

Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 352 (Pacheco) – As Amended March 17, 2025

Policy Committee: Public Safety

Vote: 9 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

When a court is sentencing a defendant convicted of felony criminal threats, this bill allows the court to consider the fact that the defendant threatened a judge or court commissioner as aggravating factor that may justify a longer sentence.

FISCAL EFFECT:

Costs (General Fund) to the California Department of Corrections and Rehabilitation (CDCR) to incarcerate people convicted of criminal threats against a judge for longer periods of time than provided under existing law. As described in more detail below, this bill permits a judge to impose a longer prison sentence for felony criminal threats if the defendant's threat was directed at a judge or court commissioner. The annual incidence of felony convictions for threats against judges in California is unknown, but data from CDCR shows 652 new felony admissions in 2024 for which criminal threats was the primary offense. The Legislative Analyst's Office estimates the average annual cost to incarcerate one person in state prison is \$133,000. If even two people serve an additional one year each in prison because of this bill, the resulting incarceration costs to CDCR would exceed this committee's suspense threshold. Actual costs will depend on the number of relevant offenses and judicial discretion.

COMMENTS:

- 1) **Purpose.** This bill is sponsored by the California Judges Association. According to the author:

Rising threats and violence against California's judiciary endanger both court commissioner and litigant access to justice. Recent incidents include courthouse bomb threats, courtroom attacks on judges, and targeted threats against judicial officers across the state. AB 352 addresses this problem by adding a subdivision to Penal Code Section 422 to make threats against judges and court commissioners a factor in sentencing. This change enables the courts to impose the maximum three-year sentence for felony criminal threats when appropriate, providing necessary protection for judicial officers while maintaining sentencing discretion.

- 2) **Background.** Under existing law, it is a criminal offense for a person to willfully threaten to commit a crime that will result in death or great bodily injury to another person, with the

specific intent that the person's statement is to be taken as a threat, even if the person had no intent of actually carrying the threat out. Criminal threats is a wobbler, meaning the offense may be charged as a felony or a misdemeanor at the discretion of a prosecutor. Felony criminal threats is punishable by 16 months, two years, or three years in state prison.

Where three possible sentences are prescribed by statute, the court must determine which sentence to impose in each case. Generally, the court must impose the lower or middle term unless there are circumstances in aggravation of the crime that justify imposing the upper term. The court may impose the upper term only if the defendant admits an aggravating circumstance or the aggravating circumstance is found true beyond a reasonable doubt at trial.

This bill allows a judge to consider the fact that the defendant willfully threatened to commit a crime that would result in the death or great bodily injury of a judge or court commissioner as an aggravating factor at sentencing. If this fact is admitted by the defendant or found true in trial, this bill permits a judge to impose the upper sentence of three years in prison for felony criminal threats, rather than the middle term of two years or the lower term of 16 months. As a result, the bill may result in longer terms of incarceration for people convicted of criminal threats against judges than authorized under existing law.

Research shows that lengthy criminal sentences, which are costly to state and local governments, do not effectively deter crime. In general, the certainty that someone will be punished for an offense plays a larger role in deterring their criminal activity, rather than the length of their potential punishment.

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