

**REPORT TO THE
CALIFORNIA LEGISLATURE:
APPROVED MANDATE CLAIMS**

January 1, 1999 – March 31, 1999

COMMISSION ON STATE MANDATES

**B. Timothy Gage, Chairperson
Phil Angelides, Vice Chairperson
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April 12, 1999

Mr. Gregory Schmidt
Secretary of the Senate
California State Legislature
State Capitol, Room 3044
Sacramento, California 95814

Mr. E. Dotson Wilson
Chief Clerk of the Assembly
California State Legislature
State Capitol, Room 3196
Sacramento, California 95814

Enclosed is the Commission on State Mandates' Report to the Legislature required by section 17600 of the Government Code. At least twice each calendar year the Commission is required to report to the Legislature on the number of mandates it has found, the estimated statewide cost of each mandate, and the reasons for recommending reimbursement.

Section 17612, subdivision (a), of the Government Code provides that upon receipt of this report, a local government claims bill shall be introduced in the Legislature. This section further states that the bill shall provide for an appropriation sufficient to pay the estimated costs of the mandates approved by the Commission. It is our understanding that the Assembly Committee on Budget and Fiscal Review has introduced the local claims bill for 1999.

If you have questions regarding this report, you may contact me at (916) 323-3562.

Sincerely,

A handwritten signature in cursive script that reads "Paula Higashi".

PAULA HIGASHI
Executive Director

Enclosure

c: w/encl.

Honorable Patrick Johnston, Chairperson, Senate Appropriations Committee
Honorable Steve Peace, Chairperson, Senate Budget and Fiscal Review Committee and
Chairperson, Joint Legislative Budget Committee
Honorable Carole Migden, Chairperson, Assembly Appropriations Committee
Honorable Denise Moreno Ducheny, Chairperson, Assembly Budget Committee
Ms. Elizabeth G. Hill, Legislative Analyst
Mr. Rick Simpson, Legislative Secretary, Governor's Office

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INTRODUCTION

Section 17600 of the Government Code requires the Commission on State Mandates (Commission) to report to the Legislature at least twice each calendar year on the number of mandates it has found, the estimated statewide costs of each mandate, and the reasons for recommending reimbursement.

Section 17612, subdivision (a), of the Government Code provides that upon receipt of this report, a local government claims bill shall be introduced in the Legislature. This section further states that, at its introduction, the bill shall provide for an appropriation sufficient to pay the estimated costs of the mandates approved by the Commission. If the Legislature deletes funding for a mandate from a local government claims bill, the local agency or school district may file an action in declaratory relief in the Superior Court of the County of Sacramento to declare the mandate unenforceable and enjoin its enforcement pursuant to Section 17612, subdivision (c), of the Government Code.

Section 17561.5, subdivision (a), of the Government Code states that if payment for an initial reimbursement claim is being made more than 365 days after adoption of the statewide cost estimate, the Controller shall include accrued interest at the Pooled Money Investment Account rate.

The Commission has approved other test claims during this and earlier periods, and those approvals often are made in part rather than in total. These approved mandates, however, are not reported until the Commission has adopted the statewide cost estimates.

The following pages contain a summary of the reimbursable mandate findings for which the Commission has adopted statewide cost estimates during the period from January 1, 1999 through March 31, 1999.

FISCAL SUMMARY

Breakout of Costs for New Mandates

Domestic Violence Arrest Policies and Standards

Penal Code Section 13701

Statutes of 1995, Chapter 246\$25,861,000

Collective Bargaining Agreement Disclosure

Government Code Section 3547.5

Statutes of 1991, Chapter 1213\$895,000

School Accountability Report Cards

Education Code Sections 33126, 35256, 35256.1, 35258, 41409, and 41409.3

Statutes of 1997, Chapters 918 and 912; Statutes of 1994, Chapter 824;

Statutes of 1993, Chapter 1031; Statutes of 1992, Chapter 759;

Statutes of 1989, Chapter 1463 \$5,713,000

Sexually Violent Predators

Welfare and Institutions Code Sections 6250 and 6600 through 6608

Statutes of 1995, Chapters 763 and 762\$14,685,000

Physical Performance Tests

Education Code Section 60800

Statutes of 1995, Chapter 975

California Department of Education Memorandum, dated February 16, 1996 \$4,417,000

Caregiver Affidavits

Education Code Section 48204 (d)

Family Code Sections 6550 and 6552

Statutes of 1994, Chapter 98 \$1,184,000

Pupil Expulsions from School

Education Code Sections 48915, Subdivisions (a) and (b),

48915.1, 48915.2, 48916 and 48918

Statutes of 1975, Chapter 1253; Statutes of 1977, Chapter 965;

Statutes of 1978, Chapter 668; Statutes of 1982, Chapter 318;

Statutes of 1983, Chapter 498; Statutes of 1984, Chapter 622;

Statutes of 1987, Chapter 942; Statutes of 1990, Chapter 1231;

Statutes of 1992, Chapter 152; Statutes of 1993, Chapters 1255, 1256, and 1257;

Statutes of 1994, Chapter 146

—and

Pupil Expulsion Appeals

Education Code Sections 48919, 48921-48924

Statutes of 1975, Chapter 1253; Statutes of 1977, Chapter 965;

Statutes of 1978, Chapter 668; Statutes of 1983, Chapter 498\$13,440,000

Totals

General Fund\$40,546,000

Proposition 98\$25,649,000

Total Proposed for 1998-99 Claims Bill\$66,195,000

Domestic Violence Arrest Policies and Standards

Adopted March 25, 1999

Penal Code Section 13701
Statutes of 1995, Chapter 246

Mandate Summary

Eligible Claimants

Eligible claimants include the law enforcement agencies of any city, county, or city and county.

Mandate Background

On September 25, 1997, the Commission determined that Penal Code section 13701, subdivision (b), as added by Statutes of 1995, Chapter 246, imposed a reimbursable state mandated program. The test claim statute requires the development, adoption and implementation of written *arrest* policies for domestic violence offenders by July 1, 1996. Further, under subdivision (b), a local agency is required to obtain input from local domestic violence agencies in developing the arrest policies.

The Commission adopted the parameters and guidelines for this claim on August 20, 1998.

The reimbursement period for Statutes of 1995, Chapter 246 began January 1, 1996.

Reimbursable Mandated Activities

For each eligible claimant, all direct and indirect costs of labor, supplies, services, travel and training, for the following *one-time* activities are eligible for reimbursement:

A. Development of Written Arrest Policies

1. Meeting and conferring with "Local Domestic Violence Agencies" to obtain input in the development of the written arrest policies.
2. Developing written arrest policies that:
 - a. Encourage the arrest of domestic violence offenders if there is probable cause that an offense has been committed;
 - b. Require the arrest of an offender, absent exigent circumstances, if there is probable cause that a protective order issued under Chapter 4 (commencing with section 2040) of Part 1 of Division 6, Division 10 (commencing with section 6200), or Chapter 6 (commencing with section 7700) of Part 3 of Division 12, of the Family Code, or section 136.2 of the Penal Code, has been violated;
 - c. Discourage, when appropriate, but not prohibit, dual arrests; and
 - d. Require peace officers to make reasonable efforts to identify the primary aggressor in any incident. In identifying the primary aggressor, an officer shall consider the intent of the law to protect victims of domestic violence from continuing abuse, the threats creating fear of physical injury, the

history of domestic violence between the persons involved, and whether either person acted in self-defense.

B. Adoption of Written Arrest Policies

Meetings between the local law enforcement agency and appropriate local government official(s) on adoption of written arrest policies.

C. Training Officers About New Written Domestic Violence Arrest Policies

1. Printing and distributing the new written domestic violence arrest policies to all stations, substations, and other sites that normally respond to incidents of domestic violence.
2. Development of instructional aids and training materials for purposes of training local law enforcement officers who normally respond to incidents of domestic violence on the new domestic violence arrest policies.
3. Training local law enforcement officers who normally respond to incidents of domestic violence on the new domestic violence arrest policies.

D. Implementation of the New Domestic Violence Arrest Policies to Identify the Primary Aggressor

1. Interview of both parties involved in the domestic violence incident.
2. Consideration of the following factors:
 - a) Size of the parties
 - b) Use of weapons
 - c) Is one party stronger than the other
 - d) Is one party specially trained in martial arts, boxing, or hand-to-hand combat techniques
 - e) Who is afraid
 - f) Who has the more serious injuries
 - g) Location and nature of injuries (offensive vs. defensive)
 - h) Did one party escalate the level of violence (push followed by serious beating)
 - i) History of abuse (is one person usually the aggressor)
 - j) Timing of the second arrest (person claimed to have been assaulted only after arrested)
 - k) Existence of court protective orders
 - l) Demeanor of the parties
 - m) Use of alcohol and other drugs
 - n) Existence of corroborating evidence or witnesses
 - o) Criminal history
 - p) Other legal defenses

- q) Indicators of defensive injuries including wounds on victim's palm(s) of hand(s); wounds on inside and outside of victim's arms; bumps on victim's head (especially the back); bite marks on perpetrator's chest, biceps, or forearms; and scratches on perpetrator's face, chest, neck (strangulation cases).¹

E. Uniform Cost Allowance

Pursuant to Government Code section 17557, the Commission on State Mandates has adopted a uniform cost allowance for reimbursement in lieu of payment of total actual costs incurred. The uniform cost allowance is applied only to Section IV, Reimbursable Activities, Component D (Implementation of the New Domestic Violence Arrest Policies to Identify the Primary Aggressor) and covers all costs (direct and indirect) of performing activities described under Component D. The uniform cost allowance provides the following:

A standard time of twenty-nine (29) minutes may be claimed to identify the primary aggressor in any domestic violence incident. The standard time of twenty-nine (29) minutes is broken down as follows:

- Seventeen (17) Minutes – Interview of both parties.
- Twelve (12) Minutes – Consideration of the factors listed above.²

The total cost will be determined by multiplying the number of reported responses by the average productive hourly rate, including applicable indirect costs.

Statewide Cost Estimate

Following is a breakdown of estimated total costs per fiscal year:

| Fiscal Year | Total |
|------------------------|---------------------|
| 1995-96 | \$2,513,273 |
| 1996-97 | \$5,572,755 |
| 1997-98 | \$5,023,955 |
| 1998-99 | \$6,296,906 |
| 1999-00 | <u>\$6,454,329</u> |
| Total | \$25,861,218 |
| Total (rounded) | \$25,861,000 |

¹ The activities required to identify the primary aggressor are based on training material developed by the Commission on Peace Officers Standards and Training (POST).

² The standard time to identify the primary aggressor is based on the Declarations of Bernice K. Abrams, Deputy and Director of the Family Violence Project, Los Angeles County Sheriff's Department, dated July 14, 1998, and August 4, 1998.