

## 181. Threats: s 359

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### 181.1 Legislation

[Last reviewed: February 2025]

*Criminal Code*

[Section 359](#) – Threats

### 181.2 Commentary

[Last reviewed: February 2025]

The Defendant must have:

- (1) Threatened to cause a detriment to another person;
- (2) With one of the following intents:
  - a. to prevent or hinder a person other than the defendant from doing any act which the person is lawfully entitled to do; or
  - b. to compel a person to do any act which that person is lawfully entitled to abstain from doing; or
  - c. to cause public alarm or anxiety.

#### *Meaning of 'detriment'*

'Detriment' need not necessarily in itself involve a criminal or unlawful connotation (*R v Zaphir* [1978] Qd R 151, [180]). In *Zaphir*, at [164], Wanstall CJ stated that it is sufficient for the prosecution to prove that the threat was to cause a detriment to another by inducing a violation of that other person's legal right, contractual or otherwise.

#### *Meaning of 'threatens'*

'Threatens' has its ordinary meaning. A threat must be of such a nature and extent that an ordinary person might be influenced or made apprehensive. This is an objective test (see *R v Zaphir* [1978] Qd R 151, [163-164]).

#### *Circumstances of aggravation*

Pursuant to s 359(2), the offence is aggravated where the threat is made to a law enforcement officer or a person helping the officer, when or because the officer is investigating the activities of a criminal organization.

The offence is a prescribed offence under s 161Q of the *Penalties and Sentences Act 1992* (Qld), so a serious organised crime circumstance of aggravation is applicable.

Where a circumstance of aggravation is charged under s 161Q, see Part 9D, Division 1 of the *Penalties and Sentences Act 1992* for relevant definitions.

The offence is also aggravated where the circumstances in s 52B of the *Criminal Code* exist.

### **181.3 Suggested Direction**

[Last reviewed: February 2025]

**The prosecution must prove beyond reasonable doubt that:**

**1. The Defendant threatened to cause a detriment to another person.**

**‘Threatened’ is an ordinary English word. The threat must be of such a nature and extent that an ordinary person might be influenced or made apprehensive. It is an objective test.**

**2. The Defendant made the threat with the intent to:**

**(a) prevent or hinder any person from doing any act which the other person is lawfully entitled to do; or**

**(b) compel any person to do any act which the other person is lawfully entitled to abstain from doing; or**

**(c) cause public alarm or anxiety.**

**(Where relevant, direct on the circumstances of aggravation).**