STATE of CALIFORNIA
COMMISSION ON STATE MANDATES

October 22, 2026

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State Controller's Office
Local Government Programs and Services Division
3301 C Street, Suite 740
Sacramento, CA 95816

Mr. Fernando Lemus
County of Los Angeles
500 West Temple Street, Room 603
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And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Draft Proposed Statewide Cost Estimate, Schedule for Comments, and Notice of Hearing
Criminal Procedure: Discrimination, 24-TC-02
Statutes 2022, Chapter 739 (AB 256), Sections 2 and 3.5; Penal Code Sections 745 and 1473

Dear Ms. Kato and Mr. Lemus:

The Draft Proposed Statewide Cost Estimate for the above-captioned matter is enclosed for your review and comment.

Written Comments: Written comments may be filed on the Draft Proposed Statewide Cost Estimate by **November 2, 2026**. You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(f).) Refer to https://www.csm.ca.gov/dropbox.shtml on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon approval of a request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(j).)

Hearing: This matter is set for hearing on **Friday, December 4, 2026, in person at 10:00 a.m., at The Jesse M. Unruh State Office Building, 915 Capitol Mall, Room 121, The Boardroom, Sacramento, California, 95814 and via Zoom.**

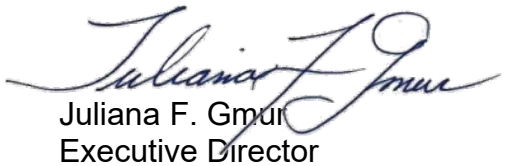
The Proposed Statewide Cost Estimate will be issued on or about November 20, 2026.

This matter is proposed for the Consent Calendar. Please let us know in advance if you oppose having this item placed on the Consent Calendar.

Please also notify Commission staff not later than noon on December 1, 2026, that you or a witness you are bringing plan to testify and please specify the names of the people who will be speaking for inclusion on the witness list and the names and email addresses of the people who will be speaking both in person and remotely to receive a hearing panelist link in Zoom.

The last communication from Commission staff will be the Proposed Statewide Cost Estimate, which will be issued approximately two weeks prior to the hearing, and it is incumbent upon the participants to let Commission staff know if they wish to testify or bring witnesses.

Very truly yours,



Juliana F. Gmur
Executive Director

Hearing Date: December 4, 2026

ITEM ___

DRAFT PROPOSED STATEWIDE COST ESTIMATE

$884,514 - $6,673,275
Initial Claim Period

Fiscal Years 2023-2024 and 2024-2025

$781,418 - $6,456,609 Plus the Implicit Price Deflator
Fiscal Year 2025-2026 and Following

Penal Code Sections 745(j)(3) and 1473(f), as Amended by Statutes 2022, Chapter 739 (AB 256), Sections 2 and 3.5, Effective January 1, 2023

Criminal Procedure: Discrimination

24-TC-02

The Commission on State Mandates (Commission) adopted this Statewide Cost Estimate by a vote of [vote count will be included in the adopted Statewide Cost Estimate] during a regularly scheduled hearing on December 4, 2026 as follows:

Member	**Vote**
Lee Adams, County Supervisor	
Karen Greene Ross, Public Member	
Deborah Gallegos, Representative of the State Controller	
William Pahland, Representative of the State Treasurer, Vice Chairperson	
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	
Alexander Powell, Representative of the Director of the Office of Land Use and Climate Innovation	

STAFF ANALYSIS

Summary of the Mandate, Eligible Claimants, and Period of Reimbursement

This Statewide Cost Estimate addresses state-mandated activities arising from changes made to Penal Code sections 745(j)(3) and 1473(f), as amended by Statutes 2022, chapter 739, also known as the Racial Justice for All Act, effective January 1, 2023.

The Commission adopted the Test Claim Decision on September 26, 2025,[1] and the Decision and Parameters and Guidelines on February 13, 2026, approving reimbursement beginning July 1, 2023, for any county, or city and county, whose costs

[1] Exhibit A, Test Claim Decision.

for this program are paid from proceeds of taxes and that incurs increased costs as a result of this mandate, is eligible to claim reimbursement.[2]

The initial reimbursement period is July 1, 2023 through June 30, 2025. Eligible claimants were required to file initial claims with the State Controller's Office (Controller) by September 16, 2026. Late initial reimbursement claims may be filed until September 16, 2027, but will incur a 10 percent late filing penalty of the total amount of the initial claim without limitation.[3]

Reimbursable Activities

The Commission approved the following reimbursable activity for this program:

- Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.[4]

Offsetting Revenues and Reimbursements

The Decision and Parameters and Guidelines specify that any offsetting revenues (i.e., funds that are not a claimant's proceeds of taxes), are required to be identified and deducted from the costs claimed, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

No offsetting revenues were claimed in the initial filings.

Statewide Cost Estimate

Staff reviewed 12 unaudited reimbursement claims submitted by seven county claimants, as compiled by the Controller. Staff developed the Statewide Cost Estimate based on the assumptions and methodology discussed herein.

Table 1. Initial Reimbursement Period Cost Estimate

Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.	$761,244 - $6,307,443

[2] Exhibit B, Decision and Parameters and Guidelines.

[3] Government Code section 17561(d)(3).

[4] Exhibit A, Test Claim Decision, page 41.

Total Direct Costs	$761,244 - $6,307,443
Indirect Costs identified	$123,270 - $1,009,191
Offsetting Revenues or Other Reimbursements	-($0)
Subtotal	$884,514 - $7,316,634
10 Percent Late Filing Penalty	-($0 - $643,359)
Total Costs	**$884,514 - $6,673,275**

Table 2. Estimated Annual Costs for Fiscal Year 2025-2026 and Following

Commencing January 1, 2024, provide counsel to represent indigent habeas corpus petitioners whose criminal judgments have been entered *before* January 1, 2021, and are currently serving a sentence in state prison or county jail or committed to the Division of Juvenile Justice, on their petition alleging a violation of the Racial Justice Act under Penal Code section 745(a), when appointed by the court.	$666,023 - $5,518,469
Total Direct Costs	$666,023 - $5,518,469
Indirect Costs identified	$115,395 - $938,140
Offsetting Revenue	-($0)
Subtotal	$781,418 - $6,456,609
Late Filing Penalty	-($0)
Total Costs	**$781,418 - $6,456,609**

Assumptions

1. The amount claimed for the initial period of reimbursement may be higher if late or amended claims are filed. Of the 58 eligible claimants, only seven—the Counties of Alameda, Los Angeles, Merced, Riverside, San Diego, San Joaquin, and Yolo—filed claims for the initial period of reimbursement from July 1, 2023 through June 30, 2025.
2. For purposes of calculating the high-end projection for the initial period of reimbursement of this Statewide Cost Estimate, it is presumed that no late or amended claims will be filed by the seven claimants. This Statewide Cost Estimate is based on the initial claims filed and the claims which the 51 eligible non-filer claimants could file late.
3. The costs for this case are driven by the number and complexity of Racial Justice Act cases filed. However, there is no statewide data on the number of Racial Justice Act cases filed by indigent habeas corpus petitioners whose criminal judgments were entered *before* January 1, 2021, and are currently serving a sentence, and the claimants have not provided a case count. Thus, the calculation of annual costs for 2025-2026 and following is based only on the 2024-2025 costs claimed as part of the initial claims.

4. Costs may be lower than projected if either no reimbursable costs were incurred or if costs of less than $1,000 were incurred by non-filers, in which case a late reimbursement claim cannot be filed.[5]
5. Costs may be lower if the Controller audits the claims and determines that costs were improperly claimed or were not supported or that other offsetting revenues (i.e., funds that are not the claimant's proceeds of taxes) were used by a claimant to pay for the reimbursement activities.

Methodology

A. Initial Reimbursement Period Cost Estimate

As explained below, the low-end statewide cost estimate represents the costs actually claimed. The high-end statewide cost estimate, in addition to indirect costs actually claimed, represents the costs actually claimed plus the costs that could be claimed in late claims. These estimates are based on 58 total eligible claimant counties.

The Activity consists of providing indigent counsel during court proceedings under Penal Code section 745, when court ordered, for certain petitioners alleging a violation of the Racial Justice Act. The Activity estimated claims are calculated by using the average costs claimed per filer county, multiplied by the eligible claimant counties that have not yet filed claims during the initial claiming period.

> Activity actual costs claimed [$761,244] / Number of filer counties [7] = Average Activity cost per county [$108,749]
>
> Average Activity cost per county [$108,749] x Number of non-filer counties [51] = Total estimated non-filer Activity costs [$5,546,199]
>
> Activity Actual costs claimed [$761,244] + Estimated non-filer Activity costs that could be claimed in late claims [$5,546,199] = Total potential Activity costs [$6,307,443]

Indirect Costs: The low-end of the range for indirect costs is those indirect costs actually claimed. The high-end, in addition to indirect costs actually claimed, assumes that all eligible claimants who have not yet filed claims will file claims for indirect costs at the same average rate actually claimed, which is calculated by dividing indirect costs claimed by direct costs claimed equals average indirect cost rate (as a percentage). Then multiply the average indirect cost rate by the estimated direct costs.

> Indirect costs actually claimed [$123,270] / Direct costs actually claimed [$761,244] = Average indirect cost rate [16%].
>
> Average indirect cost rate [16%] x Estimated direct costs (sum of all estimated activity costs for the initial claim period) [$6,307,443] = High-end of the estimated indirect costs [$1,009,191].

[5] Government Code section 17564.

Offsetting Revenues: Both the low-end and the high-end are $0 because none of the initial claims compiled by the Controller reported offsetting revenues and thus, there is no basis upon which to predict offsetting revenues.

Late Filing Penalties: The low-end is $0 because none of the initial claims compiled by the Controller were assessed a late filing penalty. The high-end assumes that all non-filers will file claims for the initial period of reimbursement, which will be subject to a late filing penalty of ten percent of non-filer direct plus indirect costs.

Indirect Cost Rate [16%] x Estimated Non-filer Direct Costs [$5,546,199] = Estimated Non-filer Indirect Costs [$887,392].

Estimated Non-filer Direct Costs [$5,546,199] + Estimated Non-filer Indirect Costs [$887,392] = Estimated Non-filer Direct and Indirect Costs [$6,433,591]

Estimated Non-filer Direct and Indirect Costs [$6,433,591] x Late filing penalty [10%] = Estimated Non-filer Late Filing Penalties [$643,359].

Actual Late Filing Penalties [$0] + Estimated Non-filer Late Filing Penalties [$643,359] = High-End of Estimated Late Filing Penalties [$643,359].

B. Projected Annual Costs for Fiscal Year 2025-2026 and Following

This calculation is based on the claims filed for the second fiscal year of the initial claiming period, fiscal year 2024-2025. The low-end of the range assumes that the same claimants that filed reimbursement claims for the initial period of reimbursement will continue to file annual reimbursement claims. The high-end of the range assumes that all eligible claimants will file annual claims.

Activity actual costs claimed for fiscal year 2024-2025 [$666,023] / the number of filer counties [7] = average Activity cost per county [$95,146]

Average Activity cost per county [$95,146] x number of non-filer counties [51] = total estimated non-filer Activity costs [$4,852,446]

Activity actual costs claimed [$666,023] + estimated non-filer Activity costs that could be claimed in late claims [$4,852,446] = Total potential Activity costs [$5,518,469]

Indirect Costs: The low-end of the range for indirect costs is those indirect costs actually claimed during for the second fiscal year of the initial claiming period, fiscal year 2024-2025. The high-end, in addition to indirect costs actually claimed, assumes that all eligible claimants will file claims for indirect costs at the same average rate actually claimed during the second fiscal year of the initial claiming period, fiscal year 2024-2025.

Indirect costs actually claimed in fiscal year 2024-2025 [$115,395] / Direct costs actually claimed [$666,023] = Average indirect cost rate [17%].

Average indirect cost rate [17%] x Estimated direct costs (sum of all estimated activity costs for fiscal 2024-2025) [$5,518,469] = High-end of the estimated indirect costs [$938,140].

Offsetting Revenues: Both the low-end and the high-end are $0 because none of the initial claims compiled by the Controller reported offsetting revenues and thus, there is no basis upon which to predict offsetting revenues.

Late Filing Penalties: Both the low-end and the high-end are $0 because, in the future, these claims will be part of annual claiming. In addition, there is no basis upon which to predict the filing of late claims and a late filing penalty.

Draft Proposed Statewide Cost Estimate

On October 22, 2026, Commission staff issued the Draft Proposed Statewide Cost Estimate.[6]

Staff Recommendation

Staff recommends that the Commission adopt this Statewide Cost Estimate of $884,514 - $6,673,275 for the Initial Claim Period that began on July 1, 2023 and ends on June 30, 2025 and $781,418 - $6,456,609 plus the Implicit Price Deflator for fiscal year 2025-2026 and following.

[6] Exhibit C, Draft Proposed Statewide Cost Estimate.

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 October 22, 2026, I served the:

- **Current Mailing List dated September 14, 2026**
- **Draft Proposed Statewide Cost Estimate, Schedule for Comments, and Notice of Hearing issued October 22, 2026**

  Criminal Procedure: Discrimination, 24-TC-02
  Penal Code Sections 745(j)(3) and 1473(f) as Amended by Statutes 2022, Chapter 739 (AB 256), Sections 2 and 3.5, Effective January 1, 2023
  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 October 22, 2026 at Sacramento, California.

Jill Magee

_____

Jill Magee
Commission on State Mandates
980 Ninth Street, Suite 300
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/14/26

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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