

CRIMINAL COERCION
(For offenses committed on or after August 10, 2015)
(N.J.S.A. 2C:13-5)

The indictment charges the defendant in Count(s) _____ with criminal coercion, in violation of a statute that reads as follows:

- a. A person is guilty of criminal coercion if, with purpose unlawfully to restrict another's freedom of action to engage or refrain from engaging in conduct, he threatens to:

[Choose appropriate subsection(s)]

- (1) Inflict bodily injury on anyone or commit any other offense, regardless of the immediacy of the threat;
- (2) Accuse anyone of an offense;
- (3) Expose any secret which would tend to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute;
- (4) Take or withhold action as an official, or cause an official to take or withhold action;
- (5) Bring about or continue a strike, boycott or other collective action, except that such a threat shall not be deemed coercive when the restriction compelled is demanded in the course of negotiation for the benefit of the group in whose interest the actor acts;
- (6) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
- (7) Perform any other act which would not in itself substantially benefit the actor but which is calculated to substantially harm another person with respect to his health, safety, business, calling, career, financial condition, reputation or personal relationships.

In order for you to find the defendant guilty of violating this statute, the State must prove beyond a reasonable doubt each and every one of the following elements:

- (1) that the defendant threatened to (choose from subsections

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a(1) to (7)); and

- (2) that the defendant acted with purpose unlawfully to restrict another's freedom of action to engage or refrain from engaging in conduct.

The first element that the State must prove beyond a reasonable doubt is that defendant threatened to **(choose appropriate section[s]):**

- (1) (a) inflict bodily injury on anyone, regardless of the immediacy of the threat. "Bodily injury" means physical pain, illness, or any impairment of physical condition.¹
 - (b) commit an offense, regardless of the immediacy of the threat. The State contends that defendant threatened to commit the offense of (identify offense and instruct jury on its elements).
- (2) accuse anyone of an offense.
- (3) expose any secret which would tend to subject any person to hatred, contempt, ridicule, or to impair (his/her) credit or business repute.
- (4) take or withhold action as an official, or cause an official to take or withhold action.
- (5) bring about or continue a strike, boycott or other collective action.

[WHERE APPROPRIATE: The State additionally must prove beyond a reasonable doubt that the restriction compelled was not demanded in the course of negotiation for the benefit of the group in whose interest the actor acted in order to prove that the threat should be deemed coercive.]

- (6) testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
- (7) perform any other act which would not in itself substantially benefit the actor but which is calculated to substantially harm another person with respect to (his /her)

¹ N.J.S.A. 2C:11-1a.

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health, safety, business, calling, career, financial condition, reputation or personal relationships.

The second element that the State must prove beyond a reasonable doubt is that the defendant acted with purpose unlawfully to restrict another's freedom of action to engage or refrain from engaging in conduct.

A person acts purposely with respect to the nature of his/her conduct or a result thereof if it is his/her conscious object to engage in conduct of that nature or to cause such a result. A person acts purposely with respect to attendant circumstances if the individual is aware of the existence of such circumstances or the individual believes or hopes that they exist. "With purpose," "designed," "with design" or equivalent terms have the same meaning.

Purpose is a condition of the mind that cannot be seen and can only be determined by inferences drawn from the defendant's conduct, words or acts. It is not necessary for the State to prove the existence of such a mental state by direct evidence such as a statement by the defendant that he/she had a particular purpose. It is within the power of the jury to find that the proof of purpose has been furnished beyond a reasonable doubt by inferences which you may draw from the nature of the acts and circumstances surrounding the conduct of the defendant as they have been presented in the evidence you have heard and seen in this case.

The term "unlawfully" means against the law or illegal.

[CHARGE IF NO AFFIRMATIVE DEFENSE ALLEGED]

If the State has failed to prove any of these elements beyond a reasonable doubt, you must find the defendant not guilty of criminal coercion. If the State has proven every element beyond a reasonable doubt, you must find the defendant guilty of the crime of criminal coercion.

[AFFIRMATIVE DEFENSE TO N.J.S.A. 2C: 13-5a(2), (3), (4), (6) and (7)]

Defendant claims that he/she believed the accusation or secret to be true or the proposed official action justified and that his/her purpose was limited to compelling _____ to behave in a way reasonably related to the circumstances which were the subject of the accusation, exposure or proposed official action, **[CHOOSE AS APPROPRIATE]** [by desisting from further misbehavior, making good a wrong done, or refraining from taking any action or responsibility for which he/she believed _____ disqualified]. If the State proves beyond a reasonable doubt that defendant did not have such a belief or that his/her purpose was not so limited, then you

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must find defendant guilty. If the State fails to prove beyond a reasonable doubt that defendant did not have such a belief or that his/her purpose was not so limited, then you must find defendant not guilty.

[GRADING]

If you find that the State has proven defendant guilty beyond a reasonable doubt of this crime, then you must determine whether or not the State has proven beyond a reasonable doubt that the defendant [threatened to commit the crime of _____] [had the purpose in making the threat to commit the crime of _____.] I have already defined purpose for you earlier. The elements of _____ are [instruct jury on crime threatened or crime that defendant had the purpose of committing].²

If you find that the State has proven beyond a reasonable doubt that the defendant [threatened to commit the crime of _____] [had the purpose in making the threat to commit the crime of _____], then you must find him/her guilty of this form of criminal coercion. If, on the other hand, you find that the State has failed to prove that defendant [threatened to commit the crime of _____] [had the purpose in making the threat to commit the crime of _____] beyond a reasonable doubt, you must find him/her not guilty of this form of criminal coercion.

² N.J.S.A. 2C:13-5b. “Similarly, for a defendant to be found guilty of third-degree criminal coercion the State must prove that the defendant threatened to commit one or more specific crimes (more serious than crimes of the fourth degree) or that the defendant’s purpose in making the threat was to commit one or more specific crimes (of any degree). The charge must identify the specific crime or crimes used to raise the criminal coercion to a third-degree crime and explain the elements of each.” State v. Monti, 260 N.J. Super. 179, 189 n.10 (App. Div. 1992).