



June 17, 2026

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Mr. Darryl Mar  
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*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

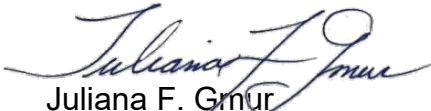
**Re: Decision**

*Custody of Minors – Child Abduction and Recovery, 25-PGA-01 (CSM-4237)*  
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; Statutes 1976, Chapter 1399; Statutes 1992, Chapter 162; Statutes  
1996, Chapter 988  
State Controller's Office, Requester

Dear Mr. Hill and Mr. Mar:

On June 12, 2026, the Commission on State Mandates adopted the Decision and Parameters and Guidelines Amendment on the above-captioned matter.

Very truly yours,

  
Juliana F. Grun  
Executive Director

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES  
AMENDMENT

Family Code Sections 3060-3064, 3130-  
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

Filed on October 24, 2025

State Controller's Office, Requester

Case No.: 25-PGA-01 (CSM-4237)

*Custody of Minors — Child Abduction and  
Recovery*

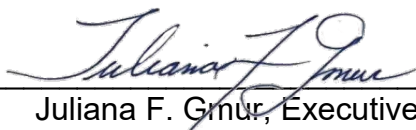
DECISION PURSUANT TO  
GOVERNMENT CODE SECTION 17500  
ET SEQ.; CALIFORNIA CODE OF  
REGULATIONS, TITLE 2, DIVISION 2,  
CHAPTER 2.5, ARTICLE 7.

*(Adopted June 12, 2026)*

*(Served June 17, 2026)*

**PARAMETERS AND GUIDELINES AMENDMENT**

The Commission on State Mandates adopted the attached Decision on June 12, 2026.



Juliana F. Gmur, Executive Director

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

<p><b>IN RE PARAMETERS AND GUIDELINES AMENDMENT</b></p> <p>Family Code Sections 3060-3064, 3130-3134.5, 3408, 3411, and 3421 Penal Code Sections 277, 278, and 278.5 Welfare and Institutions Code Section 11478.5</p> <p>Chapter 1399, Statutes of 1976 Chapter 162, Statutes of 1992 Chapter 988, Statutes of 1996</p> <p>Filed on October 24, 2025</p> <p>State Controller’s Office, Requester</p>	<p>Case No.: 25-PGA-01 (CSM-4237)</p> <p><i>Custody of Minors — Child Abduction and Recovery</i></p> <p>DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7.</p> <p><i>(Adopted June 12, 2026)</i></p> <p><i>(Served June 17, 2026)</i></p>
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**DECISION**

The Commission on State Mandates (Commission) heard and decided this Request for Parameters and Guidelines Amendment during a regularly scheduled hearing on June 12, 2026. Darryl Mar appeared on behalf of the State Controller’s Office.

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 the Proposed Decision and Parameters and Guidelines Amendment by a vote of 6-0, as follows:

<b>Member</b>	<b>Vote</b>
Lee Adams, County Supervisor	Yes
Deborah Gallegos, Representative of the State Controller	Yes
Karen Greene Ross, Public Member	Yes
William Pahland, Representative of the State Treasurer, Vice Chairperson	Yes
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	Yes
Alexander Powell, Representative of the Director of the Governor’s Office of Land Use and Climate Innovation	Yes

## I. Summary of Findings

On September 19, 1979, the Board of Control adopted a Decision, finding Statutes 1976, chapter 1399 to impose a reimbursable state mandate on county district attorney offices to assist in the resolution of child custody problems, and the enforcement of custody decrees and other orders of the court in a child custody proceeding.

Parameters and Guidelines were adopted by the Board of Control on January 21, 1981.<sup>1</sup> Records show the Parameters and Guidelines were amended on July 19, 1984; July 27, 1987; and October 26, 1989, however copies of these amendments and the original Parameters and Guidelines are not available.<sup>2</sup> Additional subsequent amendments occurred on February 22, 1990; July 22, 1993; August 26, 1999; and the current version was last amended on October 30, 2009. Copies of these amendments are included in the exhibits.<sup>3</sup>

The State Controller (requester) requests the Commission make several amendments to the Parameters and Guidelines described below that are intended to correct alleged clerical errors that occurred in the previous amendments.<sup>4</sup>

- Adopt a statement of decision (decision). “Due to the age of this program, it does not have a Decision which informs the interpretation of the P’s and G’s. This will assist claimants with filing for only the allowable costs outlined in the P’s and G’s and avoid confusion over what is unallowable.”<sup>5</sup>
- Add “District Attorney cost of notifications sent if jurisdiction is refused,” to the list of reimbursable activities. This was previously included as a reimbursable activity in both the 1990 and 1993 Amendments to the Parameters and Guidelines, however it was removed in the 1999 Amendment.<sup>6</sup> The requester now asks this activity be added back into the list of reimbursable activities as Reimbursable Activity 2.a., and that the numbering for the following activities be adjusted accordingly.<sup>7</sup>

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<sup>1</sup> Exhibit E (1), 2009 Amendment to the Parameters and Guidelines.

<sup>2</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 7, (1990 Amendment to the Parameters and Guidelines); Exhibit E (1), 2009 Amendment to the Parameters and Guidelines, page 1.

<sup>3</sup> Exhibit A, Request for Parameters and Guidelines Amendment, pages 5-14 (1990 Amendment to the Parameters and Guidelines) and 15-22 (1993 Amendment to the Parameters and Guidelines); Exhibit E (2), 1999 Amendment to the Parameters and Guidelines Staff Analysis and Proposed Amendments; Exhibit E (1), 2009 Amendment to the Parameters and Guidelines.

<sup>4</sup> Exhibit A, Request for Parameters and Guidelines Amendment.

<sup>5</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 1.

<sup>6</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 4.

<sup>7</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 4.

- Renumber the current Reimbursable Activities 2.b.(3)., and 2.b.(4)., so they appear as Reimbursable Activities 3 and 4, respectively.<sup>8</sup> This is how they were presented in the 1990 Amendment to the Parameters and Guidelines, and the requester seeks to have this reinstated because it asserts the numbering was changed over the years due to “clerical error.”<sup>9</sup>
- Add the 1990 and 1993 Amendments to the Parameters and Guidelines to the first page of the Parameters and Guidelines as part of the program’s caption.<sup>10</sup>

The Commission does not have the statutory authority to set aside the Board of Control’s decision and issue a new decision on this program. The Board of Control’s 1979 decision is final. The requester has not alleged a subsequent change in law that changes the state’s liability, which would then authorize the Commission to adopt a new test claim decision pursuant to Government Code section 17570. Nor have the courts directed the Commission to adopt a new test claim decision.<sup>11</sup> The Commission, like other administrative agencies, only have such powers as have been conferred on them by constitution or statute. Any action taken in excess of such authority is void.<sup>12</sup>

Additionally, a request to add a previously removed reimbursable activity — “District Attorney cost of notifications sent if jurisdiction is refused” — is not supported by substantial evidence that this activity is reasonably necessary for the performance of the state mandated program as required by the Government Code and the Commission’s regulations,<sup>13</sup> and the activity is not required by current law. Staff, therefore, recommends denying these amendment requests.

However, renumbering some of the existing reimbursable activities, which appears to have been renumbered incorrectly as a clerical error in an earlier Parameters and Guidelines Amendment, helps clarify what activities are reimbursable, and the addition of previous amendment dates to the Parameters and Guidelines’ caption is a non-substantive change that does not impact the Parameters and Guidelines themselves. Therefore, the Commission approves these amendment requests. As these are clarifying changes, these amendments should be effective dating back to the entire reimbursement period.<sup>14</sup>

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<sup>8</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 4.

<sup>9</sup> Exhibit A, Request for Parameters and Guidelines Amendment, pages 1 and 4.

<sup>10</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 4.

<sup>11</sup> Government Code section 17559.

<sup>12</sup> *Duarte & Witting v. New Motor Vehicle Board* (2002) 104 Cal.4th 626; *Wendz v. CA Dept of Education* (2023) 93 Cal.5th 607.

<sup>13</sup> Government Code section 17557(d)(2)(E); California Code of Regulations, title 2, section 1183.17(a)(5).

<sup>14</sup> Clarifications of existing law may be applied to transactions that predate their enactment without being considered a retroactive application of law, as they merely clarify what has always been the law. See *McClung v. Employment Development Dept.*

## II. Background

### A. The Test Claim Statute

On September 19, 1979, the Board of Control adopted a Decision, finding Statutes 1976, chapter 1399 to impose a reimbursable state mandate on county district attorney offices to assist in the resolution of child custody problems, and the enforcement of custody decrees and other orders of the court in a child custody proceeding. The Board of Control found that the mandated 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, proceedings with civil court actions, and guaranteeing the appearance of offenders and minors in court actions.”<sup>15</sup>

Specifically, the test claim statute (Stats. 1976, ch. 1399) 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. As explained in the Parameters and Guidelines:

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 ensure 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.<sup>16</sup>

Parameters and Guidelines were adopted by the Board of Control on January 21, 1981.<sup>17</sup> Records show the Parameters and Guidelines were amended on July 19, 1984; July 27, 1987; and October 26, 1989, however copies of these

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(2004) 34 Cal.4th 467, 471 quoting *Western Security Bank v. Superior Court* (1997) 15 Cal.4th 232, 243; *Riley v. Hilton Hotels Corp.* (2002) 100 Cal.App.4th 599, 603.

<sup>15</sup> Exhibit E (1), 2009 Amendment to the Parameters and Guidelines, page 2, (Section II.).

<sup>16</sup> Exhibit E (1), 2009 Amendment to the Parameters and Guidelines, page 1, (Section I.).

<sup>17</sup> Exhibit E (1), 2009 Amendment to the Parameters and Guidelines.

amendments and the original Parameters and Guidelines are not available.<sup>18</sup> The earliest version of the Parameters and Guidelines that is available is the 1990 Amendment, which was approved by the Commission on February 22, 1990.<sup>19</sup>

On July 22, 1993, the Commission amended the Parameters and Guidelines again.<sup>20</sup> The caption was amended to identify the following code sections along with the 1976 test claim statute: Civil Code sections 4600.1, 4604, 5157, 5160, and 5169; Penal Code sections 278 And 278.5; and Welfare and Institutions Code section 11478.5.<sup>21</sup> In addition, some of the items in the “Reimbursable Costs” section were moved to a higher list level; i.e., activities 3 and 4 (securing the appearance of the offender and the child on order of the court, and return of an illegally obtained or concealed child to the legal custodian or agency, respectively) were moved under activity 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).<sup>22</sup>

In 1999, the Parameters and Guidelines were amended on consent.<sup>23</sup> As is relevant to this Parameters and Guidelines Amendment request, the 1999 amendment updated the caption to identify the following code sections and relevant statutes that imposed this mandated program following statutory amendments and renumbering of the codes: “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; and Chapter 988, Statutes of 1996.”<sup>24</sup> The Summary of Mandate section was updated to explain that

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<sup>18</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 7, (1990 Amendment to the Parameters and Guidelines); Exhibit E (1), 2009 Amendment to the Parameters and Guidelines, page 1.

<sup>19</sup> Exhibit A, Request for Parameters and Guidelines Amendment, pages 5-14, (1990 Amendment to the Parameters and Guidelines).

<sup>20</sup> Exhibit A, Request for Parameters and Guidelines Amendment, pages 15-22, (1993 Amendment to the Parameters and Guidelines).

<sup>21</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 15, (1993 Amendment to the Parameters and Guidelines).

<sup>22</sup> Exhibit A, Request for Parameters and Guidelines Amendment, pages 18-19, (1993 Amendment to the Parameters and Guidelines, Sections V.B.2.c.(3-4).).

<sup>23</sup> Exhibit E (2), 1999 Amendment to the Parameters and Guidelines Staff Analysis and Proposed Amendments; Exhibit E (3), Commission on State Mandates Minutes, August 26, 1999.

<sup>24</sup> Although the caption identifies all of these code sections, only Family Code sections 3130 and 3131 impose mandated activities on local agencies. The others provide context that help define the scope of the mandate.

Statutes 1992, chapter 162 moved the former Civil Code sections to the Family Code without substantial change, and Statutes 1996, chapter 988 repealed and reenacted Penal Code section 277, 278, and 278.5 under a new statutory scheme that created crimes for taking, enticing away, keeping, withholding, or concealing a child from a lawful custodian with intent to deprive a lawful custodian of their right to custody or visitation, and eliminated the distinction between cases with or without a preexisting custody order.<sup>25</sup> Various small changes throughout the Parameters and Guidelines were added to update references to these laws.

Finally, on October 30, 2009, the Commission amended the Parameters and Guidelines to add boilerplate language used in all Parameters and Guidelines nowadays requiring that only actual costs may be claimed, and that the actual costs must be supported by contemporaneous source documentation.<sup>26</sup> This is the most current version of the Parameters and Guidelines.

### **B. The State Controller's Request to Amend the Parameters and Guidelines**

The State Controller (requester) requests the Commission to make several amendments to the Parameters and Guidelines described below that are intended to clarify the program due to its age and to correct alleged clerical errors that occurred in the previous amendments.<sup>27</sup>

- Adopt a statement of decision (decision). “Due to the age of this program, it does not have a Decision which informs the interpretation of the P’s and G’s. This will assist claimants with filing for only the allowable costs outlined in the P’s and G’s and avoid confusion over what is unallowable.”<sup>28</sup>
- Add “District Attorney cost of notifications sent if jurisdiction is refused,” to the list of reimbursable activities. This was previously included as a reimbursable activity in both the 1990 and 1993 Amendments to the Parameters and Guidelines, however it was removed in the 1999 Amendment.<sup>29</sup> The requester now asks this activity be added back into the list of reimbursable activities as Reimbursable Activity 2.a., and that the numbering for the following activities be adjusted accordingly.<sup>30</sup>

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<sup>25</sup> Exhibit E (2), 1999 Amendment to the Parameters and Guidelines Staff Analysis and Proposed Amendments, pages 11-12, (Section I.).

<sup>26</sup> Exhibit E (1), 2009 Amendment to the Parameters and Guidelines, page 3, (Section V.).

<sup>27</sup> Exhibit A, Request for Parameters and Guidelines Amendment.

<sup>28</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 1.

<sup>29</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 4.

<sup>30</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 4.

- Renumber the current Reimbursable Activities 2.b.(3)., and 2.b.(4)., so they appear as Reimbursable Activities 3 and 4, respectively.<sup>31</sup> This is how they were presented in the 1990 Amendment to the Parameters and Guidelines, and the requester seeks to have this reinstated because it asserts the numbering was changed over the years due to “clerical error.”<sup>32</sup>
- Add the 1990 and 1993 Amendments to the Parameters and Guidelines to the first page of the Parameters and Guidelines as part of the program’s caption.<sup>33</sup>

### III. Procedural History

On October 24, 2025, the requester filed the Request for Parameters and Guidelines Amendment.<sup>34</sup> The request was issued for comment on October 30, 2025. The County of Sacramento District Attorneys’ Office filed comments on November 17, 2025.<sup>35</sup> The County of Los Angeles filed comments on November 20, 2025.<sup>36</sup> No rebuttals were filed on the comments.<sup>37</sup> Commission staff issued the Draft Proposed Decision and Parameters and Guidelines Amendment on April 29, 2026.<sup>38</sup> No comments were filed on the Draft Proposed Decision and Parameters and Guidelines Amendment.

### IV. Positions of the Parties

#### A. State Controller (Requester)

The requester filed this Request for Parameters and Guidelines Amendment on October 24, 2025.<sup>39</sup> The proposed amendments touch on four main issues discussed above.

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<sup>31</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 4.

<sup>32</sup> Exhibit A, Request for Parameters and Guidelines Amendment, pages 1 and 4.

<sup>33</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 4.

<sup>34</sup> Exhibit A, Request for Parameters and Guidelines Amendment.

<sup>35</sup> Exhibit B, County of Sacramento Office of the District Attorney’s Comments on the Request for Parameters and Guidelines Amendment.

<sup>36</sup> Exhibit C, County of Los Angeles’ Comments on the Request for Parameters and Guidelines Amendment.

<sup>37</sup> On March 16, 2026, Commission staff sent a letter to the mailing list, which stated that some of the comment letters included suggestions for additional amendments that go beyond the scope of the originally proposed amendments. The letter explained that per section 1183.17(c) of the Commission’s regulations, proposals for additional amendments must be filed as a new parameters and guidelines amendment request. Therefore, we will not address the suggestions for additional amendments here.

<sup>38</sup> Exhibit D, Draft Proposed Decision and Parameters and Guidelines Amendment.

<sup>39</sup> Exhibit A, Request for Parameters and Guidelines Amendment.

To support its claims regarding what existed in previous Amendments to the Parameters and Guidelines, the requester provided copies of the 1990 and 1993 Amendments.<sup>40</sup>

### **B. Interested Parties**

The County of Sacramento Office of the District Attorney filed comments on the Controller's request on November 17, 2025.<sup>41</sup> It supports all of the proposed amendments to the Parameters and Guidelines, as it asserts these changes "will improve readability and continuity across versions, while leaving intact existing eligibility, caps, offsets, and non-reimbursable items."<sup>42</sup> It also supports the addition of an "interpretive" statement of decision, which would "improve clarity for claimants and auditors without altering the underlying reimbursement policy."<sup>43</sup>

The County of Los Angeles also filed comments on November 20, 2025.<sup>44</sup> It has no objections to the changes proposed for the Parameters and Guidelines itself. However it notes that it is unclear from the request whether the statement of decision requested would be limited to the changes made in this PGA, and objects to any statement of decision that goes beyond this PGA, as there has been no notice of the contents of any such decision and no opportunity to comment.<sup>45</sup>

## **V. Discussion**

Government Code section 17557(d) authorizes a local agency, school district, or the state to file a written request with the Commission to amend the parameters or guidelines consistent with the test claim decision for the following reasons:

- (A) Delete any reimbursable activity that has been repealed by statute or executive order after the adoption of the original or last amended parameters and guidelines.

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<sup>40</sup> Exhibit A, Request for Parameters and Guidelines Amendment, pages 5-14 (1990 Amendment to the Parameters and Guidelines), 15-22 (1993 Amendment to the Parameters and Guidelines).

<sup>41</sup> Exhibit B, County of Sacramento Office of the District Attorney's Comments on the Request for Parameters and Guidelines Amendment.

<sup>42</sup> Exhibit B, County of Sacramento Office of the District Attorney's Comments on the Request for Parameters and Guidelines Amendment, page 2.

<sup>43</sup> Exhibit B, County of Sacramento Office of the District Attorney's Comments on the Request for Parameters and Guidelines Amendment, page 1.

<sup>44</sup> Exhibit C, County of Los Angeles' Comments on the Request for Parameters and Guidelines Amendment.

<sup>45</sup> Exhibit C, County of Los Angeles' Comments on the Request for Parameters and Guidelines Amendment, page 2.

- (B) Update offsetting revenues and offsetting savings that apply to the mandated program and do not require a new legal finding that there are no costs mandated by the state pursuant to subdivision (e) of Section 17556.
- (C) Include a reasonable reimbursement methodology for all or some of the reimbursable activities.
- (D) Clarify what constitutes reimbursable activities.
- (E) Add new reimbursable activities that are reasonably necessary for the performance of the state-mandated program.
- (F) Define what activities are not reimbursable.
- (G) Consolidate the parameters and guidelines for two or more programs.
- (H) Amend the boilerplate language.<sup>46</sup>

As indicated above, the requester seeks to have the Commission create a statement of decision for this program, and to revert several changes or omissions that occurred in previous amendments through alleged clerical errors.

For the reasons below, the Commission denies some of these requests, as they ask the Commission to exercise authority it does not have or add reimbursable activities that have not been shown to be reasonably necessary for the performance of the state-mandated program. However, renumbering some of the existing reimbursable activities will clarify what constitutes reimbursable activities, and adding previously excluded amendment dates back into the caption's history of when these Parameters and Guidelines were previously amended is a non-substantive change that does not affect the program itself. These clarifying amendments are therefore approved.

**A. The Commission Does Not Have Authority to Issue a New Test Claim Decision on This Program; This Request Is Therefore Denied.**

The requester asked the Commission to adopt a statement of decision (decision) for this program, stating that “[t]his will assist claimants with filing for only the allowable costs outlined in the P’s and G’s and avoid confusion over what is unallowable.”<sup>47</sup> One interested party supported this request as it believed a decision would “improve clarity for claimants and auditors without altering the underlying reimbursement policy.”<sup>48</sup> Another objected to the idea of any decision that addressed topics beyond those identified in the Request for Parameters and Guidelines Amendment before it had an opportunity to review the contents and make comments.<sup>49</sup>

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<sup>46</sup> See also California Code of Regulations, title 2, section 1183.17(a).

<sup>47</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 1.

<sup>48</sup> Exhibit B, County of Sacramento Office of the District Attorney’s Comments on the Request for Parameters and Guidelines Amendment, page 1.

<sup>49</sup> Exhibit C, County of Los Angeles’ Comments on the Request for Parameters and Guidelines Amendment, page 2.

The Commission does not have authority to adopt a new decision on this program. “Administrative agencies only have the power conferred upon them by statute and an act in excess of these powers is void.”<sup>50</sup> The Commission has no authority to revisit or set aside the Board of Control’s decision.

The Board of Control adopted its Decision on the Test Claim over 45 years ago on September 19, 1979 (before the adoption of article XIII B, section 6 of the California Constitution on November 6, 1979). The Board of Control’s Decision was therefore made under SB 90, the Property Tax Relief Act of 1972 (former Rev. and Tax. Code, §§ 2200 et seq.) and is now a final Decision. As the court in *Long Beach Unified School District* explained in a similar case addressing a Board of Control Decision,

A decision attains the requisite administrative finality when the agency has exhausted its jurisdiction and possesses “no further power to reconsider or rehear the claim. [Fn. omitted.]” (*Chas. L. Harney, Inc. v. State of California* (1963) 217 Cal.App.2d 77, 98, 31 Cal.Rptr. 524.) In the case at bar, former section 633.6 of the Administrative Code provided a ten-day period during which any party could request reconsideration of any Board [of Control] determination . . . The Board decided on February 16, 1984, that the Executive Order constituted a state mandate, and on April 26, 1984, it adopted parameters and guidelines for the reimbursement of the claimed expenditures. No party requested reconsideration, no statute or regulation provided for further consideration of the matter by the Board (see, e.g., *Olive Proration Etc. Com. v. Agri. Etc. Com.* (1941) 17 Cal.2d 204, 209, 109 P.2d 918), and the decisions became administratively final on February 27, 1984, and May 7, 1984, respectively.<sup>51</sup>

As discussed above, there is a finite list of the types of changes the Commission can make when amending an approved program’s Parameters and Guidelines, none of which include adopting a new test claim decision on a program previously approved by the Board of Control.

Moreover, there are only three circumstances where the Commission has authority to reconsider a previous test claim decision and issue a new decision, none of which apply here. First, the Commission may reconsider all or part of a test claim or incorrect reduction claim decision at the request of one of the parties within 30 days of delivering the statement of decision to the claimant, to correct a clerical error or address new facts, circumstances, or laws that justify reconsideration.<sup>52</sup> Second, a claimant or the

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<sup>50</sup> *Duarte & Witting v. New Motor Vehicle Board* (2002) 104 Cal.4th 626; *Wendz v. CA Dept of Education* (2023) 93 Cal.5th 607.

<sup>51</sup> *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 169-170. (The school district in the *Long Beach* case, however, timely filed a petition for writ of mandate following the Legislature’s deletion of funding for the program in the State budget.)

<sup>52</sup> Government Code section 17559(a). See California Code of Regulations, title 2, section 1187.15.

state may commence a proceeding in accordance with Civil Procedure Code section 1094.5 to set aside a decision on the grounds that it was not supported by substantial evidence, in which case the court may order the Commission to hold a new hearing on the claim and on what basis.<sup>53</sup> Third, the Commission may adopt a new test claim decision to supersede a previously adopted test claim decision based on a subsequent change in law, but “only upon a showing that the state’s liability for that test claim decision pursuant to subdivision (a) of Section 6 of Article XIII B of the California Constitution has been modified based on a subsequent change in law.”<sup>54</sup> No other circumstances permit the Commission to reconsider a previous mandate decision issued by the Board of Control and adopt a new decision.

As indicated above, the Board of Control’s Decision was adopted on September 19, 1979. It is now too late to request reconsideration of the Board of Control’s decision based on clerical error, new facts, circumstances, or laws, and too late to initiate a civil proceeding alleging that the decision was not correct as a matter of law or supported by substantial evidence.<sup>55</sup>

Furthermore, no assertions are made that there is a subsequent change in law that modifies the state’s liability for this program. The requester’s sole basis for making this request is its belief that having a decision to refer to would clarify recent issues regarding what costs are unallowable under the program’s Parameters and Guidelines.<sup>56</sup> But clarification of what costs are allowable can also be addressed in the incorrect reduction claim process, which adjudicates disputes between the claimants and the Controller over the correct interpretation of the Parameters and Guidelines, and through specific requests to amend the Parameters and Guidelines to clarify the reimbursable activities.<sup>57</sup> At the time of writing, three Incorrect Reduction Claims are pending before the Commission regarding recent audits of reimbursement claims for this program.<sup>58</sup> Thus, the Commission neither has authority to issue a new test claim

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<sup>53</sup> Government Code section 17559(b).

<sup>54</sup> Government Code section 17570(b). See California Code of Regulations, title 2, section 1190.1.

<sup>55</sup> Code of Civil Procedure section 338(a) establishes a three-year statute of limitations for “an action upon a liability created by statute, other than a penalty or forfeiture,” such as the ability to petition for writ of administrative mandate under Code of Civil Procedure section 1094.5 granted by Government Code section 17559(b).

<sup>56</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 1.

<sup>57</sup> Government Code section 17557(d)(2)(D), which authorizes the Commission to “[c]larify what constitutes reimbursable activities” upon a request from a party.

<sup>58</sup> See *Child Abduction and Recovery*, 24-4237-I-04 (County of Sacramento), <https://csm.ca.gov/matters/24-4237-I-04.shtml>; *Child Abduction and Recovery*, 25-4237-I-05 (County of Los Angeles), <https://csm.ca.gov/matters/25-4237-I-05.shtml>; and *Child Abduction and Recovery*, 25-4237-I-06 (County of Ventura), <https://csm.ca.gov/matters/25-4237-I-06.shtml>.

decision on this program, nor is a new decision necessary, as the existing Incorrect Reduction Claim and Parameters and Guidelines Amendment processes sufficiently address any confusion there may be over the correct interpretation of the Parameters and Guidelines.

Accordingly, the Commission has no authority to set aside the Board of Control's Decision and adopt a new test claim Decision. This request is therefore denied.

**B. No Evidence Supports the Proposed Reimbursable Activity 2.a Is Reasonably Necessary for the Performance of This Program, and This Activity Is No Longer Required Under Current Law. This Proposed Amendment Is Therefore Denied.**

The requester asked the Commission to add to the list of reimbursable activities and costs "District Attorney cost of notifications sent if jurisdiction is refused" as a subcategory to reimbursable activity 2, which provides:

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).

The requester's reason for making this request is that this activity used to be included as a reimbursable activity, as demonstrated by the 1990 and 1993 versions of the Parameters and Guidelines, but it was removed in the 1999 version of the Parameters and Guidelines, and the requester alleges this to have been in error.

According to the 1999 Amendment to the Parameters and Guidelines, former Reimbursable Activity 2.a, the former reimbursable activity proposed to be reinserted, was deleted at the request of the County of Yolo, the requester for that amendment.<sup>59</sup> Although it is uncertain why this change was made, the record suggests this was intentional, and not a clerical error as the requester alleges.

Although this is an activity that *used* to be reimbursable according to the Parameters and Guidelines, adding it to the list of reimbursable activities now would still need to be supported by substantial evidence that this activity is reasonably necessary for the performance of the state-mandated program in accordance with the Government Code and the Commission's regulations.<sup>60</sup> According to the Commission's regulations:

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<sup>59</sup> Exhibit E (2), 1999 Amendment to the Parameters and Guidelines Staff Analysis and Proposed Amendments, page 14, (Section V.B.2.a.). This is a staff analysis which shows the proposed amendments with the requester's changes in underline and strikethrough, and staff's changes in double underline and strikethrough. Former Reimbursable Activity 2.a is marked with single-line strikethrough.

<sup>60</sup> Government Code section 17557(d)(2)(E); California Code of Regulations, title 2, section 1183.17(a)(5).

“Reasonably necessary activities” are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program. Activities required by statutes, regulations and other executive orders that were not pled in the test claim may only be used to define reasonably necessary activities to the extent that compliance with the approved state-mandated activities would not otherwise be possible. Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by documentary evidence in accordance with section 1187.5 of these regulations.<sup>61</sup>

However, no evidence has been filed to support a finding that this activity is reasonably necessary for the performance of this mandated program.

Furthermore, the activity of sending notifications if a court refuses jurisdiction is no longer required by current law, as fully explained below.

Statutes 1976, chapter 1399 established the mandated program by adding Civil Code section 4604, which said that in any case where a petition to determine custody of a child has been filed or a temporary order pending determination of custody has been entered, and the whereabouts of the party in possession of the child are unknown or there is reason to believe such party may not appear in the proceedings although ordered to appear personally with the child, “the district attorney shall take all actions necessary to locate such party and the child and procure compliance with the order to appear with the child for the purposes of adjudication of custody.”<sup>62</sup> Civil Code section 4604 also said that in any case where a custody decree has been entered and the child is taken or detained by another person in violation of that order, “the district attorney shall take all actions necessary to locate the person who violated the decree and the child and to *assist in the enforcement of the custody decree or other order of the court.*”<sup>63</sup> 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.<sup>64</sup> The Board of Control accordingly found the test claim statute “imposed a reimbursable state mandate upon

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<sup>61</sup> California Code of Regulations, title 2, section 1183.7(d).

<sup>62</sup> Civil Code section 4604(a), as added by Statutes 1976, Chapter 1399, section 3. This was later moved to Family Code section 3130 by Statutes 1992, Chapter 162, section 10.

<sup>63</sup> Civil Code section 4604(b), as added by Statutes 1976, Chapter 1399, section 3, emphasis added. This was later moved to Family Code section 3131 by Statutes 1992, Chapter 162, section 10.

<sup>64</sup> Exhibit E (1), 2009 Amendment to the Parameters and Guidelines, page 1, (Section I.).

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.”<sup>65</sup>

One of the additional tools added by the test claim statute was found in an amendment to Civil Code section 5157. According to prior law under the Uniform Child Custody Jurisdiction Act, California courts that were competent to decide child custody matters had jurisdiction in a child custody proceeding if California was the child’s home state at the time of the commencement of the proceeding or if it was the child’s home state within six months before commencement of the proceeding and one of the persons claiming custody of the child still resided within this state, with some exceptions in cases of emergency or if it was in the best interest of the child to assume jurisdiction.<sup>66</sup> However, if the court determined that a petitioner in an initial decree to determine custody of a child wrongfully took the child from another state or engaged in similar conduct, the court “may decline to exercise jurisdiction if this is just and proper under the circumstances.”<sup>67</sup> Under these circumstances, the courts were also prohibited from exercising jurisdiction to modify a custody order from another state if it determined the petitioner improperly removed the child from the physical custody of the person entitled to custody or improperly retained the child after a visit or temporary custody period “unless required in the interest of the child,” and courts had discretion to decline to exercise jurisdiction if the petitioner violated some other provision in the custody order of another state if it was just and proper under the circumstances.<sup>68</sup>

The test claim statute added requirements that when the courts declined to exercise jurisdiction to make an initial custody determination or modify a custody order from another state, the court shall notify the parent or other appropriate person and the prosecuting attorney in the other state, as follows:

(3) Where the court declines to exercise jurisdiction upon a petition for an initial custody decree pursuant to subdivision (1), the court *shall notify the parent or other appropriate person and the prosecuting attorney of the appropriate jurisdiction in the other state*. If a request to that effect is received from the other state, the court shall order the petitioner to appear with the child in a custody proceeding instituted in the other state in accordance with Section 5169. If no such request is made within a reasonable time after such notification, the court may entertain a petition

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<sup>65</sup> Exhibit E (1), 2009 Amendment to the Parameters and Guidelines, page 2, (Section II.).

<sup>66</sup> Civil Code section 5152(1), as added by Statutes 1973, chapter 693, section 1.

<sup>67</sup> Civil Code section 5157(1), as added by Statutes 1973, chapter 693, section 1.

<sup>68</sup> Civil Code section 5157(2), as added by Statutes 1973, chapter 693, section 1.

to determine custody by the petitioner if it has jurisdiction pursuant to Section 5152.

(4) Where the court refuses to assume jurisdiction to modify the custody decree of another state pursuant to subdivision (2), or pursuant to Section 5163, the court *shall notify the person who has legal custody under the decree of the other state and the prosecuting attorney of the appropriate jurisdiction in the other state* and may order the petitioner to return the child to the person who has legal custody. If it appears that the order will be ineffective and the legal custodian is ready to receive the child within a period of a few days, the court may place the child in a foster care home for such period, pending return of the child to the legal custodian. At the same time, the court shall advise the petitioner that any petition for modification of custody must be directed to the appropriate court of the other state which has continuing jurisdiction, or, in the event that the court declines jurisdiction, to a court in a state which has jurisdiction pursuant to Section 5152.<sup>69</sup>

The test claim statute therefore required that when a court refused to exercise jurisdiction in a petition to determine custody or to modify an existing custody order from another state because the court determined the child was improperly taken from another state, the court shall notify the other parent or legal custodian and the prosecuting attorney of appropriate jurisdiction in the other state that this attempt to determine or modify custody occurred. If a court directed the district attorney to send these notices on its behalf, the district attorneys were obligated to do so as part of the scope of the mandate to “actively assist in the resolution of child custody and visitation problems; for the enforcement of child 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 and visitation.”<sup>70</sup> Thus, the Parameters and Guidelines for this program previously included “District Attorney cost of notifications sent if jurisdiction is refused,” as one of the reimbursable activities included under the category for out-of-state court costs.

However, these notices are no longer required by law. In 1999, effective January 1, 2000, the Legislature replaced the Uniform Child Custody Jurisdiction Act with the Uniform Child Custody Jurisdiction and Enforcement Act.<sup>71</sup> This act made significant changes to the court’s duties regarding child custody cases. Under current law, California courts only have jurisdiction in a petition to determine custody or modify a custody order if one of the following circumstances apply:

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<sup>69</sup> Civil Code section 5157(3) and (4), as amended by Statutes 1976, chapter 1399, section 5, emphasis added. Civil Code section 5157 was moved to Family Code section 3408 without substantive change in Statutes 1992, Chapter 162, section 10.

<sup>70</sup> Exhibit E (1), 2009 Amendment to the Parameters and Guidelines, page 3, (Section V.A.).

<sup>71</sup> See Statutes 1999, Chapter 867.

(1) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state.

(2) A court of another state does not have jurisdiction under paragraph (1), or a court of the home state of the child has declined to exercise jurisdiction on the grounds that this state is the more appropriate forum under Section 3427 or 3428, and both of the following are true:

(A) The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence.

(B) Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships.

(3) All courts having jurisdiction under paragraph (1) or (2) have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under Section 3427 or 3428.

(4) No court of any other state would have jurisdiction under the criteria specified in paragraph (1), (2), or (3).<sup>72</sup>

Family Code section 3427 grants courts discretion to decline to exercise jurisdiction if it determines itself to be an inconvenient forum and determines another state is more appropriate, and states the factors courts shall consider in making this determination.<sup>73</sup>

Family Code section 3428 prohibits courts from exercising jurisdiction when the party seeking jurisdiction engaged in “unjustifiable conduct,” as follows:

(a) Except as otherwise provided in Section 3424 or by any other law of this state, if a court of this state has jurisdiction under this part because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless one of the following are true:

(1) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction.

(2) A court of the state otherwise having jurisdiction under Sections 3421 to 3423, inclusive, determines that this state is a more appropriate forum under Section 3427.

(3) No court of any other state would have jurisdiction under the criteria specified in Sections 3421 to 3423, inclusive.

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<sup>72</sup> Family Code section 3421.

<sup>73</sup> Family Code section 3427.

(b) If a court of this state declines to exercise its jurisdiction pursuant to subdivision (a), it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under Sections 3421 to 3423, inclusive.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subdivision (a), it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against this state unless authorized by law other than this part.

(d) In making a determination under this section, a court shall not consider as a factor weighing against the petitioner any taking of the child, or retention of the child after a visit or other temporary relinquishment of physical custody, from the person who has legal custody, if there is evidence that the taking or retention of the child was a result of domestic violence against the petitioner, as defined in Section 6211, or for the purposes of obtaining gender-affirming health care or gender-affirming mental health care, as defined by Section 16010.2 of the Welfare and Institutions Code, for the child and the law or policy of the other state limits the ability of a parent to obtain gender-affirming health care or gender-affirming mental health care for their child.<sup>74</sup>

However, nowhere in the current version of the Uniform Child Custody Jurisdiction and Enforcement Act does it say that courts or district attorneys are required to send notifications when the court determines it does not have jurisdiction or declines to exercise jurisdiction in a petition to determine or modify custody. This already removed reimbursable activity is not required under current law.

While it is possible that a court could choose to have the district attorney send out notices as part of its "appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct," no evidence has been filed that this is occurring, and again, there is no evidence in the record that this activity is reasonably necessary to the performance of the state mandated program. The request to add "District Attorney cost of notifications sent if jurisdiction is refused," back into the list of reimbursable activities is, therefore, denied.

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<sup>74</sup> Family Code section 3428.

**C. The Proposed Renumbering of the Reimbursable Activities Clarifies the Reimbursable Activities. Therefore, This Amendment Is Approved with a Reimbursement Period That Applies Retroactively to the Beginning of the Period of Reimbursement.**

The requester asked that the Parameters and Guidelines be amended to renumber Reimbursable Activities 2.b.(3) and 2.b.(4), so they are presented as Reimbursable Activities 3 and 4, respectively, and to adjust the numbering of their subcategories accordingly. Reimbursable Activity 2.b.(3) provides for “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),” and Reimbursable Activity 2.b.(4) provides for, “Return of an illegally obtained or concealed child(ren) to the legal custodian or agency.”

One of the permissible reasons for amending the Parameters and Guidelines under Government Code section 17557 is to “[c]larify what constitutes reimbursable activities.”<sup>75</sup> The requester alleges this proposed amendment is to correct numbering that was changed over the years due to clerical error. To support this assertion, the requester provided copies of two previous amendments to the Parameters and Guidelines for this program, one from February 22, 1990, and the other from July 22, 1993. In the 1990 version there are four main categories of Reimbursable Activities listed in the Parameters and Guidelines:

1. Obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of child custody or visitation orders;
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);
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); and
4. Return of an illegally obtained or concealed child(ren) to the legal custodian or agency.

In the 1993 version, there are only two categories of reimbursable activities, with former categories 3 and 4 presented as subcategories under category 2.b. This arrangement persists in the current Parameters and Guidelines as follows:

1. Obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of child custody or visitation order, including:

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<sup>75</sup> Government Code section 17557(d)(2)(D).

- a. Contact with child(ren) and other involved persons.
    - (1) Receipt of reports and requests for assistance.
    - (2) Mediating with or advising involved individuals. Mediation 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, 99<sup>th</sup> Congress, 1<sup>st</sup> 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. Costs 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 fee 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.<sup>76</sup>

This is clearly in error. Family Code section 3130 requires district attorneys to “take all actions necessary to procure compliance with the order to appear with the child for the purposes of adjudication of custody,” when a petition to determine custody of a child or temporary order pending determination of custody has been entered and the whereabouts of the party in possession of the child are unknown or there is reason to

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<sup>76</sup> Exhibit E (1), 2009 Amendment to the Parameters and Guidelines, pages 4-5, (Section V.B.).

believe the party may not appear in the proceedings although ordered to appear personally with the child. The court's authority to order parties located within the state to appear personally before the court in a custody proceeding is located in Family Code section 3430, with the ability to request the courts of other states do the same on our court's behalf granted in Family Code section 3412.<sup>77</sup> Likewise, Family Code section 3131 requires that when a custody or visitation order has been entered and a child is taken or detained in violation of that order, district attorneys shall "take all actions necessary to locate and return the child and the person who violated the order and to assist in the enforcement of the custody or visitation order or other order of the court by use of an appropriate civil or criminal proceeding." The activities of securing appearance of the offender and child and of returning an illegally obtained or concealed child to their legal custodian are not exclusive to cases involving child custody decrees from other jurisdictions and should not be categorized as such. It is therefore incorrect to keep subsections 2.b.(3) and 2.b.(4) under the category for court actions and costs in cases involving child custody or visitation orders from another jurisdiction. It would clarify the reimbursable activities consistent with Government Code section 17557(d)(2)(D) to reinstate these subcategories as their own categories of reimbursable activities, and therefore this amendment is approved.

When making amendments that simply clarify the mandated activities and do not make any substantive changes to the program, the clarification is effective for the entire period of reimbursement and may be applied in review of reimbursement claims filed before this request was made to amend the Parameters and Guidelines.<sup>78</sup> Under the rules of statutory construction, a clarification of existing law may be applied to transactions predating its enactment without being considered a retroactive application of the law. The clarification is merely a statement of what the law has always been.<sup>79</sup> Accordingly, this amendment to correct the numbering of the reimbursable activities categories applies retroactively to the entire period of reimbursement, as it simply clarifies what has always been the law.

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<sup>77</sup> Under the prior Uniform Child Custody Jurisdiction Act, this was Family Code section 3411 for cases within this state, while Family Code section 3421 gave courts authority to issue orders to people within this state at the request of another state's court. See Statutes 1992, Chapter 162, section 10.

<sup>78</sup> See *Crime Statistic Reports for the Department of Justice*, 12-PGA-01, Amendment to Parameters and Guidelines and Statement of Decision, <https://csm.ca.gov/matters/02-TC-04/doc33.pdf> (accessed April 2, 2026), page 15.

<sup>79</sup> *McClung v. Employment Development Dept.* (2004) 34 Cal.4th 467, 471 quoting *Western Security Bank v. Superior Court* (1997) 15 Cal.4th 232, 243; *Riley v. Hilton Hotels Corp.* (2002) 100 Cal.App.4th 599, 603.

**D. Adding Dates to the List of Previous Amendments Provided in the Caption of the Parameters and Guidelines Is a Non-Substantive Change and Is Approved.**

The requester asked the Commission to amend the upper left-hand caption of the Parameters and Guidelines to add February 22, 1990 and July 22, 1993, dates reflecting prior amendments to the Parameters and Guidelines, to the list of previous amendments. In the 1990 amendment provided as evidence, the caption lists the dates the Parameters and Guidelines were adopted, January 21, 1981, and four subsequent amendments on: July 19, 1984; July 25, 1987; October 26, 1989; and February 22, 1990.<sup>80</sup> The 1993 amendment added July 22, 1993 to this list.<sup>81</sup> In the current Parameters and Guidelines, the caption only lists the date the Parameters and Guidelines were adopted on January 21, 1981, and four amendment dates: July 19, 1984; July 25, 1987; August 26, 1999; and October 30, 2009. This excludes the amendments previously acknowledged of October 26, 1989; February 22, 1990; and July 22, 1993.

Since this change is non-substantive and has no impact on the reimbursement for this program, the request is approved. The requester only asked for the 1990 and 1993 amendments to be added and did not ask for the October 26, 1989 date to be included. Although the Commission does not have the 1989 amendment in its records, both the 1990 and 1993 amendments support the existence of the October 26, 1989 amendment by including it in the caption, and this is verified by the minutes from the October 26, 1989 Commission hearing, which show an amendment to this program's Parameters and Guideline was approved at that hearing on consent.<sup>82</sup> Therefore, all three excluded amendment dates of October 26, 1989; February 22, 1990; and July 22, 1993, are to be added back into the caption.

**VI. Conclusion**

Based on the foregoing analysis, the Commission partially approves the Request for Parameters and Guidelines Amendment, as specified above.

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<sup>80</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 7 (1990 Amendment to the Parameters and Guidelines).

<sup>81</sup> Exhibit A, Request for Parameters and Guidelines Amendment, page 15 (1993 Amendment to the Parameters and Guidelines).

<sup>82</sup> Exhibit E (4), Commission on State Mandates Minutes, October 26, 1989, pages 1-2.

Amended: June 12, 2026  
Amended: October 30, 2009  
Amended: August 26, 1999  
Amended: July 22, 1993  
Amended: February 22, 1990  
Amended: October 26, 1989  
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*

25-PGA-01, 05-PGA-26 (CSM 4237)

State Controller, Requester

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

#### I. SUMMARY OF THE MANDATE

Chapter 1399, Statutes of 1976, added section 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, Statute 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 findings were in response to a claim of first impression filed by the County of San Bernadino.

## 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 30<sup>th</sup> 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 Bernadino 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 ACTIVITIES

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, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. 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 order 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 order, 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. Mediation 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, 99<sup>th</sup> Congress, 1<sup>st</sup> 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. Costs 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 fee 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 document 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 the 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 which 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 the central government services distributed to the 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) if 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. Milage and Travel

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

VIII. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>83</sup> is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section V, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

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

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<sup>83</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

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.

## 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 June 17, 2026, I served the:

- **Current Mailing List dated June 9, 2026**
- **Decision and Parameters and Guidelines Amendment adopted June 12, 2026**

*Custody of Minors – Child Abduction and Recovery, 25-PGA-01 (CSM-4237)*  
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; Statutes 1976, Chapter 1399; Statutes 1992, Chapter 162;  
Statutes 1996, Chapter 988  
State Controller's Office, Requester

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 June 17, 2026 at Sacramento, California.



---

Jill Magee  
Commission on State Mandates  
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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 6/9/26

**Claim Number:** 25-PGA-01 (CSM-4237)

**Matter:** Custody of Minors - Child Abduction and Recovery

**Requester:** State Controller

### 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.)

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