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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair  
2025 - 2026 Regular Session

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### AB 352 (Pacheco) - Crimes: criminal threats

**Version:** June 25, 2025

**Urgency:** No

**Hearing Date:** August 29, 2025

**Policy Vote:** PUB. S. 6 - 0

**Mandate:** No

**Consultant:** Liah Burnley

**Bill Summary:** Allows the court to consider, as a factor in aggravation when a person is charged with felony for making a threat, that fact that defendant threatened to commit a crime that would result in the death or great bodily injury of a state constitutional officer, a Member of the Legislature, or a judge or court commissioner.

### \*\*\*\*\* ANALYSIS ADDENDUM – SUSPENSE FILE \*\*\*\*\*

The following information is revised to reflect amendments  
adopted by the committee on August 29, 2025

#### Fiscal Impact:

- **Trial Courts:** Unknown, potentially significant costs to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate the increased criminal penalties in this bill. Defendants are constitutionally guaranteed certain rights during criminal proceedings, including the right to a jury trial and the right to counsel (at public expense if the defendants are unable to afford the costs of representation). The Sixth Amendment right to a jury trial applies to any factual finding necessary to warrant any sentence beyond the presumptive maximum – e.g., a factor in aggravation.<sup>1</sup> Increasing penalties leads to lengthier and more complex court proceedings with attendant workload and resource costs to the court. The fiscal impact of this bill to the courts will depend on many unknowns, including the numbers of people charged with an offense and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff in workload. This is a conservative estimate, based on the hourly rate of court personnel including at minimum the judge, clerk, bailiff, court reporter, jury administrator, administrative staff, and jury per-diems. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations.
- **County Jail:** Unknown, potentially significant costs (local funds) to the counties to incarcerate people for a longer period under this bill. The average annual cost to incarcerate one person in county jail varies by county, but likely ranges from \$70,000 to \$90,000 per year. For example, in 2021, Los Angeles County budgeted \$1.3 billion for jail spending, including \$89,580 per incarcerated person. Actual incarceration costs to counties will depend on the number of convictions and the

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<sup>1</sup> *Apprendi v. New Jersey* (2000) 530 U.S. 466, 490; *Blakely v. Washington* (2004) 524 U.S. 296, 301, 303-04; see also *Cunningham v. California* (2007) 549 U.S. 270.

length of each sentence. Generally, county incarceration costs are not reimbursable state mandates pursuant to Proposition 30 (2012).

- **California Department of Corrections and Rehabilitation (CDCR):** Unknown, potentially significant costs (General Fund) to the Department of Corrections and Rehabilitation (CDCR) to incarcerate people for a longer period under this bill. The Legislative Analyst's Office (LAO) estimates the average annual cost to incarcerate one person in state prison is \$133,000. The annual cost of operating a mental health crisis bed at CDCR is around \$400,000. As part of the ongoing Coleman court case, CDCR has been incurring fines monthly since April 2023 for failing to reduce vacancy rates for five mental health classifications. The state has paid over \$200 million in fines to date, and is still accruing fines. Thus, if even if just one person is sentenced to state prison for an additional year under this bill, it will add significant costs pressures to CDCR. The May Revision to the Governor's 2025-26 Budget proposes total funding of \$13.6 billion (\$13.2 billion General Fund and \$385.4 million other funds) for CDCR in 2025-26. Of this amount, \$4.1 billion General Fund is for health care programs.
- **Department of State Hospitals (DSH):** Potential cost pressures (General Fund) to the Department of State Hospitals (DSH), in order to adequately house, treat, and care for persons committed to DSH that otherwise would not. Cost pressures to DSH are connected with an increase in state prison sentences. Increasing sentences will increase the number of defendants declared incompetent to stand trial (IST), or committed to DSH due to their being not guilty by reason of insanity. DSH's proposed budget for fiscal year 2025-26 totals \$3.4 billion – an increase of \$3.4 million from the 2024 Budget Act. An increase the DSH population would result in the need for additional funding.

**Author Amendments:** Provide that, in sentencing a person convicted of a felony violation, the court may consider, as a factor in aggravation, that the defendant willfully threatened to commit a crime that would result in the death or great bodily injury of a person the defendant knew was a state constitutional officer, a Member of the Legislature, or a judge or court commissioner.

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