

Kidnapping for ransom: s 354A

Legislation

354A Kidnapping for ransom

- (1) Any person who—
 - (a) with intent to extort or gain anything from or procure anything to be done or omitted to be done by any person by a demand containing threats of detriment of any kind to be caused to any person, either by the offender or any other person, if the demand is not complied with, takes or entices away, or detains, the person in respect of whom the threats are made; or
 - (b) receives or harbours the said person in respect of whom the threats are made, knowing such person to have been so taken or enticed away, or detained;

is guilty of a crime which is called kidnapping for ransom.

- (2) Any person who commits the crime of kidnapping for ransom is liable to imprisonment for 14 years.
- (3) If the person kidnapped has been unconditionally set at liberty without such person having suffered any grievous bodily harm, the offender is liable to imprisonment for 10 years.
- (4) Any person who attempts to commit the crime of kidnapping for ransom is guilty of a crime and is liable to imprisonment for 7 years.
- (5) The Penalties and Sentences Act 1992, section 161Q states a circumstance of aggravation for an offence against this section.
- (6) An indictment charging an offence against this section with the circumstance of aggravation stated in the Penalties and Sentences Act 1992, section 161Q may not be presented without the consent of a Crown Law Officer.

Commentary

The term 'detain' should be given its ordinary and natural meaning. It has a variety of meanings including 'keep in confinement' and 'hold back, delay, stop'. See *R v Awang* [2004] 2 Qd R 672 per Williams JA.

See the direction on intention at **No 59 – Intention**.

'Extort' means obtain by force, threats, persistent demands, etc (the Australian Concise Oxford Dictionary, Third Ed).

The word 'procure' in this section means 'facilitate', 'enable', 'bring about' or 'cause'. The word is not confined to meaning compel or induce. See *R v F, ex parte Attorney General* [\[2004\] 1 Qd R 162](#).

This offence is a prescribed offence under s 161Q *Penalties and Sentences Act 1992* so a serious organised crime circumstance of aggravation is applicable.

Suggested Direction

A. (s 354A(1)(a))

The prosecution must prove that:

- 1. The defendant took, enticed away or detained another person.**
- 2. The defendant intended to extort or gain anything from or procure anything to be done or omitted to be done by any person.**
- 3. By a demand containing threats of detriment of any kind to be caused to the person taken, enticed away or detained, by the defendant or another, if the demand was not complied with.**

B. (s 354A(1)(b))

The prosecution must prove that:

- 1. The defendant received or harboured.**
- 2. The person in respect of whom the threats of detriment of any kind were made.**
- 3. Knowing that person to have been so taken or enticed away or detained.**

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