

May 5, 2025

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May 05, 2025  
**Commission on  
State Mandates**

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

**RE: Criminal Procedure: Discrimination, 24-TC-02**

Dear Chair Stephenshaw and Members of the Commission on State Mandates:

The California State Association of Counties (CSAC) submits this comment letter regarding the above-named test claim.<sup>1</sup> The primary purpose of CSAC is to represent county government before the California Legislature, 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.

As explained in Test Claim 24-TC-02, among the services counties now provide through their Offices of the Public Defender are those required by Assembly Bill (AB) 256, also known as the Racial Justice Act for All, which retroactively applies the Racial Justice Act of 2020 to specified cases in which a judgment was filed prior to January 1, 2021. The test claim estimates that the claimed new mandated activities will cost \$2,190,000 statewide in FY 2024-2025.

As part of this test claim, the Commission will be considering whether these costs are exempt from reimbursement under Government Code section 17556, subdivision (g). The Department of Finance (DOF) comment letter, for example, argues that the test claim statute “represents a change in the penalty for a crime or infraction and therefore falls within an established exception to the requirement for state reimbursement.”

CSAC disagrees. 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

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<sup>1</sup> This letter is timely filed in accordance with the Commission’s April 4, 2025 “Second Notice of Complete Test Claim, Schedule for Comments, and Notice of Tentative Hearing Date,” which stated that written comments may be submitted until 5:00 p.m. on May 5, 2025.

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, CSAC notes 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).

Thank you for your consideration of these issues.

Respectfully submitted,



Jacqueline Wong-Hernandez  
Chief Policy Officer

## **DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On May 6, 2025, I served the:

- **Current Mailing List dated April 10, 2025**
- **California State Association of Counties' (CSAC's) Comments on the Test Claim filed May 5, 2025**

*Criminal Procedure: Discrimination, 24-TC-02*

Statutes 2022, Chapter 739, Section 1 (AB 256); Penal Code Section 745

County of Los Angeles, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 6, 2025 at Sacramento, California.



David Chavez

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## COMMISSION ON STATE MANDATES

### Mailing List

**Last Updated:** 4/10/25

**Claim  
Number:** 24-TC-02

**Matter:** Criminal Procedure: Discrimination

**Claimant:** County of Los Angeles

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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