

Assembly Bill 1118

The California Racial Justice Act Claims

Assembly Member Ash Kalra

Summary

Assembly Bill (AB) 1118 makes technical changes to the procedures for claims under the Racial Justice Act (RJA) to ensure that the most efficient processes are used. Specifically, this bill clarifies that RJA claims can be raised on appeal, or, if additional evidence is needed, permits individuals to request stay of an appeal and remand to the trial court to file a motion. The bill also clarifies that a case need not be set for trial to file an RJA motion.

BACKGROUND

In 2020, the Legislature passed AB 2542 (Kalra), the California Racial Justice Act (RJA), to address racial discrimination and bias in criminal proceedings across the state. Acting upon the promise to ensure all Californians have access to the protections of the RJA, last session, AB 256 (Kalra) made the law retroactive with a phased-in timeline for individuals to file petitions.

Under existing law, defendants can file a motion for an RJA violation through a trial court, or if a judgment has been imposed, they can file a petition for a writ of habeas corpus. However, questions have been raised as to whether habeas petitions are the exclusive avenue for a post-conviction RJA challenge or whether individuals can file claims on direct appeal if the violation is apparent on the trial record. In this scenario, the case would be more efficiently decided through the appeals process as opposed to the habeas route, which requires more litigation and judicial resources.

In other cases already on appeal, counsel may identify an RJA issue that requires additional evidence outside the record and may wish to pursue this claim before the appeal is decided. In these cases, it is more efficient to stay the appeal and remand the case to the trial court for an RJA motion to be filed rather than require a new habeas petition. This is particularly important for individuals with death sentences, as it can take a decade or more for their direct appeal to be decided. These individuals

are also unlikely to have habeas attorneys assigned to them due to the unavailability of qualified counsel, making it nearly impossible to litigate their RJA claims in a timely fashion.

SOLUTION

In passing the Racial Justice Act and Racial Justice Act for All, California's Legislature has cemented the state's commitment to addressing institutionalized and implicit racial bias in our criminal courts.

AB 1118 builds on that work by making technical changes to ensure RJA claims are processed more efficiently to ensure the intent of the law is followed. Specifically, this bill:

- (1) Clarifies that for RJA claims based on the trial record, individuals may raise the claims on appeal;
- (2) Where evidence outside the trial record is needed, allows an individual to request that an appeal be stayed and the case remand to the Superior Court for an RJA motion to be filed.
- (3) Removes the specific reference to "trial court" in the RJA motion filing process to clarify motions can be filed in the Superior Court regardless of the status of the case.

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- Californians United for a Responsible Budget
- Coalition for Humane Immigrant Rights
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CONTACT

Erika Ngo, Legislative Director
Erika.Ngo@asm.ca.gov
(916) 319-2025