

Adopted: August 26, 1999
Claim: CSM-9628101
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Doc Date: August 11, 1999

ITEM #8

Proposed Statewide Cost Estimate

Penal Code Sections 1000.93, 1000.94 and 1000.95
Penal Code Sections 273.5, subdivisions (e), (f), (g), (h) and (i)
Penal Code Section 1203.097

As Repealed, Added or Amended by Statutes of 1992, Chapters 183 and 184, Statutes of 1994, Chapter 28X, and Statutes of 1995, Chapter 641

Domestic Violence Treatment Services — Authorization and Case Management

Executive Summary

The Commission adopted the parameters and guidelines for this claim on November 30, 1998.

The test claim legislation requires a defendant who is convicted of a domestic violence crime and granted probation as part of sentencing, to successfully complete a batterer's treatment program as a condition of probation. Counties are eligible to be reimbursed for costs incurred to administer and regulate batterer's treatment programs, notify victims, and assess the future probability of the defendant committing murder.

The reimbursement period begins on or after January 1, 1996.

Summary of the Reimbursement Process

Not later than 60 days after receiving the Commission's adopted parameters and guidelines, the Controller must issue claiming instructions for each reimbursable state mandate. (Gov. Code, § 17558.)

Each eligible local agency or school district must submit claims for initial fiscal year costs to the Controller within 120 days of the issuance date for the claiming instructions. The Controller must pay any eligible claim within 60 days after the filing deadline for reimbursement claims or 15 days after the date the appropriation is effective (i.e., the subsequent claims bill), whichever is later. Any initial reimbursement claim filed after the filing deadline will be reduced by 10 percent of the amount allowed for a timely filed claim, (not to exceed one thousand dollars (\$1000)). The Controller may withhold payment of any late claim for initial reimbursement until the next deadline for funded claims unless sufficient funds are available after payment of all timely filed claims. Reimbursement claims submitted more than one year after the filing deadline will not be paid. (Gov. Code, § 17560.)

Interested Party Comments

Staff will report at the hearing.

Methodology

To arrive at the total statewide cost estimate, staff used 17 unaudited actual and estimated claimed totals filed by eligible claimants with the State Controller.¹

- For fiscal years 1995-96 (6 months), 1996-97, and 1997-98, staff used the actual amounts claimed with the State Controller.
- For fiscal year 1998-99, staff used the actual and estimated amount claimed with the State Controller. Some claimants filed claims for both the 1996-97 and 1997-98 fiscal years but did not file for fiscal year 1998-99. Staff multiplied their 1997-98 claimed amounts by the Implicit Price Deflator² (2.3 percent), minus the 10 percent penalty for filing late claims, and added this amount to the actual and estimated claims filed with the State Controller to arrive at an estimated total for fiscal year 1998-99.
- Staff multiplied the 1998-99 total (before late penalties) by the Implicit Price Deflator (2.5 percent) to estimate the 1999-00 total.
- Staff multiplied the 1999-00 total by the Implicit Price Deflator (2.4 percent) to estimate the 2000-01 total.

Recommendation

Staff recommends that the Commission adopt this proposed statewide cost estimate in the amount of \$4,587,000 for costs incurred in complying with the test claim statutes during fiscal years 1995-96 through 2000-2001:

Fiscal Year	Total
1995-96 (6 months)	\$251,715
1996-97	\$569,024
1997-98	\$917,044
1998-99	\$925,728
1999-00	\$950,317
2000-01	\$973,125
Total	\$4,586,953
Statewide Cost Estimate	\$4,587,000

Because the reported costs are prior to audit and partially based on estimates, the statewide cost estimate of \$4,586,953 has been rounded to \$4,587,000.

¹ State Controller's Office data as of August 3, 1999. The deadline for filing claims was June 16, 1999.

² As indicated by Department of Finance.

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Statewide Cost Estimate Calculation

Penal Code Sections 1000.93, 1000.94 and 1000.95
Penal Code Sections 273.5, subdivisions (e), (f), (g), (h) and (I)
Penal Code Section 1203.097

As Repealed, Added or Amended by Statutes of 1992, Chapters 183 and 184, Statutes of 1994,
Chapter 28X, and Statutes of 1995, Chapter 641

Domestic Violence Treatment Services — Authorization and Case Management

Mandate Background

The Commission adopted the parameters and guidelines for this claim on November 30, 1998.

The test claim legislation provides that if a defendant is convicted of a domestic violence crime and granted probation as part of sentencing, the defendant is required to successfully complete a batterer's treatment program as a condition of probation.

The Commission determined that probation *is a penalty* for conviction of a crime. The successful completion of probation is required before the unconditional release of the defendant. If the defendant fails to successfully complete a batterer's treatment program, the test claim legislation subjects the defendant to further sentencing and incarceration.

Since the legislature changed the penalty for domestic violence crimes by changing the requirements for probation, the Commission determined that the "crimes and infractions" disclaimer in Government Code section 17556, subdivision (g), applies to this claim. Based on the plain and ordinary meaning of the words used by the Legislature, the Commission concluded that subdivision (g) applies to those activities required by the test claim legislation that are directly related to the enforcement of the statute which changed the penalty for a crime.

The Commission concluded that the activities listed below are *not* directly related to the enforcement of the test claim statute under Government Code section 17556, subdivision (g), and, therefore, are reimbursable:

- Administration and regulation of batterers' treatment programs (Pen. Code, § 1203.097, subs. (c)(1), (c)(2), and (c)(5)) offset by the claimant's fee authority under Penal Code section 1203.097, subdivision (c)(5)(B).
- Providing services for victims of domestic violence. (Pen. Code, § 1203.097, subd. (b)(4).)
- Assessing the future probability of the defendant committing murder. (Pen. Code, § 1203.097, subd. (b)(3)(I).)

The reimbursement period begins on or after January 1, 1996.

Interested Party Comments

Staff will report at the hearing.

Eligible Claimants

The eligible claimants are counties, and city and county.

Reimbursable Activities

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

- A. Administration and regulation of batterers' treatment programs (Pen. Code, §§ 1203.097, subs. (1), (2) and (5)) offset by the claimant's fee authority under Penal Code section 1203.097, subdivision (5)(B).
 1. Development of an approval and annual renewal process for batterers' programs, not previously claimed under former Penal Code sections 1000.93 and 1000.95. (One-time activity.)
 - a. Meeting and conferring with and soliciting input from criminal justice agencies and domestic violence victim advocacy programs.
 - b. Staff training regarding the administration and regulation of batterers' treatment programs. (One-time for each employee performing the mandated activity.)
 2. Processing of initial and annual renewal approvals for vendors, including:
 - a. Application review.
 - b. On-site evaluations.
 - c. Notification of application approval, denial, suspension or revocation.
- B. Victim Notification. (Pen. Code, § 1203.097, subd. (b)(4).)
 1. The probation department shall attempt to:
 - a. Notify victims regarding the requirement for the defendant's participation in a batterer's program.
 - b. Notify victims regarding available victim resources.
 - c. Inform victims that attendance in any program does not guarantee that an abuser will not be violent.
 2. Staff training on the following activities:
 - a. Notify victims regarding the requirement for the defendant's participation in a batterer's program, and inform victims that attendance in any program does not guarantee that an abuser will not be violent. (One-time for each employee performing the mandated activities.)
 - b. Notify victims regarding available victim resources. (Once-a-year training for each employee performing the mandated activity.)

- C. Assessing the future probability of the defendant committing murder. (Pen. Code, § 1203.097, subd. (b)(3)(I).)
1. Evaluation and selection of a homicidal risk assessment instrument.
 2. Purchasing or developing a homicidal risk assessment instrument.
 3. Training staff on the use of the homicidal risk assessment instrument.
 4. Evaluation of the defendant using the homicidal risk assessment instrument, interviews and investigation, to assess the future probability of the defendant committing murder.

In the event a local agency obtains a new homicidal risk assessment instrument, documentation substantiating the improved value of the new instrument is required to be provided with the claim.

Assumptions

Staff made the following assumptions:

- The claiming data is accurate, although unaudited.
- The estimated claims accurately reflect the amounts claimants will file in actual claims with the State Controller.
- Claimants that filed claims for both the 1996-97 and 1997-98 fiscal years that did not file for fiscal year 1998-99 will file late claims.

Methodology

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Recommendation

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