

Item 10

PROPOSED STATEWIDE COST ESTIMATE

\$151,012

(Approximate Prospective Cost of \$30,624 Annually)

Penal Code Sections 290.05, 290.06, 290.07, 1202.8, 1203, 1203c, and 1203e

Statutes 2006, Chapter 336 (SB 1178); Statutes 2006, Chapter 337 (SB 1128); Statutes 2006, Chapter 886 (AB 1849); Statutes 2007, Chapter 579 (SB 172)

California Department of Mental Health's Executive Order, State Authorized Risk Assessment Tool for Sex Offenders Review Committee Notification, issued on February 1, 2008

State Authorized Risk Assessment Tool for Sex Offenders

08-TC-03

STAFF ANALYSIS

Background and Summary of the Mandate

This program addresses activities performed by counties and cities relating to the statutory requirement that registered sex offenders shall be subject to an assessment of the offender's risk of recidivism using the *State Authorized Risk Assessment Tool for Sex Offenders*, or SARATSO.

On January 24, 2014, the Commission on State Mandates (Commission) adopted a statement of decision¹ on the *State Authorized Risk Assessment Tool for Sex Offenders (SARATSO)* test claim (08-TC-03) finding that the test claim statutes and executive order impose a reimbursable state mandated program for county probation departments and authorized local law enforcement agencies to perform specified SARATSO assessment related activities.

Parameters and guidelines² were adopted on March 28, 2014 approving the reimbursable activities described below under the *Reimbursable Activities* section.

Eligible claimants were required to file initial reimbursement claims, for costs incurred between July 1, 2007, and June 30, 2013, with the State Controller's Office (SCO) by October 31, 2014. Late initial reimbursement claims may be filed until October 31, 2015. Annual reimbursement claims for fiscal year 2013-2014 are due by February 17, 2015.

Eligible Claimants and Period of Reimbursement

Any county, city, or city and county that incurs increased costs as a result of this mandate is eligible to claim reimbursement

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The test claim was filed on January 22, 2009, establishing eligibility for reimbursement for the 2008-2009 fiscal year.

¹ Exhibit A, Test Claim Statement of Decision.

² Exhibit B, Parameters and Guidelines.

Reimbursable Activities

For each eligible claimant that incurs increased costs, the following *ongoing* activities are reimbursable:

A. For a county, city, and city and county beginning February 1, 2008 to:

1. Designate key persons within their organizations to attend training and, as authorized by the department, to train others within their organizations;³ and
2. Ensure that persons administering the SARATSO receive training no less frequently than every two years.⁴

These activities are approved on an ongoing basis, and will be triggered each time the SARATSO Review Committee exercises its discretion to review the SARATSO selected for a given population and adopt a new or additional risk assessment tool, in accordance with Penal Code section 290.04.

B. For county probation departments only to:

1. Assess eligible individuals, as set forth in section 290.04, as follows:
 - a. Assess, using the SARATSO, as set forth in section 290.04, every eligible person for whom the department prepares a presentencing report pursuant to section 1203; and
 - b. Assess, using the SARATSO, as set forth in section 290.04, every eligible person under the department's supervision who was not assessed pursuant to a presentencing report, prior to the termination of probation but no later than January 1, 2010.⁵

This activity is limited by section 290.04 and the SARATSO Review Committee's determination, issued February 1, 2008, selecting an appropriate risk assessment tool for adult male offenders and juvenile male offenders, or any subsequent published notice of the Review Committee's determinations selecting a risk assessment tool for other populations.

2. Include the results of the SARATSO assessment administered pursuant to sections 290.04 to 290.06 in the presentencing report made to the court pursuant to section 1203, if the person was convicted of an offense that requires him or her to register as a sex offender, or if the probation report recommends that registration be ordered at sentencing.⁶

Preparing the presentencing report under section 1203 is not a new activity and, thus, not eligible for reimbursement.

This activity is limited by section 290.04 and the SARATSO Review Committee's determination, issued February 1, 2008, selecting an

³ Penal Code section 290.05 (added, Stats. 2006, ch. 337 (SB 1128); as amended, Stats. 2007, ch. 579 (SB 172)); and SARATSO Review Committee Notification, issued February 1, 2008.

⁴ *Ibid.*

⁵ Penal Code section 290.06 (added, Stats. 2006, ch. 337 (SB 1128)).

⁶ Penal Code section 1203 (as amended, Stats. 2006, ch. 337 (SB 1128)).

appropriate risk assessment tool for adult male offenders and juvenile male offenders, or any subsequent published notice of the Review Committee's determinations selecting a risk assessment tool for other populations.

3. Include in the report prepared for the department pursuant to section 1203c the results of the SARATSO, administered pursuant to sections 290.04 to 290.06, inclusive, if applicable, whenever a person is committed to the jurisdiction of the Department of Corrections and Rehabilitation for a conviction of an offense that requires him or her to register as a sex offender.⁷

Preparing the report under section 1203c is not a new activity and, thus, not eligible for reimbursement.

This activity is limited by section 290.04 and the SARATSO Review Committee's determination, issued February 1, 2008, selecting an appropriate risk assessment tool for adult male offenders and juvenile male offenders, or any subsequent published notice of the Review Committee's determinations selecting a risk assessment tool for other populations.

4. Beginning January 1, 2010:
 - (a) Compile a Facts of Offense Sheet for every person convicted of an offense that requires him or her to register as a sex offender and who is referred to the department pursuant to section 1203;
 - (b) Include in the Facts of Offense Sheet all of the information specified in section 1203e, including the results of the SARATSO, as set forth in section 290.04, if required;
 - (c) Include the Facts of Offense Sheet in the probation officer's report to the court made pursuant to section 1203; and
 - (d) Send a copy of the Facts of Offense Sheet to the Department of Justice Sex Offender Tracking Program within 30 days of the person's sex offense conviction.

Obtaining information required to complete the presentencing report pursuant to section 1203, as amended by Statutes 1996, chapter 719 (AB 893), or the report to the Department of Corrections and Rehabilitation under section 1203c if applicable, as amended by Statutes 1963, chapter 1785 is not new or reimbursable under this activity.⁸

This activity is limited by section 290.04 and the SARATSO Review Committee's determination, issued February 1, 2008, selecting an appropriate risk assessment tool for adult male offenders and juvenile male offenders, or any subsequent published notice of the Review Committee's determinations selecting a risk assessment tool for other populations.

5. Beginning January 1, 2009, and every two years thereafter, report to the Corrections Standards Authority all relevant statistics and relevant

⁷ Penal Code section 1203c (as amended, Stats. 2006, ch. 337 (SB 1128)).

⁸ Penal Code section 1203e (added, Stats. 2006, ch. 337 (SB 1128)).

information regarding the effectiveness of continuous electronic monitoring of sex offenders, including the costs of monitoring and recidivism rates of those persons who have been monitored.⁹

6. Grant access to all relevant records pertaining to a registered sex offender to any person authorized by statute to administer the SARATSO.¹⁰

This activity is limited to granting access to records exempt from disclosure under the California Public Records Act. (Gov. Code § 6250, et seq.).

Offsetting Revenues and Reimbursements

The parameters and guidelines provide:

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.¹¹

Statewide Cost Estimate

Assumptions

Staff reviewed the reimbursement claims data submitted by 5 counties and compiled by the SCO.¹² The actual claims data showed that 18 initial claims were filed for fiscal years 2007-2008 through 2012-2013 for a total of \$151,012. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*

There are currently 58 counties in California. Of those, only 5 counties filed claims. There are approximately 478 cities in California and no cities filed claims. If eligible claimants file late or amended initial claims, the reimbursement claims would exceed the statewide cost estimate. Late initial claims for this program are due by October 31, 2015.

- *The number of reimbursement claims filed will vary from year to year.*

This program allows reimbursement for certain activities associated with designating key persons within an organization to attend training and, as authorized by the department, to train others within their organizations on how to administer the SARATSO. The program requires a minimum of training every two years, thus, claims will vary depending on the number of employees who require training in a given year, costs will likely go up and down for individual claimants on a biennial basis, based on their training calendar.

⁹ Penal Code section 1202.8 (as amended, Stats. 2006, ch. 336 (SB 1178); Stats. 2006, ch. 886 (AB 1849)).

¹⁰ Penal Code section 290.07 (added, Stats. 2006, ch. 337 (SB 1128)).

¹¹ Exhibit B, Parameters and Guidelines, page 8.

¹² Claims data reported as of September 10, 2014.

Another approved activity requires that beginning on January 1, 2009, and every two years thereafter, that a report be submitted to the Corrections Standards Authority containing all relevant statistics and relevant information regarding the effectiveness of continuous electronic monitoring of sex offenders, including the costs of monitoring and recidivism rates of those persons who have been monitored, therefore, costs claimed could be higher in odd numbered years.

- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable. Some of the reimbursable activities in this program are part of a larger process. Claimants may file claims for activities that, while also part of the larger process, are not reimbursable and those claims may therefore be reduced by the SCO. For example, the presentencing reports are not a new requirement, only the inclusion of the SARATSO assessment results is a newly required activity.

Methodology

Fiscal Years 2007-2008 through 2012-2013

The statewide cost estimate for fiscal years 2007-2008 through 2012-2013 was developed by totaling the 18 reimbursement claims filed with the SCO for these years, for a total of \$151,012. Staff finds that the averages for the most recent three-year period are most indicative of potential ongoing costs. For the most recent three-year period, costs averaged \$30,624 annually.

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

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
2007-2008	2	\$25,531
2008-2009	3	\$22,928
2009-2010	2	\$10,680
2010-2011	4	\$31,064
2011-2012	4	\$33,611
2012-2013	3	\$27,198
TOTAL	18	\$151,012

Draft Proposed Statewide Cost Estimate

On December 9, 2014, Commission staff issued a draft proposed statewide cost estimate.¹³ No comments were received on the draft proposed statewide cost estimate.

Staff Recommendation

Staff recommends the Commission adopt the proposed statewide cost estimate of **\$151,012** (approximately \$30,624 annually) for costs incurred in complying with the *State Authorized Risk Assessment Tool for Sex Offenders* program.

¹³ Exhibit C, Draft Proposed Statewide Cost Estimate.