

July 15, 2026

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Commission on
State Mandates
Filed Date
07/15/2026

Response to Test Claim 25-TC-04, Criminal Procedure: Discrimination II

Dear Director Gmur:

The Department of Finance has reviewed Test Claim 25-TC-04 submitted to the Commission on State Mandates (Commission) by the County of Sacramento (Claimant) Office of the Public Defender (OPD). The Claimant alleges there are state-mandated, reimbursable costs associated with Chapter 739, Statutes of 2022 (Assembly Bill 256 or AB 256).

Chapter 317, Statutes of 2020 (AB 2542), also known as the Racial Justice Act, added Penal Code section 745 to prohibit the state from seeking or obtaining a conviction or sentence on the basis of race, ethnicity, or national origin, on prospective cases where judgment had not been entered prior to January 1, 2021.

Effective January 1, 2023, AB 256 amended Penal Code section 745, subdivision (j), to apply the Racial Justice Act retroactively to cases where judgment was entered prior to January 1, 2021. AB 256 also allowed individuals to file a motion (or petition for writ of habeas corpus) if they believe they were subject to discrimination in the criminal proceedings resulting in their convictions. The provisions of AB 256 apply to misdemeanor, felony, and juvenile delinquency cases, and cases where the death penalty has been imposed.

The County of Los Angeles previously filed a Test Claim (24-TC-02) with the Commission alleging its OPD incurred reimbursable state mandated costs to represent persons with criminal convictions who filed a petition to comply with Penal Code section 745, subdivision (j)(3), which applies the Racial Justice Act in the following circumstances:

- Commencing January 1, 2024, to all cases in which, the petitioner is currently serving a sentence in state prison or in a county jail for a realigned felony offense or is committed to the Division of Juvenile Justice for a juvenile disposition, regardless of when the judgment or disposition became final.

On September 26, 2025, the Commission adopted the proposed decision to approve Test Claim 24-TC-02. Test Claim 24-TC-02, while also associated with AB 256, was specific to Penal Code sections 745, subdivision (j)(3), and 1473, subdivision (e), and did not include additional subdivisions under AB 256.

The Claimant's Test Claim (25-TC-04) alleges reimbursable state mandates costs associated with Penal Code section 745, subdivisions (j)(2), (j)(4), and (j)(5). These additional sections apply the Racial Justice Act in the following circumstances:

- Commencing January 1, 2023, to all cases in which the petitioner is sentenced to death or to cases in which there are actual or potential immigration consequences related to the conviction or sentence, regardless of when the judgment or disposition became final.
- Commencing January 1, 2025, to all cases in which judgment became final for a felony conviction or juvenile disposition that resulted in a commitment to the Division of Juvenile Justice on or after January 1, 2015.
- Commencing January 1, 2026, to all cases in which judgment was for a felony conviction or juvenile disposition that resulted in a commitment to the Division of Juvenile Justice, regardless of when the judgment or disposition became final.

The Claimant alleges it will incur \$5,563 in state-mandated, reimbursable costs in fiscal year 2025-26 to represent persons with criminal convictions who file a petition to comply with Penal Code section 745, subdivisions (j)(2), (j)(4), and (j)(5). The Claimant estimates \$19,575 in such costs for 2026-27.

Finance notes that the Claimant has yet to incur any costs associated with Penal Code section 745, subdivisions (j)(4) and (j)(5).

"The Public Defender has not yet incurred costs for PC §§ 745(j)(4) and PC § 745(j)(5). . ."

The Claimant instead alleges it will incur \$13,050 in state-mandated, reimbursable costs in fiscal year 2026-27 to comply with Penal Code section 745, subdivisions (j)(4) and (j)(5). Reimbursable activities should be supported by evidence in the record that these activities are reasonably necessary to comply with the requirements of this bill. To the extent that future costs are claimed under Penal Code section 745, subdivisions (j)(4) and (j)(5), such costs should be denied unless supported by sufficient evidence.

Additionally, Finance continues to assert that any costs incurred by the Claimant in relation to AB 256 are not state-reimbursable pursuant to subdivision (g) of Government Code Section 17556, excerpted below, which provides that the Commission **shall not** find state reimbursable costs in a test claim that changes the penalty for a crime or infraction.

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds any one of the following: ...

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

AB 256 authorizes a court to vacate an existing sentence and impose a new sentence when it finds that the original sentence had been imposed on discriminatory grounds. This authority to change sentences represents a change in the penalty for a crime or infraction and therefore falls within an established exception to the requirement for state reimbursement. For this reason, Finance believes the Commission should deny this test claim in its entirety.

If you have any questions regarding this letter, please contact Chris Hill, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,

A handwritten signature in cursive script that reads "Rosanna Nguyen".

ROSANNA NGUYEN
Program Budget Manager

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 July 16, 2026, I served the:

- **Current Mailing List dated July 2, 2026**
- **Finance's Response to Test Claim 25-TC-04, Criminal Procedure: Discrimination II filed July 15, 2026**

Criminal Procedure: Discrimination II, 25-TC-04

Statutes 2022, Chapter 739, Section 2 (AB 256); Penal Code Sections 745(j)(2) effective January 1, 2023, 745(j)(4) effective January 1, 2025, and 745(j)(5) effective January 1, 2026

County of Sacramento, 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 July 16, 2026 at Sacramento, California.



David Chavez
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(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 7/2/26

Claim Number: 25-TC-04

Matter: Criminal Procedure: Discrimination II

Claimant: County of Sacramento

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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