

# Assembly Bill 1071

## The California Racial Justice Act: Court Procedures

Assembly Member Ash Kalra

### Summary

Assembly Bill (AB) 1071 makes clarifying changes to the procedures for claims under the Racial Justice Act (RJA) to ensure more uniform implementation. Specifically, this bill cleans up and improves processes for habeas petitions, creates a new code section to allow a post-conviction RJA challenge through a motion in addition to the route of a habeas petition (as was intended by the original statute), and clarifies the remedies a judge can impose upon the finding of an RJA violation.

By making these clarifications, AB 1071 ensures California follows the intent of the RJA, providing a simplified process for post-conviction challenges and resolving confusion in the courts.

### BACKGROUND

In 2020, the Legislature passed AB 2542 (Kalra, Chapter 317, Statutes of 2020), the California Racial Justice Act (RJA), to address racial discrimination and bias in criminal proceedings across the state. Since then, the Legislature has passed several follow-up bills that made the law retroactive, allowed individuals to request that an appeal be stayed, and clarified motions can be filed in the Superior Court regardless of the status of the case.

However, despite clean-up legislation, there continue to be procedural barriers that impede incarcerated individuals' attempts to raise legitimate RJA claims. For example, although the RJA's threshold for appointing a lawyer is extremely low, many courts have applied the higher standards from ordinary post-conviction habeas proceedings, denying incarcerated individuals access to counsel and the discovery materials needed to establish a claim. This has led to blanket denials, with only a few substantive claims being heard, which is contrary to the original intent of the RJA to ensure that racial bias in our criminal legal system is addressed.

Additionally, the courts have failed to impose appropriate remedies when an RJA violation is established. For example, under the existing statute, the death penalty is not permitted when the RJA has been violated. This is an automatic function of a substantiated violation; therefore, the court must still grant a remedy to address the violation in the case. Unfortunately, despite current law, courts continue to use "prohibiting a death sentence" as the sole remedy, even in cases where the death penalty was not being sought.

Lastly, previous legislation sought to clarify that RJA claims could alternatively be filed as a motion through a trial court in addition to a petition for a writ of habeas corpus, as was intended by AB 2542 (Kalra, 2020). However, there continues to be confusion as to whether habeas petitions are the exclusive avenue for a post-conviction RJA challenge. Further clarity and explicitly allowing a post-conviction challenge through a motion is necessary.

### SOLUTION

AB 1071 builds upon the Legislature's work to address racial discrimination and bias in the criminal legal system by making technical, clarifying changes to ensure RJA claims are processed consistently and according to the intent of the original law. Specifically, this bill affirms the Legislature's intent to create a low threshold for the appointment of counsel, ensure access to discovery for petitioners to prove their claims, and directly incorporates Penal Code section 745's standards and procedures to habeas petitions alleging a violation of the RJA.

Furthermore, AB 1071 creates an independent post-conviction mechanism not tied to the habeas statute to clarify that the more restrictive habeas procedures are not the exclusive procedure for raising claims under Penal Code section 745.

Lastly, this bill makes several changes to clarify to ensure that a remedy will be applied and expands

the range of appropriate remedies. In particular, AB 1071 makes clear that solely prohibiting the death penalty is not sufficient to qualify as a remedy for a violation of the RJA, gives judges the discretion to reduce charges to a lesser included or lesser related offense, and allows diversion as a remedy.

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