
UNFINISHED BUSINESS

Bill No: SB 734
Author: Caballero (D)
Amended: 9/4/25 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 4/1/25
AYES: Arreguín, Seyarto, Caballero, Gonzalez, Pérez, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 38-0, 5/28/25
AYES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
NO VOTE RECORDED: Cervantes, Reyes

ASSEMBLY FLOOR: 76-0, 9/8/25 - See last page for vote

SUBJECT: Criminal procedure: discrimination

SOURCE: Peace Officers Research Association of California

DIGEST: This bill addresses due process issues for law enforcement related to the California Racial Justice Act.

Assembly Amendments reflect the change in existing law made by AB 354 (Rodriguez) which had an urgency clause and is already chaptered.

ANALYSIS:

Existing law:

- 1) Establishes the Racial Justice Act (RJA) which prohibits the state from seeking or obtaining a criminal conviction or seeking, obtaining or imposing a sentence on the basis of race, ethnicity, or national origin. (Penal (Pen.) Code, § 745, subdivision (subd.) (a).)
- 2) Allows a defendant to file a motion in the trial court, or if judgement has been imposed, may file a petition for writ of habeas corpus or a motion to vacate the conviction or sentence in a court of competent jurisdiction alleging a violation of the RJA. (Pen. Code, § 745, subd. (b).)
- 3) Requires the defendant to prove the violation by a preponderance of the evidence. (Pen. Code, § 745, subd. (c)(2).)
- 4) States that the defendant does not need to prove intentional discrimination. (Pen. Code, § 745, subd. (c)(2).)
- 5) Establishes the Public Safety Officers Procedural Bill of Rights Act (POBOR). (Government (Gov.) Code, § 3300 et seq.)
- 6) States that, for purposes of the POBOR, "punitive action" means any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. (Gov. Code, § 3303.)
- 7) Prohibits any public agency from taking any punitive action against a public safety officer or denying a promotion on grounds other than merit of an officer because he or she is placed on a "Brady list," as specified. (Gov. Code, § 3305.5, subd. (a).)
- 8) States that this prohibition does not prohibit a public agency from taking punitive action, denying promotion on grounds other than merit, or taking other personnel action against a public safety officer based on the underlying acts or omissions for which that officer's name was placed on a "Brady list," or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (1963) 373 U.S. 83, if the actions taken by the public agency otherwise conform to this chapter and to the rules and procedures adopted by the local agency. (Gov. Code, § 3305.5, subd. (b).)
- 9) Requires the Commission on Peace Officer Standards and Training (POST) to establish a certification program for peace officers, as defined. (Pen. Code, § 13510.1, subd. (a).)
- 10) Gives POST the authority to suspend, revoke, or cancel any certification. (Pen. Code, § 13510.1, subd. (f).)

- 11) Allows POST to initiate proceedings to revoke or suspend a peace officer's certification for serious misconduct. (Pen. Code, § 13510.8.)

This bill:

- 1) Provides that if the defendant is represented by an attorney in a proceeding that alleges an RJA violation based in whole or in part on the conduct of one or more law enforcement officers, the attorney shall serve a copy of the motion or habeas writ on the law enforcement agency or agencies that employed the officer or officers.
- 2) Prohibits a public agency from taking punitive action or denial of promotion on grounds other than merit against any public safety officer because of a court finding made in a challenge brought pursuant to the RJA.
- 3) Allows a public agency to take punitive action, deny promotion on grounds other than merit, or take other personnel action against a public safety officer based on the underlying acts or omissions which formed the basis of the action brought under the RJA, if the actions taken by the public agency otherwise conform to all the rules and procedures applicable to those proceedings, and the officer is accorded all due process protections provided in those proceedings.
- 4) Provides that evidence of a court finding of a violation of the RJA shall not be introduced for any purpose in any administrative appeal of a punitive action.
- 5) Specifies that the above provisions do not grant immunity for civil or criminal liability for the underlying acts or omissions which formed the basis of the action brought under the RJA.
- 6) Provides that a revocation of peace officer certification shall not be undertaken because of a court finding made in a challenge brought under the RJA.
- 7) States that the above provision does not prohibit revocation based on the underlying acts or omissions which formed the basis of the action brought under the RJA, if the revocation otherwise conforms to all the rules and procedures applicable to those proceedings, and the officer is accorded all due process protections provided in those proceedings.
- 8) Repeals and recasts provisions related to POST decertification to reflect changes enacted in AB 354 (Rodriguez, Chapter 32, Statutes of 2025).

Background

RJA. The RJA allows racial bias to be shown by, among other things, statistical evidence that convictions for an offense were more frequently sought or obtained against people who share the defendant's race, ethnicity or national origin than for defendants of other races, ethnicities or national origin in the county where the convictions were sought or obtained; or longer or more severe sentences were imposed on persons based on their race, ethnicity or national origin or based on the victim's race, ethnicity or national origin. Racial bias may also be shown by evidence that a judge or attorney, among other listed persons associated with the defendant's case, exhibited bias towards the defendant, or, in court and during the trial proceedings, used racially discriminatory language or otherwise exhibited bias or animus, based on the defendant's race, ethnicity or national origin. The Act does not require the discrimination to have been purposeful or to have had a prejudicial impact on the defendant's case.

This bill seeks to provide a peace officer who is the subject of a RJA violation with notice of the allegation. This bill requires defense counsel to serve a copy of the RJA motion, or a habeas petition alleging an RJA violation, or a motion to vacate a conviction based on an RJA allegation on the law enforcement agency or agencies that employed the officer or officers.

Impact to POBOR. POBOR provides peace officers with procedural protections relating to investigation and interrogations of peace officers, self-incrimination, privacy, polygraph exams, searches, personnel files, and administrative appeals. If a law enforcement officer is accused of racial bias or animus during the course of their work, they can be subject to disciplinary proceedings.

This bill prohibits a public agency from relying on a court finding made in a motion under the RJA in order to take punitive action against a peace officer. However, this bill allows the agency to consider the underlying conduct as a basis for punitive action if the proceedings otherwise conform to all the applicable rules and procedures, and the officer is afforded their due process rights in those proceedings.

Impact to Peace Officer Decertification. POST is charged with conducting investigations into serious misconduct that may provide grounds for suspension or revocation of a peace officer's certification. POST has defined "serious misconduct" to include "demonstrating bias on the basis of actual or perceived race, national origin, religion, gender identity or expression, housing status, sexual

orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer's obligation to carry out their duties in a fair and unbiased manner." (Tit. 11 CCR § 1205(a)(5).)

Because one of the grounds for decertification is demonstrated bias, an allegation made under the RJA could potentially rise to the level of a ground for decertification.

This bill prohibits POST from relying on a court finding made in a motion under the RJA, but still allows POST to consider the underlying conduct as a basis for revocation, if the decertification proceedings otherwise conform to all the applicable rules and procedures, and the officer is afforded their due process rights in those proceedings.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 9/2/25)

Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of Highway Patrolmen
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California District Attorneys Association
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
Claremont Police Officers Association
Corona Police Officers Association
County of Fresno
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association

San Francisco Police Officers Association
Santa Ana Police Officers Association

OPPOSITION: (Verified 9/2/25)

Secure Justice

ARGUMENTS IN SUPPORT: According to the Peace Officers' Research Association of California, the sponsor of this bill:

In the years following George Floyd's death, Penal Code §745 (known as the Racial Justice Act) was passed with the goal of combatting systemic racism within the criminal justice system. The statute provides a procedural mechanism for a criminal defendant to claim, and eventually try to prove, that racism played a role in any stage of the criminal proceedings. The allegation need not be based on anything specific that someone did or said to the particular defendant; rather, the allegation can be based on a belief that there is some sort of systemic disparity at play....

The problem is that the statute utterly fails to provide any due process rights to the people who can be accused of racism through the use of PC §745.

SB 734 ensures that peace officers accused of bias or racial animus receive notice of the defendant's Penal Code §745 motion and are not subject to punitive action or SB 2 decertification based on court findings resulting from a hearing in which the peace officer was not afforded the independent right to refute the allegations.

ARGUMENTS IN OPPOSITION:

According to Secure Justice:

The California Police Officer's Bill of Rights ("POBR") has long been an obstacle towards holding accountable those that commit serious wrongdoing. The POBR has also helped obscure the records of problematic police officers that are able to move to a new police force that is ignorant of the past wrongdoing. Former Senator Nancy Skinner was instrumental in narrowing the nondisclosure provisions of the POBR.

Californians fought a multiyear battle to get the groundbreaking Racial Justice Act into law, and a similar lengthy battle for a decertification mechanism which most other states had long ago adopted. SB 734 is in opposition to all of the above victories and will only take California backwards.

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NOES:

NO VOTE RECORDED: Boerner, Elhawary, Nguyen, Ortega

Prepared by: Sandy Uribe / PUB. S. /

9/8/25 19:32:01

**** END ****