

8.23 EXTORTION

§ 836.05, Fla. Stat.

To prove the crime of Extortion, the State must prove the following [four] [five] elements beyond a reasonable doubt:

1. (Defendant) **made a [written] [printed] [verbal] communication to** (name of person).
2. **In that communication,** (defendant) **threatened to**

Give as applicable.

- a. **accuse another person of any [crime] [offense].**
 - b. **injure another person.**
 - c. **injure the [property] [reputation] of another person.**
 - d. **expose another person to disgrace.**
 - e. **expose any secret affecting another person.**
 - f. **impute any deformity or lack of chastity to another person.**
3. (Defendant's) **threat was made maliciously.**
 4. (Defendant's) **threat was made with the intent to**

Give as applicable.

- g. **extort money [or any pecuniary advantage whatsoever] from** [(name of person)] **[any person].**
- h. **compel [(name of person)] [any person] to do any act or refrain from doing any act against [his] [or] [her] will.**

If the person in element #1 is not the same person in element #4, then the defendant's threat was indirect. In those cases, the trial judge must also instruct on element #5. See Calamia v. State, 125 So. 3d 1007 (Fla. 5th DCA 2013).

5. **At the time** (defendant) **made the threat, [he] [she] intended that the threat be communicated to** (insert name of person in element #4 who was extorted or compelled).

Tomlinson v. State, 369 So. 3d 1142 (Fla. 2023).

“Maliciously” means intentionally and without any lawful justification.

§ 893.05(2) Fla. Stat. Give only if applicable.

If you find the defendant guilty of Extortion, you must further determine whether the State proved beyond a reasonable doubt that at the time of the

Extortion, [he] [she] was acting as a foreign agent and with the intent of benefiting a foreign country of concern.

§ 812.081, Fla. Stat.

A “foreign agent” means any officer, employee, proxy, servant, delegate, or representative of a foreign government.

§ 692.201, Fla. Stat.

A “foreign country of concern” means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern.

Lesser Included Offenses

No lesser-included offenses have been identified for this crime. Attempted extortion is not a crime. *Achin v. State*, 436 So. 2d 30 (Fla. 1982).

Comments

It is not necessary for the State to prove the actual intent to do harm nor the ability to carry out the threat. Threats to cause mental or psychological damage are prohibited under this statute. *Duan v. State*, 970 So. 2d 903 (Fla. 1st DCA 2007).

As of November 2023, it is unclear whether the courts will require the state to prove either that the victim felt threatened or that a reasonable person in victim’s position would have felt threatened.

This instruction was adopted in 2014 [143 So. 3d 893] and amended on December 15, 2023.