

August 14, 2026

Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

RE: Criminal Procedure: Discrimination II, 25-TC-04
Response: Finance's Comments on the Test Claim filed July 15, 2026

Dear Chair Stephenshaw, Members of the Commission on State Mandates, and
Commission Staff,

The California State Association of Counties (CSAC) submits these subsequent comments on the pending matter of the Criminal Procedure: Discrimination II test claim (25-TC-04). The primary purpose of CSAC is to represent county government before the California Legislature, California administrative agencies, and the federal government. This includes advocating on the value and need for county programs and services and for adequate funding to provide those services.

Consistent with our comment letter submitted on May 5, 2025¹ concerning Criminal Procedure: Discrimination (24-TC-02)², this letter concerns the applicability of the exemption under Government Code §17556, subdivision (g), or lack thereof, to this test claim.

Specifically, CSAC wishes to provide the following comments in response to the comment letter submitted by the California Department of Finance³ (DOF) on July 15, 2026, wherein the Department reasserts their claim that the test claim statute changes the penalty for a crime or infraction, as follows: "Additionally, Finance continues to assert that any costs incurred by the Claimant in relation to AB 256 are not state-reimbursable pursuant to subdivision (g) of Government Code Section 17556, excerpted below, which provides that the Commission shall not find state reimbursable costs in a test claim that changes the penalty for a crime or infraction...AB 256 authorizes a court to vacate an existing sentence and impose a new sentence when it finds that the original sentence had been imposed on discriminatory grounds. This authority to change sentences represents a change in the penalty for a crime or infraction and therefore falls within an established exception to the requirement for state reimbursement. For this reason, Finance believes the Commission should deny this test claim in its entirety."

¹ [CSAC Comment letter submitted on May 5, 2025 re: Criminal Procedure: Discrimination \(24-TC-02\)](#)

² [Criminal Procedure \(24-TC-02\)](#)

³ [Finance's Comments on the Test Claim filed July 15, 2026](#)

CSAC continues to disagree. The relevant provision of the Racial Justice Act for All, Penal Code section 745, subdivision (j)(3), merely authorizes certain defendants to petition the court to challenge alleged racial, ethnic, or national origin bias in their California state convictions or sentences. Once the petition is filed, the court has a number of options, including: denying the petition as unfounded; vacating the conviction and sentence and ordering new proceedings (which may or may not result in a different sentence); or vacating only the sentence and imposing a new sentence (which the statute states may not be longer than the original sentence but is silent on whether it could be the same). Thus, while one possible outcome of the test claim statute is vacation of an existing sentence and imposition of a new one, as DOF suggests, that is by no means the only possible outcome. Fundamentally, the range of possible sentences for underlying crimes remains unchanged by the test claim statute, and any given defendant's actual sentence may also remain unchanged after filing the petition authorized by the statute.

In this way, the test claim here is necessarily different than the *Franklin* proceedings at issue in *County of San Diego v. Commission on State Mandates* (2023) 91 Cal.App.5th 625. In that case, the court noted that the test claim statutes created a cap on the number of years all juvenile offenders may be imprisoned before becoming eligible for release on parole. The court particularly emphasized that the length of imprisonment prior to parole eligibility is itself a substantive aspect of the sentence. Thus, prior to the test claim statute, youth offenders were subject to the same lengthy and often mandatory prison sentences imposed on adult offenders, while after the test claim statute, most offenders are eligible for parole at a set number of years (15, 20 or 25) of incarceration. The court characterized this change as "guaranteeing youth offenders the chance to obtain release on parole" and "guaranteeing parole eligibility for all qualified youth offenders," which it determined altered defendants' substantive punishments. (*Id.* at pp. 641, 642 (emphasis added).)

By contrast, in the current test claim, all that is guaranteed to defendants is the ability to petition the court for consideration of their bias claims. Those claims may be rejected or may result in proceedings that impose the same sentence. There is nothing akin to the guarantee of a change to a substantive element of a punishment that was present in the *Franklin* proceedings test claim.

Finally, consistent with the arguments of our previous letter to the Commission, CSAC maintains that Government Code, § 17556, subdivision (g) is itself constitutionally suspect. The State's subvention requirements and exemptions to those requirements are established by the California Constitution. (Cal. Const., art. XIII B, § 6.) As relevant here, that provision only exempts from the subvention requirement "legislation defining a new crime or changing an existing definition of a crime." Section 17556(g) goes beyond the constitutional exemption from the subvention requirement by including an additional element: a change in the penalty for a crime or infraction. Given this concern, CSAC urges the Commission not to adopt an overly broad reading of Section 17556(g).

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For these reasons, CSAC urges the Commission to act consistently with the decision adopted for Criminal Procedure: Discrimination (24-TC-02,) and find that the test claim statute imposes a new program or higher level of service and that none of the exceptions in Government Code § 17556 apply.

Thank you for your consideration of our comments. Should you have any questions, please do not hesitate to contact us.

Respectfully submitted,



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