



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

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RECEIVED
September 5, 2013
COMMISSION ON
STATE MANDATES

WENDY L. WATANABE
AUDITOR-CONTROLLER

September 5, 2013

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

Dear Ms. Halsey:

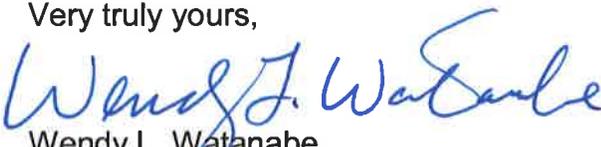
**LOS ANGELES COUNTY'S RESPONSE TO THE COMMISSION
ON STATE MANDATES' REQUEST FOR COMMENTS ON A NEW
SUBSTANTIVE ISSUE FOR INTERAGENCY CHILD ABUSE
AND NEGLECT INVESTIGATION REPORTS**

We are submitting our response to the Commission on State Mandates' request for comments on a new substantive issue for the Interagency Child Abuse and Neglect Program.

We are e-filing our comments pursuant to Section 1181.2, subd. (c)(1)(E) of the California Code of Regulations, "Documents e-filed with the Commission need not be otherwise served on the persons that have provided an e-mail address for the mailing list."

If you have any questions, please contact Ed Jewik at (213) 974-8564 or ejewik@auditor.lacounty.gov.

Very truly yours,


Wendy L. Watanabe
Auditor-Controller

WLW:JN:CY:ED:hy
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Attachment

**LOS ANGELES COUNTY'S RESPONSE TO THE COMMISSION
ON STATE MANDATES' (CSM) REQUEST FOR COMMENTS ON A NEW
SUBSTANTIVE ISSUE FOR INTERAGENCY CHILD ABUSE
AND NEGLECT INVESTIGATION REPORTS (ICAN)**

On June 14, 2013, CSM staff requested comments seeking input from parties and interested persons with respect to mandates that may be affected by Proposition 30, in conjunction with the funding provided by the 2011 Realignment Legislation. Specifically, the CSM staff requested thorough analysis and appropriate legal citation, on the following questions:

- 1. Are the approved activities under the ICAN statutes (Penal Code sections 11165.9, 11166, 11166.2, 11166.9, 11168 (formerly 11161.7), 11169, 11170, and 11174.34 (formerly 11166.9) part of the "child abuse prevention, intervention, and treatment services as those costs and services are described in statute and regulation," for purposes of the funding directed to the Child Abuse Prevention Subaccount? And, if so, do such funds constitute a potential or required offset?**

No. The "child abuse prevention, intervention, and treatment services" referenced in Government Code section 30025(f)(16)(A)(vi) are limited to those services assigned to local agencies pursuant to the 2011 Realignment Legislation. The 2011 Realignment Legislation is defined by Article XIII, Section 36, paragraph (a), subparagraph (2) of the California Constitution to mean "legislation enacted on or before September 30, 2012, to implement the state budget plan, that is entitled 2011 Realignment and provides for the assignment of Public Safety Services responsibilities to local agencies, including related reporting responsibilities." Thus, in order for legislation to meet the definition of 2011 Realignment Legislation, it must meet four criteria. It must:

1. Be enacted before September 30, 2012;
2. Be enacted to implement the state budget plan;
3. Be entitled 2011 Realignment; and
4. Provide for the assignment of Public Safety Services responsibilities to local agencies.

The phrase "Public Safety Services" is defined by Article XIII, Section 36, paragraph (a), subsection (1), subparagraph (C), of the California Constitution as "[p]reventing child abuse, neglect, or exploitation; providing services to children and youth who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services; and providing adult protective services."

There are nine pieces of legislation that meet these four criteria: AB 109, AB 94, AB 111, AB 1712, SB 1009, SB 1013, SB 1014, SB 1020, and SB 1023.¹ None of these bills assigned the approved activities under the ICAN statutes to local agencies for two reasons. First, those activities were already assigned to local agencies prior to enactment of the 2011 Realignment Legislation. Second, the 2011 Realignment Legislation specifically details, by statutory reference, which Public Safety Services responsibilities are assigned to local agencies as a result of that legislation. With one inapplicable exception, none of the bills qualifying as 2011 Realignment Legislation make any reference to the ICAN statutes. The lone exception is AB 1712, which makes a non-substantive amendment to Penal Code section 11170.² The amendments to Section 11170 do not assign any Public Safety Services responsibilities to local agencies.

Because the ICAN statutes at issue have not been assigned to local agencies pursuant to the 2011 Realignment Legislation, but instead were preexisting mandates, they are not part of the "child abuse prevention, intervention, and treatment services" referenced in Government Code section 30025(f)(16)(A)(vi).

2. Does the shift of complete or partial funding responsibility from state to local governments of existing approved mandated activities result in a mandate "imposed by the 2011 Realignment Legislation" within the meaning of paragraph (3)?

Because the answer to the first question is no, the County urges the Commission not to address the second question, as it is not relevant to the ICAN test claim.

3. Does article XIII, section 36 require, as suggested by DOF, that an existing mandated program funded under the 2011 Realignment is mandated only to the extent of funding, or does that limitation apply only to future new programs or increases in levels of service related to a funded program?

As indicated by the answer to the first question, the ICAN statutes are not funded by the 2011 Realignment Legislation. Therefore, the County urges the Commission not to address the third question, as it is not relevant to the ICAN test claim.

¹ Two other pieces of legislation, AB 118 and AB 717, meet the first three criteria, but do not provide for the assignment of Public Safety Services responsibilities to local agencies.

² The 2012 amendments to Penal Code section 11170 did not assign responsibilities to local agencies. It merely did the following: (1) added the second sentence of subd (a)(3), which required the State Department of Justice to delete certain information from its Child Abuse Central Index database after 10 years; (2) amended subd (b)(4) by (a) substituting the comma for "or" after "of a tribe"; (b) adding ", or tribal organization"; and (c) deleting "or to any county child welfare services agency for the performance of its duties in approving THP-Plus Foster Care providers pursuant to Section 11403.25 of the Welfare and Institutions Code," before "information regarding"; (3) added "or" before "Article 2" in the first sentence of subd (b)(7); and (4) substituted "subsection (a)" for "subdivision (a)" in the second sentence of subd (e)(1).