

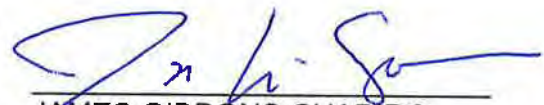
DECLARATION OF JAMES GIBBONS-SHAPIRO

Commission on
State Mandates
Filed Date
09/18/2025

1. I, James Gibbons-Shapiro, declare:
2. I have been employed by the County of Santa Clara in its District Attorney's Office (DAO) since 1997 and currently hold the title of Assistant District Attorney. I have occupied this position since 2014. I have personal knowledge of the facts set forth in this Declaration, and if called to testify to the statements made herein, I could and would do so competently.
3. The City of Sacramento, the County of Sutter, and the County of Santa Clara ("Claimants") filed a test claim with the Commission on State Mandates ("Commission") on June 10, 2025 ("Test Claim"). The Test Claim requested reimbursement for costs imposed on cities and counties in implementing Penal Code section 741, subdivision (b), which was added by Assembly Bill 2778 (Stats. 2022, ch. 806, § 2).
4. Under Penal Code section 741, subdivision (b), the DAO must conduct an initial race-blind charging evaluation, an entirely new requirement in determining whether to charge an individual with a crime. (Pen. Code, § 741, subd. (b).) To conduct this initial race-blind charging evaluation, the DAO must redact or remove all direct means of identifying the race of the suspect, victim, or witness from cases received from law enforcement agencies, such as police reports, and from suspect criminal history documentation. (*Id.*, § 741, subd. (b)(1)–(2).) The DAO must also implement a new initial charging evaluation process where a prosecutor with no knowledge of the redacted facts must decide whether to charge the suspect based on the redacted documents. (*Id.*, § 741, subd. (b)(2).) All cases must be put through this initial charging evaluation except for those classes of crimes or factual circumstances that the DAO removes or excludes under Penal Code section 741, subdivision (c). (*Id.* § 741, subd. (b)(2), (c).)
5. Penal Code section 741, subdivision (c), identifies the following classes of crimes and factual circumstances that may be excluded from the initial race-blind charging evaluation process: (i) homicides; (ii) hate crimes; (iii) charges arising from a physical confrontation where that confrontation is captured in video as evidence; (iv) domestic violence and sex crimes; (v) gang crimes; (vi) cases alleging either sexual assault or physical abuse or neglect where the charging decision relies upon either a forensic interview of a child or interviews of multiple victims or multiple defendants; (vii) cases involving financial crimes where the redaction of documentation is not practicable or is cost prohibitive due to the volume of redactions, including, but not limited to, violations of Penal Code sections 368 and 503 and other crimes sounding in fraud consisting of voluminous documentation; (viii) cases involving public integrity, including, but not limited to, conflict of interest crimes under Government Code section 1090; (ix) cases in which the prosecution agency itself investigated the alleged crime or participated in the precharging investigation of the crime by law enforcement,

including, but not limited to, the review of search warrants or advising law enforcement in the course of the investigation; and (x) cases in which the prosecution agency initiated the charging and filing of the case by way of a grand jury indictment or where the charges arose from a grand jury investigation.

6. In implementing Penal Code section 741, subdivision (b), the DAO has opted to exclude the crimes and factual circumstances listed in Penal Code section 741, subdivision (c)(1)–(10), from the initial race-blind charging evaluation process.
7. I submitted a declaration, dated July 16, 2025, in support of the Test Claim in which I detailed the costs that the County of Santa Clara has and will incur for Fiscal Years 2024–2025 and 2025–2026 in implementing the Test Claim Statute. None of the costs detailed therein or in the associated exhibits relate to the classes of crimes or factual circumstances identified in Penal Code section 741, subdivision (c)(1)–(10).
8. In its Comment on the Test Claim, filed on August 19, 2025, the Department of Finance asserts that the Commission should not provide reimbursement for costs related to implementing Penal Code section 741, subdivision (b), for the crimes and factual circumstances listed in Penal Code section 741, subdivision (c)(1)–(10) because they are not statutorily mandated. If the Commission approves the Test Claim, the DAO will not seek reimbursement for any costs related to the classes of crimes or factual circumstances identified in Penal Code section 741, subdivision (c)(1)–(10), unless and until such costs are mandated by the State.
9. I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge, information, or belief.
10. Executed on September 15, 2025, at San José, California.



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DECLARATION OF JEFF C. GREESON

1. I, Jeff C. Greeson, declare:
2. I am an attorney at Law, Licensed to practice before the courts of this state, and the Chief Deputy District Attorney for the County of Sutter ("Sutter"). I have been one of the individuals charged with assisting in the implementation of AB 2778, Penal Code 741(b)(1-6), in Sutter County. I have personal knowledge of the facts set forth in this Declaration, and if called to testify to the statements made herein, I could and would do so competently.
3. The City of Sacramento, the County of Sutter, and the County of Santa Clara ("Claimants") filed a test claim with the Commission on State Mandates ("Commission") on June 10, 2025 ("Test Claim"). The Test Claim requested reimbursement for costs imposed on cities and counties in implementing Penal Code section 741, subdivision (b), which was added by Assembly Bill 2778 (Stats. 2022, ch. 806, § 2).
4. Penal Code section 741, subdivision (c), identifies the following classes of crimes and factual circumstances that may be excluded from the initial race-blind charging evaluation process: (i) homicides; (ii) hate crimes; (iii) charges arising from a physical confrontation where that confrontation is captured in video as evidence; (iv) domestic violence and sex crimes; (v) gang crimes; (vi) cases alleging either sexual assault or physical abuse or neglect where the charging decision relies upon either a forensic interview of a child or interviews of multiple victims or multiple defendants; (vii) cases involving financial crimes where the redaction of documentation is not practicable or is cost prohibitive due to the volume of redactions, including, but not limited to, violations of Penal Code sections 368 and 503 and other crimes sounding in fraud consisting of voluminous documentation; (viii) cases involving public integrity, including, but not limited to, conflict of interest crimes under Government Code section 1090; (ix) cases in which the prosecution agency itself investigated the alleged crime or participated in the precharging investigation of the crime by law enforcement, including, but not limited to, the review of search warrants or advising law enforcement in the course of the investigation; and (x) cases in which the prosecution agency initiated the charging and filing of the case by way of a grand jury indictment or where the charges arose from a grand jury investigation.
5. In implementing Penal Code section 741, subdivision (b), the Sutter County District Attorney's Office has opted to exclude the crimes and factual circumstances listed in Penal Code section 741, subdivision (c)(1)–(10), from the initial race-blind charging evaluation process.
6. I submitted a declaration, dated July 11, 2025, in support of the Test Claim in which I detailed the costs that the County of Sutter has and will incur for Fiscal Years 2024–2025 and 2025–2026 in implementing the Test Claim Statute. None

of the costs detailed therein or in the associated exhibits relate to the classes of crimes or factual circumstances identified in Penal Code section 741, subdivision (c)(1)–(10).

7. In its Comment on the Test Claim, filed on August 19, 2025, the Department of Finance asserts that the Commission should not provide reimbursement for costs related to implementing Penal Code section 741, subdivision (b), for the crimes and factual circumstances listed in Penal Code section 741, subdivision (c)(1)–(10) because they are not statutorily mandated. If the Commission approves the Test Claim, Sutter County will not seek reimbursement for any costs related to the classes of crimes or factual circumstances identified in Penal Code section 741, subdivision (c)(1)–(10), unless and until such costs are mandated by the State.
8. I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge, information, or belief.
9. Executed on September 8, 2025, at Yuba City, California.



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September 18, 2025

Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Rebuttal to the Department of Finance
Race-Blind Charging, 24-TC-07
Statutes 2022, Chapter 806, Section 2 (AB 2778); Penal Code Section
741
City of Sacramento, County of Sutter, County of Santa Clara, Claimants

Dear Director Gmur:

The City of Sacramento, County of Sutter, and County of Santa Clara ("Claimants") file this rebuttal to the Comment of the California Department of Finance ("DOF") on test claim 24-TC-07 ("Test Claim"). The Test Claim argues that Penal Code section 741, added by Assembly Bill No. 2778 (Stats. 2022, ch. 806, § 2), imposes a reimbursable mandate pursuant to article XIII B, section 6 of the California Constitution ("Section 6").

Discussion

Section 6 requires the State of California ("State") to reimburse local governments for the costs of complying with a State statute, wherever (1) the statute "compels the local agency to act;" (2) "the compelled activity requires the agency to provide a new program or higher level of service;" and (3) none of seven statutory or four constitutional exceptions to the State's responsibility to reimburse local

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Re: Rebuttal to Department of Finance, 24-TC-03
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governments applies. (*Coast Cmty. Coll. Dist. v. Commission on State Mandates* (2022) 13 Cal. 5th 800, 808 [citation omitted].) The Test Claim argues that in enacting AB 2778, the California Legislature created a reimbursable mandate that compels cities and counties to provide a new program or higher level of service by implementing a wholly new initial race-blind charging process. The Test Claim estimates that the Claimants will incur the following costs for activities in compliance with the mandate in Section 741, subdivision (b): (1) for the City of Sacramento, approximately \$ 122,277.60 in Fiscal Year 2024–2025 and approximately \$244,555.20 in Fiscal Year 2025–2026; (2) for the County of Sutter, approximately, \$39,160 in Fiscal Year 2024–2025 and approximately \$21,120 in Fiscal Year 2025–2026; and (3) for the County of Santa Clara, approximately \$2,016,722.70 in Fiscal Year 2024–2025 and approximately \$4,281,028.84 in Fiscal Year 2025–2026.

On August 19, 2025, the DOF filed a Comment on the Test Claim that raises no arguments to rebut and effectively supports the Claimants’ position in the Test Claim that the Claimants’ costs are reimbursable pursuant to Section 6. First, the DOF recognizes that, beginning on January 1, 2025, prosecuting agencies “*must use* [the guidelines issued by the California Department of Justice] to redact information from arrest reports and criminal history reports that can be used to identify the race of the suspects, victims, and witnesses.” (DOF Comment at p. 1 [italics added].) Second, the DOF recognizes that “[t]he purpose of the redactions is to allow prosecuting agencies to use the redacted materials to make a race-blind initial charging evaluation” and to subsequently conduct a second evaluation using the unredacted materials. (*Ibid.*) Third, the DOF recognizes that “Penal Code section 741 *requires* prosecuting agencies to document” any change in the charging decision between the first and second reviews and the reason for the change in the case record. (*Ibid.* [italics added].) Lastly, the DOF recognizes that the documented change and the reason for the change “*shall be* disclosable upon request” and that “[c]ounties are further *required* to collect the data resulting from the initial race-blind evaluations, and to make the data available for research purposes.” (*Id.* at pp. 1–2 [italics added].) By highlighting the mandatory activities required by Penal Code section 741, subdivision (b), the DOF’s Comment supports the Claimants’ claim that it compels cities and counties to act by providing a new program or higher level of service.

In its Comment, the DOF also points to Penal Code section 741, subdivision (c)(1)–(10), which states that prosecuting agencies may remove or exclude certain classes of crimes and factual circumstances from the race-blind charging initial evaluation including (1) homicides; (2) hate crimes; (3) charges involving a physical altercation caught on video; (4) domestic violence and sex crimes; (5) gang crimes; (6) charges involving sexual assault, physical abuse, or neglect, where the charging decision involves a forensic interview of a child, or the interview of multiple witnesses or defendants; (7) financial crimes where redaction is not practicable, or is cost-prohibitive, because of the volume of redactions; (8) cases involving public integrity, including

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Re: Rebuttal to Department of Finance, 24-TC-03
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conflict of interest crimes; (9) cases where the prosecuting agency itself investigated the alleged crime or participated in the pre-charging investigation; and (10) cases where charges arose from a grand jury indictment, or where the prosecuting agency initiated the charging and filing of the case via a grand jury indictment. The DOF asserts that the Commission on State Mandates ("Commission") "should ensure reimbursement is not provided for the crimes or factual circumstances detailed in Penal Code section 741(c)(1) through (10), inclusive, where it is at the prosecuting agency's discretion to elect to employ the race-blind initial charging evaluation." (Comment at p. 2.)

The Claimants are in agreement with the DOF that any activities performed by prosecuting agencies in relation to the classes of crimes or factual circumstances listed in Penal Code section 741(c)(1)–(10) are not reimbursable. The Counties of Sutter and Santa Clara have both submitted a declaration in which they assert that the costs they alleged in the Test Claim do not include costs related to the crimes and factual circumstances identified in Penal Code section 741, subdivision (c)(1)–(10) and that they will not seek reimbursement for any activities related to these crimes and factual circumstances if the Commission approves the Test Claim, unless and until such costs are mandated by the State. The Claimants' declarations are attached hereto and incorporated herein by this reference.

Kevin McCarty, the author of AB 2778 and the current Mayor of Sacramento, explains in his declaration that he worked with the bill's sponsor, the County of Yolo District Attorney's Office, in identifying which crimes to exclude in Penal Code section 741, subdivision (c). (McCarty Decl. at pp. 3–5.) These crimes were excluded because they required the review of additional evidence outside of the police report—including, for example, video and audio recordings, interviews with witnesses, victims, and suspects, DNA evidence, evidence from sexual assault kits, and digital evidence from cell phones, computers, and other electronic devices—in order to make a charging decision. (*Id.* at p. 5.) Lastly, in his declaration, Mr. McCarty states his understanding in authoring AB 2778 that it would require district attorney offices to invest substantial resources, including information technology and ongoing work by staff, both prosecutors and support staff. (*Id.* at p. 6.) Mr. McCarty's declaration is attached hereto and incorporated herein by this reference.

Conclusion

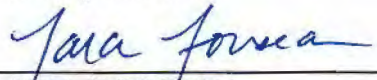
The Claimants respectfully request that the Commission on State Mandates find that the State must compensate the Claimants and other local governments for the costs they incur in complying with the State's mandatory new program under Penal Code section 741, subdivision (b).

Certification

Letter to: Commission on State Mandates
Re: Rebuttal to Department of Finance, 24-TC-03
Date: September 18, 2025
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I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or based on information and belief and that I am authorized and competent to do so.

Very truly yours,
TONY LOPRESTI
County Counsel



TARA FONSECA
Deputy County Counsel

RAJIV NARAYAN
Deputy County Counsel

1 **DECLARATION OF MAYOR KEVIN MCCARTY IN SUPPORT**
2 **OF CITY'S REQUEST FOR REIMBURSEMENT PURSUANT TO**
3 **THE IMPLEMENTATION OF RACE-BLIND CHARGING PROCEDURES**
4 **IN ACCORDANCE WITH PENAL CODE SECTION 741, SUBDIVISION (A)**

5 I, Kevin McCarty, declare:

6 1. I am currently the Mayor of the City of Sacramento in the state of California. I
7 assumed office on December 10, 2024, and my current term ends in 2028.

8 2. From 2014 to 2024 I served as Sacramento's Assemblymember representing
9 the 6th Assembly District which includes the majority of the City of Sacramento and parts of
10 the unincorporated County.

11 3. I was the author of the Race Blind Charging law, AB 2778, while I was a member
12 of the CA Assembly. The bill was approved by the Governor and filed with the Secretary of
13 State on September 29, 2022, and was codified as Penal Code (PC) 741.

14 4. The Yolo County District Attorney's Office, under District Attorney Jeff Reisig,
15 was the first office to fully implement Race Blind Charging. District Attorney Reisig was a
16 sponsor of AB 2778, and I worked with him and his office in drafting the bill.

17 5. After much discussion, the decision was made to exclude certain crimes from race
18 blind charging under section (c) of PC 741. Crimes excluded include homicides, domestic
19 violence, gang crimes, hate crimes, sex crimes, some financial crimes, public integrity cases,
20 and cases in which the prosecution agency is involved with the underlying investigation. The
21 reason for this is that these specific crimes in nearly all instances require the charging deputy to
22 review evidence beyond what is included in the police report, such as video evidence, body
23 worn camera video and audio footage, recordings of interviews, DNA evidence, evidence
24 included in sexual assault exams, and evidence from cell phones, computers, and other
25 electronic devices. By their very nature, these information sources include racially identifying
26 information that is unredactable, hence their exclusion from PC 741. In other cases, a charging
27 decision generally can be made based on the information included in the police report.

28 6. When I authored this bill, based on discussions with District Attorney Reisig, it
was clear that the implementation of race blind charging would require prosecution agencies to

1 invest in substantial resources beyond what is already required, including information
2 technology systems and additional hours of work by filing staff (prosecutors and support staff).
3 Accordingly, it was clear to me that the bill would impose a state-mandated local program.

4 I declare under penalty of perjury according to the laws of the State of California that the
5 foregoing is true and correct to the best of my knowledge and recollection.

6 Executed on September 9, 2025, in Sacramento, California.

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Hon. Kevin McCarty
Mayor, City of Sacramento

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 September 19, 2025, I served the:

- **Current Mailing List dated September 10, 2025**
- **Claimants' Rebuttal Comments filed September 18, 2025**

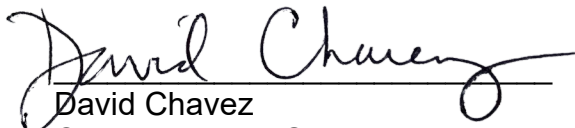
Race-Blind Charging, 24-TC-07

Statutes 2022, Chapter 806, Section 2 (AB 2778); Penal Code Section 741(b), effective January 1, 2023

City of Sacramento, County of Santa Clara, and County of Sutter, Claimants

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 September 19, 2025 at Sacramento, California.



David Chavez

Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/10/25

Claim Number: 24-TC-07

Matter: Race-Blind Charging

Claimants: City of Sacramento
County of Santa Clara
County of Sutter

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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