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March 9, 2026



Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Request to Reconsider Adopted Decision
Child Physical Abuse and Neglect Exams, 24-TC-05
Statutes 2023, Chapter 841 (AB 1402); Penal Code Section 11171(f)
County of Santa Clara, Claimant

Dear Ms. Gmur:

The County of Santa Clara ("County") requests that the Commission on State Mandates ("Commission") reconsider the Adopted Decision on test claim 24-TC-05 ("Test Claim"), concerning child physical abuse and neglect exams ("child abuse exams"). (Gov. Code, § 17559, subd. (a).) While the Adopted Decision approves reimbursement for child abuse exams rendered to children whose costs would have been covered by Medi-Cal or the Victims Compensation Board, the Adopted Decision finds that there is no reimbursable mandate pursuant to article XIII B, section 6 of the California Constitution ("Section 6") where counties provide child abuse exams to child victims who have private medical insurance. The County is deeply concerned about this finding and strongly encourages the Commission to reconsider the Adopted Decision so that all victim examinations are treated the same, regardless of insurance status.

As requires by the Commission's regulations, this request includes a "detailed statement of the new or different facts, circumstances, or law supporting the request,"

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Re: Request for Reconsideration, 24-TC-05
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as well as documentation supporting the statement. (2 Cal. Code Regs. § 1187.15) This statement therefore discusses the application of case law concerning “a higher level of service” pursuant to Section 6; the legal errors in the Adopted Decision’s discussion of SB 580 (2002); and new facts regarding county budgetary pressures in light of the Adopted Decision. The Claimant requests that the Commission direct staff to amend the Adopted Decision so that it approves reimbursement for child abuse exams rendered to children covered by private medical insurance.

DISCUSSION

At bottom, there is no basis upon which the Adopted Decision rationally distinguishes between child abuse exam provided to child victims who are covered by private medical insurance and child victims who are covered by Medi-Cal, or whose costs would be covered by the Victims Compensation Board. That distinction does not exist in the Test Claim Statute, it exists nowhere else in the law and practical realities that compel the provision of child abuse exams, and it is not required by Section 6. Striking this distinction creates legal errors in the Adopted Decision and practical consequences for counties, which are detailed below.

1. *The Adopted Decision errs in concluding that the Test Claim Statute does not impose any new activities or a higher level of service on counties.*

The Adopted Decision notes that the Test Claim Statute does not constitute “a new program or higher level of service” because it fails to impose any new activities on counties. (Adopted Decision, at p. 2.) In response to the Claimant’s contention that paying for child abuse exams is the new reimbursable activity, the Adopted Decision finds that “counties have long been required to investigate all incoming child abuse reports,” so “the counties’ duties relating to the medical examination requirements for child physical abuse and neglect are not new.” (*Id.* at p. 34-35.)

The Adopted Decision errs because the mandated activity—providing child abuse exams free of charge—is new and increases the level of service provided to the public. As noted in the Test Claim, the intent of the Test Claim Statute is to make child abuse exams more accessible to child victims by eliminating the cost of those exams. Providing the same exam at no cost provides a higher level of service because child victims receive a greater service than what they did prior to the enactment of the Test Claim Statute, when providers had the authority to bill Medi-Cal or private medical insurance.

In this way, the Test Claim Statutes reflects the case law on the meaning of “higher level of service,” which is oriented to what the public receives, not what the local government undertakes. In *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, the test claim statute required school principals to

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suspend and recommend for expulsion students who brought a firearm to school. (*Id.* at pp. 867-871.) The statute also entitled the student to procedural protections, including a hearing. (*Id.* at p. 866.) The California Supreme Court determined that the costs associated with these procedural protections were reimbursable pursuant to Section 6 on the basis that “public schooling ... constitutes a governmental function” and because the requirement to suspend students who had firearms constituted “a ‘higher level of service’ to the public,” which here meant a safer schooling environment. (*Id.* at pp. 877-879.) That the “higher level of service” references what the public gets and not what the locality does is firmly rooted in the decisional law. (See *Department of Finance v. Commission on State Mandates* (2021) 59 Cal.App.5th 546, 556-558 [collecting cases].)

2. *The Adopted Decision errs in speculating that an amended test claim pleading SB 580 (2022) would have addressed the Claimant’s concerns.*

The Adopted Decision suggests that the Claimant fumbled the opportunity to seek reimbursement for child abuse exams rendered to children with private medical insurance, writing that the Claimant’s “option was to plead Penal Code section 11171, as originally added by Statutes 2002, chapter 249 (SB 580) and the 2023 test claim statute.” (Adopted Decision, at pp. 40-41.) The Adopted Decision then explains that “the Commission could have taken jurisdiction on the activities required by 2002 statute and the costs incurred under the 2023 amendment. However, that did not occur and the time to amend the test claim has passed.” (*Id.* at p. 41.)

Setting aside the choice to articulate this point only after the time to amend lapsed, the suggestion is incorrect. The Adopted Decision itself says why: “Penal Code section 11171, which originally became effective on January 1, 2004, does not by its plain language require counties to perform child physical abuse and neglect exams.” (See *id.* at p. 5; see also at p. 50 [finding again that “nothing in the above statute directly states that these exams ‘shall’ be provided by counties”].) In other words, there are no legally compelled activities in SB 580 of which the Commission could have taken jurisdiction, if only the Claimant were to plead them. As the Adopted Decision goes on to find, the duty to provide child abuse exams is practically compelled by “[other child welfare and public safety] statutes and practical realities” that leave counties with “no true alternative.” (*Id.* at pp. 51-56.)

If it was the case that pleading SB 580 is the missing link that precluded the Adopted Decision from approving reimbursement for child abuse exams rendered to children who have private medical insurance, the Adopted Decision never explains how exactly it could approve reimbursement for *any* child abuse exams. If it was crucial for the Commission to take jurisdiction of Penal Code section 11171, on what basis could the Adopted Decision allow reimbursement for child abuse exams rendered only to children whose costs would have been covered by Medi-Cal or the Victims Compensation Board? The Adopted Decision is unable to address this question

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because Penal Code section 11171 does not draw such a distinction; on its face, the statute discusses child abuse exams for *all* children.

3. *The Adopted Decision will force counties to subsidize private medical insurance companies to further a State policy.*

The erroneous distinction drawn by the Adopted Decision will also adversely affect counties who are under tremendous financial strain. In essence, by relegating to county general funds the costs of providing child abuse exams to children covered by private medical insurance, the Adopted Decision requires counties to subsidize the costs of private medical insurers.

Counties are in no position to take on this burden. As noted by the California State Association of Counties, which wrote on behalf of all 58 counties in a letter to the Governor:

[C]ounties are facing mounting crises due to federal actions, such as H.R. 1, which will shift billions of dollars in new Medi-Cal, CalFresh, and indigent care costs to counties — without removing the mandates to deliver these services. Counties have no fund source to absorb these impacts. Without meaningful support from the state, California communities will suffer as the safety net crumbles.

(Declaration of Rajiv Narayan (“Narayan Decl.”), Exh. A, at p. 1.)

The Claimant stands as an unfortunate but poignant reference point for these mounting crises. Like all counties, the Claimant is currently responding to an urgent and unprecedented crisis caused by the federal bill H.R. 1, which was signed on July 4, 2025. H.R. 1 slashes funding for essential services that counties provide, such as Medi-Cal and CalFresh, resulting in massive ongoing revenue loss to the Claimant of \$223 million in this fiscal year that started July 1, 2025—a revenue loss that will more than double next year, and then double again the following year to reach over \$1 billion. (Narayan Decl., Exh. B, at p. 4.)

Forcing counties to absorb a greater financial burden at this time not only threatens the social safety net that county services keep intact, but it also contravenes the voters’ intent in enacting Section 6. As the California Supreme Court explained in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46:

The concern which prompted the inclusion of section 6 in article XIII B was the perceived attempt by the state to enact legislation or adopt administrative orders creating programs to be administered by local agencies, thereby transferring to those agencies the fiscal responsibility for providing services which the state believed should be extended to the

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public. In their ballot arguments, the proponents of article XIIB explained section 6 to the voters: "Additionally, this measure: (1) Will not allow the state government to *force programs* on local governments without the state paying for them." (Ballot Pamp., Proposed Amend. to Cal. Const. with arguments to voters, Spec. Statewide Elec. (Nov. 6, 1979) p. 18. Ital. added.)

(*Id.* at pp. 43-44.) Notwithstanding the clear intent behind Section 6, the Adopted Decision is contrary to that Constitutional requirement, and with negative financial consequences to counties.

CONCLUSION

Because the proffered distinction between child abuse exams rendered to victims with Medi-Cal and private medical insurance is contrary to legal requirements, the County strongly encourages the Commission to direct Staff to amend the Adopted Decision. The Decision the Commission ultimately adopts should treat all child abuse exams the same, regardless of insurance status.

Certification

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or based on information and belief and that I am authorized and competent to do so.

Very truly yours,
TONY LOPRESTI
County Counsel



RAJIV NARAYAN
Deputy County Counsel

DECLARATION OF RAJIV NARAYAN

1. I, Rajiv Narayan, declare:
2. I have been employed by the County of Santa Clara, the Claimant for Test Claim 24-TC-05, since September 2022 and currently hold the title of Deputy County Counsel for the Office of the County Counsel. I have been in this role since April 2023.
3. I have personal knowledge of the facts in this Declaration. On information and belief, I attest to the authenticity of the attached exhibits. If called to testify to the statements made herein, I could and would do so competently.
4. Attached as Exhibit A is a true and accurate copy of a January 16, 2026 letter from the California State Association of Counties to Governor Gavin Newsom regarding "2026-2027 Governor's Budget Proposal and County Partnership."
5. Attached as Exhibit B is a true and accurate copy of an August 6, 2025 public memo presented to the County of Santa Clara Board of Supervisors during its August 7, 2025 Special Meeting from the County Budget Director Ezequiel Vega regarding the "Fiscal Impacts of H.R. 1 on the County Organization."
6. Attached as Exhibit C is a true and accurate copy of the Adopted Decision, as required by 2 Cal. Code Regs., § 1187.15, subd. (b)(2).
7. Executed on 3/9/26 at San José, California.



Rajiv Narayan
Deputy County Counsel
Office of the County Counsel
County of Santa Clara
(408) 299-9040
Rajiv.Narayan@cco.sccgov.org

Exhibit A



January 16, 2026

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Graham Knaus

The Honorable Gavin Newsom
Governor, State of California
1021 O Street, Suite 9000
Sacramento CA, 95814

RE: 2026-2027 Governor's Budget Proposal and County Partnership

Dear Governor Newsom,

The California State Association of Counties (CSAC), proudly representing all 58 of the state's counties, remains ready to work with your Administration and the Legislature to develop a budget for 2026-27 and beyond that collectively addresses the needs of California's communities by safeguarding the services counties provide. The annual budget is a reflection of the state's priorities and includes critical investments necessary to provide communities with a wide array of services. In this time of grave uncertainty, the state and local governments must closely collaborate and form a strong partnership to protect residents from significant reductions to services.

We recognize that this year's state budget deliberations are shaped by ongoing state and federal tensions and recent federal policies that impact California's fiscal condition. Your budget proposal estimates billions of dollars in federal fund expenditures in 2026-27, which may change depending on unanticipated federal actions that have economic implications and the continued implementation of H.R. 1. However, even with the fiscal uncertainty, it is paramount that this budget takes meaningful action to address the onslaught that is coming, particularly in implementing H.R. 1. While the proposed budget minimizes the state deficit with additional revenue, it does not share the wealth with counties that deliver critical services on behalf of the state to millions of Californians every day. Recent state-level cuts and funding delays to core safety-net programs, like In-Home Supportive Services (IHSS), and to the Homeless Housing, Assistance and Prevention (HHAP) Program, along with the lack of implementation funding for Proposition 36 (2024), further erode counties' ability to meet the needs of Californians. Not to mention counties are facing mounting crises due to federal actions, such as H.R. 1, which will shift billions of dollars in new Medi-Cal, CalFresh, and indigent care costs to counties — without removing the mandates to deliver these services. Counties have no



fund source to absorb these impacts. Without meaningful support from the state, California communities will suffer as the safety net crumbles.

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Graham Knaus

To this end, CSAC submits the following comments regarding your 2026-27 budget proposal to inform budget conversations throughout the spring and summer:

County HHS H.R. 1 Impacts

The enactment of H.R. 1 fundamentally shifted significant fiscal responsibility for safety net programs from the federal government to states and counties. While your budget proposal includes funding to address the state's increased costs from H.R. 1 impacts, CSAC is deeply concerned that there is no funding to help counties respond to the massive new fiscal burden that has been placed upon them. Counties are facing billions of dollars in projected new costs to Medi-Cal, CalFresh, and indigent care as a result of H.R. 1. Some of the primary increased burdens include expanded demand for indigent care from individuals losing health coverage, direct cost shifts for CalFresh administration, and increased county workload to help individuals enroll and remain eligible for Medi-Cal and CalFresh, which are life-saving programs.

As you know, counties are the safety net providers in California performing the on-the-ground work to enroll and serve vulnerable families, children, and older adults. Absent state support to address these county budget impacts, the state's safety net will crumble as counties cannot backfill federal funding on our own. If the safety net crumbles, local and state economies will as well. When healthcare fails, individuals cannot work and children will miss school due to illness. CSAC stands at the ready to partner with the state to find workable policy and fiscal solutions, including investments and administrative relief, to meet our shared goal of preserving health care, public health, social services, and behavioral health services in our communities.

Homeless Housing, Assistance and Prevention (HHAP) Program

CSAC appreciates that last year's \$500 million commitment for the HHAP program in 2026-27 remains. However, CSAC continues to call for full funding of \$1 billion for Round 7. Through prior investments for the HHAP program and the demonstrated work of local government and our partners on the ground, as you stated in your state of the state address, California is making significant strides in reducing homelessness. The only way to sustain this progress is to fully fund the HHAP program and distribute Round 7



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funding by the enacted September 1, 2026 goal date, especially after a year in which no HHAP funding was provided. CSAC remains committed to working with you on timely adoption of legislation to enact Round 7 of the program, including provisions that allow applicants to prove their progress towards meeting the new requirements, ensuring the continued delivery of programs and services that meet the homelessness needs in our communities.

In-Home Supportive Services (IHSS)

CSAC is strongly opposed to the proposal to remove the state's share of costs for IHSS hours per case growth. This proposal appears to be a significant cost shift to counties that would result in state General Fund savings of \$233.6 million starting in 2027-28. IHSS costs are already outpacing Realignment revenues, the fund source intended to cover them. Any cost shift would undermine the existing fiscal structure of the county IHSS maintenance of effort (MOE) established in 2019 (Chapter 27, Statutes of 2019). Further, increased IHSS costs for counties would take away funding from other mandated critical health and human services programs such as Child Welfare and Mental Health at a time when counties are strained by the increased safety net program costs as a result of the implementation of H.R. 1.

Medi-Cal Mobile Crisis Services

Counties are also concerned about your budget proposal to make Medi-Cal Mobile Crisis Services an optional county benefit. This will shift tens of millions per year in costs from the state to the counties and undercut recent progress by the state and counties to bolster the community behavioral health system.

Proposition 36

The 2025 Budget Act appropriated \$50 million General Fund one-time to county behavioral health departments for Proposition 36 implementation, however this funding is only for one of multiple county departments impacted by the measure, and it has still not been allocated to counties to meet the demand for substance use disorder and mental health treatment. Your budget proposal does not include any new funding to address county costs to implement Proposition 36 in 2026-27 or thereafter. CSAC requests adequate, sustained funding for implementation of Proposition 36 to meet the expectations of voters who overwhelmingly approved the initiative in 2024. This includes associated costs for increased caseloads impacting



probation, behavioral health, indigent defense providers, district attorneys, and sheriff's offices.

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Graham Knaus

CSAC recognizes the difficult challenge in crafting a budget during these uncertain times. We are eager to partner with you and the Legislature to work toward equitable solutions that protect all Californians by offering the expertise and on-the-ground realities to help make informed decisions. California is at a critical stage where we cannot lose the economic progress and momentum we have achieved over the last several years. When H.R. 1 forces counties to backfill the full cost of indigent care, public and rural hospitals are pushed toward closure. Cuts to IHSS pull caregivers out of the workforce. Delays in homelessness and Proposition 36 funding drive up public safety risks and health costs. The result is a ripple effect that weakens local economies and harms communities across California. Counties can provide practical insights and local knowledge essential for shaping policies that work in real-world contexts.

CSAC looks forward to partnering with your Administration and the Legislature to craft a budget that safeguards core services and enables counties to continue supporting all Californians.

Respectfully,

A handwritten signature in blue ink, appearing to read 'GKnaus', written over a light blue horizontal line.

Graham Knaus
Chief Executive Officer, CSAC

CC : Nathan Barankin, Chief of Staff, Office of the Governor
Jamie Callahan, Deputy Chief of Staff, Office of the Governor
Christine Aurre, Legislative Affairs Secretary, Office of the Governor
Nani Coloretti, Cabinet Secretary, Office of the Governor
Joe Stephenshaw, Director, California Department of Finance
Erika Li, Chief Deputy Director of Budgets, California Department of Finance

Exhibit B

County of Santa Clara

Office of the County Executive

County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-5105



DATE: August 6, 2025

TO: James R. Williams, County Executive

FROM: Ezequiel Vega, County Budget Director

Signed by:
Ezequiel Vega
93470BBEDC8B4EB...

SUBJECT: Fiscal Impacts of H.R. 1 on the County Organization

Since the adoption of the Fiscal Year (FY) 2025-2026 Budget, the federal government has enacted legislation that will significantly impact the finances of the County organization and the critical services that we provide to the community. These impacts are compounded by recent state-level legislation that will also have direct impacts on the County. Unfortunately, the negative fiscal impact of these federal and state actions are *in addition* to the deficits that were already projected for the County's General Fund. That preexisting projected General Fund shortfall, which will on its own require significant budget reductions, is *not* the subject of this memorandum or included in any of the analyses herein. Instead, the analysis below is focused solely on the impact of recent federal legislation and associated state actions.

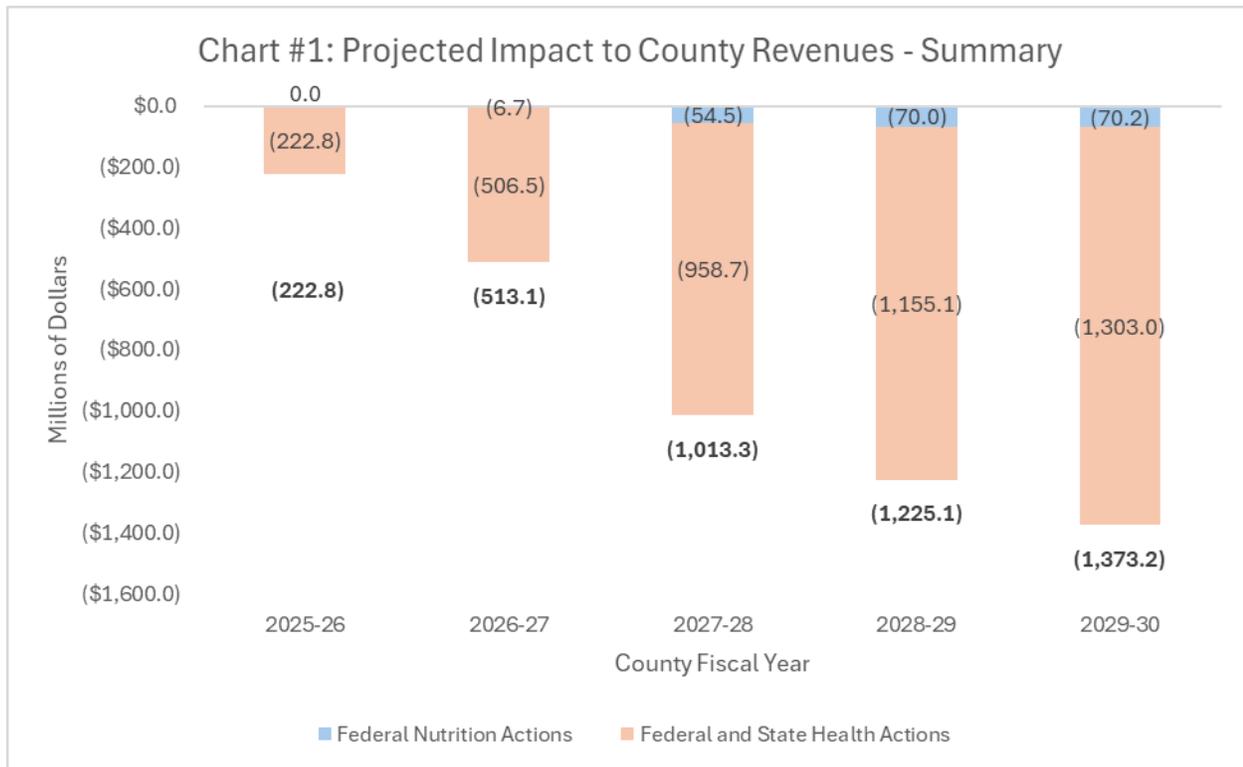
The federal (and state) impacts, along with the estimated deficits, indicate the County will face extraordinary and severe financial challenges in the next five years (see Chart #1). These federal and state challenges begin *immediately* with the current fiscal year (FY 2025-2026), will grow in FY 2026-2027 to an estimated \$513.1 million, and expand to nearly \$1.4 billion by FY 2029-2030, if no actions are taken to ameliorate these impacts. These estimates consider the staggered implementation dates of federal and state legislation.

Because the County's budget legally must be balanced each fiscal year and specific budgetary plans must be developed accordingly, the County must adjust its budget and associated expenditures each fiscal year to close these gaps. Put another way, extraordinary service reductions or identification of alternative revenues (or, more likely, a combination of both) will need to occur beginning in the current fiscal year. In addition, very substantial actions must be taken to achieve a balanced budget for the next

Memorandum to County Executive
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fiscal year, which begins on July 1, 2026, and any delays in implementing these actions will exacerbate and compound the magnitude of budget challenges in the coming years.

The estimates below are designed to capture the magnitude of the funding reductions imposed on the County by the federal and state government since adoption of the County’s FY 2025-2026 Budget in June 2025. They reflect the extraordinary gap in resources with which the County organization and our community will have to grapple. The federal portion of these revenue impacts—which account for the lion’s share—are primarily the result of the enactment of the “One Big Beautiful Bill Act” (H.R. 1). Other projected federal impacts include sunseting of the federal Disproportionate Share Hospital program and related cuts to the Global Payment Program (which are important sources of federal dollars for uncompensated healthcare), as well as cuts to the State-only Medi-Cal program enacted as part of the recently approved FY 2025-2026 California State Budget.



Memorandum to County Executive
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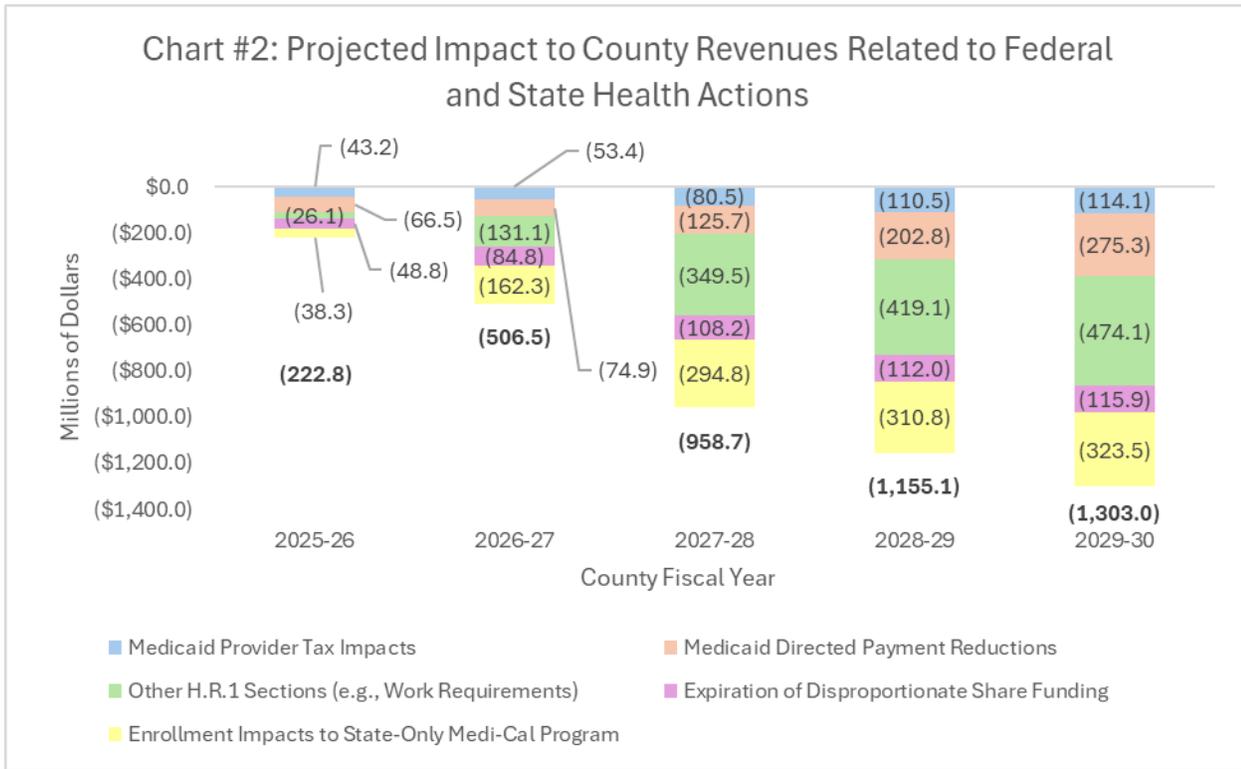
Impacts on Healthcare

The most significant revenue reduction impacts will come from changes to Medicaid (known as Medi-Cal in California) that were implemented by H.R. 1. Medicaid is the single largest revenue source for Santa Clara Valley Healthcare. H.R. 1 also contains cuts that impact individuals receiving their care through Covered California as well as some relatively modest reductions to Medicare. The fiscal impacts of healthcare reductions are estimated to reach \$1 billion by FY 2027-2028 and climb to nearly \$1.4 billion by FY 2029-2030. This figure is derived from the impact of several major categories of healthcare cuts as shown in Chart #2 and outlined below:

- Freeze and reduction in Medicaid provider taxes, estimated revenue loss of \$114.1 million
- Freeze and reduction in Medicaid Directed Payments, estimated revenue loss of \$275.3 million
- Other provisions of H.R. 1, primarily Medicaid work requirements, estimated revenue loss of \$474.1 million
- Expiration of federal disproportionate share funding and related cuts, estimated revenue loss of \$115.9 million
- Enrollment impacts to State-only Medi-Cal Program from both direct State changes and federal immigration enforcement, estimated revenue loss of \$323.5 million

These impacts will be felt throughout the County's health system, including services provided at the County's four acute care hospitals, behavioral health services, and other safety net programs dependent on Medicaid and Medicare revenues, such as critical services for supportive housing.

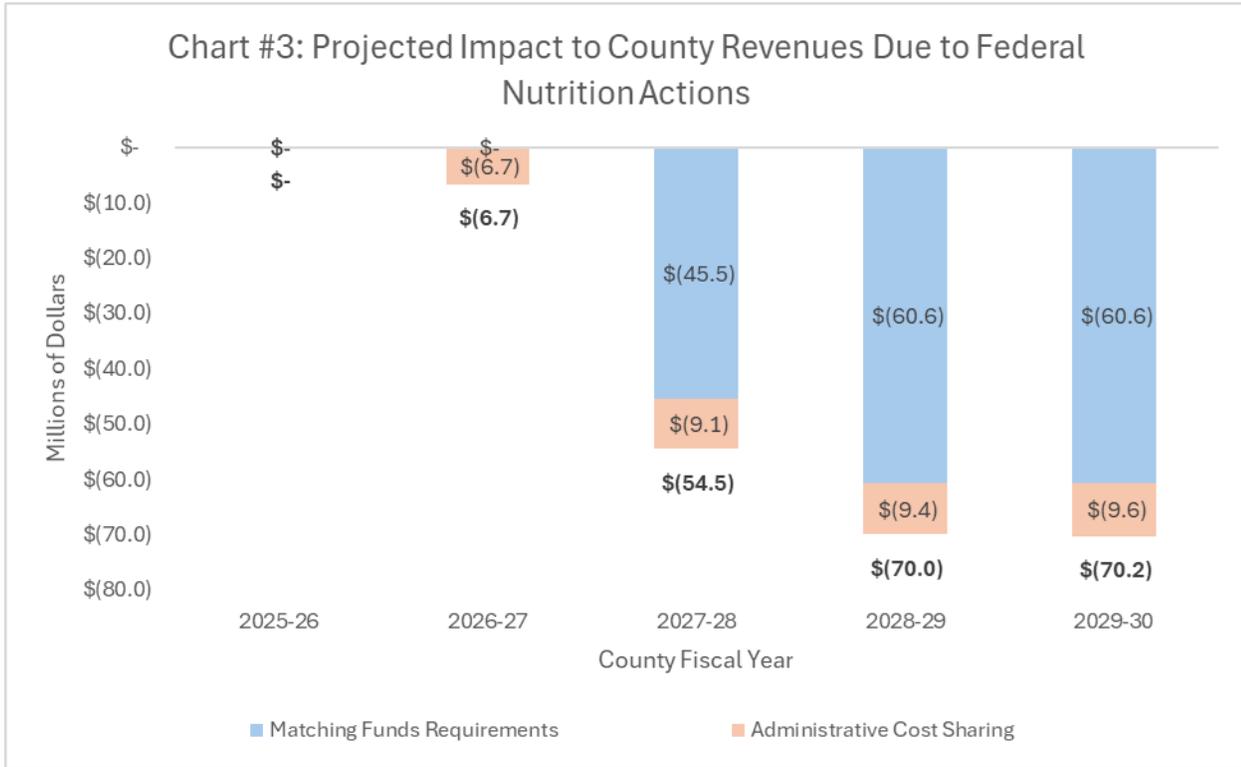
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Impacts to Supplemental Nutrition Assistance Program (SNAP)

In addition to extraordinary cuts to safety net healthcare programs, H.R. 1 enacts significant funding reductions to Supplemental Nutrition Assistance Program (SNAP), known as CalFresh in California. The revenue reduction is estimated at \$6.7 million in FY 2026-2027, and is estimated to grow to \$70.2 million by FY 2029-2030, as shown in Chart #3. The largest estimated impacts for this program result from changes to matching funds requirements. Under this new requirement, states must contribute toward the cost of food benefits provided to beneficiaries. The specific amount, or share of a state’s contribution, is tied to the payment error rate (a measure of the accuracy of each state’s eligibility and benefit determinations) from three fiscal years prior. In the past, states only contributed to administrative costs, while the federal government covered 100% of food benefits. This is the first time in history that states will be required to pay for food benefits. It is likely that these new costs will be passed on to counties as the State of California faces its own budgetary challenges. Thus, this estimate assumes counties will bear the impact of the increased costs.

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Analysis of Financial Impacts

This H.R. 1 impact analysis is, of course, subject to significant uncertainty. But it is based on reasonable assumptions regarding the impacts to each major provision of H.R. 1. Santa Clara Valley Healthcare is particularly vulnerable to several of the Medicaid funding reductions and related changes made in H.R. 1 because our community successfully maximized widespread access to healthcare offered by the expansion of Medicaid under the Affordable Care Act—allowing tens of thousands of families in our community to enroll in Medi-Cal and significantly reducing the burden of uninsured and uncompensated care. In addition, our County’s hospitals rely extensively on Medicaid directed payments and other supplemental Medicaid revenue streams that were targeted by the Senate version of H.R. 1 that was ultimately adopted into law and signed by President Trump. These on-the-ground realities make our system’s revenue impacts from H.R. 1 particularly acute.

This H.R. 1 impact analysis was developed by the Office of Budget and Analysis from the following sources:

- Projections from the Congressional Budget Office (CBO).
- Projections from County departments, including Santa Clara Valley Healthcare (SCVH), which analyzed each major provision of H.R. 1 to estimate its impact to particular aspects of Medicaid funding to the County.

Because Medicaid is a joint federal/state program, ongoing communication with the state and state-level advocacy will be an essential part of both assessing full impacts of H.R. 1 and associated state actions, as well as mitigating them to the extent possible.

Impacts to County Residents

In addition to the impacts to the County’s budget, it is also important to note that many County residents will be directly harmed because they are at risk of losing their health coverage and other benefits due to more stringent program requirements. The focus of this memorandum is on the impacts to the County budget, but the overall impacts to the community and individuals are substantial and highly concerning. Lost healthcare coverage—and the inability to timely access care, which is directly and inextricably related to the service delivery at Santa Clara Valley Healthcare—deeply impacts the lives and livelihoods of individuals, their families, their neighbors, their employers, and the entire community. Moreover, the loss in funding will have far-

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reaching impact on the County's ability to provide a broader set of safety net services that the most vulnerable individuals in the community rely upon.

Conclusion

Overall, the impacts from H.R. 1 will create major budgetary challenges for the County and its residents. And the County must have a balanced budget each fiscal year. It is therefore critical to start addressing these massive impacts immediately by developing a financial plan which preserves the most critical services for the community, and reflects prudent financial management of the County's resources.

In my professional experience spanning over 20 years in government finance, I have never seen financial impacts of this magnitude to local governments resulting from federal legislation. Accordingly, the County must take early and decisive steps to address the financial challenges resulting from H.R. 1 and related actions, including both rapid identification of all revenue opportunities and implementation of significant cost containment measures like the currently implemented hiring freeze and departmental expenditure controls that County Administration has already issued.

Exhibit C



February 18, 2026

Mr. Chris Hill
Department of Finance
915 L Street, 8th Floor
Sacramento, CA 95814

Mr. Rajiv Narayan
Office of the County Counsel
County of Santa Clara
70 West Hedding Street
San Jose, CA 95110

And Parties, Interested Parties, and Interested Persons (See Mailing List)

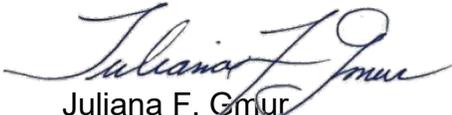
Re: Decision

Child Physical Abuse and Neglect Exams, 24-TC-05
Statutes 2023, Chapter 841 (AB 1402); Penal Code Section 11171(f)
County of Santa Clara, Claimant

Dear Mr. Hill and Mr. Narayan:

On February 13, 2026, the Commission on State Mandates adopted the Decision partially approving the Test Claim on the above-captioned matter.

Very truly yours,



Juliana F. Gmur
Executive Director

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM

Penal Code Section 11171(f)

Statutes 2023, Chapter 841 (AB 1402),
Effective January 1, 2024

Filed on December 31, 2024

County of Santa Clara, Claimant

Case No.: 24-TC-05

Child Physical Abuse and Neglect Exams

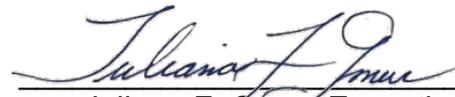
DECISION PURSUANT TO
GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted February 13, 2026)

(Served February 18, 2026)

TEST CLAIM

The Commission on State Mandates adopted the attached Decision on
February 13, 2026.



Juliana F. Gmur, Executive Director

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

<p>IN RE TEST CLAIM</p> <p>Penal Code Section 11171(f)</p> <p>Statutes 2023, Chapter 841 (AB 1402), Effective January 1, 2024</p> <p>Filed on December 31, 2024</p> <p>County of Santa Clara, Claimant</p>	<p>Case No.: 24-TC-05</p> <p><i>Child Physical Abuse and Neglect Exams</i></p> <p>DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7.</p> <p><i>(Adopted February 13, 2026)</i></p> <p><i>(Served February 18, 2026)</i></p>
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DECISION

The Commission on State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on February 13, 2026. Rajiv Narayan appeared on behalf of the County of Santa Clara (claimant). Chris Hill and Kaily Yap appeared on behalf of the Department of Finance (Finance).

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission adopted the Revised Proposed Decision to partially approve the Test Claim by a vote of 5-1, with one member abstaining as follows:

Member	Vote
Lee Adams, County Supervisor	No
Deborah Gallegos, Representative of the State Controller	Yes
Karen Greene Ross, Public Member	Yes
Monica Jimenez, Representative of the State Treasurer, Vice Chairperson	Abstain
Renee Nash, School District Board Member	Yes
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	Yes
Alexander Powell, Representative of the Director of the Governor’s Office of Land Use and Climate Innovation	Yes

Summary of the Findings

This Test Claim alleges new state-mandated activities and costs arising from Penal Code section 11171(f), which prohibits counties from billing the victim or the victim’s

insurance for child physical abuse and neglect exams, as of January 1, 2024. Instead of counties billing the victim or the victim's insurance for child physical abuse and neglect exams, a system of state funding was created by the test claim statute in Penal Code section 11171(g) ("The costs associated with these medical evidentiary exams shall be funded by the state, subject to appropriation by the Legislature"), but no appropriation has yet been made.¹ Formerly, from January 1, 2004, until December 31, 2023, the counties billed the child's private insurance, if available, and Medi-Cal or the State Victim Compensation Board (VCB).

The Commission finds the Test Claim is timely filed with a potential period of reimbursement beginning January 1, 2024.

The Commission finds that the test claim statute does not mandate a new program or higher level of service for the increased costs of child physical abuse and neglect evidentiary exams when the costs could have been recovered directly from the victim or from the victim's private medical insurance. There is no new activity required by the test claim statute, the state has not shifted any costs which were previously the responsibility of the state, and increased costs alone do not constitute a reimbursable mandate under article XIII B, section 6.²

However, absent an appropriation from the state sufficient to cover the costs of the child physical abuse and neglect evidentiary exams, and where the state, through Medi-Cal or the VCB, previously paid for the child physical abuse and neglect medical evidentiary exams, the test claim statute shifts those costs from the state to the counties under article XIII B, section 6(c), resulting in a mandated new program or higher level of service. The voters added article XIII B, section 6(c) to the California Constitution in 2004 (Proposition 1A), recognizing reimbursable mandates in the transfer "of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility."

From January 1, 2004, to December 31, 2023, funds from Medi-Cal and the VCB reimbursed counties for the cost of child physical abuse and neglect medical evidentiary exams. Both billing options have been acknowledged on the California Office of Emergency Services (Cal OES) exam instructions since 2001.³ Under Chapter IV, "Reimbursements for Examinations," the Cal OES

¹ Exhibit B, Finance's Comments on the Test Claim, page 1 ("AB 1402 also requires the costs of such exams to be funded by the state, subject to appropriation by the Legislature, and be submitted to Cal OES for reimbursement. However, no appropriation has been provided to Cal OES for this purpose.").

² California Constitution, article XIII B, section 6(a) and (c); *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816 ("Section 6 was not intended to entitle local entities to reimbursement for *all* increased costs resulting from Legislative enactments, but only those costs mandated by a new program or an increased level of service imposed upon them by the State.").

³ Exhibit A, Test Claim, page 235; Exhibit G (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2,

Protocol stated before the test claim statute, attached to forms dated January 1, 2004:

In the majority of counties in California, charges for child physical abuse and neglect examinations **are billed to Medi-Cal** or to the patient's private insurance. Standard diagnostic and procedural coding manuals are used to generate charges. For patients without insurance, or who are underinsured, reimbursement of **charges may be obtained through California Victim Compensation and Government Claims Board.**⁴

Since at least 1982, Medi-Cal assumed financial responsibility for abused and neglected children. The State Department of Healthcare Services advised all county directors in 1982 that individuals receiving "Emergency Assistance," including "Abused, Neglected or Exploited Children (EA-ANEC)" were considered "public assistance recipients" and "will be eligible for Medi-Cal benefits and a Medi-Cal card."⁵ Social workers have since been applying on behalf of an abused or neglected child for "Retroactive Medi-Cal," using Form MC 250.⁶ Thus, if these children were not already enrolled in Medi-Cal,

<https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025) ("**3. Payment methods have not been formally established. Options to pursue include: the patient's public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law enforcement agencies or Child Protective Services (CPS). Follow local policy.**" Emphasis in original.).

⁴ Exhibit A, Test Claim, page 134; Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025), emphasis added.

⁵ Exhibit G (8), Department of Health Services Letter to All County Welfare Directors, August 17, 1982, Letter 82-44, page 1; Exhibit G (9), Department of Health Services Letter to All County Welfare Directors, December 22, 1982 Letter 82-72, pages 1-7; see also California Code of Regulations, title 22, section 50038.5 (defining "Emergency Assistance" as programs providing assistance for up to 30 days, including for "[t]hose children who are being, or are in immediate danger of being abused, neglected or exploited and to families of such children.").

⁶ Exhibit G (15), Retroactive Medi-Cal, page 1, https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/retromedical.htm?agt=index (accessed on July 24, 2025); Exhibit G (10) Form MC 250, Application and Statement of Facts for Child Not Living with a Parent or Relative for Whom a Public Agency Is Assuming Some Financial Responsibility, <https://www.dhcs.ca.gov/formsandpubs/forms/Forms/mc250.pdf> (accessed on July 24, 2025); California Code of Regulations, title 22, section 50251 ("(e) Children specified in (a)(3) shall be eligible and certified for Medi-Cal: (1) On the basis of the

they would become enrolled by the social worker on an emergency basis.⁷ Under Continuing Eligibility for Children (CEC), coverage would then continue, uninterrupted at least until the next annual redetermination.⁸

Counties could also bill the VCB if a child was somehow uninsured or underinsured by Medi-Cal.⁹ If counties pursued this option, they, or their contracted providers, could bill the VCB directly as a service provider, but had to accept the limits of the VCB payment schedule.¹⁰

The payments to counties or their providers from Medi-Cal and the VCB have been the responsibility of the state. The California Supreme Court has found that Medi-Cal “has been the responsibility of various state departments and agencies.”¹¹ Likewise, the

information provided by the public agency on form MC 250. (2) Without considering the property or income of the child or the child's parents.”).

⁷ California Code of Regulations, title 22, section 50143(a)(3); see also Exhibit G (1), Aid Codes Master Chart, updated April 2022, pages 33 and 35, https://mcweb.apps.prd.cammis.medi-cal.ca.gov/assets/869D30AF-4BC7-4132-AF6A-AF75893E9221/aidcodes.pdf?access_token=6UyVkRRfByXTZEWIh8j8QaYyIPyP5ULO (accessed on July 24, 2025) (Aid Code 45 provides: “FC. Covers children supported by public funds other than AFDC-FC” with no share of costs.); see also Exhibit G (19), Short Doyle Medi-Cal Aid Code Chart, February 23, 2023, page 2, <https://www.dhcs.ca.gov/services/MH/Pages/medccc-library.aspx> (accessed on July 24, 2025) (Aid Code “5K” provides “Emergency Assistance (EA) Foster Care” with no share of costs).

⁸ Exhibit G (7), Continuous Eligibility for Children (CEC), page 1, https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/contnuseigblty.htm (accessed on July 24, 2025); California Code of Regulations, title 22, section 50189.

⁹ Exhibit G (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025) (“**3. Payment methods have not been formally established. Options to pursue include: the patient’s public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law enforcement agencies or Child Protective Services (CPS). Follow local policy.**” Emphasis in original.).

¹⁰ Government Code sections 13957.7(c)(1) and 13957.2; California Code of Regulations, title 2, section 649.23.

¹¹ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 96.

VCB is a state agency.¹² The VCB has been in existence since 2002 under its current name and role.¹³

Accordingly, since the state, through Medi-Cal or the VCB, previously paid for the child physical abuse and neglect medical evidentiary exams, Penal Code section 11171(f), as amended by the test claim statute, which prohibits counties from billing the victim indirectly for the exams, shifts those costs from the state to the counties under article XIII B, section 6(c), resulting in a new program or higher level of service.

In addition, counties are practically compelled to provide child physical abuse and neglect exams and, thus, the cost of the exams, which has been shifted from the state to the counties with respect to previous Medi-Cal and VCB reimbursement for the exams, are a component of a mandated program. Penal Code section 11171, which originally became effective on January 1, 2004, does not by its plain language require counties to perform child physical abuse and neglect exams.¹⁴ Instead, it required what is now Cal OES to standardize child physical abuse and neglect exams by creating forms, protocols, and instructions to be used statewide.¹⁵ These forms, protocols, and instructions set the “minimum legal standards”¹⁶ for “adequate protection of victims of child physical abuse or neglect.”¹⁷ Thus, there is no legal compulsion to perform the exams under the test claim statute.

However, counties have no choice but are compelled as a practical matter to ensure that a physical abuse and neglect exam is provided when the facts present themselves.¹⁸ The Legislature declared in 1996 “that all children are entitled to be safe

¹² Government Code sections 11000 and 13950.

¹³ Government Code sections 13950-13951, as added by Statutes 2002, chapter 1141, section 2.

¹⁴ Penal Code section 11171(a)-(e), as added by Statutes 2002, chapter 249, section 4 (SB 580).

¹⁵ Penal Code section 11171, as added by Statutes 2002, chapter 249, section 4 (SB 580).

¹⁶ Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025);

Exhibit G (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

¹⁷ Penal Code section 11171(a)(1).

¹⁸ *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 815-817.

and free from abuse and neglect.”¹⁹ In 2002, the Legislature set a floor of adequacy when it enacted the program of state standardized medical evidentiary exams. It declared that “adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.”²⁰ In addition, the counties’ obligation to provide child physical abuse and neglect exams stems from an existing requirement to investigate all incoming child abuse reports, a duty that has been confirmed by the courts.²¹ Existing state law also requires counties to ensure that a child taken into protective custody undergo a physical examination performed by a medical practitioner who has specialized training in detecting and treating child abuse injuries and neglect, when appropriate and following allegations of physical abuse, and “whenever possible, shall ensure that this examination take place within 72 hours of the time the child was taken into protective custody, when there are allegations of physical abuse.”²² Where a child is not immediately taken into protective custody under Welfare and Institutions Code section 324.5, other statutory duties compel the physical abuse and neglect exams. If allegations of abuse or neglect are made in a family court child custody proceeding, for example, “the court may request that the local child welfare services agency conduct an investigation of the allegations pursuant to Section 328 of the Welfare and Institutions Code.”²³ Although this statute uses the word “may,” it is a court’s duty to protect the child, and thus the investigations prompted on this case by case basis are practically compelled.²⁴ And section 11171(g), as amended by the test claim statute, states that counties “shall” set up the reimbursement system with Cal OES and designate SART, SAFE, or other “qualified medical evidentiary examiners” to obtain reimbursement if the Legislature appropriates funds for this program.²⁵

Finally, the claimant submitted evidence that the test claim statute imposes costs mandated by the state and none of the exceptions to costs mandated by the state in Government Code section 17556 apply. The claimant has no fee authority to offset the increased costs. There is no appropriation offsetting the costs, which the Department of

¹⁹ Welfare and Institutions Code section 16500, as amended by Statutes 1996, chapter 1084, section 10.

²⁰ Penal Code section 11171(a)(1), as added by Statutes 2002, chapter 249.

²¹ Penal Code section 11166.3 (formerly 11166.1); see also *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180, 1185-1186.

²² Welfare and Institutions Code section 324.5.

²³ Family Code section 3027(b).

²⁴ *In re Joshua S.* (1988) 205 Cal.App.3d 119, 125.

²⁵ Penal Code section 11171(g).

Finance (Finance) presently confirms.²⁶ And there is no change to any crime or penalty for any crime of child abuse or neglect.

Accordingly, the Commission partially approves this test claim and finds that Penal Code section 11171(f), as amended by the test claim statute, imposes a reimbursable state-mandated program beginning January 1, 2024, on counties within the meaning of article XIII B, section 6(c) of the California Constitution and Government Code section 17514 only for the following costs:

- Costs incurred for child physical abuse and neglect exams conducted in accordance with Penal Code section 11171, by the county’s designated Sexual Assault Response Teams (SART), Sexual Assault Forensic Examiner (SAFE) teams, or other qualified medical evidentiary examiners, when the child is eligible for Medi-Cal or Victim Compensation Board coverage.

Reimbursement is **not** required to the extent the Legislature appropriates funds for child physical abuse and neglect exams under Penal Code section 11171(g).

COMMISSION FINDINGS

I. Chronology

01/01/2024	Penal Code section 11171(f), as added by Statutes 2023, chapter 841 (AB 1402), became effective.
12/31/2024	The claimant filed the Test Claim. ²⁷
04/10/2025	The Department of Finance (Finance) filed comments on the Test Claim. ²⁸
04/11/2025	Kern County Department of Human Services filed late comments on the Test Claim. ²⁹
05/07/2025	The claimant filed rebuttal comments. ³⁰
09/26/2025	Commission staff issued the Draft Proposed Decision. ³¹
10/07/2025	The claimant filed comments on the Draft Proposed Decision. ³²

²⁶ Exhibit A, Test Claim, page 33, paragraph 20 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara); Exhibit B, Finance’s Comments on the Test Claim, page 1.

²⁷ Exhibit A, Test Claim.

²⁸ Exhibit B, Finance’s Comments on the Test Claim.

²⁹ Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim.

³⁰ Exhibit C, Claimant’s Rebuttal Comments.

³¹ Exhibit E, Draft Proposition Decision.

³² Exhibit F, Claimant’s Comments on the Draft Proposed Decision.

01/26/2026 Commission staff issued the Proposed Decision for the February 13, 2026, Commission hearing.³³

01/28/2026 The claimant filed comments on the Proposed Decision.³⁴

02/02/2026 Commission staff issued the Revised Proposed Decision for February 13, 2026, Commission hearing.

II. Background

A. Prior Law

Protecting children is a general county function subject to state law.³⁵ In 1968, the Legislature provided, under a chapter then entitled “State Protective Services for Children,” that the state, through itself and the counties, shall establish a statewide system of child protective services to be made available by all counties.³⁶ The counties’ responsibility for this statewide child welfare system exists in a principal-agent relationship with the state.³⁷

³³ Exhibit H, Proposed Decision.

³⁴ Exhibit I, Claimant’s Comments on the Proposed Decision.

³⁵ Welfare and Institutions Code sections 300, 10800 and 16500; *In re Social Services Payment Cases* (2008) 166 Cal.App.4th 1249, 1256 (“The Legislature has determined that the provision of public social services, including foster care, is a county function and responsibility subject to any applicable state and federal statutes and regulations. (§ 10800.) Counties are responsible for a public system of statewide child welfare services, which includes providing for the investigation of possible abuse or neglect of a child warranting removal from parental custody. (§§ 300 et seq. & 16500 et seq.)”).

³⁶ Welfare and Institutions Code section 16500, as added by Statutes 1968, chapter 69, section 1.

³⁷ Welfare and Institutions Code sections 16501(a)(1)(B), 16501(a)(2), and 16501(c) (“The county shall provide child welfare services as needed pursuant to an approved service plan and in accordance with regulations promulgated, in consultation with the counties, by the [state] department.”); *Ross v. Superior Court* (1977) 19 Cal.3d 899, 908; *Hassell v. Bird* (2018) 5 Cal.5th 522, 553, Kruger, J., concurring (“counties act on behalf of the state in administering welfare benefits”); *In re M.C.* (2011) 199 Cal.App.4th 784, 810 (county social service agency is an administrative agency of the executive branch when providing child welfare services, subject to supervision by Department of Social Services) citing Welfare and Institutions Code sections 202.5, 10000, 10051, 10800, 16500, 16500.1, and 16501, *Scott v. County of Los Angeles* (1994) 27 Cal.App.4th 125, 143-144, and *In re Danielle W.* (1989) 207 Cal.App.3d 1227, 1235-1236, n. 6.).

In 1996, the Legislature elaborated on its intent for the 1968 law directing the statewide system of protecting children. It declared “that all children are entitled to be safe and free from abuse and neglect.”³⁸

In addition to the general duty to protect, specific duties have been imposed on counties when receiving reports of suspected child abuse and neglect. These duties are to accept, to cross-report, and to investigate all such reports made to the counties. In 1980, the Legislature began requiring counties to cross-report “every instance of suspected child abuse.”³⁹ In 1985, the Legislature began requiring “investigation of suspected child abuse cases” through “cooperative arrangements” between “law enforcement agencies and the county welfare or social services department,” and it imposed reporting requirements on those agencies.⁴⁰ And in 2000, the Legislature required county welfare departments, along with police and other county departments, to accept *all* reports of suspected child abuse and neglect, stating in the legislation that counties “shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person.”⁴¹ In sum, counties must accept reports of suspected child abuse from any person, must cross-report, and must investigate those reports.

In 1999, the Court of Appeal clarified the difference between the general and specific duties of counties to protect children.⁴² The Court of Appeal found that while the police have a general duty of public protection, a duty to investigate *each* incoming report of suspected child abuse would require a specific statute. It found Penal Code section 11166 to be that statute.⁴³ The court thus found a specific statutory duty of investigation upon each individual report of suspected child abuse.⁴⁴

³⁸ Welfare and Institutions Code section 16500, as amended by Statutes 1996, chapter 1084, section 10.

³⁹ Penal Code section 11166(f), as added by Statutes 1980, chapter 1071, section 4 (subsequently renumbered as section 11166(j)).

⁴⁰ Penal Code section 11166.1(a), as added by Statutes 1985, chapter 1262, section 2 (subsequently renumbered as 11166.3, as amended by Statutes 1987, chapter 531, section 3.)

⁴¹ Penal Code section 11165.9, as added by Statutes 2000, chapter 1214, section 8.

⁴² *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180.

⁴³ *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180, 1185-1186 (“First, the statute imposes a duty to investigate.”), disapproved on another ground in *B.H. v. County of San Bernardino* (2015) 62 Cal.4th 168; see also *Holman v. County of Butte* (2021) 68 Cal.App.5th 189 (county negligence case for failure to investigate and cross-report); see also Welfare and Institutions Code section 328 and Family Code section 3027.

⁴⁴ The Commission, in *Interagency Child Abuse and Neglect Investigation Reports*, 00-TC-22, found a mandate to investigate reports of suspected child abuse in Penal code section 11169(a), California Code of Regulations, title 11, section 903, and “Child Abuse Investigation Report” Form SS 8583. The claim therein under Penal Code section

Overlapping with the growth of law regarding child abuse investigation, various laws were added regarding medical evidentiary exams. Such exams are provided in suspected cases of sexual assault (adult or child), domestic violence, or, as relevant here, child physical abuse and neglect.

In 1985, the Legislature began requiring specific protocols for sexual assault medical evidentiary exams, including child sexual abuse.⁴⁵ These laws required counties to designate one acute care hospital to provide such exams.⁴⁶ They further required forms and extensive specific protocols for conducting the exams, and they set “minimum standards” for examinations of sexual abuse victims.⁴⁷

In 1995, the Legislature passed Senate Bill 857, expanding the scope of medical evidentiary examinations from just sexual assault (adult or child) to the wider context of “domestic violence, child abuse, elder abuse, and sexual assault.”⁴⁸ It further sought to ensure proper medical training for such exams.

The Legislature declared that “to provide comprehensive, competent evidentiary examinations for use by law enforcement agencies, it is necessary to take immediate steps to ensure there are appropriately trained medical professionals throughout California.”⁴⁹ To that end, the Legislature then defined the phrase “perform a medical evidentiary examination” as meaning to “evaluate, collect, preserve, and document evidence, interpret findings, and document examination results.”⁵⁰ SB 857 required creation of two hospital-based training centers, one in northern California and one in southern California, which would teach medical professionals how to conduct the medical evidentiary examinations, and to make “use of advanced medical technology in

11166 was denied as not unique to local government, but this does not contravene *Alejo*’s holding that the counties have a duty to investigate incoming reports of suspected child abuse or neglect. See Commission on State Mandates, Decision and Parameters and Guidelines on *Interagency Child Abuse and Neglect Investigation Reports*, 00-TC-22, adopted December 6, 2013, https://www.csm.ca.gov/decisions/00-TC-22_adoptedSODandpsgs120613.pdf (accessed on September 23, 2025), pages 38-40.

⁴⁵ Statutes 1985, chapter 812.

⁴⁶ Penal Code section 13823.9(c) as added by Statutes 1985, chapter 812, section 7.

⁴⁷ Penal Code sections 13823.7 and 13823.11, as added by Statutes 1985, chapter 812, sections 7-8.

⁴⁸ Statutes 1995, chapter 860, section 1(c).

⁴⁹ Statutes 1995, chapter 860, section 1(c).

⁵⁰ Penal Code section 13823.93(a)(2), as added by Statutes 1995, chapter 860, section 2.

the evaluation of child victims of sexual or physical abuse or neglect, or of sexual assault, elder abuse, and domestic violence victims, or both.”⁵¹

In 2002, the Legislature changed its requirement of two training centers to one. The single training center is now known as the California Clinical Forensic Medical Training Center (CCFMTC).⁵²

In 1999, the Legislature began requiring medical evidentiary exams for children taken into protective custody where abuse is suspected and where it is determined appropriate by a specialized medical practitioner.⁵³ This law also provides that where additional medical evidentiary exams may be needed, the same practitioner should provide them, and if not available, then another practitioner with the same specialized training should do so.⁵⁴

In 2002, the program regarding child physical abuse and neglect exams began. By adding Penal Code section 11171, the Legislature declared that “adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.”⁵⁵ To ensure adequate protection against child physical abuse and neglect, the Legislature created a statewide program requiring creation and use of a standardized form, instructions and protocols for child physical abuse and neglect medical evidentiary exams.⁵⁶ The law required the following:

On or before January 1, 2004, the Office of Criminal Justice Planning⁵⁷ shall, in cooperation with the State Department of Social Services, the Department of Justice, the California Association of Crime Lab Directors, the California State District Attorneys Association, the California State Sheriffs Association, the California Peace Officers Association, the

⁵¹ Penal Code section 13823.93(c)(4), as added by Statutes 1995, chapter 860, section 2.

⁵² Penal Code section 13823.93(b)-(d), as amended by Statutes 2002, chapter 256, section 1; Penal Code section 13823.93(b).

⁵³ Welfare and Institutions Code section 324.5.

⁵⁴ Welfare and Institutions Code section 324.5(b).

⁵⁵ Penal Code section 11171(a)(1).

⁵⁶ Penal Code section 11171, as added by Statutes 2002, chapter 249, section 4 (SB 580).

⁵⁷ The Office of Criminal Justice Planning was abolished on January 1, 2004. Its duties were largely transferred to Cal OES that same year. See Penal Code section 13820, as added by Statutes 2003, chapter 229, section 26, and as amended by Statutes 2013, chapter 352, section 428; Exhibit G (20), The history of Cal OES, page 2, <https://www.caloes.ca.gov/cal-oes/history/> (accessed on September 23, 2024) (“In 2004, the California Legislature merged OES and the Governor’s Office of Criminal Justice Planning, which was responsible for providing state and federal grant funds to local communities to prevent crime and help crime victims.”).

California Medical Association, the California Police Chiefs' Association, child advocates, the California Medical Training Center, child protective services, and other appropriate experts, establish medical forensic forms, instructions, and examination protocol for victims of child physical abuse or neglect using as a model the form and guidelines developed pursuant to Section 19823.5.⁵⁸

The state standardized form was required to include:

- (1) Any notification of injuries or any report of suspected child physical abuse or neglect to law enforcement authorities or children's protective services, in accordance with existing reporting procedures.
- (2) Addressing relevant consent issues, if indicated.
- (3) The taking of a patient history of child physical abuse or neglect that includes other relevant medical history.
- (4) The performance of a physical examination for evidence of child physical abuse or neglect.
- (5) The collection or documentation of any physical evidence of child physical abuse or neglect, including any recommended photographic procedures.
- (6) The collection of other medical or forensic specimens, including drug ingestion or toxication, as indicated.
- (7) Procedures for the preservation and disposition of evidence.
- (8) Complete documentation of medical forensic exam findings with recommendations for diagnostic studies, including blood tests and X-rays.
- (9) An assessment as to whether there are findings that indicate physical abuse or neglect.⁵⁹

The form created as required by Penal Code section 11171 is called Medical Report: Suspected Child Physical Abuse and Neglect Examination OES 2-900.⁶⁰ It is downloadable from the Cal OES website as well as the CCFMTC website.⁶¹

⁵⁸ Penal Code section 11171(b), as added by Statutes 2001, chapter 249, section 4.

⁵⁹ Penal Code section 11171(c).

⁶⁰ Exhibit A, Test Claim, pages 226-233; Exhibit G (12), Medical Report: Suspected Child Physical Abuse and Neglect Examination Cal OES 2-900, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

⁶¹ Exhibit A, Test Claim, page 225; Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 106, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance->

Instructions and Protocol were also issued as required. The Instructions state:

Required Use of Standard State Form: Penal Code § 11171 established the use of a standard form to record findings from examinations performed for suspected child physical abuse and neglect. This form is intended to facilitate identification of child physical abuse and neglect, and as such, is not a complete medical treatment record.⁶²

The protocol is entitled California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims Medical Protocol for Examination of Child Physical Abuse and Neglect Victims.⁶³ Its preface by Cal OES represents Penal Code section 11171 as setting the “minimum legal standards” for performing the medical evidentiary examination, and then briefly summarizes the protocols:

Pioneers in the field of child physical abuse and neglect began in the field of medicine. They were subsequently joined by the disciplines of social work, nursing, law enforcement, psychology, psychiatry, and child development.

The history of this intervention movement is characterized by peaks and plateaus as the larger community assimilated new developments lead by the pioneering disciplines. Medicine began the movement with published observations by a pediatric radiologist, Dr. John Caffey, in the 1940’s. Dr. Henry Kempe, a pediatrician, galvanized the movement by establishing the concept of the “battered child syndrome” in 1962. He took his concerns to Congress and by 1965, most states had enacted child abuse reporting laws.

Issuance of the CalOES 2-900 Medical Report for Suspected Child Physical Abuse and Neglect Examinations and Protocol takes the field to a new level. In 2002, the California Legislature and Governor declared that adequate protection of victims of child physical abuse and neglect has been hampered by the lack of consistent and comprehensive medical examinations. The Legislature enacted and the Governor signed SB 580, Statutes of 2002 (Figueroa), into law to address this need by establishing a standardized medical report form and protocol.

[administration/grants-management/victim-services/forms/](#) (accessed on June 20, 2025); Penal Code section 11171(e).

⁶² Exhibit A, Test Claim, pages 234-241; Exhibit G (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

⁶³ Exhibit A, Test Claim, pages 120-233; Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

Many deserve recognition for the vision captured in these documents. The Children’s Justice Act Task Force recommended the allocation of funds to accomplish this project; the Child Physical Abuse and Neglect Advisory Committee contributed wisdom, consultation, and guidance; and, the California Clinical Forensic Medical Training Center is commended for strong work, expertise, and dedication to the production of the form, instructions, and protocol. This collective effort moves the field forward on behalf of children.

The California Medical Protocol for Examination of Suspected Child Physical Abuse and Neglect Victims provides recommended methods for meeting the minimum legal standards established by Penal Code Section 11171 for performing medical examinations of physically abused and neglected children. This protocol contains the following information:

- Standard medical report form (CalOES 2-900) for documentation of findings from suspected child physical abuse and neglect examinations;
- Step-by-step procedures for conducting examinations opposite each page of the standard forms;
- Examination protocol for child physical abuse and neglect;
- Contextual information for performing examinations and implementing a multidisciplinary team approach; and
- Relevant and expanded information on patient consent, mandatory reporting laws, financial compensation for examinations, crime victim compensation, and evidence collection and preservation.⁶⁴

Until the test claim statute, only minor and clarifying amendments were made to Penal Code section 11171. The examination requirements imposed on counties have continued, as has use of the Cal OES documents.

Also, according to the Cal OES Protocol, counties could bill Medi-Cal and, alternatively, the Victims Compensation Board (VCB) for the examination costs. Under Chapter IV, “Reimbursements for Examinations,” the Protocol stated:

In the majority of counties in California, charges for child physical abuse and neglect examinations are billed to Medi-Cal or to the patient’s private insurance. Standard diagnostic and procedural coding manuals are used to generate charges. For patients without insurance, or who are

⁶⁴ Exhibit A, Test Claim, page 121; Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

underinsured, reimbursement of charges may be obtained through California Victim Compensation and Government Claims Board.⁶⁵

Also until the test claim statute, counties could seek Medi-Cal coverage on a child's behalf.⁶⁶ Children in danger of abuse, neglect, or exploitation (ANEC) had been eligible for Medi-Cal since at least 1982 as a matter of emergency assistance (EA).⁶⁷ Many had also been eligible under other programs, such as Aid to Families with Dependent Children (AFDC),⁶⁸ as "categorically needy persons,"⁶⁹ or under the Medically Needy Program.⁷⁰

Counties could alternatively recover costs directly from the VCB if the child were somehow uninsured or underinsured. In that case, their compensation would be capped by the VCB provider payment schedule.⁷¹

⁶⁵ Exhibit A, Test Claim, page 134; Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

⁶⁶ Exhibit A, Test Claim, pages 32-33, paragraphs 12, 15, and 17 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara); Exhibit A, Test Claim, page 134; Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025); California Code of Regulations, title 22, section 50143(a)(3).

⁶⁷ California Code of Regulations, title 22, section 50038.5; Exhibit G (8), Department of Health Services Letter to All County Welfare Directors, August 17, 1982, Letter 82-44, page 1; Exhibit G (9), Department of Health Services Letter to All County Welfare Directors, December 22, 1982, Letter 82-72, pages 1-7.

⁶⁸ California Code of Regulations, title 22, section 50201(a).

⁶⁹ Welfare and Institutions Code sections 14005.1, 14050.1 and 14005.

⁷⁰ California Code of Regulations, title 22, sections 50203 and 50205.

⁷¹ Government Code section 13957.7(c)(1) ("The board may authorize direct payment to a provider of services that are reimbursable pursuant to this chapter and may make those payments prior to verification. However, the board may not, without good cause, authorize a direct payment to a provider over the objection of the victim or derivative victim.").

Government Code section 13957.2 ("A provider who accepts payment from the program for a service shall accept the program's rates as payment in full and shall not accept any payment on account of the service from any other source if the total of payments accepted would exceed the maximum rate set by the board for that service. A provider shall not charge a victim or derivative victim for any difference between the cost of a

To cover medical expenses when a child is removed from the home by a social worker and taken for a medical evidentiary exam, the child is presumptively eligible for Medi-Cal. A Foster Care Eligibility Worker (FC EW) applies for Retroactive Medi-Cal on the child's behalf, resulting in three months retroactive coverage.⁷² To do so, the FC EW completes a State of California Department of Health Care Services (DHCS) Form MC 250, which is entitled "Application and Statement of Facts For Child Not Living with a Parent or Relative For Whom A Public Agency is Assuming Some Financial Responsibility," using Medi-Cal Aid Code 45.⁷³ Aid Codes allow health care providers to confirm eligibility for Medi-Cal recipients through Medi-Cal's "automated eligibility verification system."⁷⁴ Aid Code 45 as well as Aid Code 5K confirm Medi-Cal eligibility for such children, with no share of cost.⁷⁵

service provided to a victim or derivative victim and the program's payment for that service.").

See also California Code of Regulations, title 2, section 649.23 referring to "all cash payments or reimbursement for medical-related services of the victim," emphasis added; See also Exhibit G (11), Medical Providers New! CALVCB Online, pages 1-2, <https://victims.ca.gov/uploads/2022/08/Medical-and-Dental-Factsheet-3-17-20.pdf> (accessed on July 24, 2025).

⁷² Exhibit G (15), Retroactive Medi-Cal, page 1, https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/retromedical.htm?agt=index (accessed July on 24, 2025).

⁷³ Exhibit G (15), Retroactive Medi-Cal, page 1, https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/retromedical.htm?agt=index (accessed on July 24, 2025); Exhibit G (10), Form MC 250, Application and Statement of Facts for Child Not Living with a Parent or Relative for Whom a Public Agency Is Assuming Some Financial Responsibility, pages 1-2, <https://www.dhcs.ca.gov/formsandpubs/forms/Forms/mc250.pdf> (accessed on July 24, 2025).

⁷⁴ Welfare and Institutions Code section 14042.

⁷⁵ Exhibit G (1), Aid Codes Master Chart, updated April 2022, pages 33 and 35, https://mcweb.apps.prd.cammis.medi-cal.ca.gov/assets/869D30AF-4BC7-4132-AF6A-AF75893E9221/aidcodes.pdf?access_token=6UyVkrRRfByXTZEWIh8j8QaYyIPyP5ULO (accessed on July 24, 2025); Exhibit G (19), Short Doyle Medi-Cal Aid Code Chart, page 2, February 23, 2023, <https://www.dhcs.ca.gov/services/MH/Pages/medccc-library.aspx> (accessed on July 24, 2025).

Coverage is designed to continue seamlessly. These children remain continuously eligible for Medi-Cal until at least the next annual redetermination.⁷⁶ Their health records become part of what is known as the child’s “health and education passport.”⁷⁷

To ensure continuing coverage and care, DHCS has been expanding programming and comprehensive Medi-Cal coverage for children in the child welfare system. Per an Executive Summary in November of 2022, DHCS intends that “the child welfare system have streamlined access to reliable, high-quality, integrated, trauma-informed, strength-based, patient-centered, and family-centered care.”⁷⁸

Until the test claim statute became effective and impacted the medical evidentiary exam process, Cal OES billing instructions on the Form 2-900 advised counties generally: “Payment methods have not been formally established. Options to pursue include: the patient’s public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law enforcement agencies or Child Protective Services (CPS). Follow local policy.”⁷⁹

B. The Test Claim Statute

In 2023, the Legislature passed Statutes 2023, chapter 841 (AB 1402), amending Penal code section 11171. AB 1402 added the following three provisions regarding child physical abuse and neglect medical evidentiary exams, the first of which prohibited billing the child’s Medi-Cal or other insurance as of January 1, 2024:

(f) The costs associated with the medical evidentiary examination of a victim of child physical abuse or neglect shall be separate from diagnostic treatment and procedure costs associated with medical treatment. ***Costs for the medical evidentiary portion of the examination shall not be charged directly or indirectly to the victim of child physical abuse or neglect.***

(g) Each county’s board of supervisors shall authorize a designee to approve the Sexual Assault Response Teams (SART), Sexual Assault Forensic Examiner (SAFE) teams, or other qualified medical evidentiary examiners to receive reimbursement through the Office of Emergency

⁷⁶ Exhibit G (7), Continuous Eligibility for Children (CEC), page 1, https://stgenessa.sccgov.org/debs/program_handbooks/foster_care/assets/28medi-cal/contnuseelgblty.htm (accessed on July 24, 2025); California Code of Regulations, title 22, section 50189.

⁷⁷ Welfare and Institutions Code section 16010.

⁷⁸ Exhibit G (14), Medi-Cal’s Foster Care Strategies, November 2022, page 1, <https://www.dhcs.ca.gov/Documents/DHCS-Medi-Cal-Foster-Care-Strategies-11-22-2022.pdf> (accessed on July 24, 2025).

⁷⁹ Exhibit A, Test Claim, page 235; Exhibit G (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

Services for the performance of medical evidentiary examinations for victims of child physical abuse or neglect and shall notify the Office of Emergency Services of this designation. ***The costs associated with these medical evidentiary exams shall be funded by the state, subject to appropriation by the Legislature.*** Each county's designated SART, SAFE, or other qualified medical evidentiary examiners shall submit invoices to the Office of Emergency Service, who shall administer the program. A flat reimbursement rate shall be established. Within one year upon initial appropriation, the Office of Emergency Service shall establish a 60-day reimbursement process. The Office of Emergency Service shall assess and determine a fair and reasonable reimbursement rate to be reviewed every five years.

(h) Reimbursement shall not be subject to reduced reimbursement rates based on patient history or other reasons. Victims of child physical abuse or neglect may receive a medical evidentiary exam outside of the jurisdiction where the crime occurred and that county's approved SART, SAFE teams, or qualified medical evidentiary examiners shall be reimbursed for the performance of these exams.⁸⁰

The claimant has expressly pled only subsection (f).⁸¹ In short, subsection (f) prohibits counties from billing the victim directly or indirectly (i.e., billing their insurance, including Medi-Cal) for the medical evidentiary portion of a child abuse or neglect exam. By not allowing the victim or the victim's insurance to pay, only an unrelated volunteer or a government entity (but not through an insurance system for the child, such as Medi-Cal) could legally pay for the child physical abuse or neglect medical evidentiary exams.

State funding is intended to replace insurance billing. Subsection (g) states that "[t]he costs associated with these medical evidentiary exams shall be funded by the state, subject to appropriation by the Legislature." To date, however, the Legislature has not made an appropriation as provided for in subsection (g).⁸²

C. Related Background Laws

Similar medical evidentiary exam laws exist for victims of sexual assault and domestic violence, each likewise requiring standardized forms, instructions, and protocols for the medical evidentiary exams.⁸³ These laws have also been recently amended to prohibit billing the victim or their insurance and to replace that system with state funding.

⁸⁰ Penal Code section 11171, as amended by Statutes 2023, chapter 841, section 1, emphasis added.

⁸¹ Exhibit A, Test Claim, page 13. The claimant is therefore not seeking reimbursement under subsection (g) for the costs of designating SART, SAFE, or other qualified medical examiners, or for submitting invoices to Cal OES.

⁸² Exhibit B, Finance's Comments on the Test Claim, page 1 ("However, no appropriation has been provided to Cal OES for this purpose.").

⁸³ Penal Code sections 13823.95 and 11161.2.

In 2021, AB 145 directed Cal OES to determine reimbursement amounts to counties for the cost of sexual assault exams. These reimbursements were to be made from funds “available upon appropriation for this purpose.”⁸⁴ They are now reimbursed at \$911 per exam.⁸⁵

In 2022, AB 2185 directed Cal OES to determine reimbursement amounts to counties for the cost of domestic violence exams. Like the test claim statute, AB 2185 stated “[t]he costs associated with these medical evidentiary exams shall be funded by the state, subject to appropriation by the Legislature.”⁸⁶ To date, no appropriation or reimbursement appears to have been made for the domestic violence exams. The only form available for reimbursement of a medical evidentiary exam on the Cal OES website is for the sexual assault examinations.⁸⁷

Per legislative history, the test claim statute “mirrors the process set forth by AB 2185, to provide free medical evidentiary examinations for a victim of child physical abuse or neglect.”⁸⁸ That is, the test claim statute “mirrors” the domestic violence medical evidentiary exam law.

⁸⁴ Penal Code section 13823.95(e), as added by Statutes 2021, chapter 80, section 25.

⁸⁵ Exhibit G (16), Senate Committee on Appropriations, August 21, 2023, on AB 1402, as amended March 30, 2023, page 3; Exhibit G (2), Assembly Committee on Appropriations, May 10, 2023, on AB 1402, as amended March 30, 2023, page 1; Exhibit G (5), Cal OES Invoice for Reimbursement for Medical Evidentiary Examination, 2021, page 1, https://www.safeta.org/wp-content/uploads/2022/03/invoice_for_reimbursement_fo.pdf (accessed on July 31, 2025); Exhibit G (4), Cal OES Informational Bulletin Sexual Assault Medical Evidentiary Examination Reimbursement, May 2022, pages 1-2, <https://www.ccfmtc.org/wp-content/uploads/Informational-Bulletin-Medical-Evidentiary-Examination-Reimbursement-Rev.-5-22.pdf> (accessed on July 31, 2025).

⁸⁶ Penal Code section 11161.2(g), as added by Statutes 2022, chapter 557, section 1; Penal Code section 11171(g), as added by Statutes 2023, chapter 841.

⁸⁷ Exhibit G (4), Cal OES Informational Bulletin Sexual Assault Medical Evidentiary Examination Reimbursement, May 2022, pages 1-2, <https://www.ccfmtc.org/wp-content/uploads/Informational-Bulletin-Medical-Evidentiary-Examination-Reimbursement-Rev.-5-22.pdf> (accessed on July 31, 2025); Exhibit G (5) Cal OES Invoice for Reimbursement for Medical Evidentiary Examination, 2021, page 1, https://www.safeta.org/wp-content/uploads/2022/03/invoice_for_reimbursement_fo.pdf (accessed on July 31, 2025).

⁸⁸ Exhibit G (17), Senate Committee on Public Safety, June 27, 2023, on AB 1402, as amended March 30, 2023, page 3; Exhibit G (18), Senate Rules Committee, Office of Senate Floor Analyses, September 2, 2023, on AB 1402, as amended March 30, 2023, page 4; Exhibit G (3), Assembly Committee on Public Safety, April 25, 2023, on AB 1402, as amended March 30, 2023, page 4.

III. Positions of the Parties and Interested Parties

A. County of Santa Clara

The claimant asserts the test claim statute imposes a reimbursable state-mandated program. The claimant states in the Test Claim:

As a result of [Penal Code section 11711] [s]ubdivision (f), county providers can no longer bill Medi-Cal or private insurance for physical abuse and neglect exams administered to children. Rather than charge Medi-Cal or private insurance for physical abuse and neglect exams, counties are now required to authorize a designee to approve providers who can perform these exams and send invoices to CalOES. (*Id.*, subd. (g).) CalOES, who administers the reimbursement program under Section 11171, must reimburse counties within 60 days and adjust reimbursement rates every five years. (*Ibid.*)

Notwithstanding the mandatory reimbursement provision of AB 1402, the Legislature has failed to appropriate any funding for child physical abuse and neglect exams. (See Stats. 2024, ch. 22, § 2.00; Stats. 2023, ch. 38; see also Sen. Comm. On Approps., Analysis of Assem. Bill No. 1402 (2023-2024 Reg. Sess.), p. 3 [“Staff notes that no funding has been included in the 2023-2024 budget for these purposes.”].) Nor has CalOES issued any guidance or form for AB 1402 reimbursements. (Declaration of Serena Sy, at p. 3 (“Sy Decl.”)) As a result, counties are now forced to absorb the costs of physical abuse or neglect exams for children.⁸⁹

The claimant states that paying for the exams is a new reimbursable activity:

In other words, the new activity mandated by Subdivision (f) – and the corresponding new program or higher level of service – is the new requirement that the County assume the full cost of providing child abuse and neglect exams free of charge whenever the State declines to reimburse these costs.⁹⁰

The claimant states that before the test claim statute, “counties [had] long provided child physical abuse and neglect exams under the State’s supervision,” but “were never responsible for funding these exams.”⁹¹ Following the test claim statute, and without state reimbursement thereunder, “the County must now perform its existing duties – provide these exams consistent with the State’s guidance, protocols, and forms – *and* assume financial responsibility for these exams.”⁹²

The claimant analogizes this claim to *County of San Diego v. State of California*, a California Supreme Court decision where the court found a new reimbursable program

⁸⁹ Exhibit A, Test Claim, pages 13-14.

⁹⁰ Exhibit A, Test Claim, page 16.

⁹¹ Exhibit A, Test Claim, page 16.

⁹² Exhibit A, Test, Claim, pages 16-17.

after the state had shifted costs for a class of Medi-Cal beneficiaries from itself to the counties.⁹³ The claimant argues that, as in *County of San Diego*, “[s]ubdivision (f) compels local governments to assume the full financial responsibility for these crucial exams whenever the State declines to provide reimbursement. Section 6 requires the State to reimburse these costs.”⁹⁴

The claimant also argues that practical compulsion results in a new state-mandated program or higher level of service.⁹⁵ For example, the claimant analogizes child physical abuse and neglect exams to stormwater drainage systems as a matter of public health and safety, in that not providing them is “no alternative at all.”⁹⁶ Further, the claimant asserts that relying on non-expert exams would be inadequate:

Standard physical exams, such as well child visits and emergency room encounters, are not a reasonable substitute for child physical abuse and neglect exams. (Sturm Decl., at p. 5.) Child abuse pediatrics is a medical specialty within pediatrics, like pediatric cardiology or pediatric neurology. (*Id.* at p. 3.) Without specific and continuing education in child abuse pediatrics, general practitioners are not qualified to provide expert medical opinions about whether a child has endured and survived maltreatment or determine the best course of treatment. (*Ibid.*) Medical professionals who are not trained to identify child abuse and neglect miss opportunities for diagnosis and intervention. (*Id.* at p. 5.)⁹⁷

The claimant asserts that child physical abuse and neglect exams, in many cases, are “necessary to uncover abuse and neglect.”⁹⁸ The claimant states that “counties – and more importantly, the infants and children they serve – face severe and certain consequences were counties to cease using child physical abuse and neglect exams as a tool in their child welfare investigations.”⁹⁹ The claimant also points to specific statutory law requiring such an exam within 72 hours when a medical specialist determines it necessary for a child in protective custody.¹⁰⁰ It concludes that not consulting the medical specialists upon a report of suspected child abuse is “not an

⁹³ Exhibit A, Test Claim, page 17 citing *County of San Diego v. State of California* (1997) 15 Cal.4th 68.

⁹⁴ Exhibit A, Test Claim, page 17.

⁹⁵ Exhibit A, Test Claim, page 20.

⁹⁶ Exhibit A, Test Claim, pages 20-21.

⁹⁷ Exhibit A, Test Claim, page 24.

⁹⁸ Exhibit A, Test Claim, page 23 citing page 47, paragraphs 18-19 and 21-22 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

⁹⁹ Exhibit A, Test Claim, page 21.

¹⁰⁰ Exhibit A, Test Claim, page 21 citing Welfare and Institutions Code section 324.5.

acceptable alternative.”¹⁰¹ The claimant then argues that the duty to investigate child abuse reports also requires these medical exams.¹⁰²

Attached to the Test Claim are four declarations of County of Santa Clara employees:

1. Declarant Serena Sy is the Director of Primary Care Operations for Santa Clara Valley Healthcare (“SCVH”).¹⁰³ Ms. Sy oversees SCVH operations over primary care clinics and programs throughout the County of Santa Clara, including child physical abuse and neglect exams.¹⁰⁴

Explaining the claimant’s work in child physical abuse and neglect exams, Ms. Sy declares that the “County conducts the vast majority of physical abuse and neglect exams to comply with child welfare investigations.”¹⁰⁵ Ms. Sy adds: “Physical abuse and neglect exams are also conducted pursuant to law enforcement investigations into potential crimes against children.”¹⁰⁶ As to the population of children served, Ms. Sy declares that the “County is one of [the] only providers of physical abuse and neglect exams in its region. SCVH and CAC frequently receive referrals from other agencies and hospitals to perform these exams for children.”¹⁰⁷

Regarding billing, Ms. Sy declares “there is no entity the County can bill for child physical abuse and neglect exams.”¹⁰⁸ “To comply with Subdivision (f), the County can no longer bill Medi-Cal or private insurance.”¹⁰⁹

¹⁰¹ Exhibit A, Test Claim, page 22.

¹⁰² Exhibit A, Test Claim, page 22.

¹⁰³ Exhibit A, Test Claim, page 31, paragraph 2 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

¹⁰⁴ Exhibit A, Test Claim, page 31, paragraph 3 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

¹⁰⁵ Exhibit A, Test Claim, page 31, paragraph 7 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

¹⁰⁶ Exhibit A, Test Claim, page 31, paragraph 9 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

¹⁰⁷ Exhibit A, Test Claim, page 32, paragraph 11 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

¹⁰⁸ Exhibit A, Test Claim, page 33, paragraph 17 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

¹⁰⁹ Exhibit A, Test Claim, pages 33-34, paragraph 15 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

2. Declarant Kiyomi Ross is the Director of Financial Planning and Performance for the County of Santa Clara.¹¹⁰ Ms. Ross oversees the County's cost accounting system, including for the county's health system, which includes all its hospitals and clinics.¹¹¹ Ms. Ross provides cost data for the child physical abuse and neglect exams performed in the County of Santa Clara.¹¹²

Ms. Ross attests to "the costs of providing child physical abuse and neglect exams free of charge to patients and without reimbursement from the State."¹¹³ With explanations and exhibits, Ms. Ross declares that "the average cost of each exam is \$3,455" and that "the County provides an average of 15 such exams each month," working out to an "expected annual average cost to the County of \$621,927."¹¹⁴ The County first incurred costs for performing a medical exam on January 3, 2024, and in fiscal year 2023-2024 performed a total of 83 exams.¹¹⁵ Costs are expected to reach \$717,496 for fiscal year 2024-2025.¹¹⁶

3. Declarant Melissa Suarez is a Social Services Program Manager III ("Bureau Manager") for the Department of Family and Children's Services ("DFCS") for the County of Santa Clara.¹¹⁷ Ms. Suarez oversees emergency social workers from South San Jose to the southernmost boundary of the County's jurisdiction, and

¹¹⁰ Exhibit A, Test Claim, page 35, paragraph 2 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

¹¹¹ Exhibit A, Test Claim, page 35, paragraph 3 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

¹¹² Exhibit A, Test Claim, pages 35-36, paragraphs 5-13 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

¹¹³ Exhibit A, Test Claim, page 35, paragraph 5 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

¹¹⁴ Exhibit A, Test Claim, pages 35-36, paragraph 9 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

¹¹⁵ Exhibit A, Test Claim, page 36, paragraphs 10 and 12 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

¹¹⁶ Exhibit A, Test Claim, page 36, paragraph 13 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

¹¹⁷ Exhibit A, Test Claim, page 40, paragraphs 2-3 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children's Services, County of Santa Clara).

supports DFCS division managers in emergency response, court, and non-court services for the county's welfare system.¹¹⁸

Ms. Suarez declares that "laws, rules, and regulations impose upon County social workers a duty to investigate allegations of child physical abuse so that they may determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced."¹¹⁹

Ms. Suarez details many circumstances under which a child physical abuse and neglect exam may be prompted (i.e., reports from child, witness, daycare, school, community member, law enforcement, healthcare providers) and what indicia county social workers look for (i.e., disclosures, bruising, burns, fractures, unexplained injury, domestic violence, drug use) when considering requesting an exam.¹²⁰ She notes that "time is of the essence" because "[i]njuries may fade and heal, invisible injuries may worsen without treatment (e.g., brain bleeds), and the child may be at grave risk of harm the longer they remain in an unsafe environment."¹²¹

Ms. Suarez declares that the exams are "indispensable in the child welfare system," stating that they allow assessments to be made "without having to depend on the observations of witnesses or the disclosure of children. Witnesses to child abuse and neglect are rare, the adults who perpetrate abuse and neglect rarely admit to their crimes, and children may be too traumatized to disclose their injuries (or may be retraumatized by having to disclose their injuries)."¹²² Ms. Suarez speaks to the use of exams when "the victim or potential victim is an infant, pre-verbal, nonverbal, developmentally delayed, or otherwise unable to communicate their abuse or neglect" and conveys concern that without the exams as presently performed, "cases of actual abuse and neglect would be missed," and "more children would be at risk of additional injury

¹¹⁸ Exhibit A, Test Claim, page 40, paragraph 4 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children's Services, County of Santa Clara).

¹¹⁹ Exhibit A, Test Claim, page 40, paragraph 6 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children's Services, County of Santa Clara).

¹²⁰ Exhibit A, Test Claim, pages 41-42, paragraphs 15-16 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children's Services, County of Santa Clara).

¹²¹ Exhibit A, Test Claim, page 42, paragraph 17 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children's Services, County of Santa Clara).

¹²² Exhibit A, Test Claim, pages 40-41, paragraph 9 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children's Services, County of Santa Clara).

or death.”¹²³ She later adds: “Where social workers are unable to substantiate a report of child physical abuse or neglect, they risk returning the child to an unsafe environment, where the siblings may also be unsafe.”¹²⁴ Ms. Suarez declares the following severe consequences she is “certain based on [her] own experience and that of the County’s child welfare agency” would occur if the County were to cease providing the physical abuse and neglect exams:

- a. Law enforcement officials’ investigation into child abuse and neglect crimes would be severely limited;
- b. Social workers would be unable to substantiate suspected cases of child physical abuse or neglect, particularly for nonverbal, pre-verbal, disabled, and developmentally delayed children;
- c. Children and families who would otherwise receive support services following medical findings of abuse or neglect would not be assisted; and
- d. Children whose abuse or neglect would be uncovered by a physical abuse and neglect exam would remain in dangerous situations, and in some cases, would be severely harmed or killed.¹²⁵

Ms. Suarez also declares that “[s]tandard physical exams, such as well child visits, are not a substitute for physical abuse and neglect exams. County social workers seek physical abuse and neglect exams from the County’s Child Advocacy Center (“CAC”) because the examiners there are trained to identify and assess the presence of child abuse and neglect. Our social workers’ experience is that standard physical exams do not reliably capture child abuse and neglect.”¹²⁶

¹²³ Exhibit A, Test Claim, page 41, paragraphs 10-12 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

¹²⁴ Exhibit A, Test Claim, page 41, paragraph 14 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

¹²⁵ Exhibit A, Test Claim, pages 42-43, paragraph 18 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

¹²⁶ Exhibit A, Test Claim, page 41, paragraph 13 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

4. Declarant Marlene Sturm, MD is the Medical Director of the Children’s Advocacy Center (‘CAC’) at the Santa Clara Valley Medical Center (“SCVMC”).¹²⁷ Dr. Sturm has “supervised the County’s child abuse pediatrics program since 2017.”¹²⁸ Dr. Sturm directly supervises or herself provides child abuse medical examinations, consults with numerous hospital units, provides exams for adjacent counties, and works with social workers and law enforcement on investigations of child abuse and neglect.¹²⁹

Dr. Sturm declares that the County receives over 20,000 child abuse reports annually, and that, “in many cases, expert medical evaluation for child physical abuse and neglect exams are *required* to diagnose missed cases of child abuse and neglect.”¹³⁰ Dr. Sturm explains, “a general pediatric examination may miss subtle fractures, injuries to internal organs, or retinal hemorrhages inside the eye. Of greatest concern, a child can have a relatively normal neurologic exam and ‘appear normal,’ yet have an evolving brain hemorrhage.”¹³¹

Echoing the Declaration of Melissa Suarez, Dr. Sturm extensively details medical literature and cites statistics of child abuse and neglect being missed through “standard physical exams.”¹³² Dr. Sturm adds that, “without expert medical evaluations for child physical abuse and neglect, the County risks *underinclusive and overinclusive* child protection actions.”¹³³ In an underinclusive action, “social services may not have enough evidence to place the child in protective custody”

¹²⁷ Exhibit A, Test Claim, page 44, paragraphs 2 and 5 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

¹²⁸ Exhibit A, Test Claim, page 44, paragraph 2 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

¹²⁹ Exhibit A, Test Claim, page 44, paragraphs 5-6 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

¹³⁰ Exhibit A, Test Claim, pages 46-47, paragraphs 14 and 21 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

¹³¹ Exhibit A, Test Claim, page 47, paragraph 21 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

¹³² Exhibit A, Test Claim, pages 48-49, paragraph 24 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

¹³³ Exhibit A, Test Claim, page 48, paragraph 23 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

when needed, and an overinclusive action could mean that a child is placed “in protective custody because of incomplete or inaccurate information,” which may “break apart families and treat innocent adults as perpetrators.”¹³⁴ In short, in Dr. Sturm’s “professional experience, expert medical evaluations for child physical abuse and neglect exams are necessary to ensure the safety of the child, to support effective collaboration with social services, and when appropriate, to file criminal charges.”¹³⁵

The claimant declares it first incurred costs under the test claim statute on January 3, 2024.¹³⁶ It declares incurring \$221,046 for FY 2023-2024¹³⁷ and estimates costs of \$717,496 for FY 2024-2025.¹³⁸ It estimates a statewide cost of \$11,800,000 for FY 2024-2025.¹³⁹ The claimant declares this estimate is based on the Senate Committee on Appropriations analysis of the test claim statute, multiplying the average number of child abuse cases by the reimbursement amount that Cal OES currently provides for each sexual assault medical evidentiary exam, which is \$911 per exam.¹⁴⁰ However, the claimant also declares that each exam costs \$3,455.¹⁴¹ The claimant

¹³⁴ Exhibit A, Test Claim, page 48, paragraph 23 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

¹³⁵ Exhibit A, Test Claim, page 47, paragraph 19 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children’s Advocacy Center, Children’s Advocacy Center of Santa Clara County).

¹³⁶ Exhibit A, Test Claim, pages 11 and 36, paragraph 10 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

¹³⁷ Exhibit A, Test Claim, page 36, paragraph 12 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

¹³⁸ Exhibit A, Test Claim, page 36, paragraph 13 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

¹³⁹ Exhibit A, Test Claim, pages 11 and 33-34, paragraph 24 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

¹⁴⁰ Exhibit A, Test Claim, pages 33-34, paragraph 24 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara citing Senate Committee on Appropriations, August 21, 2023, on AB 1402, as amended March 30, 2023, page 3).

¹⁴¹ Exhibit A, Test Claim, pages 35-36, paragraph 9 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

declares it has received no funds from any state, federal, or other non-local agency for the program, and that its general funds must be used.¹⁴²

The claimant asserts that the test claim statute imposes requirements unique to local government because the services to the public are provided by the counties.¹⁴³ It additionally asserts that the test claim statute carries out state policy of “public safety, child welfare, and guardianship” through the “free provision of child abuse and neglect exams” because the exams are the county’s responsibility whether performed in-house or through contractors.¹⁴⁴

The claimant finally asserts that no condition exists creating an exception to reimbursement under Government Code section 17556.¹⁴⁵

The claimant filed rebuttal comments on May 7, 2025.¹⁴⁶ In response to Finance’s comment that there is no increased level of governmental service being provided to the public, the claimant newly argues that the test claim statute does increase the quality of service to the public.¹⁴⁷ The claimant argues there is an enhanced quality of service because “the Test Claim statute makes these exams free of charge to make them more accessible to the public.”¹⁴⁸

Further, the claimant disagrees with Finance’s comment that *Workers’ Compensation Disability Benefits for Government Employees*, 00-TC-20/02-TC-02 applies. The claimant summarizes the *Workers’ Compensation Disability Benefits* test claim statute as having “expanded a preexisting leave benefit to additional categories of employees.”¹⁴⁹ Here instead, the claimant states: “By shifting full financial responsibility from the State to counties, the Test Claim Statute and legislative action use county resources to finance this enhanced public service.”¹⁵⁰

¹⁴² Exhibit A, Test Claim, pages 12, 15 and 33, paragraphs 17 and 20 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara); pages 35-36, paragraphs 5 and 10-11 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

¹⁴³ Exhibit A, Test Claim, pages 26-27.

¹⁴⁴ Exhibit A, Test Claim, page 27.

¹⁴⁵ Exhibit A, Test Claim, pages 28-29.

¹⁴⁶ Exhibit C, Claimant’s Rebuttal Comments.

¹⁴⁷ Exhibit C, Claimant’s Rebuttal Comments, page 2.

¹⁴⁸ Exhibit C, Claimant’s Rebuttal Comments, page 2.

¹⁴⁹ Exhibit C, Claimant’s Rebuttal Comments, page 4.

¹⁵⁰ Exhibit C, Claimant’s Rebuttal Comments, page 4.

The claimant also filed comments on the Draft Proposed Decision on October 7, 2025.¹⁵¹ The claimant makes two additional arguments for finding a mandate where the victim or the victim's private medical insurance would be available to pay for the medical evidentiary exam but for the test claim statute:

- (1) By transferring full financial responsibility from the State to counties, the Test Claim Statute mandates a new activity as to those exams which were previously chargeable to private medical insurance.
- (2) [T]he rationale offered by the Draft Proposed Decision regarding its finding as to private medical insurance would contravene the voters' intent behind Section 6.¹⁵²

The claimant elaborates on the second argument as follows:

If adopted as final, the Draft Proposed Decision would approve an unlawful basis for the State to evade its obligations under Section 6—namely, the State could impose a mandate for which there is fee authority and subsequently eliminate that fee authority without having to provide reimbursement under Section 6.¹⁵³

On January 28, 2026, the claimant filed comments on the Proposed Decision arguing that the denial of reimbursement for costs of the exam previously recoverable from the victim's private insurance or from the victim directly is not correct, stating the following:

- Distinguishing between Medi-Cal and private medical insurance creates an untenable contradiction in the Proposed Decision.
- The Proposed Decision is incorrect that providing child abuse exams free of charge to victims with private medical insurance does not constitute a new state-mandated program.
- The Proposed Decision threatens to create uncertainty about counties' compliance with Medi-Cal discriminatory billing regulations.¹⁵⁴

B. Department of Finance

Finance contends that the test claim statute does not impose a reimbursable state-mandated program. Citing *Workers' Compensation Disability Benefits for Government Employees*, 00-TC-20/02-TC-02, Finance asserts:

[T]here is not an increase in the actual level or quality of governmental service provided to the public. Penal Code section 11171(f) simply requires the county to absorb the cost of medical evidentiary exams that

¹⁵¹ Exhibit F, Claimant's Comments on the Draft Proposed Decision.

¹⁵² Exhibit F, Claimant's Comments on the Draft Proposed Decision, page 2.

¹⁵³ Exhibit F, Claimant's Comments on the Draft Proposed Decision, page 4.

¹⁵⁴ Exhibit I, Claimant's Comments on the Proposed Decision, pages 1-4.

the county was already required to perform under existing law, instead of passing those costs along to a third party.¹⁵⁵

Finance did not file comments on the Draft Proposed Decision.

C. Kern County Department of Human Services

The Kern County Department of Human Services (KCDHS) is an interested person under section 1181.2(j) of the Commission’s regulations. KCDHS filed late comments on the Test Claim on April 11, 2025.¹⁵⁶

KCDHS is “deeply concerned about the bill’s misalignment with child welfare’s legal mandate and the significant hidden operational and administrative burden it imposes on counties.”¹⁵⁷ As to the asserted misalignment with child welfare’s legal mandate, it states: “Requiring child welfare agencies to coordinate, oversee, and ensure reimbursement for medical evidentiary exams blurs a critical boundary between the civil and criminal systems.”¹⁵⁸ As to the operational and administrative burden, it states: “While AB 1402 outlines a reimbursement pathway through Cal OES, it does not account for the substantial non-reimbursable infrastructure counties must build to comply with this mandate, including designating and managing a pool of approved medical evidentiary examiners, training staff and community partners in evidentiary protocols and documentation and ensuring compliance and audit readiness for Cal OES reimbursement.”¹⁵⁹ KCDHS “strongly urge[s] the Commission to recognize the administrative burden and legal misalignment that AB 1402 imposes on counties.”¹⁶⁰

That said, KCDHS “support[s] Santa Clara County’s test claim (24-TC-05) and respectfully request[s] that the Commission determine that AB 1402 constitutes an unfunded mandate under the California Constitution.”¹⁶¹

¹⁵⁵ Exhibit B, Finance’s Comments on the Test Claim, page 1.

¹⁵⁶ Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim, page 1.

¹⁵⁷ Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim, page 1.

¹⁵⁸ Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim, page 1.

¹⁵⁹ Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim, page 1.

¹⁶⁰ Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim, page 1.

¹⁶¹ Exhibit D, Kern County Department of Human Services’ Late Comments on the Test Claim, page 1.

IV. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service...

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”¹⁶² Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government]”¹⁶³

Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity.¹⁶⁴
2. The mandated activity constitutes a “program” that either:
 - a. Carries out the governmental function of providing a service to the public; or
 - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.¹⁶⁵
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.¹⁶⁶
4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased

¹⁶² *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

¹⁶³ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

¹⁶⁴ *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

¹⁶⁵ *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles* (1987) 43 Cal.3d 46, 56).

¹⁶⁶ *San Diego Unified School District* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.¹⁶⁷

In 2004, article XIII B, section 6 was amended by the voters' approval of Proposition 1A, which added subdivision (c) to define a mandated new program or higher level of service to also include:

a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.¹⁶⁸

The Commission is vested with the exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.¹⁶⁹ The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.¹⁷⁰ In making its decisions, the Commission must strictly construe article XIII B, section 6 of the California Constitution, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."¹⁷¹

A. The Test Claim Is Timely Filed with a Potential Period of Reimbursement Beginning January 1, 2024.

A test claim must be filed within 12 months of the effective date of a statute or an executive order, or within 12 months of incurring increased costs as a result of the statute or executive order, whichever is later.¹⁷² The Commission's regulations clarify that "within 12 months of incurring costs" means "within 12 months (365 days) of *first* incurring costs as a result of a statute or executive order."¹⁷³

The effective date of the test claim statute is January 1, 2024.¹⁷⁴ The claimant filed the Test Claim on December 31, 2024.¹⁷⁵ As this is within 12 months of the effective date of the statute, the Test Claim is timely filed.

¹⁶⁷ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

¹⁶⁸ Proposition 1A, November 2004.

¹⁶⁹ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 335.

¹⁷⁰ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.

¹⁷¹ *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280 citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

¹⁷² Government Code section 17551(c).

¹⁷³ California Code of Regulations, title 2, section 1183.1(c), emphasis added.

¹⁷⁴ California Constitution, article IV, section 8(c)(1); Government Code section 9600.

¹⁷⁵ Exhibit A, Test Claim.

Government Code section 17557(e) provides that a Test Claim “shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.” Because the claimant filed the Test Claim on December 31, 2024 (during FY 2024-2025), the potential period of reimbursement under Government Code section 17557(e) would begin at the start of the prior fiscal year, which is July 1, 2023. However, since the test claim statute has a later effective date, the potential period of reimbursement begins on the statute’s effective date, or January 1, 2024.¹⁷⁶

B. The Test Claim Statute Mandates a New Program or Higher Level of Service Pursuant to Article XIII B, Section 6(c) of the California Constitution, Only in Fiscal Years the State Does Not appropriate Funds to Counties Sufficient to Cover the Costs of Child Physical Abuse and Neglect Exams and Instead Shifts those Costs to Counties by Prohibiting Them from Billing State-Funded Medi-Cal or the Victims Compensation Board for the Costs of the Exams.

Reimbursement under article XIII B, section 6, of the California Constitution is required only when:

- The state mandates local agencies to perform new activities, which impose a new program or higher level of service and result in costs mandated by the state;¹⁷⁷
- or
- The state transfers from itself to local agencies the complete or partial financial responsibility for a required program for which the state previously had complete or partial financial responsibility and results in costs mandated by the state.¹⁷⁸

As explained below, the test claim statute does not require the counties to perform any new activities. However, the test claim statute prohibits counties from charging the victim of physical abuse or neglect, either directly or indirectly, for the costs of the medical evidentiary portion of the examination.¹⁷⁹

The Commission finds that the test claim statute does not mandate a new program or higher level of service for the increased costs of child physical abuse and neglect evidentiary exams when the costs could have been recovered directly from the victim or from the victim’s private medical insurance.

However, absent an appropriation from the state sufficient to cover the costs of the child physical abuse and neglect evidentiary exams, and where the state, through Medi-Cal or the VCB, previously paid for the child physical abuse and neglect medical evidentiary

¹⁷⁶ *Southern California Gas Co. v. Public Utilities Commission* (1985) 38 Cal.3d 64, 67 (“It is well settled that a statute has no force whatsoever until its effective date.”).

¹⁷⁷ California Constitution, article XIII B, section 6(a).

¹⁷⁸ California Constitution, article XIII B, section 6(c).

¹⁷⁹ Penal Code section 11171(f), as added by Statutes 2023, chapter 841.

exams, the test claim statute shifts those costs from the state to the counties under article XIII B, section 6(c), resulting in a mandated new program or higher level of service.

1. Penal Code Section 11171(f), as Amended by the Test Claim Statute, Does Not Require the Counties to Perform Any New Activities And Does Not Shift Costs from the State to the Counties Under Article XIII B, Section 6(c) for the Costs of the Exam Previously Recoverable From the Victim’s Private Insurance or from the Victim Directly and, Thus, Does Not Impose a State-Mandated New Program or Higher Level of Service Under These Circumstances.

Penal Code section 11171(f), as amended by the test claim statute, does not require the counties to perform any new activities and does not shift costs from the state to the counties under article XIII B, section 6(c) for the costs of the exam previously recoverable from the victim’s private insurance or from the victim directly.

As explained in the Background, counties have long been required to investigate all incoming child abuse reports, a duty that has been confirmed by the courts.¹⁸⁰ Existing state law also requires counties to ensure that a child taken into protective custody undergo a physical examination performed by a medical practitioner who has specialized training in detecting and treating child abuse injuries and neglect, when appropriate and following allegations of physical abuse, and “whenever possible, shall ensure that this examination take place within 72 hours of the time the child was taken into protective custody, when there are allegations of physical abuse.”¹⁸¹ In 2002, Penal Code section 11171 was added, and it has applied to all children in the state since January 1, 2004.¹⁸²

With the exception of amendments to the name of the office directed to lead the creation of the form, instructions, and examination protocols as the California Office of Emergency Services (Cal OES) after the Office of Criminal Justice Planning was dissolved,¹⁸³ the requirements for the medical evidentiary exams ensured by the

¹⁸⁰ Penal Code section 11166.3 (formerly 11166.1); see also *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180, 1185-1186.

¹⁸¹ Welfare and Institutions Code section 324.5.

¹⁸² Penal Code section 11171(a)-(e), as added by Statutes 2002, chapter 249, section 4 (SB 580).

¹⁸³ The Office of Criminal Justice Planning was abolished on January 1, 2004. Its duties were largely transferred to Cal OES that same year. See Penal Code section 13820, as added by Statutes 2003, chapter 229, section 26, and as amended by Statutes 2013, chapter 352, section 428; Exhibit G (20), The history of Cal OES, page 2, <https://www.caloes.ca.gov/cal-oes/history/> (accessed on September 23, 2024) (“In 2004, the California Legislature merged OES and the Governor’s Office of Criminal Justice Planning, which was responsible for providing state and federal grant funds to local communities to prevent crime and help crime victims.”).

counties have been the same for two decades. At all times, the same standard nine components of the exam have been required:

- (1) Any notification of injuries or any report of suspected child physical abuse or neglect to law enforcement authorities or children's protective services, in accordance with existing reporting procedures.
- (2) Addressing relevant consent issues, if indicated.
- (3) The taking of a patient history of child physical abuse or neglect that includes other relevant medical history.
- (4) The performance of a physical examination for evidence of child physical abuse or neglect.
- (5) The collection or documentation of any physical evidence of child physical abuse or neglect, including any recommended photographic procedures.
- (6) The collection of other medical or forensic specimens, including drug ingestion or toxication, as indicated.
- (7) Procedures for the preservation and disposition of evidence.
- (8) Complete documentation of medical forensic exam findings with recommendations for diagnostic studies, including blood tests and X-rays.
- (9) An assessment as to whether there are findings that indicate physical abuse or neglect.¹⁸⁴

Cal OES issued the state standardized exam form on January 1, 2004.¹⁸⁵ This form, its protocols, and its instructions remain dated January 1, 2004.¹⁸⁶

Thus, contrary to the claimant's arguments,¹⁸⁷ the counties' duties relating to the medical examination requirements for child physical abuse and neglect are not new.

What is new under the test claim statute is subdivisions (f) – (h) of Penal Code section 11171.¹⁸⁸ Subdivision (f), the only provision pled by the claimant, prohibits the counties

¹⁸⁴ Penal Code section 11171(c); See Penal Code section 11171, as added by Statutes 2002, chapter 249, section 4 (SB 580).

¹⁸⁵ Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 7, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

¹⁸⁶ Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, pages 7; 108-114; 116-122, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

¹⁸⁷ Exhibit F, Claimant's Comments on the Draft Proposed Decision, page 2.

¹⁸⁸ Penal Code section 11171, as amended by Statutes 2023, chapter 841, section 1.

from billing the victim directly or indirectly for the medical examination.¹⁸⁹ Before the enactment of the test claim statute, counties or their contracted providers could bill the victim or the victim’s private insurance, Medi-Cal, or the VCB for child physical abuse and neglect exams. This was specified directly on the Cal OES Form 2-900 Instructions.¹⁹⁰ The Cal OES Protocol states that the “the majority of counties” billed Medi-Cal or private insurance, and occasionally the VCB.¹⁹¹ While subdivision (f) prohibits counties from billing the victim directly or indirectly, subdivision (g) now states that the costs associated with the medical evidentiary exams “shall be funded by the state, subject to appropriation by the Legislature” and requires the county’s designated SART, SAFE, or other qualified medical examiners to bill Cal OES for reimbursement.¹⁹² And subdivision (h) requires that reimbursement not be reduced based on patient history; and that victims may receive exams outside of the jurisdiction where the crime occurred, and that the county’s SART, SAFE, or other qualified examiners will be reimbursed by Cal OES under those circumstances.¹⁹³ The Test Claim does not request reimbursement to designate a SART, SAFE, or other medical examiner to bill Cal OES for reimbursement and, thus, no mandate findings are made on that provision.

Accordingly, the test claim statute does not mandate counties to perform new activities and, thus, there is not a new program or higher level of service pursuant to article XIII B, section 6(a).

Moreover, Penal Code section 11171(f), as amended by the test claim statute, does not impose a state-mandated new program or higher level of service under article XIII B, section 6(c) for the costs of the child physical abuse and neglect evidentiary exams that were previously recoverable from the victim’s private insurance or from the victim

¹⁸⁹ Penal Code section 11171(f).

¹⁹⁰ Exhibit G (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025) (“**3. Payment methods have not been formally established. Options to pursue include: the patient’s public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law enforcement agencies or Child Protective Services (CPS). Follow local policy.**” Emphasis in original.).

¹⁹¹ Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15 <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

¹⁹² Penal Code section 11171(g).

¹⁹³ Penal Code section 11171(h). Because the claimant has pled only subsection (f), the Commission need not determine whether this subsection’s statement that victims of child physical abuse or neglect “may receive a medical evidentiary exam outside of the jurisdiction where the crime occurred” is new.

directly because the state did not “previously [have] complete or partial financial responsibility” for those costs, as required by article XIII B, section 6(c). Since 1971, Welfare and Institutions Code section 10025 has provided that the “state shall not reimburse any local government or any facility thereof, under Medi-Cal or under any other health program . . . , for care provided to a person covered under any disability insurance, health insurance, or prepaid health plan.”¹⁹⁴ Thus, victims who were not eligible for Medi-Cal were responsible for those costs under prior law. Now that the test claim statute in subdivision (f) prohibits counties from recovering the costs from the victim directly or indirectly through private insurance as of January 1, 2024, the counties do experience increased costs, but are not required to comply with a *new* state-mandated program. The courts have been clear that increased costs alone do not create a reimbursable state-mandated program.¹⁹⁵

The claimant argues, however, that the state did assume full financial responsibility for costs that could be recovered from the victim or their private insurance when the Legislature passed the test claim statute, and that it then immediately transferred that responsibility to the counties by not appropriating funds.¹⁹⁶ This argument is unsound for two reasons. First, to mandate a new program or higher level of service under article XIII B, section 6(c), the financial responsibility of the state is assessed according to the law “prior to the enactment of the statute in question,” not under the test claim statute itself.¹⁹⁷ Second, the state did not assume financial responsibility in the test claim statute because the anticipated state payments are “subject to appropriation by the Legislature” and require Cal OES to establish reimbursement procedures and rates within one year of “initial appropriation.”¹⁹⁸ The determination as to how and whether to spend public funds is within the Legislature’s broad discretion, which has not yet been

¹⁹⁴ Welfare and Institutions Code section 10025 (Stats. 1971, ch. 812).

¹⁹⁵ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816 (“Section 6 was not intended to entitle local entities to reimbursement for *all* increased costs resulting from Legislative enactments, but only those costs mandated by a new program or an increased level of service imposed upon them by the State.”).

¹⁹⁶ Exhibit F, Claimant’s Comments on the Draft Proposed Decision, pages 2-3.

¹⁹⁷ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1812 (“In *Lucia Mar*, prior to the enactment of the statute in question, the program was funded and operated entirely by the State.”); *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (“...the requirements are new in comparison with the preexisting scheme in view of the circumstance that they did not exist prior to the enactment of Statutes of 1993, chapters 1255 (Assem. Bill No. 342 (1993-1994 Reg. Sess.) (Assembly Bill No. 342)) and 1256 (Senate Bill No. 1198 (1993-1994 Reg. Sess.) (Senate Bill No. 1198)).;” *Department of Finance v. Commission on State Mandates* (2022) 85 Cal.App.5th 535, 559 (“To determine whether a program imposed by the permit is new, we compare the legal requirements imposed by the new permit with those in effect before the new permit became effective.”)

¹⁹⁸ Penal Code section 11171(g), as added by Statutes 2023, chapter 841, section 1,

exercised.¹⁹⁹ Per state law, an appropriation is an independent second step taken as its own act of law, one which requires a two-thirds vote (except regarding public education) rather than the simple majority that was necessary to pass the test claim statute.²⁰⁰ Thus, where the state's commitment to funding is "subject to appropriation by the Legislature," as here, there can be no financial commitment unless and until the second step of an appropriation is taken. The Legislature can later "decide *whether* and how to prescribe the funding."²⁰¹

A similar sequence occurred beginning in 1981 when the Legislature expanded the courts of appeal and declared that some of the funding would be "provided in the Budget Act."²⁰² Taxpayers argued in court that the act expanding the courts without simultaneous funding was unconstitutional and thereby void.²⁰³ But while the original statute might not have been "fully operative" until the 1982 Budget Act cured the alleged deficiency,²⁰⁴ the Supreme Court did not find the original statute void.²⁰⁵ Nor did it read the original act as being contemporaneously an appropriations measure, as the claimant suggests should be done here.

Also per state law, the "appropriations doctrine" for constitutional debt limits demonstrates that the state did not instantly assume financial responsibility for the medical evidentiary exams previously paid for by private insurance. The "appropriations doctrine" helps courts determine if the state or local constitutional debt limitation²⁰⁶ was violated by any new government debt instrument inadequately matched to an appropriations provision, and if "the statute in question does not prescribe *when* [the new debt instruments] are to be paid," then no legislative commitment to appropriate funds for such payments within the same fiscal year of the statute is presumed.²⁰⁷ Because the statute in question here says only, "subject to appropriation," and not

¹⁹⁹ *California School Boards' Association v. State of California* (2011) 192 Cal.App.4th 770, 797.

²⁰⁰ California Constitution, article XVI, section 7 ("Money may be drawn from the Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant.") and article IV, section 12(d).

²⁰¹ *Brown v. Superior Court* (1982) 33 Cal. 3d 242, 248, emphasis added.

²⁰² Statutes 1981, chapter 959, section 6.

²⁰³ *Brown v. Superior Court* (1982) 33 Cal. 3d 242, 248.

²⁰⁴ *Brown v. Superior Court* (1982) 33 Cal. 3d 242, 252.

²⁰⁵ *Brown v. Superior Court* (1982) 33 Cal. 3d 242, 248.

²⁰⁶ California Constitution, article XVI, sections 1 and 18.

²⁰⁷ *Pooled Money Investment Board v. Unruh* (1984) 153 Cal. App. 3d 155, 165, emphasis added.

when,²⁰⁸ a legislative commitment to appropriate cannot be presumed to have occurred simultaneously with the test claim statute or even within one year of it.

The claimant further argues that article XIII B, section 6, cannot allow the state to repeal fee authority without providing reimbursement.²⁰⁹ This argument is misplaced. Fee authority to pay for costs is relevant only to the last mandates element of whether there are costs mandated by the state.²¹⁰ A claimant, however, has to prove the first two elements of a state mandate and new program or higher level of service before the issue of whether there are increased costs mandated by the state to pay for the mandated new program or higher level of service can be resolved. This Decision does not reach the costs mandated by the state issue for the costs previously recoverable from the victim's private insurance or from the victim directly because, as explained above, there is no mandated new program or higher level of service under these circumstances. Reimbursement under article XIII B, section 6, is required only when *all elements*, including that the statute mandates a new program or higher level of service *and* imposes costs mandated by the state, are satisfied.²¹¹ "Section 6 was not intended to entitle local entities to reimbursement for *all* increased costs resulting from Legislative enactments, but only those costs mandated by a new program or an increased level of service imposed upon them by the State."²¹²

On January 28, 2026, the claimant filed additional comments in response to the Proposed Decision, arguing that the denial of reimbursement for costs of the exam previously recoverable from the victim's private insurance or from the victim directly is not correct, stating the following:

- Distinguishing between Medi-Cal and private medical insurance creates an untenable contradiction in the Proposed Decision.
- The Proposed Decision is incorrect that providing child abuse exams free of charge to victims with private medical insurance does not constitute a new state-mandated program.

²⁰⁸ Penal Code section 11171(g).

²⁰⁹ Exhibit F, Claimant's Comments on the Draft Proposed Decision, pages 2 and 4.

²¹⁰ Government Code section 17556(d), which states: "The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds any one of the following: . . . (d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service."

²¹¹ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835; *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875.

²¹² *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816.

- The Proposed Decision threatens to create uncertainty about counties' compliance with Medi-Cal discriminatory billing regulations.²¹³

The claimant's position is not legally correct. As stated above, reimbursement under article XIII B, section 6, of the California Constitution is required only when:

- The state mandates local agencies to perform new activities, which impose a new program or higher level of service and result in costs mandated by the state pursuant to article XIII B, section 6(a); or
- The state transfers from itself to local agencies the complete or partial financial responsibility for a required program for which the state previously had complete or partial financial responsibility and results in costs mandated by the state pursuant to article XIII B, section 6(c).

With respect to child abuse and neglect exams that previously were paid from the victim's private insurance or from the victim directly, the 2023 test claim statute did not impose any new requirements on the counties pursuant to article XIII B, section 6(a) and the state has not shifted those costs from itself to the counties pursuant to article XIII B, section 6(c), as explained above. All that section 11171(f) did was to prohibit counties from billing the victim or the victim's insurance for child physical abuse and neglect exams (costs which were not previously borne by the state).

The claimant specifically pled only Penal Code section 11171(f), as amended in 2023.²¹⁴ The claimant further represented that its claim was for cost-shifting only.²¹⁵ The claimant has also characterized payment for the exams as an "activity,"²¹⁶ but payment is not an activity for purposes of article XIII B, section 6(a). The courts are clear that increased costs (i.e., payments) alone do not constitute a new program or higher level of service under article XIII B, section 6(a).²¹⁷

Had the claimant been seeking reimbursement for the costs of the exams that previously were paid from the victim's private insurance or from the victim directly, its option was to plead Penal Code section 11171, as originally added by Statutes 2002, chapter 249 (SB 580) and the 2023 test claim statute, based on the date the claimant

²¹³ Exhibit I, Claimant's Comments on the Proposed Decision, pages 1-4.

²¹⁴ Exhibit A, Test Claim, page 13 ("[T]he County pleads only Subdivision (f) as reimbursable pursuant to Section 6.").

²¹⁵ Exhibit A, Test Claim, page 17 ("Because the State has declined to provide any reimbursement, the County must now perform its existing duties—provide these exams consistent with the State's guidance, protocols, and forms—and assume financial responsibility for these exams.").

²¹⁶ Exhibit A, Test Claim, page 16 ("In other words, the new activity mandated by Subdivision (f)—and the corresponding new program or higher level of service—is the new requirement that the County assume the full cost of providing child abuse and neglect exams free of charge whenever the State declines to reimburse these costs.").

²¹⁷ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816.

first incurred increased costs in 2024 as a result of the 2023 test claim statute. Government Code section 17551(c) and section 1183.1(d) of the Commission's regulations allow the filing of a test claim on an older statute or executive order, if filed within 12 months of first incurring increased costs as a result of a statute or executive order. If that had occurred, the Commission could have taken jurisdiction and made findings on the activities required by 2002 statute and the costs incurred under the 2023 amendment. However, that did not occur and the time to amend the test claim has passed.²¹⁸ Thus, the Commission has no jurisdiction to make any findings on the 2002 statute.

The claimant also argues that the Proposed Decision "threatens to create uncertainty about counties' compliance with Medi-Cal discriminatory billing regulations."²¹⁹ The Commission does not have jurisdiction over Medi-Cal billing regulations, and such discussion is irrelevant given that the test claim statute prohibits billing for the exams. The Commission's role on this issue is to determine whether the costs of the exams that previously were paid from the victim's private insurance or from the victim directly mandates a new program or higher level of service under article XIII B, section 6. The Commission has done so here.

Accordingly, the test claim statute does not impose a state-mandated new program or higher level of service under article XIII B, section 6 of the California Constitution for the costs of the child physical abuse and neglect evidentiary exams that were previously recoverable from the victim's private insurance or from the victim directly.

2. Absent an Appropriation from the State, and Where the State, Through Medi-Cal or the VCB, Previously Paid for the Child Physical Abuse and Neglect Medical Evidentiary Exams, Penal Code Section 11171(f), as Amended by the Test Claim Statute, Shifts Those Costs from the State to the Counties Under Article XIII B, Section 6(c), Resulting in a Mandated New Program or Higher Level of Service.

Absent an appropriation from the state, and where the state's Medi-Cal or the VCB programs previously paid for the child physical abuse and neglect medical evidentiary exams, the test claim statute shifts those costs from the state to the counties under article XIII B, section 6(c), resulting in a "mandated new program or higher level of service."²²⁰ Article XIII B, section 6(c), added to the California Constitution by the voters in 2004 as Proposition 1A, states:

²¹⁸ Government Code section 17557(e) states that a test claim may be amended "at any time, *but before the test claim is set for a hearing*, without affecting the original filing date as long as the amendment substantially relates to the original test claim." The matter is set for hearing when the Draft Proposed Decision is issued. (California Code of Regulations, title 2, section 1187.1.)

²¹⁹ Exhibit I, Claimant's Comments on the Proposed Decision, page 3.

²²⁰ Penal Code section 11171(f)–(h).

A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.

Proposition 1A was a constitutional amendment placed on the ballot by the Legislature (SCA 4) as part of the 2004-2005 budget agreement to protect property tax revenues of local agencies. It was proposed, in part, to address the court's ruling in *County of Sonoma v. Commission on State Mandates*, which denied reimbursement under article XIII B, section 6 for the reduction of county property tax revenue and allocation of that revenue into the Educational Revenue Augmentation Fund (ERAF) to fund K-14 schools, on the ground that the state had not assumed complete financial responsibility for K-14 education before adoption of section 6.²²¹ The court in *County of Sonoma* held that article XIII B, section 6 only "prohibits the state from shifting to counties the cost of state programs for which the state assumed *complete financial responsibility before adoption of section 6*."²²² Thus, Proposition 1A added section 6(c) to article XIII B, to expand the definition of a new program or higher level of service to include situations when the Legislature transfers from the state to a local agency "complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility."

- a. The test claim statute shifts the Medi-Cal and VCB costs, which were previously used to pay for the child physical abuse and neglect evidentiary exams, from the state to the counties and, thus, the test claim statute imposes a new program or higher level of service within the meaning of article XIII B, section 6(c).

From January 1, 2004, to December 31, 2023, funds from Medi-Cal and the VCB reimbursed counties for the cost of child physical abuse and neglect medical evidentiary exams. Both billing options have been acknowledged on the Cal OES exam instructions since 2001.²²³ Under Chapter IV, "Reimbursements for Examinations," the Cal OES Protocol stated before the test claim statute, attached to forms dated January 1, 2004:

In the majority of counties in California, charges for child physical abuse and neglect examinations **are billed to Medi-Cal** or to the patient's private insurance. Standard diagnostic and procedural coding manuals are used

²²¹ Exhibit G (21) Assembly Floor Analysis, July 27, 2004, on SCA 4, as amended July 27, 2004, page 5.

²²² *County of Sonoma v. Commission on State Mandates* (2000), 84 Cal.App.4th 1264, 1286 citing *County of San Diego v. State of California* (1997), 15 Cal.4th 68, 99, fn. 20.

²²³ Exhibit A, Test Claim, page 235; Exhibit G (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

to generate charges. For patients without insurance, or who are underinsured, reimbursement of **charges may be obtained through California Victim Compensation and Government Claims Board.**

Some counties have contracts with private hospitals for various medical services (e.g., indigent care) and include a provision for payment of these examinations **if there is no public or private insurance reimbursement.** Follow local policy.²²⁴

This information was also specified directly on the Cal OES Form 2-900 Instructions.²²⁵ The Cal OES Protocol states that the “the majority of counties” billed Medi-Cal or private insurance, and occasionally the VCB.²²⁶ The evidence corroborates that Medi-Cal was billed until January 1, 2024.²²⁷

As set forth in the Background, Medi-Cal had assumed financial responsibility for abused and neglected children since at least 1982. The State Department of Healthcare Services advised all county directors at that time that individuals receiving “Emergency Assistance,” including “Abused, Neglected or Exploited Children (EA-ANEC)” were considered “public assistance recipients” and “will be eligible for Medi-Cal

²²⁴ Exhibit A, Test Claim, page 134; Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025), emphasis added.

²²⁵ Exhibit G (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025) (“**3. Payment methods have not been formally established. Options to pursue include: the patient’s public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law enforcement agencies or Child Protective Services (CPS). Follow local policy.**” Emphasis in original.).

²²⁶ Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

²²⁷ Exhibit A, Test Claim, pages 32-33, paragraphs 12, 15, and 17 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara); Exhibit A, Test Claim, page 134; Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 15, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025); California Code of Regulations, title 22, section 50143(a)(3).

benefits and a Medi-Cal card.”²²⁸ Social workers have since been applying on behalf of an abused or neglected child for “Retroactive Medi-Cal,” using Form MC 250.²²⁹ Thus, if these children were not already enrolled in Medi-Cal, they would become enrolled by the social worker on an emergency basis.²³⁰ Under Continuing Eligibility for Children (CEC), coverage would then continue, uninterrupted at least until the next annual redetermination.²³¹

Counties could also bill the VCB if a child was somehow uninsured or underinsured by Medi-Cal.²³² If counties pursued this option, they, or their contracted providers, could

²²⁸ Exhibit G (8), Department of Health Services Letter to All County Welfare Directors, August 17, 1982, Letter 82-44, page 1; Exhibit G (9), Department of Health Services Letter to All County Welfare Directors, December 22, 1982 Letter 82-72, pages 1-7; see also California Code of Regulations, title 22, section 50038.5 (defining “Emergency Assistance” as programs providing assistance for up to 30 days, including for “[t]hose children who are being, or are in immediate danger of being abused, neglected or exploited and to families of such children.”).

²²⁹ Exhibit G (15), Retroactive Medi-Cal, page 1, https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medical/retromedical.htm?agt=index (accessed on July 24, 2025); Exhibit G (10) Form MC 250, Application and Statement of Facts for Child Not Living with a Parent or Relative for Whom a Public Agency Is Assuming Some Financial Responsibility, pages 1-2, <https://www.dhcs.ca.gov/formsandpubs/forms/Forms/mc250.pdf> (accessed on July 24, 2025); California Code of Regulations, title 22, section 50251 (“(e) Children specified in (a)(3) shall be eligible and certified for Medi-Cal: (1) On the basis of the information provided by the public agency on form MC 250. (2) Without considering the property or income of the child or the child's parents.”).

²³⁰ California Code of Regulations, title 22, section 50143(a)(3); see also Exhibit G (1), Aid Codes Master Chart, updated April 2022, pages 33 and 35, https://mcweb.apps.prd.cammiis.medi-cal.ca.gov/assets/869D30AF-4BC7-4132-AF6A-AF75893E9221/aidcodes.pdf?access_token=6UyVkJRRfByXTZEWIh8j8QaYyIPyP5ULO (accessed on July 24, 2025) (Aid Code 45 provides: “FC. Covers children supported by public funds other than AFDC-FC” with no share of costs.); see also Exhibit G (19), Short Doyle Medi-Cal Aid Code Chart, February 23, 2023, page 2, <https://www.dhcs.ca.gov/services/MH/Pages/medccc-library.aspx> (accessed on July 24, 2025) (Aid Code “5K” provides “Emergency Assistance (EA) Foster Care” with no share of costs).

²³¹ Exhibit G (7), Continuous Eligibility for Children (CEC), page 1, https://stgenssa.sccgov.org/debs/program_handbooks/foster_care/assets/28medical/contnuseigblty.htm (accessed on July 24, 2025); California Code of Regulations, title 22, section 50189.

²³² Exhibit G (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025) (“**3. Payment methods have not been**

bill the VCB directly as a service provider, but had to accept the limits of the VCB payment schedule.²³³

The payments to counties or their providers from Medi-Cal and the VCB have been the responsibility of the state. The California Supreme Court has found that Medi-Cal “has been the responsibility of various state departments and agencies.”²³⁴ Likewise, the VCB is a state agency.²³⁵ The VCB has been in existence since 2002 under its current name and role.²³⁶

Accordingly, since the state, through Medi-Cal or the VCB, previously paid for the child physical abuse and neglect medical evidentiary exams, Penal Code Section 11171(f), as amended by the test claim statute, shifts those costs from the state to the counties under article XIII B, section 6(c), resulting in a new program or higher level of service.

The Commission has made one previous decision under article XIII B, section 6(c), which is analogous here. In *Sheriff Court-Security Services*, 09-TC-02, the state had accepted responsibility for funding security services to trial courts but later shifted back to the counties the costs of retiree health benefits for those security employees.²³⁷ In that claim, the state had formally assumed responsibility on January 1, 1998, through the 1997 Trial Court Funding Act.²³⁸ Thus, the state had financial responsibility when, in 2009, it legislated part of that responsibility back to the counties by excluding retiree health benefits from the statutorily defined cost of “court operations.”²³⁹ As here, the Commission found that the state had financial responsibility for what was “billed to the

formally established. Options to pursue include: the patient’s public (Medi-Cal) or private insurance, the California Victim Compensation Program (VCP), local law enforcement agencies or Child Protective Services (CPS). Follow local policy.” Emphasis in original.).

²³³ Government Code sections 13957.7(c)(1) and 13957.2; California Code of Regulations, title 2, section 649.23.

²³⁴ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 96.

²³⁵ Government Code sections 11000 and 13950.

²³⁶ Government Code sections 13950-13951, as added by Statutes 2002, chapter 1141, section 2.

²³⁷ Commission on State Mandates, Test Claim Decision on *Sheriff Court-Security Services*, 09-TC-02, adopted December 5, 2014, <https://csm.ca.gov/decisions/121214a.pdf> (accessed on September 23, 2025).

²³⁸ Commission on State Mandates, Test Claim Decision on *Sheriff Court-Security Services*, 09-TC-02, adopted December 5, 2014, <https://csm.ca.gov/decisions/121214a.pdf> (accessed on September 23, 2025), page 6.

²³⁹ Commission on State Mandates, Test Claim Decision on *Sheriff Court-Security Services*, 09-TC-02, adopted December 5, 2014, <https://csm.ca.gov/decisions/121214a.pdf> (accessed on September 23, 2025), page 17.

state” and partially shifted it to the counties under article XIII B, section 6(c), thus causing a “new program” under that section.²⁴⁰

Finance’s conclusion that the claimant has merely experienced increased costs and should accordingly have its claim denied ignores Proposition 1A and is therefore incorrect. It cites the Commission’s Decision in *Workers’ Compensation Disability Benefits for Government Employees*, 00-TC-20/02-TC-02 for support.²⁴¹ Its reliance on that Test Claim is misplaced because there was no cost-shift at issue. In *Workers Compensation Disability Benefits for Government Employees*, 00-TC-20/02-TC-02, costs were increased for local government when workers’ compensation benefits were expanded, resulting in some disabled government employees receiving a paid year off.²⁴² While this did increase local government costs without constituting enhanced service to the public, it was not shifting an expense of a program required by state law to local government that was previously paid for by the state.²⁴³ The voters added article XIII B, section 6(c) by Proposition 1A to address that situation, which has occurred in the Test Claim as it did in *Sheriff Court-Security Services*, 09-TC-02.²⁴⁴

The claimant asserts that the Legislature drafted Penal Code section 11171(g) in a manner that it was “knowing and intending” to trigger county responsibility to pay for the child physical abuse and neglect exams.²⁴⁵ That section provides, in part, “[t]he costs associated with these medical evidentiary exams shall be funded by the state, subject to appropriation by the Legislature.”²⁴⁶ The clause “subject to appropriation by the Legislature,” the claimant asserts, in combination with the Legislature’s lack of

²⁴⁰ Commission on State Mandates, Test Claim Decision on *Sheriff Court-Security Services*, 09-TC-02, adopted December 5, 2014, <https://csm.ca.gov/decisions/121214a.pdf> (accessed on September 23, 2025), page 38.

²⁴¹ Exhibit B, Finance’s Comments on the Test Claim, page 2.

²⁴² Commission on State Mandates, Test Claim Decision on *Workers’ Compensation Disability Benefits for Government Employees*, 00-TC-20/02-TC-02, adopted May 31, 2007, <https://csm.ca.gov/decisions/154.pdf> (accessed on September 23, 2025), page 1.

²⁴³ Commission on State Mandates, Test Claim Decision on *Workers’ Compensation Disability Benefits for Government Employees*, 00-TC-20/02-TC-02, adopted May 31, 2007, <https://csm.ca.gov/decisions/154.pdf> (accessed on September 23, 2025), pages 1-2.

²⁴⁴ Commission on State Mandates, Test Claim Decision on *Sheriff Court-Security Services*, 09-TC-02, adopted December 5, 2014, <https://csm.ca.gov/decisions/121214a.pdf> (accessed on September 23, 2025), page 22.

²⁴⁵ Exhibit C, Claimant’s Rebuttal Comments, page 3 citing *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 98.

²⁴⁶ Penal Code section 11171(g).

appropriation, means that the Legislature was “knowing and intending” to transfer financial responsibility to the counties.²⁴⁷

It is not clear and the Commission need not decide whether the state is “attempting to divest itself of responsibility to provide fiscal support for a program”²⁴⁸ it created in 2002 to standardize child physical abuse and neglect exams. Legislative history only forewarned: “Staff notes that no funding has been included in the 2023-2024 budget for these purposes.”²⁴⁹

Nonetheless, by having assumed financial responsibility for this program for two decades through Medi-Cal and the VCB and then not appropriating funding as provided for in the test claim statute, the state has shifted costs from itself to the counties under article XIII B, section 6(c). This indefinite cost-shift to the counties is further apparent in the legislative intent that the exams be “free” or “no-cost” to all victims.²⁵⁰ The bill was said to “require counties to set up systems to provide examinations at no cost to the victim” and then to submit invoices to Cal OES.²⁵¹ Without reimbursement from Cal OES, the counties are now required to assume the financial responsibility previously carried by the state.

In addition, the test claim statute resembles that of the 1997 California Supreme Court case on which the claimant relies regarding the Legislature’s exclusion of medically-indigent-persons from Medi-Cal. There, the Court found that “the Legislature excluded adult MIP’s from Medi-Cal *knowing* and *intending* that the 1982 legislation would trigger the counties’ responsibility to provide medical care as providers of last resort under section 17000.”²⁵² Here, while the Commission makes no finding as to the Legislature’s intent, the effect is the same. As in the 1997 case, the counties are providers of last resort, here for abused and neglected children, as well as the agents of the state’s child

²⁴⁷ Exhibit A, Test Claim, page 17.

²⁴⁸ *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1194; Penal Code section 11171, as added by Statutes 2002, chapter 249.

²⁴⁹ Exhibit G (16), Senate Committee on Appropriations, August 21, 2023, on AB 1402, as amended March 30, 2023, page 3.

²⁵⁰ Exhibit G (3), Assembly Committee on Public Safety, April 25, 2023, on AB 1402, as amended March 30, 2023, pages 3-4; Exhibit G (16), Senate Committee on Appropriations, August 21, 2023, on AB 1402, as amended March 30, 2023, page 2; Exhibit G (17), Senate Committee on Public Safety, June 27, 2023, on AB 1402, as amended March 30, 2023, page 3; Exhibit G (18), Senate Rules Committee, Office of Senate Floor Analyses, September 2, 2023, on AB 1402, as amended March 30, 2023, pages 4-5.

²⁵¹ Exhibit G (16), Senate Committee on Appropriations, August 21, 2023, on AB 1402, as amended March 30, 2023, page 2.

²⁵² *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 98.

welfare system.²⁵³ Inevitably, the state has shifted these costs to the counties to the extent it does not appropriate the funding as declared intended. As Finance partially states, “Penal Code section 11171(f) simply requires the county to absorb the costs of medical evidentiary exams that the county was already required to perform under existing law, instead of passing those costs along to a third party.”²⁵⁴ What follows, however, is that because the state was a responsible third party through Medi-Cal and VCB payments for the costs of the exams, the state has shifted those costs to the counties with the passage of the test claim statute to the extent the corresponding appropriation from the Legislature is lacking.

Finally, the test claim statute imposes unique requirements on counties which do not apply generally to all residents and entities in the state and carries out the governmental function of providing services to the public and, thus, imposes a new program or higher level of service.²⁵⁵ If the Legislature does not appropriate funds, the new requirement to pay for child physical abuse and neglect exams once paid by the state through Medi-Cal and VCB is uniquely imposed on county government. Counties uniquely provide child welfare services, including emergency response to abused and neglected children.²⁵⁶ The new requirement to pay for child physical abuse and neglect exams also furthers the state policy that all children are entitled to be free from abuse and neglect.²⁵⁷

²⁵³ Welfare and Institutions Code sections 300, 10800, 16500, and 17000; *In re Social Services Payment Cases* (2008) 166 Cal.App.4th 1249, 1256; Welfare and Institutions Code sections 16501(a)(1)(B), 16501(a)(2), and 16501(c) (“The county shall provide child welfare services as needed pursuant to an approved service plan and in accordance with regulations promulgated, in consultation with the counties, by the [state] department.”); *Ross v. Superior Court* (1977) 19 Cal.3d 899, 908; *Hassell v. Bird* (2018) 5 Cal.5th 522, 553, Kruger, J., concurring (“counties act on behalf of the state in administering welfare benefits”); *In re M.C.* (2011) 199 Cal.App.4th 784, 810 (county social service agency is an administrative agency of the executive branch when providing child welfare services, subject to supervision by Department of Social Services citing Welfare and Institutions Code sections 202.5, 10000, 10051, 10800, 16500, 16500.1, and 16501, *Scott v. County of Los Angeles* (1994) 27 Cal.App.4th 125, 143-144, and *In re Danielle W.* (1989) 207 Cal.App.3d 1227, 1235-1236, n. 6.).

²⁵⁴ Exhibit B, Finance’s Comments on the Test Claim, page 1.

²⁵⁵ *Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 537 citing *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56, emphasis in original.

²⁵⁶ Welfare and Institutions Code section 16500 (“All counties shall establish and maintain specialized organizational entities within the county welfare department which shall have sole responsibility for the operation of the child welfare services program.”); Welfare and Institutions Code section 16206.

²⁵⁷ Welfare and Institutions Code section 16500, as amended by Statutes 1996, chapter 1084, section 10.

Thus, absent an appropriation from the state pursuant to 11171(g), the Commission finds that Penal Code section 11171(f), as amended by the test claim statute, imposes a new program or higher level of service on counties pursuant to article XIII B, section 6(c), for those costs previously paid through Medi-Cal and the VCB.

- b. Providing child physical abuse and neglect exams is mandated by state law and, thus, the cost of the exams, which has been shifted from the state to the counties with respect to previous Medi-Cal and VCB reimbursement for the exams, are a component of the mandated program.

To find a mandated new program or higher level of service, the counties' obligation to provide child physical abuse and neglect exams must also be legally or practically compelled. "Legal compulsion occurs when a statute or executive action uses mandatory language that " 'require[s]' or 'command[s]' " a local entity to participate in a program or service."²⁵⁸ Practical compulsion occurs when a local entity has "no true choice but to comply."²⁵⁹

The required program that began operating on January 1, 2004, does not have language using the term "shall," to command the provision of the child physical abuse and neglect exams. Using the word "shall," it commanded what is now Cal OES to create the program, including the forms, instructions, content, protocols, and to make the forms electronically accessible as follows:

- (a)(1) The Legislature hereby finds and declares that adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.
- (2) Enhancing examination procedures, documentation, and evidence collection relating to child abuse or neglect will improve the investigation and prosecution of child abuse or neglect as well as other child protection efforts.
- (b) The Office of Emergency Services shall, in cooperation with the State Department of Social Services, the Department of Justice, the California Association of Crime Lab Directors, the California District Attorneys Association, the California State Sheriffs' Association, the California Peace Officers Association, the California Medical Association, the California Police Chiefs' Association, child advocates, the California Medical Training Center, child protective services, and other appropriate experts, establish medical forensic forms, instructions, and examination protocols for victims of child physical abuse or neglect using as a model the form and guidelines developed pursuant to Section 13823.5.

²⁵⁸ *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 815.

²⁵⁹ *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 821.

- (c) The forms shall include, but not be limited to, a place for notation concerning each of the following:
- (1) Any notification of injuries or any report of suspected child physical abuse or neglect to law enforcement authorities or children’s protective services, in accordance with existing reporting procedures.
 - (2) Addressing relevant consent issues, if indicated.
 - (3) The taking of a patient history of child physical abuse or neglect that includes other relevant medical history.
 - (4) The performance of a physical examination for evidence of child physical abuse or neglect.
 - (5) The collection or documentation of any physical evidence of child physical abuse or neglect, including any recommended photographic procedures.
 - (6) The collection of other medical or forensic specimens, including drug ingestion or toxication, as indicated.
 - (7) Procedures for the preservation and disposition of evidence.
 - (8) Complete documentation of medical forensic exam findings with recommendations for diagnostic studies, including blood tests and X-rays.
 - (9) An assessment as to whether there are findings that indicate physical abuse or neglect.
- (d) The forms shall become part of the patient’s medical record pursuant to guidelines established by the advisory committee of the Office of Emergency Services and subject to the confidentiality laws pertaining to the release of medical forensic examination records.
- (e) The forms shall be made accessible for use in an electronic format.²⁶⁰

Although the legislative finding asserts that the program is necessary for “adequate protection” of child victims of abuse and neglect, nothing in the above statute directly states that these exams “shall” be provided by counties. By comparison, one of two related statutes, the sexual assault exam statute, does have direct language commanding similar exams. Using the word, “shall,” the sexual assault exam statute directly provides that a victim “shall be provided with a standardized medical evidentiary examination, using the medical evidentiary examination report forms and protocols for victims of sexual assault developed pursuant to Section 13823.5.”²⁶¹

And even so, the words “shall” and “may” are not specifically defined as “mandatory” or “permissive” in the Penal Code nor in the Welfare and Institutions Code. Thus, even if there were statutory language similar to that for sexual assault examinations saying

²⁶⁰ Penal Code section 11171 (a)–(e).

²⁶¹ Penal Code section 13923.95(b)(1).

they “shall” be provided to child physical abuse and neglect victims, clarity on the exact nature of that directive would remain lacking.²⁶²

Given this omission of a direct command in the child physical abuse and neglect statutes similar to the one in the sexual assault examination statute, the Commission finds that the child physical abuse and neglect exams are not legally compelled by state law. However, the Commission finds the exams practically compelled and, thus, mandated by the state.

Practical compulsion, appropriate here, may be found as a substitute for legal compulsion in special circumstances. As an example, in cities where “deciding not to provide a stormwater drainage system is no alternative at all,” those cities are “compelled as a practical matter to obtain an NPDES [stormwater] permit and fulfill the permit’s conditions.”²⁶³ Like these cities that must apply for stormwater permits to continue providing regular water service, the claimant must provide child physical abuse and neglect examinations regardless of there being no statute clearly mandating that they “shall” provide them.

The California Supreme Court recently considered a test claim where a statute fell short of satisfying the legal compulsion standard and remanded it for consideration of practical compulsion and held that practical compulsion requires showing that failing to perform the activity will result in certain and severe penalties or other draconian consequences.²⁶⁴ Any alternative to performing the activity according to standards set by the higher government entity must be “so far beyond the realm of practical reality” as to leave the responsible government entity without any real discretion.²⁶⁵ Factors courts require considering include the nature and purpose of the program, whether the design of the program suggests an intent to coerce, when the respective governments’ participation began, the penalties for refusal to comply, and any other legal and practical consequences of nonparticipation, noncompliance, or withdrawal.²⁶⁶ An early example of practical compulsion (there, by the federal government upon the state government) was found where California employers would have faced double taxation had the State of California not complied with federal legislation to provide unemployment insurance to public employees.²⁶⁷

²⁶² See *People v. Lara* (2010) 48 Cal.4th 216, 227 (In determining whether a statute is mandatory where no definition exists in the relevant code, “[n]either the word ‘may,’ nor the word ‘shall,’ is dispositive.”).

²⁶³ *Department of Finance v. Commission on State Mandates* (2022) 85 Cal.App.5th 535, 558.

²⁶⁴ *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816, 822 citing *Department of Finance v. Commission on State Mandates (Kern)* (2003) 30 Cal.4th 727, 748-752.

²⁶⁵ *City of Sacramento v. State of California* (1990) 50 Cal. 3d 51, 74.

²⁶⁶ *City of Sacramento v. State of California* (1990) 50 Cal. 3d 51, 76.

²⁶⁷ *City of Sacramento v. State of California* (1990) 50 Cal. 3d 51, 74.

The Test Claim involves a combination of statutes and practical realities inducing the counties to provide the child physical abuse and neglect exams. These statutes and practical realities compel the counties into being mandated to perform child physical abuse and neglect exams. The counties have “no true alternative.”²⁶⁸

Fundamentally, the rights of children come first. As set forth in the Background, the Legislature declared in 1996 “that all children are entitled to be safe and free from abuse and neglect.”²⁶⁹ And in 2002, the Legislature set a floor of adequacy when it enacted the program of state standardized medical evidentiary exams. It declared that “adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.”²⁷⁰

In addition, counties “shall” investigate all incoming child abuse reports, a duty that has been confirmed by the courts.²⁷¹ Such investigation naturally includes examining the child and doing so adequately. Further, the counties, as “child protective services” were to be consulted as part of the Cal OES team that was required to create the state standardized form, instructions, and protocols, and so presumably are required to be using them.²⁷² As mentioned, Cal OES proclaims that the form, protocols, and instructions are the “minimum legal standards” created in the same statute.²⁷³ Counties “shall” set up the reimbursement system with Cal OES and designate SART, SAFE, or other “qualified medical evidentiary examiners.”²⁷⁴ Victims “may” have an exam in another county, indicating that counties must be available to provide exams to children whose abuse occurred in a different county.²⁷⁵ If the counties must acknowledge an

²⁶⁸ *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal. 5th 800, 820 citing *Department of Finance v. Commission on State Mandates (Kern)* (2003) 30 Cal.4th 727, 731, 751 and *City of Sacramento v. State of California* (1990) 50 Cal. 3d 51, 74.

²⁶⁹ Welfare and Institutions Code section 16500, as amended by Statutes 1996, chapter 1084, section 10.

²⁷⁰ Penal Code section 11171(a)(1).

²⁷¹ Penal Code section 11166.3 (formerly 11166.1); see also *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180, 1185-1186.

²⁷² Penal Code section 11171(b).

²⁷³ Exhibit G (6), California Medical Protocol for Examination of Child Physical Abuse and Neglect Victims, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025); Exhibit G (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 2, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

²⁷⁴ Penal Code section 11171(g).

²⁷⁵ Penal Code section 11171(h).

out-of-county child's entitlement to a medical evidentiary exam, they must certainly provide them to their own residents as needed.

Welfare and Institutions Code section 324.5 compels the medical exams where a child is taken into protective custody and a physical examination of the child is "appropriate," acknowledging the initial discretionary decision of local government and medical practitioners as follows:

(a) Whenever allegations of physical or sexual abuse of a child come to the attention of a local law enforcement agency or the local child welfare department and the child is taken into protective custody, the local law enforcement agency, or child welfare department may, as soon as practically possible, consult with a medical practitioner, who has specialized training in detecting and treating child abuse injuries and neglect, to determine whether a physical examination of the child is appropriate. If deemed appropriate, the local law enforcement agency, or the child welfare department, shall cause the child to undergo a physical examination performed by a medical practitioner who has specialized training in detecting and treating child abuse injuries and neglect, and, whenever possible, shall ensure that this examination take place within 72 hours of the time the child was taken into protective custody. In the event the allegations are made while the child is in custody, the physical examination shall be performed within 72 hours of the time the allegations were made.

In the case of a petition filed pursuant to Section 319, the department shall provide the results of the physical examination to the court and to any counsel for the minor, and counsel for the parent or guardian of the minor. Failure to obtain this physical examination shall not be grounds to deny a petition under this section.

(b) The local child welfare agency shall, whenever possible, request that additional medical examinations to determine child abuse injuries or neglect, be performed by the same medical practitioner who performed the examinations described in subdivision (a). If it is not possible to obtain additional medical examinations, the local child welfare agency shall ensure that future medical practitioners to whom the child has been referred for ongoing diagnosis and treatment have specialized training in detecting and treating child abuse injuries and neglect and have access to the child's medical records covering the current and previous incidents of child abuse.²⁷⁶

The above statute initially uses the word "may" to say whether county employees will consult a medical practitioner, and then uses "shall" to say that an exam will be performed once the medical practitioner deems it appropriate. But there is a duty to

²⁷⁶ Welfare and Institutions Code section 324.5.

protect the child.²⁷⁷ While it is thus technically within the law enforcement or county welfare employee's initial discretion to consult a medical practitioner, the county's obligation is nonetheless going to be compelled by any reasonably-formed suspicion indicating that the child should be examined and protected. Accordingly, the Commission finds the child physical abuse and neglect exams for children taken into protective custody practically compelled.

An exam may also be necessary for a child *not* taken into protective custody under Welfare and Institutions Code section 324.5. According to Cal OES instructions, some children receive exams with parental consent and without being taken into protective custody:

Suspected child abuse: non-consenting parents

Parental consent is not required to examine, treat or collect evidence for suspected child abuse. In the absence of parental consent or in the case of parental refusal, children must be taken into protective custody by a child protective agency (e.g. law enforcement agency or county child protective services agency) in order to perform the examination. Follow local policy regarding placement of children in protective custody.²⁷⁸

Where a child is not immediately taken into protective custody under Welfare and Institutions Code section 324.5, other statutory duties practically compel the exams. If allegations of abuse or neglect are made in a family court child custody proceeding, for example, "the court may request that the local child welfare services agency conduct an investigation of the allegations pursuant to Section 328 of the Welfare and Institutions Code."²⁷⁹ Although this statute uses the word "may," it is a court's duty to protect the child, and thus the investigations prompted on this case by case basis are practically compelled.²⁸⁰

A social worker receiving a child abuse or neglect referral has a duty to investigate as needed.²⁸¹ If not requested through a family court proceeding, this begins with a social worker's belief from any other referral, which triggers the duty to investigate, which proceeds under the social worker's discretion and duty:

If the social worker has cause to believe that there was or is within the county, or residing in the county, a person described in Section 300, the

²⁷⁷ Welfare and Institutions Code sections 328, 16500, 16500.1, and 16501; Family Code section 3027; *In re Joshua S.* (1988) 205 Cal.App.3d 119, 125.

²⁷⁸ Exhibit G (13), Medical Report: Suspected Child Physical Abuse and Neglect Instructions Cal OES 2-900, page 3, <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/victim-services/forms/> (accessed on June 20, 2025).

²⁷⁹ Family Code section 3027(b).

²⁸⁰ *In re Joshua S.* (1988) 205 Cal.App.3d 119, 125.

²⁸¹ Welfare and Institutions Code section 328(a).

social worker shall immediately make any investigation the social worker deems necessary to determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced.²⁸²

The social worker is constrained by duty to perform investigations that are the least disruptive, but most thorough as necessary. The Legislature has declared: "It is the intent of the Legislature that this section not disrupt the family unnecessarily or intrude inappropriately into family life."²⁸³

Because the social worker performs "any investigation the social worker deems necessary," the social worker is bound by duty to seek a child physical abuse or neglect exam when called for in his or her professional judgment.²⁸⁴ Accordingly, the Commission finds the exams are practically compelled when the social worker "deems necessary."²⁸⁵

In addition, numerous practical realities have been explained by the claimant to support a finding of practical compulsion. Two of the claimant's four declarations provide significant information on these realities. Per a declaration by Dr. Marlene Sturm, Medical Director of the Medical Clinic at the Children's Advocacy Center of Santa Clara County, child abuse pediatrics is a necessary medical specialty which goes beyond general medicine, general pediatrics and general emergency medicine.²⁸⁶ Without training in child abuse pediatrics, such as that provided by the statutorily-created training hospital, the CCFMTC,²⁸⁷ abused and neglected children will be misdiagnosed and there will be overinclusive and underinclusive findings, causing both avoidable danger to children and unnecessary disruption to families.²⁸⁸

Per a declaration by Melissa Suarez, Bureau Manager of the Department of Family and Children's Services, "time is of the essence" because "[i]njuries may fade and heal, invisible injuries may worsen without treatment (e.g., brain bleeds), and the child may

²⁸² Welfare and Institutions Code section 328(a).

²⁸³ Welfare and Institutions Code section 300.

²⁸⁴ Welfare and Institutions Code section 328(a).

²⁸⁵ Welfare and Institutions Code section 328(a).

²⁸⁶ Exhibit A, Test Claim, pages 46-48, paragraphs 17, 19, and 24 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children's Advocacy Center, Children's Advocacy Center of Santa Clara County).

²⁸⁷ Penal Code section 13823.93(b)-(d), as amended by Statutes 2002, chapter 256, section 1; Penal Code section 13823.93(b).

²⁸⁸ Exhibit A, Test Claim, pages 47-49, paragraphs 21, 23, and 24 (Declaration of Marlene Sturm, MD, Medical Director, Medical Clinic at the Children's Advocacy Center, Children's Advocacy Center of Santa Clara County); See also Exhibit A, Test Claim, page 30-31, paragraph 13 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children's Services, County of Santa Clara).

be at grave risk of harm the longer they remain in an unsafe environment.”²⁸⁹ Also, the following are potential consequences of not providing the child physical abuse and neglect exams as prescribed by the state:

- a. Law enforcement officials’ investigation into child abuse and neglect crimes would be severely limited;
- b. Social workers would be unable to substantiate suspected cases of child physical abuse or neglect, particularly for nonverbal, pre-verbal, disabled, and developmentally delayed children;
- c. Children and families who would otherwise receive support services following medical findings of abuse or neglect would not be assisted; and
- d. Children whose abuse or neglect would be uncovered by a physical abuse and neglect exam would remain in dangerous situations, and in some cases, would be severely harmed or killed.²⁹⁰

The Commission finds that, taken together, the above statutes and practical realities would result in “severe consequences that leave the local entity no reasonable alternative but to comply” with the program of providing the child physical abuse and neglect exams as prescribed by the state.²⁹¹

Accordingly, the Commission finds that the counties’ obligation to provide child abuse and neglect exams is practically compelled by the state and, thus, the cost of the exams, which has been shifted from the state to the counties with respect to previous Medi-Cal and VCB reimbursement for the exams, is a component of the state-mandated program.

C. The Test Claim Statute Results in Costs Mandated by the State.

Finally, Government Code section 17514 defines “costs mandated by the state” as any increased costs which a local agency or school district is required to incur as a result of any statute or executive order that mandates a new program or higher level of service. Government Code section 17564(a) specifically requires that no claim or payment shall be made unless the claim exceeds \$1,000.

²⁸⁹ Exhibit A, Test Claim, page 42, paragraph 17 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

²⁹⁰ Exhibit A, Test Claim, pages 42-43, paragraph 18 (Declaration of Melissa Suarez, Bureau Manager, Department of Family and Children’s Services, County of Santa Clara).

²⁹¹ *Coast Community College District v. Commission on State Mandates* (2022) 13 Cal.5th 800, 816 citing *Department of Finance v. Commission on State Mandates (Kern High School District)* (2003) 30 Cal.4th 727, 748-752.

A finding of such costs mandated by the state also means that no exception in Government Code section 17556 applies.

The claimant has filed declarations signed under penalty of perjury identifying the following increased costs exceeding \$1,000 to comply with the test claim statute:

	FY 2023-2024	FY 2024-2025	Ongoing Estimates
Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare			\$11,800,000 estimated statewide annually ²⁹²
Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare	\$221,046 ²⁹³	\$717,496 estimated ²⁹⁴	\$621,927 estimated annually for the claimant ²⁹⁵

There is no evidence rebutting these declarations.

Moreover, none of the exceptions to costs mandated by the state in Government Code section 17556 apply to this Test Claim. The claimant has no fee authority per Government Code section 17556(d) to offset the increased costs, which the claimant confirms.²⁹⁶ There is no appropriation offsetting the costs per Government Code section 17556(e), which Finance confirms.²⁹⁷ And there is no change to any crime or

²⁹² Exhibit A, Test Claim, pages 33-34, paragraph 24 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

²⁹³ Exhibit A, Test Claim, page 36, paragraph 12 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

²⁹⁴ Exhibit A, Test Claim, page 36, paragraph 13 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

²⁹⁵ Exhibit A, Test Claim, pages 35-36, paragraph 9 (Declaration of Kiyomi Ross, Director of Financial Planning and Performance, Santa Clara Valley Healthcare, County of Santa Clara).

²⁹⁶ Exhibit A, Test Claim, page 33, paragraph 20 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara).

²⁹⁷ Exhibit A, Test Claim, page 33, paragraph 20 (Declaration of Serena Sy, Director of Primary Care Operations, Santa Clara Valley Healthcare, County of Santa Clara); Exhibit B, Finance’s Comments on the Test Claim, page 1.

penalty for any crime of child abuse or neglect per Government Code section 17556(g). The test claim statute only concerns a process of gathering evidence, which may be used for criminal and non-criminal purposes.

Given the substantial evidence in the record, the Commission finds that the test claim statute imposes increased costs mandated by the state under article XIII B, section 6(c) and Government Code section 17514.

V. Conclusion

Based on the foregoing analysis, the Commission partially approves this Test Claim and finds that Penal Code section 11171(f), as amended by test claim statute, imposes a reimbursable state-mandated program beginning January 1, 2024, on counties within the meaning of article XIII B, section 6(c) of the California Constitution for only the following costs:

- Costs incurred for child physical abuse and neglect exams conducted in accordance with Penal Code section 11171, by the county's designated Sexual Assault Response Teams (SART), Sexual Assault Forensic Examiner (SAFE) teams, or other qualified medical evidentiary examiners, when the child is eligible for Medi-Cal or Victim Compensation Board coverage.

Reimbursement is **not** required to the extent the Legislature appropriates funds for child physical abuse and neglect exams under Penal Code section 11171(g).

All other claims for reimbursement are denied.

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 18, 2026, I served the:

- **Current Mailing List dated February 18, 2026**
- **Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Tentative Hearing Date issued February 18, 2026**
- **Decision adopted February 13, 2026**

Child Physical Abuse and Neglect Exams, 24-TC-05

Statutes 2023, Chapter 841, (AB 1402); Penal Code Section 11171(f), effective January 1, 2024

County of Santa Clara, 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 18, 2026 at Sacramento, California.



Jill Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 2/18/26

Claim Number: 24-TC-05

Matter: Child Physical Abuse and Neglect Exams

Claimant: County of Santa Clara

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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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 March 10, 2026, I served the:

- **Current Mailing List dated March 3, 2026**
- **Request for Reconsideration of an Adopted Decision (Gov. Code § 17559(a); Cal. Code Regs., tit. 2, § 1187.15) and Notice of Hearing issued March 10, 2026**
- **Request for Reconsideration of an Adopted Test Claim Decision filed March 9, 2026**

Child Physical Abuse and Neglect Exams, 25-RAD-01 (24-TC-05)
Statutes 2023, Chapter 841, (AB 1402); Penal Code Section 11171(f)
County of Santa Clara, 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 March 10, 2026 at Sacramento, California.



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COMMISSION ON STATE MANDATES

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Last Updated: 3/3/26

Claim Number: 24-TC-05

Matter: Child Physical Abuse and Neglect Exams

Claimant: County of Santa Clara

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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