

DEPARTMENT OF FINANCE

915 L STREET
SACRAMENTO, CA 95814-3706

RECEIVED

AUG 10 2000

COMMISSION ON
STATE MANDATES

August 7, 2000

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

Dear Ms. Higashi:

As requested in your letter of July 3, 2000, the Department of Finance has reviewed the test claim submitted by the Los Angeles County (claimant) asking the Commission to determine whether specified costs incurred under Chapter No. 578, Statutes of 1999 (AB 1587, Scott), are reimbursable state mandated costs (Claim No. CSM-99-TC-11 "Firearm Hearings for Discharged Inpatients"). Commencing with Page 1 of the test claim, claimant has identified the following new duties, which it asserts are reimbursable state mandates:

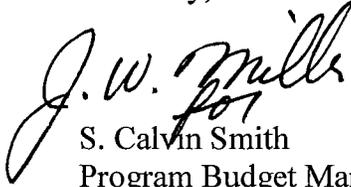
District Attorneys are required to represent the People of the State of California in hearings requested by specified discharged inpatients, previously held because they are a danger to himself, herself, or to others, regarding whether these people could own, possess, control, receive, or purchase any firearm.

As the result of our review, we have concluded that the statute may have resulted in reimbursable costs for district attorneys to represent the People of the State of California in a Superior Court hearing related to whether certain discharged inpatients may own, possess, control, receive, or purchase firearms. If the Commission reaches the same conclusion at its scheduled April 26, 2001 hearing on the matter, the nature and extent of the specific activities required of district attorneys can be addressed in the parameters and guidelines which will then have to be developed for the program.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your July 3, 2000 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact James A. Foreman, Principal Program Budget Analyst at (916) 445-8913 or Jim Lombard, state mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,

A handwritten signature in cursive script that reads "S. Calvin Smith". The signature is written in black ink and is positioned above the printed name and title.

S. Calvin Smith
Program Budget Manager

Attachments

DECLARATION OF JAMES A. FOREMAN
DEPARTMENT OF FINANCE
CLAIM NO. CSM-99-TC-11

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the Chapter No. 578, Statutes of 1999 (AB 1587, Scott) relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.
3. Attachment B is a true copy of Finance's analysis of AB 1587 prior to its enactment as Chapter No. 578, Statutes of 1999 (AB 1587, Scott).

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

August 1, 2000
at Sacramento, CA

James A. Foreman
James A. Foreman

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: August 18, 1999

BILL NUMBER: AB 1587

POSITION: No position, note concerns

AUTHOR: J. Scott, et al.

BILL SUMMARY: Firearms

This bill, an urgency measure, would make changes to the process by which a person who has been taken into custody or admitted to a designated facility because that person is a danger to himself, herself, or others, or a person who has been certified for intensive treatment related to mental disorder or impairment by chronic alcoholism may possess, control, receive, or purchase a firearm. This bill would appropriate \$145,000 General Fund to the Department of Justice (DOJ) to reimburse medical facilities for various notification requirements.

FISCAL SUMMARY

This bill would appropriate \$145,000 General Fund to DOJ, primarily to reimburse medical facilities for various notification requirements. It is our understanding that these facilities incur costs of \$2 per notification to inform DOJ concerning individuals taken into custody who are a danger to himself, herself, or others. DOJ staff indicate that the department expects to receive 65,000 notices per year, resulting in annual ongoing costs of \$130,000 for these facilities statewide. However, we note that these facilities may be private institutions, and as such, any notification requirements would not constitute a reimbursable state-mandated local program. Therefore, we do not believe that the State should bear these costs.

COMMENTS

The Department of Finance notes a concern with this measure that this bill would appropriate funds from the General Fund to reimburse medical facilities for costs that are not the State's responsibility.

Existing law, the Lanterman-Petris-Short (LPS) Act, provides that no person who has been taken into custody or admitted to a designated facility because that person is a danger to himself, herself, or others shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of 5 years after the person is released from the facility unless, upon petition to the superior court, the person is found by a preponderance of the evidence likely to use firearms in a safe and lawful manner. In *Daycamos v. Department of Justice*, the Sacramento County Superior Court determined that the LPS Act barred certain individuals from possessing a firearm without due process prior to imposing the prohibition against possessing a firearm. This bill, by making changes to the process for these individuals to obtain firearms, is intended to address the decision by the Sacramento County Superior Court, and thus provide due process for these individuals.

(Continued)

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|--|-----------------|---|---|
| Analyst/Principal (0211) J. Foreman | Date 8/20/99 | Program Budget Manager S. Calvin Smith | Date 8-20-99 |
| <i>Todd Jensen for</i> Department Deputy Director | | <i>J.W. Miller</i> Original signed by Robert D. Miyashiro | |
| | | Date AUG 20 1999 | |
| Governor's Office: | By: NE | Date: 8/20/99 | Position Noted Position Approved <input checked="" type="checkbox"/> Position Disapproved |
| BILL ANALYSIS | | | Form DF-43 (Rev 03/95 Buff) |

AUTHOR

AMENDMENT DATE

BILL NUMBER

J. Scott, et al.

August 18, 1999

AB 1587

COMMENTS (continued)

More specifically, this bill would provide that a person who has been taken into custody or admitted to a designated facility because that person is a danger to himself, herself, or others may, on a form provided by DOJ, request a hearing from the court and that the People of the State of California shall bear the burden of showing by a preponderance of the evidence that the person would not be likely to use firearms in a safe and lawful manner. If the court at the hearing finds that the people have not met their burden or the district attorney declines to go forward with the case, the court would be required to order that the person may own, control, receive, possess, or purchase a firearm without being subject to the 5-year prohibition on the ownership, control, receipt, possession, or purchase of firearms.

Existing law also provides that no person who has been certified for intensive treatment related to mental disorder or impairment by chronic alcoholism may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of 5 years unless, upon petition to the superior court, the court determines, by a preponderance of the evidence, that the person is likely to use firearms in a safe and lawful manner, as described above.

This bill would also permit a person who has been certified for intensive treatment related to mental disorder or impairment by chronic alcoholism to petition the superior court of his or her county of residence so that he or she may own, possess, control, receive, or purchase a firearm and would prescribe the procedures for a hearing on the petition.

| Code/Department Agency or Revenue Type | SO | (Fiscal Impact by Fiscal Year) | | | | | | | Fund Code |
|--|----|--------------------------------|----|-----------|----|-----------|----|-----------|--------------|
| | LA | (Dollars in Thousands) | | | | | | | |
| | CO | PROP | FC | 1999-2000 | FC | 2000-2001 | FC | 2001-2002 | |
| 0820/Justice | SO | No | A | \$145 | C | \$130 | C | \$130 | 0001 |

PROOF OF SERVICE

Test Claim Name: "Firearm Hearings for Discharged Inpatients"

Test Claim Number: CSM-99-TC-11

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 8th Floor, Sacramento, CA 95814.

On , I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 8th Floor, for Interagency Mail Service, addressed as follows:

A-16

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Facsimile No. 445-0278

B-8

State Controller's Office
Division of Accounting & Reporting
Attention: Paige Vorhies
3301 C Street, Room 500
Sacramento, CA 95816

B-29

Legislative Analyst's Office
Attention: Marianne O'Malley
925 L Street, Suite 1000
Sacramento, CA 95814

DMG-MAXIMUS

C/O David M. Griffiths & Associates
Attention: Allan Burdick
4320 Auburn Boulevard, Suite 200
Sacramento, CA 95841

County of Los Angeles
Auditor-Controller's Office
Attention: Leonard Kaye
500 West Temple Street, Room 603
Los Angeles, CA 90012

County of San Bernardino
Office of Auditor/Controller/Recorder
Attention: Marcia Faulkner
222 West Hospitality Lane, Fourth Floor
San Bernardino, CA 92415 - 0018

Wellhouse and Associates
Attention: David Wellhouse
9175 Kiefer Boulevard, Suite 121
Sacramento, CA 95826

Mr. Randy Rossi, Director
Department of Justice
Firearms Division
1435 Riverpark Drive, Suite 308
Sacramento, CA 95815

Mr. Steve Smith, CEO
Mandated Cost Systems
2275 Watt Ave.
Sacramento, CA 95825

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 at Sacramento, California.

A handwritten signature in cursive script, appearing to read "Abby Shawhan", written over a horizontal line.

Abby Shawhan