

Amended: October 30, 2009
Amended: August 26, 1999
Amended: July 25, 1987
Amended: July 19, 1984
Adopted: January 21, 1981

AMENDMENT TO PARAMETERS AND GUIDELINES

Family Code Sections 3060 TO 3064, 3130 TO 3134.5, 3408, 3411, and 3421

Penal Code Sections 277, 278, and 278.5

Welfare And Institutions Code Section 11478.5

Chapter 1399, Statutes of 1976

Chapter 162, Statutes of 1992

Chapter 988, Statutes of 1996

Custody of Minors-Child Abduction and Recovery

05-PGA-26 (CSM 4237)

State Controller's Office, Claimant

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

I. SUMMARY OF MANDATE

Chapter 1399, Statutes of 1976, added Sections 4600.1 and 4604 to and amended Sections 5157, 5160, and 5169 of the Civil Code, added Section 278 and 278.5 to the Penal Code, and amended sections 11478.5 of the Welfare and Institutions Code, which increased the level of service provided by several county departments which must become involved in child custody matters. Where previously parents or others interested in the custody status of minors pursued their interests in court with no assistance from law enforcement agencies, due to this statute counties are required to actively assist in the resolution of custody problems and the enforcement of custody decrees. To accomplish this, several additional tools were provided to the courts and enforcement agencies in this legislation, including changes in the procedures for filing petitions to determine custody and enforce visitation rights, increased authorization to issue warrants of arrest to insure compliance, and increased access to locator and other information maintained by County and State departments. These activities increased the level of service provided to the public under Title 9 of Part 5 of the Civil Code, the Uniform Child Custody Jurisdiction Act.

Chapter 990, Statutes of 1983, amended Section 4604 of the Civil Code to clarify that the enforcement requirements of this section applied to visitation decrees as well as custody decrees.

Chapter 162, Statutes of 1992, repealed Sections 4600.1, 4604, 5157, 5160, and 5169 of the Civil Code and without substantial change enacted Sections 3060 to 3064, 3130 to 3134.5, 3408, 3411, and 3421 of the Family Code.

Chapter 988, Statutes of 1996, the Parental Kidnapping Prevention Act, repealed Sections 277, 278 and 278.5 of the Penal Code and enacted in a new statutory scheme in Sections 277, 278 and 278.5 which eliminated the distinction between cases with and cases without a preexisting child custody order.

II. BOARD OF CONTROL DECISIONS

On September 19, 1979, the Board of Control determined that Chapter 1399, Statutes of 1976, imposed a reimbursable state mandate upon counties by requiring district attorney offices to actively assist in the resolution of child custody problems including visitation disputes, the enforcement of custody decrees and of any other order of the court in a child custody proceeding. These activities include all actions necessary to locate a child, the enforcement of child custody decrees, orders to appear, or any other court order defraying expenses related to the return of an illegally detained, abducted or concealed child, proceeding with civil court actions, and guaranteeing the appearance of offenders and minors in court actions. The Board's finding was in response to a claim of first impression filed by the County of San Bernardino.

III. ELIGIBLE CLAIMANTS

Any county which incurs increased costs as a result of this mandate is eligible to claim reimbursement of those costs.

IV. PERIOD OF REIMBURSEMENT

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

Chapter 1399, Statutes of 1976, became effective January 1, 1977. Section 17557 of the Government Code (GC) stated that a test claim must be submitted on or before November 30th following a given fiscal year to establish eligibility for that fiscal year. The test claim for this mandate was filed on April 17, 1979; therefore, costs incurred on or after July 1, 1978, are reimbursable. San Bernardino County may claim and be reimbursed for mandated costs incurred on or after July 1, 1977.

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

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

V. REIMBURSABLE COSTS

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

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge."

Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

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

A. Scope of the Mandate

Counties shall be reimbursed for the increased costs which they are required to incur to have the district attorney actively assist in the resolution of child custody and visitation problems; for the enforcement of custody and visitation orders; for all actions necessary to locate and return a child(ren) by use of any appropriate civil or criminal proceeding; and for complying with other court orders relating to child custody or visitation, as provided in Family Code Sections 3130 to 3134.5, with the exception of those activities listed in

Section VI.

B. Reimbursable Activities

For each eligible claimant meeting the above criteria, all direct and indirect costs of labor, materials and supplies, training and travel for the following activities are eligible for reimbursement:

1. Obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of child custody or visitation orders, including:
 - a. Contact with child(ren) and other involved persons.
 - (1) Receipt of reports and requests for assistance.
 - (2) Mediating with or advising involved individuals.
Mediating services may be provided by other departments.
If this is the case, indicate the department.
 - (3) Locating missing or concealed offender and child(ren).
 - b. Utilizing any appropriate civil or criminal court action to secure compliance.
 - (1) Preparation and investigation of reports and requests for assistance.
 - (2) Seeking physical restraint of offenders and/or the child(ren) to assure compliance with court orders.
 - (3) Process services and attendant court fees and costs.
 - (4) Depositions.
 - c. Physically recovering the child(ren).
 - (1) Travel expenses, food, lodging, and transportation for the escort and child(ren).
 - (2) Other personal necessities for the child. All such items purchased must be itemized.
2. Court actions and costs in cases involving child custody or visitation orders from another jurisdiction, which may include, but are not limited to, utilization of the Uniform Child Custody Jurisdiction Act (Family Code Sections 3400 through 3425) and actions relating to the Federal Parental Kidnapping Prevention Act (42 USC 1738A) and The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (Senate Treaty Document 99-11, 99th Congress, 1st Session).
 - a. Cost of providing foster care or other short-term care for any child pending return to the out-of-jurisdiction custodian. The reimbursable period of foster home care or other short-term care

may not exceed three days unless special circumstances exist.

Please explain the special circumstances. A maximum of ten days per child is allowable. Costs must be identified per child, per day.

This cost must be reduced by the amount of state reimbursement for foster home care which is received by the county for the child(ren) so placed.

- b. Cost of transporting the child(ren) to the out-of-jurisdiction custodian.
 - (1) Travel expenses, food, lodging, and transportation for the escort and child(ren).
 - (2) Other personal necessities for the child(ren). All such items purchased must be itemized. Cost recovered from any party, individual or agency, must be shown and used as an offset against costs reported in this section.
 - (3) Securing appearance of offender and/or child(ren) when an arrest warrant has been issued or other order of the court to produce the offender or child(ren).
 - (a) Cost of serving arrest warrant or order and detaining the individual in custody, if necessary, to assure appearance in accordance with the arrest warrant or order.
 - (b) Cost of providing foster home care or other short-term care for any child requiring such because of the detention of the individual having custody. The number of days for the foster home care or short-term care shall not exceed the number of days of the detention period of the individual having physical custody of the minor.
 - (4) Return of an illegally obtained or concealed child(ren) to the legal custodian or agency.
 - (a) Costs of food, lodging, transportation and other personal necessities for the child(ren) from the time he/she is located until he/she is delivered to the legal custodian or agency. All personal necessities purchased must be itemized.
 - (b) Cost of an escort for the child(ren), including costs

of food, lodging, transportation and other expenses where such costs are a proper charge against the county. The type of escort utilized must be specified.

Any funds received as a result of costs assessed against a defendant or other party in a criminal or civil action for the return or care of the minor(s) (or defendant, if not part of a criminal extradition) must be shown and used as an offset against these costs.

VI. NON-REIMBURSABLE COSTS

- A. Costs associated with criminal prosecution, commencing with the defendant's first appearance in a California court, for offenses defined in Sections 278 or 278.5 of the Penal Code, wherein the missing, abducted, or concealed child(ren) has been returned to the lawful person or agency.

VII. CLAIM PREPARATION AND SUBMISSION

Claims for reimbursement must be timely filed and identify each cost element for which reimbursement is claimed under this mandate. Claimed costs must be identified to each reimbursable activity identified in Section V of this document.

A. Direct Costs

Direct costs are defined as costs that can be traced to specific goods, services, units, programs, activities or functions.

Claimed costs shall be supported by the following cost element information:

1. Salary and Employees' Benefits

Identify the employee(s), show the classification of the employee(s) involved, describe the mandated functions performed and specify the actual number of hours devoted to each function, the productive hourly rate, and the related benefits. The average number of hours devoted to each function may be claimed if supported by a documented time study. Benefits are reimbursable; however, benefit rates must be itemized. If no itemization is submitted, 21 percent must be used for computation of claimed cost.

2. Contracted Services

Provide copies of the contract, separately show the contract services performed relative to the mandate, and the itemized costs for such services. Invoices must be submitted as supporting documentation with

the claim.

3. Materials and Supplies

Only expenditures which can be identified as a direct cost of the mandate such as, but not limited to, vehicles, office equipment, communication devices, memberships, subscriptions, publications, may be claimed. List the cost of the materials and supplies consumed specifically for the purposes of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates and allowances received from the claimant. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, consistently applied.

4. Travel

Travel expenses for mileage, per diem, lodging, and other employee entitlement are eligible for reimbursement in accordance with the rules of the local jurisdiction. Provide the name(s) of the traveler(s), purpose of travel, inclusive dates and times of travel, destination points, and travel costs.

5. Training

The cost of training an employee to perform the mandated activities is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title and subject of the training session, the date(s) attended, and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging, and per diem. Ongoing training is essential to the performance of this mandate because of frequent turnover in staff, rapidly changing technology, and developments in case law, statutes, and procedures. Reimbursable training under this section includes child abduction training scheduled during the California Family Support Council's conferences, the annual advanced child abduction training sponsored by the California District Attorney Association, and all other professional training.

B. Indirect Costs

Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate, and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through

a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the OMB Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate claimed exceeds 10%. If more than one department is claiming indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB Circular A-87. An ICRP must be submitted with the claim when the indirect cost rate exceeds 10%.

1. Reimbursements

On a separate schedule, show details of any reimbursements received from the individuals or agencies involved in these cases. Show the total amount of such reimbursements as a reduction of the amount claimed on the cost summary form.

In addition, the costs claimed must be reduced by the amount recovered from the charges imposed by the court.

Any amount received by a county and forwarded directly to the state, must be reported on the cost summary form, but will not reduce the amount of the claim.

2. Mileage and Travel

Local entities will be reimbursed according to the rules of the local jurisdiction.

VIII. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section V, must be retained during the period subject to audit. If the Controller has initiated an audit during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

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

IX. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

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

X. REQUIRED CERTIFICATION

An authorized representative of the claimant will be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained therein.