



**COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER**

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**RECEIVED**  
January 30, 2023  
**Commission on  
State Mandates**

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January 30, 2023

**Via Drop Box**

Ms. Heather Halsey  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

Dear Ms. Halsey:

**RESPONSE TO THE DEPARTMENT OF FINANCE'S  
COMMENTS ON THE COUNTY'S SEX OFFENDERS REGISTRATION:  
PETITIONS FOR TERMINATION TEST CLAIM**

The County of Los Angeles ("Claimant") submits the attached Comments in response to the Department of Finance's comments on our *Sex Offenders Registration: Petitions for Termination, 21-TC-03* Test Claim.

If you have any questions please call me, or your staff may contact Fernando Lemus at (213) 974-0324 or via e-mail at [flemus@auditor.lacounty.gov](mailto:flemus@auditor.lacounty.gov).

Very truly yours,

Arlene Barrera  
Auditor-Controller

AB:OV:CY:RA:FL

Attachment

The County of Los Angeles (County or Claimant) requests that the Commission on State Mandates (Commission) reject the Department of Finance's (DOF) comments to deny test claim 21-TC-03. The DOF contends that Senate Bill (SB) 384 made changes to the sexual registration requirement that resulted in a change in penalty and, therefore, the test claim is non-reimbursable under Government Code section 17556 (g), which prohibits reimbursement for test claims statutes that change the penalty of a crime or infraction. DOF failed to cite any authority to back up their assertions. In fact, the U.S. Supreme Court has held that sex registration requirements are nonpunitive and civil in nature. (*Smith v. Doe* (2003), 123 S.Ct. 1140, 1147.) The Court analyzed Alaska's sex offender registration requirement by examining if the State's intention was to enact a regulatory scheme that is civil and nonpunitive and, if so, to further examine whether the statutory scheme was so punitive either in purpose or effect as to negate the State's intention to deem it civil. They determined that the intent of the Alaska Legislature was to create a civil, "nonpunitive regime."

The California Supreme Court has followed this U.S. Supreme Court precedent and rejected the notion that sexual registration requirements are criminal in nature. In *In re Leon Casey ALVA*, the Court held that the registration imposed by Penal Code section 290 is not punishment, but a "legitimate, nonpunitive regulatory measure." (*In re Leon Casey ALVA*, (2004) 33 Cal.4<sup>th</sup> 254)

Claimant requests that the Commission adopt the U.S. Supreme Court and California Supreme Court's analysis of the sexual registration requirement and find that SB 384 did not change the penalty of a crime. Furthermore, Claimant urges the Commission to find that SB 384 is a reimbursable State mandate on the County and no other exemptions to reimbursement apply.

**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 February 1, 2023, I served the:

- **Claimant's Rebuttal Comments filed January 30, 2023**

*Sex Offenders Registration: Petitions for Termination, 21-TC-03*  
Statutes 2017, Chapter 541, Section 12 (SB 384), effective January 1, 2018,  
operative July 1, 2021  
County of Los Angeles, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 1, 2023 at Sacramento, California.



\_\_\_\_\_  
Alexandra Peace  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 1/12/23

**Claim Number:** 21-TC-03

**Matter:** Sex Offenders Registration: Petitions for Termination

**Claimant:** County of Los Angeles

### 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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