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PARAMETERS AND GUIDELINES
CIVIL CODE SECTIONS 4600.1, 4604, 5157, 5160, AND 5169
PENAL CODE SECTIONS 278 AND 278.5
WELFARE AND INSTITUTIONS CODE SECTION 11478.5
CHAPTER 1399, STATUTES OF 1976
CHILD ABDUCTION AND RECOVERY

I. SUMMARY OF MANDATE

Chapter 1399, Statutes of 1976, added Sections 4600.1 and 4604 to and amended Sections 5157, 5160 and 5169 of the Civil Code, added Sections 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 interest 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.

II. BOARD OF CONTROL DECISION

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, proceedings with civil court actions, and guaranteeing the appearance of offenders and minors in court actions. The Board's finding was in response to a claim of first impression filed by the County of San Bernardino.

III. ELIGIBLE CLAIMANTS

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

IV. PERIOD OF REIMBURSEMENT

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

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

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

V. REIMBURSABLE COSTS

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 decrees; for all actions necessary to locate and return a child(ren) by use of any appropriate civil or criminal proceeding; and for complying with other court orders relating to child

custody or visitation, as provided in Civil Code Section 4604, with the exception of those activities listed in Section VI.

B. Reimbursable Activities

For each eligible claimant meeting the above criteria, the following cost items are reimbursable:

1. Obtaining compliance with court orders relating to child custody or visitation proceedings and the enforcement of child custody or visitation decrees.
 - a. Contact with child(ren) and other involved persons.
 - (1) Receipt of reports and requests for assistance.
 - (2) Mediating with or advising involved individuals. Mediating services may be provided by other departments. If this is the case, indicate the department.
 - (3) Locating missing or concealed offender and child(ren).
 - b. Utilizing any appropriate civil or criminal court action to secure compliance.
 - (1) Preparation and investigation of reports and requests for assistance.
 - (2) Seeking physical restraint of offenders and/or the child(ren) to assure compliance with decrees or 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(ren). All such items purchased must be itemized.

2. Court actions and costs in cases involving child custody or visitation decrees from another jurisdiction, which may include, but are not limited to, utilization of the Uniform Child Custody Jurisdiction Act (Civil Code Sections 5150 through 5174) and actions relating to the Federal Parental Kidnapping Prevention Act (42 USC 1738A) and The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (Senate Treaty Document 99-11, 99th Congress, 1st Session).

- a. District Attorney's cost of notifications sent if jurisdiction is refused.
- b. Cost of providing foster home 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.

- c. 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 physical custody. The number of days for 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. Cost of food, lodging, transportation and other personal necessities for the child(ren) from the time he/she is located until he/she is delivered to the legal custodian or agency. All personal necessities purchased must be itemized.
 - b. Cost of an escort for the child(ren), including costs of food, lodging, transportation and other expenses where such costs are a proper charge against the county. The type of escort utilized must be specified.

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

VI. NON-REIMBURSABLE COSTS

- A. Costs associated with criminal prosecution, commencing with the defendant's apprehension, surrender or first appearance, for offenses defined in Sections 277, 278 and 278.5 of the Penal Code.
- B. Costs associated with locating an offender and serving a warrant related to either criminal or civil

proceedings defined in Sections 277, 278 and 278.5 of the Penal Code wherein the missing, abducted, or concealed child(ren) has been returned to the lawful person or agency.

C. Governing Authority

The costs for the salary and expenses of the governing authority, as defined by the (Federal) Office of Management. and Budget Circular A-87, such costs occur as an integral part of "general government? and, therefore, are not increased or decreased by mandated programs.

VII. CLAIM PREPARATION AND SUBMISSION

A. Filing

'Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a listing of each reimbursable activity for which reimbursement is claimed under this mandate.

B. Supporting Documentation

Claimed costs should be supported by the following:

1. Salary and Employees' Benefits

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

2. Contracted Services

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

3. Services and Supplies

Only expenditures which can be identified as a direct cost of the mandate can be claimed. Expenditures will be categorized in accordance with the State Controller manual entitled "Accounting Standards and Procedures for Counties." Compensation for use of equipment is allowable through a use allowance or depreciation charge for the period it is assigned to the mandate; however, the cost is normally claimable through an indirect cost rate. If such cost is directly charged, a supporting schedule showing how this cost was computed must be attached.

4. Allowable Overhead Cost

Indirect costs may only be claimed through an indirect cost rate proposal prepared in accordance with the provisions of (Federal) Office of Management and Budget Circular A-87. Normally, the indirect cost rate will be a percentage of direct salary and benefit costs. Indirect costs may include cost of space, equipment, utilities, insurance, administration, etc. (i.e., those elements of indirect costs incurred as a result of the mandate, origination in the performing unit and the cost of central administrative services not otherwise treated as direct cost). The indirect cost rate must be shown on the report.

5. 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.

6. Mileage and Travel

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

VIII. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of and the validity of such costs. These documents must be kept on file by the agency submitting the claim for a period of no less than three (3) years from the date of the final payment of the claim pursuant to this mandate, and made available on the request of the State Controller or his agent.

IX. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

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