

Threats s 359¹

The prosecution must prove that:

1. The defendant threatened to cause a detriment² to another.
2. With 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.

“Threatened” is an ordinary English word. It must be of such a nature and extent that an ordinary person might be influenced or made apprehensive. It is an objective test³.

3. Circumstance of aggravation.⁴

It is a circumstance of aggravation if:

- (a) The threat is made to a law enforcement officer,⁵ or a person helping a law enforcement officer;
- (b) when or because the officer is investigating the activities of a criminal organization.⁶

¹ Section 359 was amended by s 63 *Criminal Code and Other Acts Amendment Act 2008* which commenced on 1.12.08. The effect of the amendment was to broaden the scope of operation of the offence by deleting “Any person who threatens to do any injury, or cause any detriment, of any kind to another with intent to prevent or hinder that other person” and inserting “A person (the *first person*) who threatens to cause a detriment to a second person with intent to prevent or hinder any person (the *other person*) other than the first person.” For offences committed prior to 1.12.08, the narrower scope of operation is applicable.

² Detriment need not necessarily in itself involve a criminal or unlawful connotation: *R v Zaphir* [1978] Qd R 151. 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. See definition in s 1.

³ See *R v Zaphir* [1978] 1 Qd R 151 at 163-4.

⁴ The offence is a prescribed offence under s 161Q *Penalties and Sentences Act 1992* so a serious organised crime circumstance of aggravation is applicable.

⁵ The term “law enforcement officer” is defined in s 1.

⁶ The term “criminal organisation” is defined in s 1.