

California State  
Association of Counties

# California Racial Justice Act

The California Racial Justice Act (RJA) was created by **Assembly Bill (AB) 2542 (Kalra, Chapter 317, Statutes of 2020)** and explicitly prohibits the state from seeking or obtaining a conviction or sentence on the basis of race, ethnicity, or national origin. In doing so, the RJA overrode previous legal precedent set by *McCleskey v. Kemp*, a capital case in which the plaintiff appealed, alleging racial discrimination. Ultimately, the court upheld the capital sentence, and “the U.S. Supreme Court has since required defendants in criminal cases to prove intentional discrimination when challenging racial bias in their legal process... [which] established an unreasonably high standard for victims of racism in the criminal legal system.” Thus, the legislative intent of the RJA is to eliminate both explicit (*intentional*) bias and implicit (*unintentional*) bias in the criminal justice system.

The RJA allows individuals who were either charged or convicted of a crime to challenge concerns with bias or discrimination based on race, ethnicity, or national origin, and provides judicial remedies to address violations. The California Penal Code §§ 745(a)(1)-(a)(4) establishes four pathways in which a violation of the RJA can be proven.

## ***The four pathways are as follows:***

*Penal Code § 745 Subdivisions (a)(1)-(a)(2):* Two of the pathways apply to a RJA violation that occurred during a specific individual's case and the conduct of those involved, either *within* and *outside* a courtroom. Those involved could include a judge, law enforcement officer, attorney, or otherwise. Importantly, actions that would constitute a RJA violation do not need to be spoken directly to a defendant.

*Penal Code § 745 Subdivisions (a)(3)-(a)(4):* The other two pathways apply when RJA violations occur to a [racial] group, compared to an *individual's* case. These pathways are available for legal remediation when a racial group is *charged* or *sentenced* either “more [seriously]” or “more harshly” than other defendants of *another* racial group who face similar charges. Importantly, these two specific pathways require the collection of information to definitively establish a pattern of disparate charging or sentencing within a county.



Additionally, AB 2542 included amendments for habeas [corpus] petitions (Penal Code §§ 1437-1437.7) that operate in conjunction and coordination with Penal Code § 745, to allow those sentenced *on* or *after* January 1, 2021, to raise a RJA claim.

## A Petition for Writ of Habeas Corpus

A petition for writ of habeas corpus is defined by the Judicial Council of California as the ability to “Ask the court for a writ of habeas corpus (a court order telling a public official, like a prison warden, to bring you to the court and show a legal reason for holding you) to challenge your criminal conviction or commitment to another facility or the conditions under which you are being held.”



The RJA was followed shortly thereafter by **AB 256 (Kalra, Chapter 739, Statutes of 2022)**, known as the “Racial Justice For All Act.” As implied, AB 256 amended state law to authorize an application of the provisions of the RJA *retroactively*, meaning it authorizes petitions for individuals who were sentenced *prior* to January 1, 2021, and goes into effect for *all potential petitioners* on January 1, 2026 (recall that AB 2542 authorized petitions for violations occurring on or after January 2021). At the time of publication, the retroactivity provided for in AB 256 has occurred, and will occur, in four stages between 2023 and 2026 (California Penal Code § 745(j)):

- **Eligible January 1, 2023:** people sentenced to death or facing possible immigration consequences like deportation;
- **Eligible January 1, 2024:** people in prison, in a county jail serving a sentence for a felony conviction, or in the Division of Juvenile Justice (“DJJ”);
- **Eligible January 1, 2025:** people no longer incarcerated, but with a felony conviction or a juvenile case that resulted in commitment to DJJ entered after 2015;
- **Eligible January 1, 2026:** anyone with a felony conviction or a juvenile case that resulted in commitment.

## Commission on State Mandates Approves RJA Test Claim

In September 2025, the Commission on State Mandates (CSM) approved a test claim for reimbursement from the state for county costs to comply with *one implementation phase* of AB 256. The **test claim for reimbursement** argues that counties should be reimbursed by the state for the costs of Public Defenders to comply with AB 256, specifically the obligation to represent individuals who allege issues of bias or discrimination in their cases. Importantly, the test claim captures *one implementation phase* of AB 256 (PC § 745(j)(3)). Subsequent implementation phases (PC §§ 745(j)(4) and 745(j)(5)) may be included in future test claims filed with CSM. For more information on the CSM and state reimbursements for new programs, see CSAC’s **issue brief on state-imposed mandates**.

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