not been formally established. Options to pursue include: the patient’s public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law enforcement agencies or Child Protective Services (CPS). Follow local policy.**” Emphasis in original.).

<sup>229</sup> Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

<sup>230</sup> Exhibit A, Test Claim, pages 32-33, paragraphs 12, 15, and 17 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara); Exhibit A, Test Claim, page 134; Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025); California Code of Regulations, title 22, section 50143(a)(3).

<sup>231</sup> Exhibit X (8), Department of Health Services Letter to All County Welfare Directors, August 17, 1982, Letter 82-44, page 1; Exhibit X (9), Department of Health Services Letter to All County Welfare Directors, December 22, 1982 Letter 82-72, pages 1-7; see also California Code of Regulations, title 22, section 50038.5 (defining “Emergency Assistance” as programs providing assistance for up to 30 days, including for “[t]hose children who are being, or are in immediate danger of being abused, neglected or exploited and to families of such children.”).

<sup>232</sup> Exhibit X (15), Retroactive Medi-Cal, page 1, [https://stgenssa.sccgov.org/debs/program\\_handbooks/foster\\_care/assets/28medi-cal/retromedical.htm?agt=index](https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/retromedical.htm?agt=index) (accessed on July 24, 2025); Exhibit X (10) Form MC 250, Application and Statement of Facts for Child Not Living with a Parent or Relative for Whom a Public Agency Is Assuming Some Financial Responsibility, pages 1-2, <https://www.dhcs.ca.gov/formsandpubs/forms/Forms/mc250.pdf> (accessed on July 24, 2025); California Code of Regulations, title 22, section 50251 (“(e) Children specified in (a)(3) shall be eligible and certified for Medi-Cal: (1) On the basis of the

if these children were not already enrolled in Medi-Cal, they would become enrolled by the social worker on an emergency basis.<sup>233</sup> Under Continuing Eligibility for Children (CEC), coverage would then continue, uninterrupted at least until the next annual redetermination.<sup>234</sup>

Counties could also bill the VCB if a child was somehow uninsured or underinsured by Medi-Cal.<sup>235</sup> If counties pursued this option, they, or their contracted providers, could bill the VCB directly as a service provider, but had to accept the limits of the VCB payment schedule.<sup>236</sup>

The payments to counties or their providers from Medi-Cal and the VCB have been the responsibility of the state. The California Supreme Court has found that Medi-Cal “has been the responsibility of various state departments and agencies.”<sup>237</sup> Likewise, the

---

information provided by the public agency on form MC 250. (2) Without considering the property or income of the child or the child's parents.”).

<sup>233</sup> California Code of Regulations, title 22, section 50143(a)(3); see also Exhibit X (1), Aid Codes Master Chart, updated April 2022, pages 33 and 35, [https://mcweb.apps.prd.cammis.medi-cal.ca.gov/assets/869D30AF-4BC7-4132-AF6A-AF75893E9221/aidcodes.pdf?access\\_token=6UyVkRRfByXTZEWIh8j8QaYyIPyP5ULO](https://mcweb.apps.prd.cammis.medi-cal.ca.gov/assets/869D30AF-4BC7-4132-AF6A-AF75893E9221/aidcodes.pdf?access_token=6UyVkRRfByXTZEWIh8j8QaYyIPyP5ULO) (accessed on July 24, 2025) (Aid Code 45 provides: “FC. Covers children supported by public funds other than AFDC-FC” with no share of costs.); see also Exhibit X (19), Short Doyle Medi-Cal Aid Code Chart, February 23, 2023, page 6, <https://www.dhcs.ca.gov/services/MH/Pages/medccc-library.aspx> (accessed on July 24, 2025) (Aid Code “5K” provides “Emergency Assistance (EA) Foster Care” with no share of costs).

<sup>234</sup> Exhibit X (7), Continuous Eligibility for Children (CEC), page 1, [https://stgenssa.sccgov.org/debs/program\\_handbooks/foster\\_care/assets/28medi-cal/contnuseigblty.htm](https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/contnuseigblty.htm) (accessed on July 24, 2025); California Code of Regulations, title 22, section 50189.

<sup>235</sup> Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025) (“**3. Payment methods have not been formally established. Options to pursue include: the patient’s public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law enforcement agencies or Child Protective Services (CPS). Follow local policy.**” Emphasis in original.).

<sup>236</sup> Government Code sections 13957.7(c)(1) and 13957.2; California Code of Regulations, title 2, section 649.23.

<sup>237</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 96.

VCB is a state agency.<sup>238</sup> The VCB has been in existence since 2002 under its current name and role.<sup>239</sup>

Accordingly, since the state, through Medi-Cal or the VCB, previously paid for the child physical abuse and neglect medical evidentiary exams, Penal Code Section 11171(f), as amended by the test claim statute, shifts those costs from the state to the counties under article XIII B, section 6(c), resulting in a new program or higher level of service.

The Commission has made one previous decision under article XIII B, section 6(c), which is analogous here. In *Sheriff Court-Security Services*, 09-TC-02, the state had accepted responsibility for funding security services to trial courts but later shifted back to the counties the costs of retiree health benefits for those security employees.<sup>240</sup> In that claim, the state had formally assumed responsibility on January 1, 1998, through the 1997 Trial Court Funding Act.<sup>241</sup> Thus, the state had financial responsibility when, in 2009, it legislated part of that responsibility back to the counties by excluding retiree health benefits from the statutorily defined cost of “court operations.”<sup>242</sup> As here, the Commission found that the state had financial responsibility for what was “billed to the state” and partially shifted it to the counties under article XIII B, section 6(c), thus causing a “new program” under that section.<sup>243</sup>

Finance’s conclusion that the claimant has merely experienced increased costs and should accordingly have its claim denied ignores Proposition 1A and is therefore incorrect. It cites the Commission’s Decision in *Workers’ Compensation Disability Benefits for Government Employees*, 00-TC-20/02-TC-02 for support.<sup>244</sup> Its reliance on that Test Claim is misplaced because there was no cost-shift at issue. In *Workers Compensation Disability Benefits for Government Employees*, 00-TC-20/02-TC-02, costs were increased for local government when workers’ compensation benefits were expanded, resulting in

---

<sup>238</sup> Government Code sections 11000 and 13950.

<sup>239</sup> Government Code sections 13950-13951, as added by Statutes 2002, chapter 1141, section 2.

<sup>240</sup> Commission on State Mandates, Test Claim Decision on *Sheriff Court-Security Services*, 09-TC-02, adopted December 5, 2014, <https://csm.ca.gov/decisions/121214a.pdf> (accessed on September 23, 2025).

<sup>241</sup> Commission on State Mandates, Test Claim Decision on *Sheriff Court-Security Services*, 09-TC-02, adopted December 5, 2014 <https://csm.ca.gov/decisions/121214a.pdf> (accessed on September 23, 2025), page 6.

<sup>242</sup> Commission on State Mandates, Test Claim Decision on *Sheriff Court-Security Services*, 09-TC-02, adopted December 5, 2014, <https://csm.ca.gov/decisions/121214a.pdf> (accessed on September 23, 2025), page 17.

<sup>243</sup> Commission on State Mandates, Test Claim Decision on *Sheriff Court-Security Services*, 09-TC-02, adopted December 5, 2014, <https://csm.ca.gov/decisions/121214a.pdf> (accessed on September 23, 2025), page 38.

<sup>244</sup> Exhibit B, Finance’s Comments on the Test Claim, page 2.

some disabled government employees receiving a paid year off.<sup>245</sup> While this did increase local government costs without constituting enhanced service to the public, it was not shifting an expense of a program required by state law to local government that was previously paid for by the state.<sup>246</sup> The voters added article XIII B, section 6(c) by Proposition 1A to address that situation, which has occurred in the Test Claim as it did in *Sheriff Court-Security Services*, 09-TC-02.<sup>247</sup>

The claimant asserts that the Legislature drafted Penal Code section 11171(g) in a manner that it was “knowing and intending” to trigger county responsibility to pay for the child physical abuse and neglect exams.<sup>248</sup> That section provides, in part, “[t]he costs associated with these medical evidentiary exams shall be funded by the state, subject to appropriation by the Legislature.”<sup>249</sup> The clause “subject to appropriation by the Legislature,” the claimant asserts, in combination with the Legislature’s lack of appropriation, means that the Legislature was “knowing and intending” to transfer financial responsibility to the counties.<sup>250</sup>

It is not clear and the Commission need not decide whether the state is “attempting to divest itself of responsibility to provide fiscal support for a program”<sup>251</sup> it created in 2002 to standardize child physical abuse and neglect exams. Legislative history only forewarned: “Staff notes that no funding has been included in the 2023-2024 budget for these purposes.”<sup>252</sup>

---

<sup>245</sup> Commission on State Mandates, Test Claim Decision on *Workers’ Compensation Disability Benefits for Government Employees*, 00-TC-20/02-TC-02, adopted May 31, 2007, <https://csm.ca.gov/decisions/154.pdf> (accessed on September 23, 2025), page 1.

<sup>246</sup> Commission on State Mandates, Test Claim Decision on *Workers’ Compensation Disability Benefits for Government Employees*, 00-TC-20/02-TC-02, adopted May 31, 2007, <https://csm.ca.gov/decisions/154.pdf> (accessed on September 23, 2025), pages 1-2.

<sup>247</sup> Commission on State Mandates, Test Claim Decision on *Sheriff Court-Security Services*, 09-TC-02, adopted December 5, 2014, <https://csm.ca.gov/decisions/121214a.pdf> (accessed on September 23, 2025), page 22.

<sup>248</sup> Exhibit C, Claimant’s Rebuttal Comments, page 3 citing *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 98.

<sup>249</sup> Penal Code section 11171(g).

<sup>250</sup> Exhibit A, Test Claim, page 17.

<sup>251</sup> *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1194; Penal Code section 11171, as added by Statutes 2002, chapter 249.

<sup>252</sup> Exhibit X (16), Senate Committee on Appropriations, August 21, 2023, on AB 1402, as amended March 30, 2023, page 3.



Nonetheless, by having assumed financial responsibility for this program for two decades through Medi-Cal and the VCB and then not appropriating funding as provided for in the test claim statute, the state has shifted costs from itself to the counties under article XIII B, section 6(c). This indefinite cost-shift to the counties is further apparent in the legislative intent that the exams be “free” or “no-cost” to all victims.<sup>253</sup> The bill was said to “require counties to set up systems to provide examinations at no cost to the victim” and then to submit invoices to Cal OES.<sup>254</sup> Without reimbursement from Cal OES, the counties are now required to assume the financial responsibility previously carried by the state.

In addition, the test claim statute resembles that of the 1997 California Supreme Court case on which the claimant relies regarding the Legislature’s exclusion of medically-indigent-persons from Medi-Cal. There, the Court found that “the Legislature excluded adult MIP’s from Medi-Cal *knowing* and *intending* that the 1982 legislation would trigger the counties’ responsibility to provide medical care as providers of last resort under section 17000.”<sup>255</sup> Here, while the Commission makes no finding as to the Legislature’s intent, the effect is the same. As in the 1997 case, the counties are providers of last resort, here for abused and neglected children, as well as the agents of the state’s child welfare system.<sup>256</sup> Inevitably, the state has shifted these costs to the counties to the extent it does not appropriate the funding as declared intended. As Finance partially states, “Penal Code section 11171(f) simply requires the county to absorb the costs of

---

<sup>253</sup> Exhibit X (3), Assembly Committee on Public Safety, April 25, 2023, on AB 1402, as amended March 30, 2023, pages 3-4; Exhibit X (16), Senate Committee on Appropriations, August 21, 2023, on AB 1402, as amended March 30, 2023, page 2; Exhibit X (17), Senate Committee on Public Safety, June 27, 2023, on AB 1402, as amended March 30, 2023, page 3; Exhibit X (18), Senate Rules Committee, Office of Senate Floor Analyses, September 2, 2023, on AB 1402, as amended March 30, 2023, pages 4-5.

<sup>254</sup> Exhibit X (16), Senate Committee on Appropriations, August 21, 2023, on AB 1402, as amended March 30, 2023, page 2.

<sup>255</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 98.

<sup>256</sup> Welfare and Institutions Code sections 300, 10800, 16500, and 17000; *In re Social Services Payment Cases* (2008) 166 Cal.App.4th 1249, 1256; Welfare and Institutions Code sections 16501(a)(1)(B), 16501(a)(2), and 16501(c) (“The county shall provide child welfare services as needed pursuant to an approved service plan and in accordance with regulations promulgated, in consultation with the counties, by the [state] department.”); *Ross v. Superior Court* (1977) 19 Cal.3d 899, 908; *Hassell v. Bird* (2018) 5 Cal.5th 522, 553, Kruger, J., concurring (“counties act on behalf of the state in administering welfare benefits”); *In re M.C.* (2011) 199 Cal.App.4th 784, 810 (county social service agency is an administrative agency of the executive branch when providing child welfare services, subject to supervision by Department of Social Services citing Welfare and Institutions Code sections 202.5, 10000, 10051, 10800, 16500, 16500.1, and 16501, *Scott v. County of Los Angeles* (1994) 27 Cal.App.4th 125, 143-144, and *In re Danielle W.* (1989) 207 Cal.App.3d 1227, 1235-1236, n. 6.).

medical evidentiary exams that the county was already required to perform under existing law, instead of passing those costs along to a third party.”<sup>257</sup> What follows, however, is that because the state was a responsible third party through Medi-Cal and VCB payments for the costs of the exams, the state has shifted those costs to the counties with the passage of the test claim statute to the extent the corresponding appropriation from the Legislature is lacking.

Finally, the test claim statute imposes unique requirements on counties which do not apply generally to all residents and entities in the state and carries out the governmental function of providing services to the public and, thus, imposes a new program or higher level of service.<sup>258</sup> If the Legislature does not appropriate funds, the new requirement to pay for child physical abuse and neglect exams once paid by the state through Medi-Cal and VCB is uniquely imposed on county government. Counties uniquely provide child welfare services, including emergency response to abused and neglected children.<sup>259</sup> The new requirement to pay for child physical abuse and neglect exams also furthers the state policy that all children are entitled to be free from abuse and neglect.<sup>260</sup>

Thus, absent an appropriation from the state pursuant to 11171(g), the Commission finds that Penal Code section 11171(f), as amended by the test claim statute, imposes a new program or higher level of service on counties pursuant to article XIII B, section 6(c), for those costs previously paid through Medi-Cal and the VCB.

- b. Providing child physical abuse and neglect exams is mandated by state law and, thus, the cost of the exams, which has been shifted from the state to the counties with respect to previous Medi-Cal and VCB reimbursement for the exams, are a component of the mandated program.

To find a mandated new program or higher level of service, the counties’ obligation to provide child physical abuse and neglect exams must also be legally or practically compelled. “Legal compulsion occurs when a statute or executive action uses mandatory language that “ ‘require[s]’ or ‘command[s]’ ” a local entity to participate in a

---

<sup>257</sup> Exhibit B, Finance’s Comments on the Test Claim, page 1.

<sup>258</sup> *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537 citing *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56, emphasis in original.

<sup>259</sup> Welfare and Institutions Code section 16500 (“All counties shall establish and maintain specialized organizational entities within the county welfare department which shall have sole responsibility for the operation of the child welfare services program.”); Welfare and Institutions Code section 16206.

<sup>260</sup> Welfare and Institutions Code section 16500, as amended by Statutes 1996, chapter 1084, section 10.



program or service.”<sup>261</sup> Practical compulsion occurs when a local entity has “no true choice but to comply.”<sup>262</sup>

The required program that began operating on January 1, 2004, does not have language using the term “shall,” to command the provision of the child physical abuse and neglect exams. Using the word “shall,” it commanded what is now Cal OES to create the program, including the forms, instructions, content, protocols, and to make the forms electronically accessible as follows:

(a)(1) The Legislature hereby finds and declares that adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.

(2) Enhancing examination procedures, documentation, and evidence collection relating to child abuse or neglect will improve the investigation and prosecution of child abuse or neglect as well as other child protection efforts.

(b) The Office of Emergency Services shall, in cooperation with the State Department of Social Services, the Department of Justice, the California Association of Crime Lab Directors, the California District Attorneys Association, the California State Sheriffs’ Association, the California Peace Officers Association, the California Medical Association, the California Police Chiefs’ Association, child advocates, the California Medical Training Center, child protective services, and other appropriate experts, establish medical forensic forms, instructions, and examination protocols for victims of child physical abuse or neglect using as a model the form and guidelines developed pursuant to Section 13823.5.

(c) The forms shall include, but not be limited to, a place for notation concerning each of the following:

(1) Any notification of injuries or any report of suspected child physical abuse or neglect to law enforcement authorities or children’s protective services, in accordance with existing reporting procedures.

(2) Addressing relevant consent issues, if indicated.

(3) The taking of a patient history of child physical abuse or neglect that includes other relevant medical history.

(4) The performance of a physical examination for evidence of child physical abuse or neglect.

---

<sup>261</sup> *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 815.

<sup>262</sup> *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 821.

- (5) The collection or documentation of any physical evidence of child physical abuse or neglect, including any recommended photographic procedures.
- (6) The collection of other medical or forensic specimens, including drug ingestion or toxication, as indicated.
- (7) Procedures for the preservation and disposition of evidence.
- (8) Complete documentation of medical forensic exam findings with recommendations for diagnostic studies, including blood tests and X-rays.
- (9) An assessment as to whether there are findings that indicate physical abuse or neglect.
- (d) The forms shall become part of the patient's medical record pursuant to guidelines established by the advisory committee of the Office of Emergency Services and subject to the confidentiality laws pertaining to the release of medical forensic examination records.
- (e) The forms shall be made accessible for use in an electronic format.<sup>263</sup>

Although the legislative finding asserts that the program is necessary for “adequate protection” of child victims of abuse and neglect, nothing in the above statute directly states that these exams “shall” be provided by counties. By comparison, one of two related statutes, the sexual assault exam statute, does have direct language commanding similar exams. Using the word, “shall,” the sexual assault exam statute directly provides that a victim “shall be provided with a standardized medical evidentiary examination, using the medical evidentiary examination report forms and protocols for victims of sexual assault developed pursuant to Section 13823.5.”<sup>264</sup>

And even so, the words “shall” and “may” are not specifically defined as “mandatory” or “permissive” in the Penal Code nor in the Welfare and Institutions Code. Thus, even if there were statutory language similar to that for sexual assault examinations saying they “shall” be provided to child physical abuse and neglect victims, clarity on the exact nature of that directive would remain lacking.<sup>265</sup>

Given this omission of a direct command in the child physical abuse and neglect statutes similar to the one in the sexual assault examination statute, the Commission finds that the child physical abuse and neglect exams are not legally compelled by state law. However, the Commission finds the exams practically compelled and, thus, mandated by the state.

---

<sup>263</sup> Penal Code section 11171 (a)–(e).

<sup>264</sup> Penal Code section 13923.95(b)(1).

<sup>265</sup> See *People v. Lara* (2010) 48 Cal.4th 216, 227 (In determining whether a statute is mandatory where no definition exists in the relevant code, “[n]either the word ‘may,’ nor the word ‘shall,’ is dispositive.”).

Practical compulsion, appropriate here, may be found as a substitute for legal compulsion in special circumstances. As an example, in cities where “deciding not to provide a stormwater drainage system is no alternative at all,” those cities are “compelled as a practical matter to obtain an NPDES [stormwater] permit and fulfill the permit’s conditions.”<sup>266</sup> Like these cities that must apply for stormwater permits to continue providing regular water service, the claimant must provide child physical abuse and neglect examinations regardless of there being no statute clearly mandating that they “shall” provide them.

The California Supreme Court recently considered a test claim where a statute fell short of satisfying the legal compulsion standard and remanded it for consideration of practical compulsion and held that practical compulsion requires showing that failing to perform the activity will result in certain and severe penalties or other draconian consequences.<sup>267</sup> Any alternative to performing the activity according to standards set by the higher government entity must be “so far beyond the realm of practical reality” as to leave the responsible government entity without any real discretion.<sup>268</sup> Factors courts require considering include the nature and purpose of the program, whether the design of the program suggests an intent to coerce, when the respective governments’ participation began, the penalties for refusal to comply, and any other legal and practical consequences of nonparticipation, noncompliance, or withdrawal.<sup>269</sup> An early example of practical compulsion (there, by the federal government upon the state government) was found where California employers would have faced double taxation had the State of California not complied with federal legislation to provide unemployment insurance to public employees.<sup>270</sup>

The Test Claim involves a combination of statutes and practical realities inducing the counties to provide the child physical abuse and neglect exams. These statutes and practical realities compel the counties into being mandated to perform child physical abuse and neglect exams. The counties have “no true alternative.”<sup>271</sup>

Fundamentally, the rights of children come first. As set forth in the Background, the Legislature declared in 1996 “that all children are entitled to be safe and free from

---

<sup>266</sup> *Department of Finance v. Commission on State Mandates* (2022) 85 Cal.App.5th 535, 558.

<sup>267</sup> *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816, 822 citing *Department of Finance v. Commission on State Mandates (Kern)* (2003) 30 Cal.4th 727, 748-752.

<sup>268</sup> *City of Sacramento v. State of California* (1990) 50 Cal. 3d 51, 74.

<sup>269</sup> *City of Sacramento v. State of California* (1990) 50 Cal. 3d 51, 76.

<sup>270</sup> *City of Sacramento v. State of California* (1990) 50 Cal. 3d 51, 74.

<sup>271</sup> *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal. 5th 800, 820 citing *Department of Finance v. Commission on State Mandates (Kern)* (2003) 30 Cal.4th 727, 731, 751 and *City of Sacramento v. State of California* (1990) 50 Cal. 3d 51, 74.

abuse and neglect.”<sup>272</sup> And in 2002, the Legislature set a floor of adequacy when it enacted the program of state standardized medical evidentiary exams. It declared that “adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.”<sup>273</sup>

In addition, counties “shall” investigate all incoming child abuse reports, a duty that has been confirmed by the courts.<sup>274</sup> Such investigation naturally includes examining the child and doing so adequately. Further, the counties, as “child protective services” were to be consulted as part of the Cal OES team that was required to create the state standardized form, instructions, and protocols, and so presumably are required to be using them.<sup>275</sup> As mentioned, Cal OES proclaims that the form, protocols, and instructions are the “minimum legal standards” created in the same statute.<sup>276</sup> Counties “shall” set up the reimbursement system with Cal OES and designate SART, SAFE, or other “qualified medical evidentiary examiners.”<sup>277</sup> Victims “may” have an exam in another county, indicating that counties must be available to provide exams to children whose abuse occurred in a different county.<sup>278</sup> If the counties must acknowledge an out-of-county child’s entitlement to a medical evidentiary exam, they must certainly provide them to their own residents as needed.

Welfare and Institutions Code section 324.5 compels the medical exams where a child is taken into protective custody and a physical examination of the child is “appropriate,” acknowledging the initial discretionary decision of local government and medical practitioners as follows:

(a) Whenever allegations of physical or sexual abuse of a child come to the attention of a local law enforcement agency or the local child welfare department and the child is taken into protective custody, the local law enforcement agency, or child welfare department may, as soon as practically possible, consult with a medical practitioner, who has

---

<sup>272</sup> Welfare and Institutions Code section 16500, as amended by Statutes 1996, chapter 1084, section 10.

<sup>273</sup> Penal Code section 11171(a)(1).

<sup>274</sup> Penal Code section 11166.3 (formerly 11166.1); see also *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180, 1185-1186.

<sup>275</sup> Penal Code section 11171(b).

<sup>276</sup> Exhibit X (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025); Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

<sup>277</sup> Penal Code section 11171(g).

<sup>278</sup> Penal Code section 11171(h).

specialized training in detecting and treating child abuse injuries and neglect, to determine whether a physical examination of the child is appropriate. If deemed appropriate, the local law enforcement agency, or the child welfare department, shall cause the child to undergo a physical examination performed by a medical practitioner who has specialized training in detecting and treating child abuse injuries and neglect, and, whenever possible, shall ensure that this examination take place within 72 hours of the time the child was taken into protective custody. In the event the allegations are made while the child is in custody, the physical examination shall be performed within 72 hours of the time the allegations were made.

In the case of a petition filed pursuant to Section 319, the department shall provide the results of the physical examination to the court and to any counsel for the minor, and counsel for the parent or guardian of the minor. Failure to obtain this physical examination shall not be grounds to deny a petition under this section.

(b) The local child welfare agency shall, whenever possible, request that additional medical examinations to determine child abuse injuries or neglect, be performed by the same medical practitioner who performed the examinations described in subdivision (a). If it is not possible to obtain additional medical examinations, the local child welfare agency shall ensure that future medical practitioners to whom the child has been referred for ongoing diagnosis and treatment have specialized training in detecting and treating child abuse injuries and neglect and have access to the child's medical records covering the current and previous incidents of child abuse.<sup>279</sup>

The above statute initially uses the word “may” to say whether county employees will consult a medical practitioner, and then uses “shall” to say that an exam will be performed once the medical practitioner deems it appropriate. But there is a duty to protect the child.<sup>280</sup> While it is thus technically within the law enforcement or county welfare employee's initial discretion to consult a medical practitioner, the county's obligation is nonetheless going to be compelled by any reasonably-formed suspicion indicating that the child should be examined and protected. Accordingly, the Commission finds the child physical abuse and neglect exams for children taken into protective custody practically compelled.

An exam may also be necessary for a child *not* taken into protective custody under Welfare and Institutions Code section 324.5. According to Cal OES instructions, some children receive exams with parental consent and without being taken into protective custody:

---

<sup>279</sup> Welfare and Institutions Code section 324.5.

<sup>280</sup> Welfare and Institutions Code sections 328, 16500, 16500.1, and 16501; Family Code section 3027; *In re Joshua S.* (1988) 205 Cal.App.3d 119, 125.

### **Suspected child abuse: non-consenting parents**

Parental consent is not required to examine, treat or collect evidence for suspected child abuse. In the absence of parental consent or in the case of parental refusal, children must be taken into protective custody by a child protective agency (e.g. law enforcement agency or county child protective services agency) in order to perform the examination. Follow local policy regarding placement of children in protective custody.<sup>281</sup>

Where a child is not immediately taken into protective custody under Welfare and Institutions Code section 324.5, other statutory duties practically compel the exams. If allegations of abuse or neglect are made in a family court child custody proceeding, for example, “the court may request that the local child welfare services agency conduct an investigation of the allegations pursuant to Section 328 of the Welfare and Institutions Code.”<sup>282</sup> Although this statute uses the word “may,” it is a court’s duty to protect the child, and thus the investigations prompted on this case by case basis are practically compelled.<sup>283</sup>

A social worker receiving a child abuse or neglect referral has a duty to investigate as needed.<sup>284</sup> If not requested through a family court proceeding, this begins with a social worker’s belief from any other referral, which triggers the duty to investigate, which proceeds under the social worker’s discretion and duty:

If the social worker has cause to believe that there was or is within the county, or residing in the county, a person described in Section 300, the social worker shall immediately make any investigation the social worker deems necessary to determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced.<sup>285</sup>

The social worker is constrained by duty to perform investigations that are the least disruptive, but most thorough as necessary. The Legislature has declared: “It is the intent of the Legislature that this section not disrupt the family unnecessarily or intrude inappropriately into family life.”<sup>286</sup>

Because the social worker performs “any investigation the social worker deems necessary,” the social worker is bound by duty to seek a child physical abuse or neglect

---

<sup>281</sup> Exhibit X (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 3, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

<sup>282</sup> Family Code section 3027(b).

<sup>283</sup> *In re Joshua S.* (1988) 205 Cal.App.3d 119, 125.

<sup>284</sup> Welfare and Institutions Code section 328(a).

<sup>285</sup> Welfare and Institutions Code section 328(a).

<sup>286</sup> Welfare and Institutions Code section 300.

exam when called for in his or her professional judgment.<sup>287</sup> Accordingly, the Commission finds the exams are practically compelled when the social worker “deems necessary.”<sup>288</sup>

In addition, numerous practical realities have been explained by the claimant to support a finding of practical compulsion. Two of the claimant’s four declarations provide significant information on these realities. Per a declaration by Dr. Marlene Sturm, Medical Director of the Medical Clinic at the Children’s Advocacy Center of Santa Clara County, child abuse pediatrics is a necessary medical specialty which goes beyond general medicine, general pediatrics and general emergency medicine.<sup>289</sup> Without training in child abuse pediatrics, such as that provided by the statutorily-created training hospital, the CCFMTC,<sup>290</sup> abused and neglected children will be misdiagnosed and there will be overinclusive and underinclusive findings, causing both avoidable danger to children and unnecessary disruption to families.<sup>291</sup>

Per a declaration by Melissa Suarez, Bureau Manager of the Department of Family and Children’s Services, “time is of the essence” because “[i]njuries may fade and heal, invisible injuries may worsen without treatment (e.g., brain bleeds), and the child may be at grave risk of harm the longer they remain in an unsafe environment.”<sup>292</sup> Also, the following are potential consequences of not providing the child physical abuse and neglect exams as prescribed by the state:

- a. Law enforcement officials’ investigation into child abuse and neglect crimes would be severely limited;
- b. Social workers would be unable to substantiate suspected cases of child physical abuse or neglect, particularly for nonverbal, pre-verbal, disabled, and developmentally delayed children;

---

<sup>287</sup> Welfare and Institutions Code section 328(a).

<sup>288</sup> Welfare and Institutions Code section 328(a).

<sup>289</sup> Exhibit A, Test Claim, pages 46-48, paragraphs 17, 19, and 24 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

<sup>290</sup> Penal Code section 13823.93(b)-(d), as amended by Statutes 2002, chapter 256, section 1; Penal Code section 13823.93(b).

<sup>291</sup> Exhibit A, Test Claim, pages 47-49, paragraphs 21, 23, and 24 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County); See also Exhibit A, Test Claim, page 30-31, paragraph 13 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

<sup>292</sup> Exhibit A, Test Claim, page 42, paragraph 17 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

- c. Children and families who would otherwise receive support services following medical findings of abuse or neglect would not be assisted; and
- d. Children whose abuse or neglect would be uncovered by a physical abuse and neglect exam would remain in dangerous situations, and in some cases, would be severely harmed or killed.<sup>293</sup>

The Commission finds that, taken together, the above statutes and practical realities would result in “severe consequences that leave the local entity no reasonable alternative but to comply” with the program of providing the child physical abuse and neglect exams as prescribed by the state.<sup>294</sup>

Accordingly, the Commission finds that the counties’ obligation to provide child abuse and neglect exams is practically compelled by the state and, thus, the cost of the exams, which has been shifted from the state to the counties with respect to previous Medi-Cal and VCB reimbursement for the exams, is a component of the state-mandated program.

### **C. The Test Claim Statute Results in Costs Mandated by the State.**

Finally, Government Code section 17514 defines “costs mandated by the state” as any increased costs which a local agency or school district is required to incur as a result of any statute or executive order that mandates a new program or higher level of service. Government Code section 17564(a) specifically requires that no claim or payment shall be made unless the claim exceeds \$1,000.

A finding of such costs mandated by the state also means that no exception in Government Code section 17556 applies.

The claimant has filed declarations signed under penalty of perjury identifying the following increased costs exceeding \$1,000 to comply with the test claim statute:

	FY 2023-2024	FY 2024-2025	Ongoing Estimates
Serena Sy, Director of Primary Care Operations, Santa			\$11,800,000 estimated statewide annually <sup>295</sup>

<sup>293</sup> Exhibit A, Test Claim, pages 42-43, paragraph 18 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

<sup>294</sup> *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816 citing *Department of Finance v. Commission on State Mandates (Kern High School District)* (2003) 30 Cal.4th 727, 748-752.

<sup>295</sup> Exhibit A, Test Claim, pages 33-34, paragraph 24 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).



Clara Valley Healthcare			
Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare	\$221,046 <sup>296</sup>	\$717,496 estimated <sup>297</sup>	\$621,927 estimated annually for the claimant <sup>298</sup>

There is no evidence rebutting these declarations.

Moreover, none of the exceptions to costs mandated by the state in Government Code section 17556 apply to this Test Claim. The claimant has no fee authority per Government Code section 17556(d) to offset the increased costs, which the claimant confirms.<sup>299</sup> There is no appropriation offsetting the costs per Government Code section 17556(e), which Finance confirms.<sup>300</sup> And there is no change to any crime or penalty for any crime of child abuse or neglect per Government Code section 17556(g). The test claim statute only concerns a process of gathering evidence, which may be used for criminal and non-criminal purposes.

Given the substantial evidence in the record, the Commission finds that the test claim statute imposes increased costs mandated by the state under article XIII B, section 6(c) and Government Code section 17514.

## **V. Conclusion**

Based on the foregoing analysis, the Commission partially approves this Test Claim and finds that Penal Code section 11171(f), as amended by test claim statute, imposes a reimbursable state-mandated program beginning January 1, 2024, on counties within the meaning of article XIII B, section 6(c) of the California Constitution for only the following costs:

---

<sup>296</sup> Exhibit A, Test Claim, page 36, paragraph 12 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>297</sup> Exhibit A, Test Claim, page 36, paragraph 13 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>298</sup> Exhibit A, Test Claim, pages 35-36, paragraph 9 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>299</sup> Exhibit A, Test Claim, page 33, paragraph 20 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

<sup>300</sup> Exhibit A, Test Claim, page 33, paragraph 20 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara); Exhibit B, Finance's Comments on the Test Claim, page 1.

- Costs incurred for child physical abuse and neglect exams conducted in accordance with Penal Code section 11171, by the county's designated Sexual Assault Response Teams (SART), Sexual Assault Forensic Examiner (SAFE) teams, or other qualified medical evidentiary examiners, when the child is eligible for Medi-Cal or Victim Compensation Board coverage.

Reimbursement is **not** required to the extent the Legislature appropriates funds for child physical abuse and neglect exams under Penal Code section 11171(g).

All other claims for reimbursement are denied.

---

## **DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On September 26, 2025, I served the:

- **Current Mailing List dated September 26, 2025**
- **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing issued September 26, 2025**

*Child Physical Abuse and Neglect Exams, 24-TC-05*

Statutes 2023, Chapter 841, (AB 1402); Penal Code Section 11171(f), effective January 1, 2024

County of Santa Clara, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 26, 2025 at Sacramento, California.



---

Jill Magee  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 9/26/25

**Claim Number:** 24-TC-05

**Matter:** Child Physical Abuse and Neglect Exams

**Claimant:** County of Santa Clara

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Adaoha Agu**, *County of San Diego Auditor & Controller Department*

Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego, CA 92123

Phone: (858) 694-2129

Adaoha.Agu@sdcounty.ca.gov

**Karina Alvarez**, *Auditor-Controller, County of Imperial*

940 W. Main Street, Suite 108, El Centro, CA 92243

Phone: (442) 265-1299

karinabalvarez@co.imperial.ca.us

**Rachelle Anema**, *Assistant Auditor-Controller, County of Los Angeles*

Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012

Phone: (213) 974-8321

RANEMA@auditor.lacounty.gov

**Lili Apgar**, *Specialist, State Controller's Office*

Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 324-0254

lapgar@sco.ca.gov

**Socorro Aquino**, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

**Aaron Avery**, *Legislative Representative, California Special Districts Association*

1112 I Street Bridge, Suite 200, Sacramento, CA 95814

Phone: (916) 442-7887

Aarona@csda.net

**David Bass**, Vice Mayor, *City of Rocklin*  
3970 Rocklin Road, Rocklin, CA 95677  
Phone: (916) 663-8504  
David.Bass@rocklin.ca.us

**Deborah Bautista**, *County of Tuolumne*  
El Dorado Hills Community Services District, 2 South Green St. , Sonora, CA 95370  
Phone: (209) 533-5551  
dbautista@co.tuolumne.ca.us

**Mary Bedard**, Auditor-Controller, *County of Kern*  
1115 Truxtun Avenue, 2nd Floor, Bakersfield, CA 93301  
Phone: (805) 868-3599  
bedardm@co.kern.ca.us

**Ginni Bella Navarre**, Deputy Legislative Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8342  
Ginni.Bella@lao.ca.gov

**Ben Benoit**, Auditor-Controller, *County of Riverside*  
4080 Lemon Street, 11th Floor, Riverside, CA 92502  
Phone: (951) 955-3800  
bbenoit@rivco.org

**Angela Bickle**, Interim Auditor-Controller, *County of Trinity*  
11 Court Street, P.O. Box 1230, Weaverville, CA 96093  
Phone: (530) 623-1317  
abickle@trinitycounty.org

**Lowell Black**, Director of Finance, *County of Alpine*  
P.O. Box 266, Markleeville, CA 96120  
Phone: (530) 694-2284  
nwilliamson@alpinecountyca.gov

**Nathan Black**, Auditor-Controller, *County of Sutter*  
1160 Civic Center Blvd., Suite D, Yuba City, CA 95993  
Phone: (530) 822-7127  
nblack@co.sutter.ca.us

**Laura Bowers**, Interim Auditor-Controller/Treasurer-Tax Collector, *County of Santa Cruz*  
Auditor-Controller's Office, 701 Ocean Street, Room 100, Santa Cruz, CA 95060-4073  
Phone: (831) 454-2500  
laura.bowers@santacruzcounty.us

**Allan Burdick**,  
7525 Myrtle Vista Avenue, Sacramento, CA 95831  
Phone: (916) 203-3608  
allanburdick@gmail.com

**Guy Burdick**, Consultant, *MGT Consulting*  
2251 Harvard Street, Suite 134, Sacramento, CA 95815  
Phone: (916) 833-7775  
gburdick@mgtconsulting.com

**Jeffrey Burgh**, Auditor Controller, *County of Ventura*  
Ventura County Watershed Protection District, 800 S. Victoria Avenue, Ventura, CA 93009-1540

Phone: (805) 654-3151  
jeff.burgh@ventura.org

**Stephanie Butters**, Assistant Director of Finance, Auditor-Controller, *County of Mono*  
25 Bryant Street, PO Box 556, Bridgeport, CA 93517  
Phone: (760) 932-5496  
sbutters@mono.ca.gov

**Rica Mae Cabigas**, Chief Accountant, *Auditor-Controller*  
Accounting Division, 500 West Temple Street, Los Angeles, CA 90012  
Phone: (213) 974-8309  
rcabigas@auditor.lacounty.gov

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 324-5919  
ECalderonYee@sco.ca.gov

**Lisa Cardella-Presto**, *County of Merced*  
2222 M Street, Merced, CA 95340  
Phone: (209) 385-7511  
LCardella-presto@co.merced.ca.us

**Nancy Cardenas**, Auditor-Controller, Treasurer, Tax Collector, *County of Lassen*  
221 South Roop Street, Ste. 1, Susanville, CA 96130  
Phone: (530) 251-8220  
ncardenas@co.lassen.ca.us

**Julissa Ceja Cardenas**, *California State Association of Counties*  
1100 K Street, Suite 101, Sacramento, CA 95814  
Phone: (916) 327-7500  
jcejacardenas@counties.org

**Annette Chinn**, *Cost Recovery Systems, Inc.*  
705-2 East Bidwell Street, #294, Folsom, CA 95630  
Phone: (916) 939-7901  
achinnrcs@aol.com

**David Chiu**, City Attorney, *City and County of San Francisco*  
Office of the City Attorney, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102  
Phone: (415) 554-4700  
cityattorney@sfcityatty.org

**Carmen Chu**, Assessor-Recorder, *City and County of San Francisco*  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 190, San Francisco, CA 94102-4698  
Phone: (415) 554-5596  
assessor@sfgov.org

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8326  
Carolyn.Chu@lao.ca.gov

**Cass Cook**, Auditor-Controller/Treasurer-Tax Collector, *County of Tulare*  
221 South Mooney Blvd, Room 101 E, Visalia, CA 93291  
Phone: (559) 636-5200  
tulareauditor@co.tulare.ca.us

**Adam Cripps**, Interim Finance Manager, *Town of Apple Valley*  
14955 Dale Evans Parkway, Apple Valley, CA 92307  
Phone: (760) 240-7000  
acripps@applevalley.org

**Chamise Cubbison**, Auditor-Controller-Tax Collector, *County of Mendocino*  
501 Low Gap Road, Rm 1080, Ukiah, CA 95482  
Phone: (707) 234-6860  
cubbisonc@mendocinocounty.gov

**Thomas Deak**, Senior Deputy, *County of San Diego*  
Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101  
Phone: (619) 531-4810  
Thomas.Deak@sdcounty.ca.gov

**Mandip Dhillon**, Auditor Controller, *County of Stanislaus*  
1010 10th Street, Modesto, CA 95354  
Phone: (209) 525-6398  
auditor@stancounty.com

**Cheryl Dillingham**, Auditor-Controller, *County of Humboldt*  
825 Fifth Street, Room 126, Eureka, CA 95501  
Phone: (707) 476-2452  
ctyauditor@co.humboldt.ca.us

**Executive Director**, *California Peace Officers' Association*  
555 Capitol Mall, Suite 1495, Sacramento, CA 95814  
Phone: (916) 263-0541  
cpoa@cpoa.org

**Laura Dougherty**, Attorney, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
Laura.Dougherty@csm.ca.gov

**Tracy Drager**, Auditor and Controller, *County of San Diego*  
1600 Pacific Highway, Room 166, San Diego, CA 92101  
Phone: (619) 531-5413  
tracy.drager@sdcounty.ca.gov

**Janet Dutcher**, Finance Director, *County of Mono*  
25 Bryant Street, PO Box 556, Bridgeport, CA 93517  
Phone: (760) 932-5496  
jdutcher@mono.ca.gov

**Richard Eberle**, Auditor-Controller, *County of Yuba*  
915 8th Street, Suite 105, Marysville, CA 95901  
Phone: (530) 749-7810  
reberle@co.yuba.ca.us

**Kevin Fisher**, Assistant City Attorney, *City of San Jose*  
Environmental Services, 200 East Santa Clara Street, 16th Floor, San Jose, CA 95113  
Phone: (408) 535-1987  
kevin.fisher@sanjoseca.gov

**Tim Flanagan**, Office Coordinator, *Solano County*  
Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533

Phone: (707) 784-3359  
Elections@solanocounty.com

**Rose Gallo-Vasquez**, County Clerk and Recorder, *County of Colusa*  
546 Jay Street, Ste. 200, Colusa, CA 95932  
Phone: (530) 458-0500  
clerkinfo@countyofcolusa.org

**Oscar Garcia**, Auditor-Controller/Treasurer-Tax Collector, *County of Fresno*  
2281 Tulare Street, Room 105, Fresno, CA 93721  
Phone: (559) 600-3496  
ogarcia@fresnocountyca.gov

**Justin Garrett**, Acting Chief Policy Officer, *California State Association of Counties (CSAC)*  
1100 K Street, Ste 101, Sacramento, CA 95814  
Phone: (916) 327-7500  
jgarrett@counties.org

**Juliana Gmur**, Executive Director, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
juliana.gmur@csm.ca.gov

**Kathy Gomes**, Auditor Controller, *County of Calaveras*  
891 Mountain Ranch Road, San Andreas, CA 95249  
Phone: (209) 754-6343  
kgomes@calaverascounty.gov

**Joe Gonzalez**, *County of San Benito*  
440 Fifth Street Room 206, Hollister, CA 95023  
Phone: (831) 636-4090  
jgonzalez@auditor.co.san-benito.ca.us

**M. Green**, *California State Sheriffs' Association*  
1231 I Street, Suite 200, Sacramento, CA 95814  
Phone: (916) 375-8000  
cgreen@calsheriffs.org

**Graciela Gutierrez**, Auditor-Controller, *County of Butte*  
25 County Center Drive, Suite 120, Oroville, CA 95965  
Phone: (530) 552-3599  
GGutierrez@ButteCounty.net

**James Hamilton**, Auditor-Controller/Treasurer-Tax Collector/Public Administrator, *County of San Luis Obispo*  
1055 Monterey Street, San Luis Obispo, CA 93408  
Phone: (805) 781-5040  
jhamilton@co.slo.ca.us

**Andrew Hamilton**, Auditor-Controller, *County of Orange*  
1770 North Broadway, Santa Ana, CA 92706  
Phone: (714) 834-2450  
Andrew.Hamilton@ac.ocgov.com

**Joe Harn**, *County of El Dorado*  
360 Fair Lane, Placerville, CA 95667  
Phone: (530) 621-5633  
joe.harn@edcgov.us



**Tom Haynes**, Chief Financial Officer, *County of Yolo*  
Financial Services, 625 Court Street, Room 102, Woodland, CA 95695  
Phone: (530) 666-8190  
Tom.Haynes@yolocounty.gov

**Jenavive Herrington**, Auditor-Controller/County Clerk, *County of Lake*  
255 N. Forbes Street, Lakeport, CA 95453  
Phone: (707) 263-2311  
jenavive.herrington@lakecountyca.gov

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*  
Local Government Unit, 915 L Street, 8th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
Chris.Hill@dof.ca.gov

**Tiffany Hoang**, Associate Accounting Analyst, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 323-1127  
THoang@sco.ca.gov

**Ken Howell**, Senior Management Auditor, *State Controller's Office*  
Audits, Compliance Audits Bureau, 3301 C Street, Suite 725A, Sacramento, CA 95816  
Phone: (916) 323-2368  
KHowell@sco.ca.gov

**Jason Jennings**, Director, *Maximus Consulting*  
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236  
Phone: (804) 323-3535  
SB90@maximus.com

**Angelo Joseph**, Supervisor, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 323-0706  
AJoseph@sco.ca.gov

**Harshil Kanakia**, Administrative Services Manager, *County of San Mateo*  
Controller's Office, 555 County Center, 4th Floor, Redwood City, CA 94063  
Phone: (650) 599-1080  
hkanakia@smcgov.org

**Anne Kato**, Acting Chief, *State Controller's Office*  
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA  
95816  
Phone: (916) 322-9891  
akato@sco.ca.gov

**Anita Kerezsi**, *AK & Company*  
2425 Golden Hill Road, Suite 106, Paso Robles, CA 93446  
Phone: (805) 239-7994  
akcompanysb90@gmail.com

**Joanne Kessler**, Fiscal Specialist, *City of Newport Beach*  
Revenue Division, 100 Civic Center Drive, Newport Beach, CA 90266  
Phone: (949) 644-3199  
jkessler@newportbeachca.gov

**Rob Knudson**, Assistant Director of Finance, *County of Kings*

1400 W. Lacey Blvd, Hanford, CA 93230

Phone: (559) 852-2712

Robert.Knudson@co.kings.ca.us

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*

Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 327-3138

lkurokawa@sco.ca.gov

**Edward Lamb**, Director of Finance, *County of Glenn*

516 West Sycamore Street, Willows, CA 95988

Phone: (530) 934-6421

ttc@countyofglenn.net

**Government Law Intake**, *Department of Justice*

Attorney General's Office, 1300 I Street, Suite 125, PO Box 944255, Sacramento, CA 94244-2550

Phone: (916) 210-6046

governmentlawintake@doj.ca.gov

**Eric Lawyer**, Legislative Advocate, *California State Association of Counties (CSAC)*

Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814

Phone: (916) 650-8112

elawyer@counties.org

**Kim-Anh Le**, Deputy Controller, *County of San Mateo*

555 County Center, 4th Floor, Redwood City, CA 94063

Phone: (650) 599-1104

kle@smcgov.org

**Fernando Lemus**, Principal Accountant - Auditor, *County of Los Angeles*

Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012

Phone: (213) 974-0324

flemus@auditor.lacounty.gov

**Erika Li**, Chief Deputy Director, *Department of Finance*

915 L Street, 10th Floor, Sacramento, CA 95814

Phone: (916) 445-3274

erika.li@dof.ca.gov

**Kenneth Louie**, Chief Counsel, *Department of Finance*

1021 O. Street, Suite 3110, Sacramento, CA 95814

Phone: (916) 322-0971

Kenny.Louie@dof.ca.gov

**Everett Luc**, Accounting Administrator I, Specialist, *State Controller's Office*

3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0766

ELuc@sco.ca.gov

**Van Maddox**, Auditor/Treasurer/Tax Collector, *County of Sierra*

211 Nevada Street, 2nd Floor, P.O. Box 425, Downieville, CA 95936

Phone: (530) 289-3273

auttc@sierracounty.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

Jill.Magee@csm.ca.gov

**Darryl Mar**, Manager, *State Controller's Office*

3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0706

DMar@sco.ca.gov

**Ensen Mason**, Auditor-Controller/Treasurer/Tax Collector, *County of San Bernardino*

268 West Hospitality Lane, San Bernardino, CA 92415-0018

Phone: (909) 387-8322

webinfo@sbcountyatc.gov

**Michelle Mendoza**, *MAXIMUS*

17310 Red Hill Avenue, Suite 340, Irvine, CA 95403

Phone: (949) 440-0845

michellemendoza@maximus.com

**Luis Mercado**, Auditor, *County of Mariposa*

4982 10th Street, PO Box 729, Mariposa, CA 95338

Phone: (209) 966-7606

lmercado@mariposacounty.org

**Marilyn Munoz**, Senior Staff Counsel, *Department of Finance*

915 L Street, Sacramento, CA 95814

Phone: (916) 445-8918

Marilyn.Munoz@dof.ca.gov

**Rajiv Narayan**, Deputy County Counsel, *County of Santa Clara*

**Claimant Representative**

70 West Hedding Street, East Wing, 9th Floor, San Jose, CA 95110

Phone: (669) 786-4287

rajiv.narayan@cco.sccgov.org

**David Neill**, Chief Counsel, *Office of Emergency Services*

3650 Schriever Ave, Mather, CA 95655

Phone: (916) 845-8510

David.Neill@caloes.ca.gov

**John Nibbelin**, County Attorney, *County of San Mateo*

500 County Center, Redwood City, CA 94063

Phone: (650) 363-4757

jnibbelin@smcgov.org

**Andy Nichols**, *Nichols Consulting*

1857 44th Street, Sacramento, CA 95819

Phone: (916) 455-3939

andy@nichols-consulting.com

**Martee Nieman**, Auditor-Controller, *County of Plumas*

520 Main Street, Room 205, Quincy, CA 95971

Phone: (530) 283-6246

marteenieman@countyofplumas.com

**Patrick O'Connell**, County Clerk Recorder, *County of Alameda*

1221 Oak Street, Room 249, Oakland, CA 94512

Phone: (510) 272-6565

pat.oconnell@acgov.org

**Margaret Olaiya**, Director of Finance, *County of Santa Clara*

**Claimant Contact**

70 West Hedding Street, East Wing, 2nd Floor, San Jose, CA 95110

Phone: (408) 299-5201

Margaret.Olaiya@fin.sccgov.org

**Diane Olson**, Auditor-Controller, *County of Siskiyou*

311 Fourth Street, Room 101, Yreka, CA 96097

Phone: (530) 842-8078

dlolson@co.siskiyou.ca.us

**Jamie Ostroff**, *California Medical Association*

1201 K Street, Suite #800, Sacramento, CA 95814

Phone: (800) 786-4262

memberservice@cmadocs.org

**Patricia Pacot**, Accountant Auditor I, *County of Colusa*

Office of Auditor-Controller, 546 Jay Street, Suite #202, Colusa, CA 95932

Phone: (530) 458-0424

ppacot@countyofcolusa.org

**Arthur Palkowitz**, *Law Offices of Arthur M. Palkowitz*

12807 Calle de la Siena, San Diego, CA 92130

Phone: (858) 259-1055

law@artpalk.onmicrosoft.com

**Kirsten Pangilinan**, Specialist, *State Controller's Office*

Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 322-2446

KPangilinan@sco.ca.gov

**Deborah Paolinelli**, Assistant County Administrative Officer, *County of Fresno*

2281 Tulare, Suite 304, Fresno, CA 93271

Phone: (559) 600-1710

dpaolinelli@fresnocountyca.gov

**Alice Park-Renzie**, *County of Alameda*

CAO, 1221 Oak Street, Oakland, CA 94612

Phone: (510) 272-3873

Alice.Park@acgov.org

**Krista Peterson**, Auditor-Controller, *County of Tehama*

444 Oak Street, Room J, Red Bluff, CA 96080

Phone: (530) 527-3474

kpeterson@tehama.gov

**Trevor Power**, Accounting Manager, *City of Newport Beach*

100 Civic Center Drive, Newport Beach, CA 92660

Phone: (949) 644-3085

tpower@newportbeachca.gov

**Jonathan Quan**, Associate Accountant, *County of San Diego*

Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123

Phone: 6198768518

Jonathan.Quan@sdcounty.ca.gov

**Juan Raigoza**, Auditor-Controller, *County of San Mateo*

555 County Center, 4th Floor, Redwood City, CA 94063

Phone: (650) 363-4777  
jraigoza@smcgov.org

**Roberta Raper**, Director of Finance, *City of West Sacramento*  
1110 West Capitol Ave, West Sacramento, CA 95691  
Phone: (916) 617-4509  
robertar@cityofwestsacramento.org

**Jonathon Raven**, Executive Assistant, *California District Attorneys Association (CDA)*  
2495 Natomas Park Drive, Suite 575, Sacramento, CA 95833  
Phone: (916) 443-2017  
jraven@cdaa.org

**David Richstone**, Auditor-Controller, *County of Madera*  
200 W. 4th Street, Madera, CA 93637  
Phone: (559) 675-7707  
David.Richstone@maderacounty.com

**Monica Rocha**, *County of Santa Cruz*  
701 Ocean Street, Room 340, Santa Cruz, CA 95060  
Phone: (831) 454-2440  
monica.rocha@santacruzcountycalifornia.gov

**Erick Roeser**, Auditor-Controller-Treasurer-Tax Collector, *County of Sonoma*  
585 Fiscal Drive, Suite 100, Santa Rosa, CA 95403  
Phone: (707) 565-3285  
Erick.Roeser@sonoma-county.org

**Benjamin Rosenfield**, City Controller, *City and County of San Francisco*  
1 Dr. Carlton B. Goodlett Place, Room 316, San Francisco, CA 94102  
Phone: (415) 554-7500  
ben.rosenfield@sfgov.org

**Tacy Oneto Rouen**, Auditor, *County of Amador*  
810 Court Street, Jackson, CA 95642-2131  
Phone: (209) 223-6357  
trouen@amadorgov.org

**Jessica Sankus**, Senior Legislative Analyst, *California State Association of Counties (CSAC)*  
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814  
Phone: (916) 327-7500  
jsankus@counties.org

**Clinton Schaad**, *County of Del Norte*  
981 H Street, Suite 140, Crescent City, CA 95531  
Phone: (707) 464-7202  
cschaad@co.del-norte.ca.us

**Betsy Schaffer**, Auditor-Controller, *County of Santa Barbara*  
105 East Anapamu Street, Room 303, Santa Barbara, CA 93101  
Phone: (805) 568-2101  
bschaffer@co.santa-barbara.ca.us

**Tracy Schulze**, Auditor-Controller, *County of Napa*  
1195 Third Street, Suite B-10, Napa, CA 94559  
Phone: (707) 299-1733  
tracy.schulze@countyofnapa.org

**Angie Schwartz**, Deputy Director, *Department of Social Services*  
Children and Family Services, 744 P Street, MS 8-17-18, Sacramento, CA 95814  
Phone: (916) 657-2614  
Angie.Schwartz@dss.ca.gov

**Cindy Sconce**, Director, *Government Consulting Partners*  
5016 Brower Court, Granite Bay, CA 95746  
Phone: (916) 276-8807  
cindysconcegc@gmail.com

**Shelly Scott**, Assessor-Recorder-County Clerk, *County of Marin*  
3501 Civic Center Drive, Suite 208, San Rafael, CA 94903  
Phone: (415) 473-7215  
Assessor@marincounty.org

**Peggy Scroggins**, *County of Colusa*  
546 Jay Street, Ste 202, Colusa, CA 95932  
Phone: (530) 458-0400  
pscroggins@countyofcolusa.org

**Rupa Shah**, Auditor-Controller, *County of Monterey*  
168 West Alisal Street, 3rd Floor, Salinas, CA 93901  
Phone: (831) 755-5040  
shahr@co.monterey.ca.us

**Carla Shelton**, Senior Legal Analyst, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
carla.shelton@csn.ca.gov

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
camille.shelton@csn.ca.gov

**Amy Shepherd**, Auditor-Controller, *County of Inyo*  
Auditor-Controller, 168 N. Edwards Street, Independence, CA 93526  
Phone: (760) 878-0343  
ashepherd@inyocounty.us

**Nolda Short**, Auditor-Controller, *County of Shasta*  
1450 Court Street, Suite 238, Redding, CA 96001  
Phone: (530) 245-6657  
nshort@co.shasta.ca.us

**Andrew Sisk**, *County of Placer*  
2970 Richardson Drive, Auburn, CA 95603  
Phone: (530) 889-4026  
asisk@placer.ca.gov

**Paul Steenhausen**, Principal Fiscal and Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, , Sacramento, CA 95814  
Phone: (916) 319-8303  
Paul.Steenhausen@lao.ca.gov

**David Swanson Hollinger**, Chief Deputy Director, *Department of Social Services*  
Executive , 744 P Street MS 8-17-11, Sacramento, CA 95814

Phone: (916) 657-2598

David.Swansonhollinger@dss.ca.gov

**Phyllis Taynton**, Auditor-Controller, *County of Solano*

675 Texas Street, Suite 2800, Fairfield, CA 94533

Phone: (707) 784-6280

ptaynton@solanocounty.com

**Jolene Tollenaar**, *MGT Consulting Group*

2251 Harvard Street, Suite 134, Sacramento, CA 95815

Phone: (916) 243-8913

jolenetollenaar@gmail.com

**James Touchstone**, General Counsel, *California State Sheriffs' Association*

3777 North Harbor Boulevard, Fullerton, CA 92835

Phone: (714) 446-1400

jrt@jones-mayer.com

**Jessica Uzarski**, Consultant, *Senate Budget and Fiscal Review Committee*

1020 N Street, Room 502, Sacramento, CA 95814

Phone: (916) 651-4103

Jessica.Uzarski@sen.ca.gov

**Julie Valverde**, *County of Sacramento*

700 H Street, Room 3650, Sacramento, CA 95814

Phone: (916) 874-7248

valverdej@saccounty.net

**Alejandra Villalobos**, Management Services Manager, *County of San Bernardino*

Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415

Phone: (909) 382-3191

alejandra.villalobos@sbcountyatc.gov

**Stephanie Wellemeyer**, Auditor/County Clerk, *County of Modoc*

108 E. Modoc Street, Alturas, CA 96101

Phone: (530) 233-6231

auditor@co.modoc.ca.us

**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*

3609 Bradshaw Road, H-382, Sacramento, CA 95927

Phone: (916) 797-4883

dwa-renee@surewest.net

**Adam Whelen**, Director of Public Works, *City of Anderson*

1887 Howard St., Anderson, CA 96007

Phone: (530) 378-6640

awhelen@ci.anderson.ca.us

**Gina Will**, Auditor-Controller, *County of Nevada*

950 Maidu Avenue, Suite 230, Nevada City, CA 95959

Phone: (530) 265-1244

auditor.controller@nevadacountyca.gov

**Kelly Winston**, Bureau Chief, *Child Welfare Policy & Program Development Bureau*

744 P Street, MS 8-11-87, Sacramento, CA 95814

Phone: (916) 651-6100

kelly.winston@dss.ca.gov

**Jeff Woltkamp**, *County of San Joaquin*

44 N San Joaquin St. Suite 550, Stockton, CA 95202

Phone: (209) 468-3925

jwoltkamp@sjgov.org

**Elisa Wynne**, Staff Director, *Senate Budget & Fiscal Review Committee*

California State Senate, State Capitol Room 5019, Sacramento, CA 95814

Phone: (916) 651-4103

elisa.wynne@sen.ca.gov

**Kaily Yap**, Budget Analyst, *Department of Finance*

Local Government Unit, 915 L Street, Sacramento, CA 95814

Phone: (916) 445-3274

Kaily.Yap@dof.ca.gov

**Siew-Chin Yeong**, Director of Public Works, *City of Pleasanton*

3333 Busch Road, Pleasanton, CA 94566

Phone: (925) 931-5506

syeong@cityofpleasantonca.gov

**Luis Zamora**, Confidential Executive Assistant to the City Attorney, *City and County of San Francisco*

Office of the City Attorney, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102

Phone: (415) 554-4748

Luis.A.Zamora@sfcityatty.org

**Jess Zayas**, Bureau Manager, *Department of Social Services*

Finance &amp; Accounting, 744 P Street MS 17-27, Sacramento, CA 95814

Phone: (916) 654-0958

Jess.Zayas@dss.ca.gov

**Helmholt Zinser-Watkins**, Associate Governmental Program Analyst, *State Controller's Office*

Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-7876

HZinser-watkins@sco.ca.gov