

2C:28-5

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 2C:28-5

(Criminal
Coercion))

LAWS OF: 1991

CHAPTER: 33

Bill No: S2570

Sponsor(s): Gormley

Date Introduced: April 5, 1990

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: January 7, 1991

Senate: June 11, 1990

Date of Approval: February 25, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

APR 17 1991
JUDICIARY
ASSEMBLY

[FIRST REPRINT]
SENATE, No. 2570

STATE OF NEW JERSEY

INTRODUCED APRIL 5, 1990

By Senators GORMLEY and O'CONNOR

1 AN ACT concerning criminal coercion in certain circumstances
2 and amending ¹[N.J.S.2C:13-5] N.J.S.2C:28-5¹.

3

4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 ¹[1. N.J.S.2C:13-5 is amended to read as follows:

7 2C:13-5. Criminal coercion.

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

11 (1) Inflict bodily injury on anyone or commit any other offense;

12 (2) Accuse anyone of an offense;

13 (3) Expose any secret which would tend to subject any person
14 to hatred, contempt or ridicule, or to impair his credit or business
15 repute;

16 (4) Take or withhold action as an official, or cause an official
17 to take or withhold action;

18 (5) Bring about or continue a strike, boycott or other
19 collective action, except that such a threat shall not be deemed
20 coercive when the restriction compelled is demanded in the
21 course of negotiation for the benefit of the group in whose
22 interest the actor acts;

23 (6) Testify or provide information or withhold testimony or
24 information with respect to another's legal claim or defense; or

25 (7) Perform any other act which would not in itself
26 substantially benefit the actor but which is calculated to
27 substantially harm another person with respect to his health,
28 safety, business, calling, career, financial condition, reputation or
29 personal relationships.

30 It is an affirmative defense to prosecution based on paragraphs
31 (2), (3), (4), (6) and (7) that the actor believed the accusation or
32 secret to be true or the proposed official action justified and that
33 his purpose was limited to compelling the other to behave in a
34 way reasonably related to the circumstances which were the
35 subject of the accusation, exposure or proposed official action, as
36 by desisting from further misbehavior, making good a wrong done,
37 or refraining from taking any action or responsibility for which
38 the actor believes the other disqualified.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
¹ Senate floor amendments adopted May 24, 1990.

1 b. Grading. [Criminal coercion is a crime of the fourth degree
2 unless the threat is to commit a crime more serious than one of
3 the fourth degree or the actor's purpose is criminal, in which
4 cases the offense is a crime of the third degree.]

5 (1) Criminal coercion under paragraph (1) of subsection a. of
6 this section is a crime of the second degree if the act is
7 committed for the purpose of preventing the victim from
8 testifying against the actor in a criminal matter.

9 (2) Criminal coercion is a crime of the third degree if the
10 threat is to commit a crime more serious than one of the fourth
11 degree or if the actor's purpose is criminal.

12 (3) In all other cases, criminal coercion is a crime of the
13 fourth degree.

14 (cf: N.J.S.2C:13-5)]¹

15 ¹1. N.J.S.2C:28-5 is amended to read as follows:

16 2C:28-5. Tampering With Witnesses and Informants;
17 Retaliation Against Them.

18 a. Tampering. A person commits an offense if, believing that
19 an official proceeding or investigation is pending or about to be
20 instituted, he knowingly attempts to induce or otherwise cause a
21 witness or informant to:

22 (1) Testify or inform falsely;

23 (2) Withhold any testimony, information, document or thing;

24 (3) Elude legal process summoning him to testify or supply
25 evidence; or

26 (4) Absent himself from any proceeding or investigation to
27 which he has been legally summoned.

28 The offense is a crime of the second degree if the actor
29 employs force or threat of force. Otherwise it is a crime of the
30 third degree. Privileged communications may not be used as
31 evidence in any prosecution for violations of paragraph (2), (3) or
32 (4).

33 b. Retaliation against witness or informant. A person commits
34 a crime of the fourth degree if he harms another by an unlawful
35 act with purpose to retaliate for or on account of the service of
36 another as a witness or informant.

37 c. Witness or informant taking bribe. A person commits a
38 crime of the third degree if he solicits, accepts or agrees to
39 accept any benefit in consideration of his doing any of the things
40 specified in subsection a. (1) through (4) of this section.¹

41 (cf: P.L.1981, c.290, s.27)

42 2. This act shall take effect immediately.

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45 CRIMINAL JUSTICE

46
47 Classifies tampering with witnesses as a crime of the second
48 degree in certain circumstances.

1 the fourth degree or the actor's purpose is criminal, in which
2 cases the offense is a crime of the third degree.]

3 (1) Criminal coercion under paragraph (1) of subsection a. of
4 this section is a crime of the second degree if the act is
5 committed for the purpose of preventing the victim from
6 testifying against the actor in a criminal matter.

7 (2) Criminal coercion is a crime of the third degree if the
8 threat is to commit a crime more serious than one of the fourth
9 degree or if the actor's purpose is criminal.

10 (3) In all other cases, criminal coercion is a crime of the
11 fourth degree.

12 (cf: N.J.S.2C:13-5)

13 2. This act shall take effect immediately.

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STATEMENT

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18 This bill would classify criminal coercion as a crime of the
19 second degree if the crime is committed for the purpose of
20 preventing the victim from testifying against the perpetrator in a
21 criminal matter. Criminal coercion is a crime of the third degree
22 if the threat is to commit a crime more serious than one of the
23 fourth degree or if the actor's purpose is criminal. In all other
24 cases, criminal coercion is a crime of the fourth degree.

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CRIMINAL JUSTICE

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29 Classifies criminal coercion as a crime of the second degree in
30 certain circumstances.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2570

STATE OF NEW JERSEY

DATED: APRIL 26, 1990

The Senate Judiciary Committee reports favorably Senate Bill No. 2570.

Presently, "criminal coercion" (N.J.S. 2C:13-5) is graded as a crime of the fourth degree (up to 18 months imprisonment and/or a fine of up to \$7,500) unless the illegal threat is to commit a crime more serious than one of the fourth degree or the actors purpose is criminal, in which case "criminal coercion" is graded as a crime of the third degree (between 3 and 5 months imprisonment and/or a fine of up to \$7,500). This bill would provide that "criminal coercion" would be graded as a crime of the second degree if the illegal threat is committed for the purpose of preventing the victim from testifying against the perpetrator in a criminal matter. Crimes of the second degree are punishable by between 5 and 10 years imprisonment and/or a fine of up to \$100,000.

If the threat is to commit a crime more serious than one of the fourth degree, or if the actor's purpose is criminal, "criminal coercion" would be graded as a crime of the third degree. "Criminal coercion" would be a crime of the fourth degree in all other cases.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 2570

STATE OF NEW JERSEY

DATED: JUNE 25, 1990

The Assembly Judiciary, Law and Public Safety Committee reports favorably Senate Bill No. 2570 (1R).

This bill amends N.J.S.A.28-5 concerning tampering with witnesses and informants rather than the criminal coercion section. N.J.S.A.28-5 presently grades tampering as a crime of the second degree if the actor employs force. As amended, the crime would be a second degree crime if the actor threatens force. Crimes of the second degree are punishable by between 5 and 10 years imprisonment or a fine of up to \$100,000 or both. Otherwise it is a crime of the third degree.

This bill in its original form would have provided that "criminal coercion" would be graded as a crime of the second degree if the illegal threat is committed for the purpose of preventing the victim from testifying against the perpetrator in a criminal matter. Presently, "criminal coercion" (N.J.S.A.2C:13-5) is graded as a crime of the fourth degree, punishable by up to 18 months imprisonment or a fine of up to \$7,500 or both. However, if the illegal threat is to commit a crime more serious than one of the fourth degree or if the actor's purpose is criminal, then "criminal coercion" is graded as a crime of the third degree, punishable by between 3 and 5 years imprisonment or a fine of up to \$7,500.00 or both.

This bill is identical to Assembly Bill No. 3471 (1R) of 1990.