

Date of Hearing: April 29, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 1958 (Kalra) – As Amended March 25, 2026

Policy Committee: Public Safety

Vote: 6 - 2

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill amends the Racial Justice Act of 2020 (RJA) to expand and clarify the process for challenging racial disparities in criminal proceedings.

Specifically, this bill:

- 1) Expressly includes negotiations, plea outcomes, diversion, and other alternative dispositions in adult and juvenile court in RJA disparity claims.
- 2) Shifts the sentencing comparison standard from defendants convicted of the “same offense” to defendants who “engaged in similar conduct.”
- 3) Allows defendants to establish disparity claims using statistical evidence, aggregate data, or nonstatistical evidence without requiring both.
- 4) Expands discovery to include evidence in the constructive possession of the prosecution.
- 5) Requires courts to grant requests for data previously disclosed in other RJA cases.
- 6) Requires the prosecution to prove by a preponderance of the evidence that any disparity is explained by race-neutral factors supported by affirmative evidence.

FISCAL EFFECT:

- 1) Potential costs of an unknown, but likely significant amount, to county district attorneys’ offices and public defenders’ offices for expanded RJA litigation resulting from the bill’s broadened scope, eased evidentiary standards, and expanded discovery requirements. The bill establishes that RJA claims apply to plea negotiations, diversion, and bench trials and shifts the comparison standard from “same offense” to “similar conduct,” which could broaden the universe of potential claims and the discovery necessary to litigate them. The California District Attorneys Association reports that existing RJA discovery costs range from approximately \$81,000 per case in Contra Costa County to \$750,000 per case in Santa Clara County. The Los Angeles County Public Defender’s Office estimated \$2.19 million in statewide costs for RJA claims in fiscal year 2024-25 in a test claim filed with the Commission on State Mandates. The bill’s clarification of the RJA would increase these costs, though by how much is unknown. These county costs are potentially reimbursable as state-mandated local programs. Los Angeles County has filed Test Claim 24-TC-02 with the Commission on State Mandates regarding costs under the existing RJA. If the Commission

determines the existing RJA imposes a reimbursable state mandate, this bill's expansion of RJA claims would amplify those costs.

- 2) Unknown, likely moderate impact to the judicial branch (Trial Court Trust Fund) for additional and expanded RJA hearings, discovery motions, and additional litigation over terms that may require judicial interpretation. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately \$117.3 million in 2025-26.
- 3) Costs of \$5.5 million ongoing to the Department of Justice (DOJ) (General Fund). The Legal unit within DOJ's Office of General Counsel (OGC Legal) would be responsible for responding to requests seeking DOJ data to support RJA motions. To address the increase in workload, OGC Legal would require one supervising deputy attorney general, three deputy attorneys general, one analyst, and three legal secretaries. The Appeals, Writs and Trials section (AWT) within DOJ's Division of Criminal Law would be responsible for defending against an increased number of claims of RJA violations. To address the increase in workload, the AWT section would require one supervising deputy attorney general, seven deputy attorneys general, and five legal secretaries. The DOJ will be unable to absorb the costs to comply with or implement the requirements of the bill within existing budgeted resources; implementation will be dependent upon the appropriation of funds.

The Legislative Analyst's Office recently warned of General Fund structural deficits of around \$35 billion per year beginning in the 2027-28 fiscal year.

COMMENTS:

- 1) **Purpose.** According to the author, since the RJA's passage over five years ago, only four disparity claims have been litigated to completion, and only one resulted in a finding of a violation. The author attributes this to difficulty obtaining relevant data, lack of clarity on what is required to establish a disparity claim, and procedural inconsistencies. According to the author, the bill clarifies the evidentiary standards, expands discovery rights, and ensures no part of the criminal process is insulated from the RJA.
- 2) **Background.** The RJA, enacted by AB 2542 (Kalra), Chapter 317, Statutes of 2020 and made retroactive by AB 256 (Kalra), Chapter 739, Statutes of 2022, prohibits the state from seeking or obtaining a criminal conviction or sentence on the basis of race, ethnicity, or national origin, and provides a mechanism for defendants to challenge charges, convictions, and sentences on that basis. A defendant may establish a violation by showing, among other things, that convictions for an offense were more frequently sought or obtained against people who share the defendant's race, ethnicity, or national origin, or that longer sentences were more frequently imposed based on the defendant's or victim's race, ethnicity, or national origin. The defendant must demonstrate the disparity by a preponderance of the evidence.

Since enactment, courts have confronted a number of procedural and interpretive questions, including whether claims are forfeited if not raised before judgment, what constitutes a

sufficient statistical showing, and the scope of prosecutorial discovery obligations. This bill addresses three broad categories of issues.

Clarifying the Scope of the RJA. The bill confirms that RJA claims extend to plea negotiations, plea outcomes, diversion, and other alternative dispositions in adult and juvenile court, and that disparity claims may be brought in connection with bench trials. The sponsor's position is that these stages of criminal proceedings are already within the RJA's intended reach and that the bill codifies that scope to prevent narrow interpretations from foreclosing claims.

Discovery and Constructive Possession. The bill explains that discovery in RJA proceedings under Penal Code section 745(d) extends to evidence in the constructive possession of the prosecution. The sponsor notes that the phrase "in the possession or control of the state" tracks language long used by California courts in the discovery context. In support of this position, the sponsor points to Penal Code section 1054.1, which requires disclosure of materials in the possession of the prosecuting attorney or known to be in the possession of investigating agencies, and cites numerous California cases for the proposition that this obligation reaches materials "within the possession or control" of the prosecution or "reasonably accessible" to it. This statutory change is intended to codify an established legal standard rather than codify a new one.

Simplifying the Terms and Procedures for Disparity Claims. The bill shifts the sentencing comparison standard from defendants convicted of the "same offense" to defendants who "engaged in similar conduct," allows defendants to establish disparity claims using statistical evidence, aggregate data, or nonstatistical evidence without requiring both, and requires the prosecution to prove by a preponderance of the evidence that any disparity is explained by race-neutral factors supported by affirmative evidence. In addition, Penal Code section 745(d)(3) would require courts to grant requests for data previously disclosed in other RJA cases. The sponsor argues that this data-reuse provision will reduce discovery costs by avoiding duplicative production of the same underlying records across multiple RJA proceedings. The extent to which data reuse will reduce aggregate costs is uncertain and will depend on implementation, how broadly courts construe "previously disclosed," and the volume of new claims generated by the bill's other provisions.

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