
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 1071 (Kalra) - Criminal procedure: discrimination

Version: June 25, 2025

Urgency: No

Hearing Date: July 14, 2025

Policy Vote: PUB. S. 4 - 1

Mandate: No

Consultant: Liah Burnley

Bill Summary: AB 1071 amends the Racial Justice Act of 2020 (RJA) to clarify when and how a defendant may file for relief.

Fiscal Impact:

- Unknown, significant workload costs pressures to the judicial branch (Trial Court Trust Fund, Appellate Court Trust Fund, General Fund). It is estimated that 100,000 claims could be filed under the RJA. The Judicial Council notes that the courts are currently implementing the RJA and anticipating higher filings related to the act when it expands on January 1, 2026 under the current statute. The branch is currently considering the workload implications of the current statutory requirements under the RJA and expects needing approximately \$19 million as the only funding provided was one-time funding of \$2.9 million in the 2023-24 Budget Act specifically for the Supreme Court, the California Appellate Project, and the Habeas Corpus Resource Center. AB 1071 will further expand RJA and create additional workload, possible hearings, and costs for the courts. While exact amounts are still being determined, the courts notate the following impacts:
 - The courts anticipate more cases to be remanded back to the trial courts under the bill's provisions, specifically to allow additional information to be added to the court record for the appellate court to take into consideration. As RJA claims can be complicated, the courts are seeing RJA petitions taking anywhere between an hour and up to 40 hours to adjudicate. Additional cases being remanded adds to the overall hearing time, including research attorney, clerk, and judicial review workload.
 - The bill does not specify that parties are required to be indigent to be eligible for counsel to be appointed by the court. While this is a county cost at the trial court level, there is a level of court workload associated with this process and it is fully funded by the Judicial Council at the appellate level. A lower procedural bar for being able to access court appointed counsel may also lead to more petitions to be filed, which adds to court calendars and staff workload.
 - This bill allows "judicial diversion" to be granted to the defendant. Typically, statutory language for diversion includes reference to a specific type of diversion. With this general reference, it is difficult to

gauge what the workload impacts will be but could require an additional hearing to determine the best program and the defendant's eligibility and workload would be dependent on the population seeking diversion. If the intent for this provision was to create a new diversion program, the judicial branch will have additional costs to create and administer the program.

- Lastly, the Judicial Council notes that the bill currently allows in-custody petitioners to both file a habeas petition as well as a petition under Penal Code section 1473.2 created in the bill. The in-print language allows the courts to move forward with only one of the petitions, but will require additional workload for the courts to process both petitions and for a judge to determine which petition should move forward. This is a change from the current RJA language that allows for vacatur relief for those post-proceedings and out of custody and for a habeas petition for those still in-custody.
- Unknown, significant costs to the Department of Justice (DOJ) and to local prosecutors (General Fund, local funds) to handle the increased evidentiary hearings and discovery requests based upon the prosecution of an RJA petition or in preparation to file a petition. State and local prosecutors must respond to discovery motions and statistical requests, review and analyze voluminous and sometimes decades-old records, draft legal motions and briefs, prepare for and attend hearings, and retain expert witnesses. Based on data from several counties, these costs could be in the millions annually, per county. Local prosecutors are statutorily entitled to be reimbursed from the state for the cost associated with writ of habeas corpus petitions prosecuted by or on behalf of a prisoner.¹ Additionally, the California Constitution requires the state to reimburse local agencies for certain costs mandated by the state. Counties may claim reimbursement of prosecution costs if the Commission on State Mandates determines that this bill creates a new program or imposes a higher level of service.
- Unknown, potentially significant costs to the counties for indigent defense counsel (General Fund, local funds), likely in the millions of dollars annually. The California Constitution requires the state to reimburse local agencies for certain costs mandated by the state. Counties may claim reimbursement of those costs if the Commission on State Mandates determines that this bill creates a new program or imposes a higher level of service on local agencies. The Commission on State Mandates recently approved a Test Claim from the County of Los Angeles and found that the RJA imposes a reimbursable state-mandated program by requiring counties to provide counsel to represent indigent habeas corpus petitioners when appointed by the court.² The claimant estimated that the costs to provide counsel under the existing statute in 2024-2025 would be \$2,190,000 statewide.

¹ Penal Code section 4750.

² Commission on State Mandates, Draft Proposed Decision, *Criminal Procedure: Discrimination*, 24-TC-02. (Sept. 26, 2025)

- Potential cost savings (General Fund, local funds) to the extent that fewer people are incarcerated due to racial bias and discrimination. For example, Santa Clara County has resentenced around 12 individuals to time served because of successful RJA claims. Additionally, this bill may result in costs savings to the extent it allows parties to avoid retrials, which are currently required under the RJA, through granting of alternative remedies instead.

Background: The RJA prohibits the state from seeking or obtaining a criminal conviction, or imposing a sentence based on race, ethnicity or national origin. The RJA prohibits racially discriminatory conduct by law enforcement, legal professionals, and jurors, both inside and outside of the courtroom. The RJA also prohibits racially discriminatory conduct in charging and sentencing, which can be based on statistical evidence.

The RJA has a motion and a habeas corpus procedure to allow defendants to allege a violation and to seek remedies. If trial is pending, an RJA violation can be alleged by motion filed by the defendant. For post-judgment claims, an RJA violation can be alleged in a habeas petition filed by an incarcerated petitioner. For individuals who are no longer incarcerated, they can make a motion to vacate (vacatur) the conviction or sentence on the grounds that it was obtained in violation of the RJA.

For habeas petitions, the judge evaluates whether any facts alleged would establish an RJA violation. If so, it is required to appoint counsel to the petitioner. The appointed counsel may amend the petition. The judge then determines if the petition makes a prima facie case. The petition is denied if there is no prima facie case established. If there is a prima facie case, the claim continues and the petitioner may request discovery. Because the state typically possesses the relevant evidence, a defendant typically moves for disclosure of relevant evidence from the state. The RJA requires the court to order the records released. Next, the court is required to hold a hearing, and must make its findings on the record. If a violation is found, the court must vacate the conviction and sentence and find them legally invalid. The court can either order new proceedings, or modify the sentence, as specified.

Since the enactment of the RJA, the courts have grappled with a variety of situations that demonstrate the need for clarity. This bill attempts to clarify how an RJA claim should be addressed by the courts depending on the status of the defendant. This bill also attempts to clarify the appointment of counsel, the remedies, and availability of discovery under the RJA.

Proposed Law:

- Requires appellate courts to grant a stay and remand if the defendant attests that a plausible RJA claim needs further development through no fault of the defendant.
- Authorizes in-custody defendants to file a RJA claim both as a writ of habeas corpus or as a petition to vacate, also allows court to deem habeas writs as a motion to vacate.

- Authorizes courts to impose a lesser related charge, as well as judicial diversion, as remedies to RJA claims brought before judgment was entered. Requires courts to make meaningful modifications of judgment upon a finding of an RJA violation.
- States that parties can stipulate to alternative remedies for RJA violations brought forth after judgment was entered.
- Provides that a defendant can modify a pending habeas petition in state court to include an RJA claim.
- Authorizes defendants to deem their habeas RJA claim as a different type of petition, as specified.
- Removes the ability of an out-of-custody defendant to bring forward and RJA vacatur motion and creates a new avenue for relief which would allow for appointment of counsel upon the submission of a valid petition, requires courts to ascertain readily available information for incomplete petitions, and requires a hearing to occur within 60 days.

Related Legislation: SB 734 (Caballero) addresses due process issues for law enforcement related to the RJA. SB 734 is pending on the Assembly Floor.

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