

# Assembly Bill 1071

## The California Racial Justice Act: Court Procedures

Assembly Member Ash Kalra

### SUMMARY

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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 reinforces the current standard for appointment of counsel, clarifies that an individual can request information from the state before filing a post-conviction challenge, cleans up and improves processes for habeas petitions, and makes clear there must be a remedy, while also expanding judicial discretion for 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 and resolving confusion in the courts.

### BACKGROUND

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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 that 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 address racial bias in the criminal legal system.

Additionally, the courts have failed to impose appropriate remedies when an RJA violation is

established. For example, one appellate court concluded that it was acceptable for a court to ignore a violation of the RJA by failing to impose a remedy. This is completely contrary to the intent of the RJA to address racial bias in the criminal courts.

### SOLUTION

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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 original intent. Specifically, this bill affirms the Legislature's intent to create a low threshold for the appointment of counsel, ensures access to discovery for petitioners to prove their claims, and directly incorporates Penal Code section 745's definitions to habeas petitions alleging a violation of the RJA.

This bill also makes clear that if racial bias is found, a remedy must be applied, as was originally intended. At the same time, AB 1071 expands judicial discretion regarding the remedies that can be granted to allow for "any other remedy not prohibited by another law" for challenges brought before a sentence has been imposed.

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Californians United for a Responsible Budget  
Initiate Justice  
Silicon Valley De-Bug  
USF Racial Justice Clinic

### SUPPORT

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A New Path  
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Alliance of Californians for Community Empowerment (ACCE Action)  
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Communities United For Restorative Youth Justice  
County of Los Angeles Board of Supervisors  
County of San Bernardino Public Defender Second Chance Unit  
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Court Appointment Programs, Lawyer Referral & Information Service, Bar Association of San Francisco  
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Empowering Women Impacted By Incarceration  
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