

Colorado Revised Statutes: Title 16: Criminal Proceedings:
18-3-207. Criminal Extortion - Aggravated Extortion.

TITLE 18. CRIMINAL CODE.

ARTICLE 3. OFFENSES AGAINST THE PERSON. PART 2. ASSAULTS.

<http://www.lexisnexis.com/hottopics/Colorado>

(1) A person commits criminal extortion if:

(a) The person, without legal authority
and with the intent to
induce another person
against that other person's will
to perform an act
or to refrain from performing a lawful act,
makes a substantial threat to confine or restrain,
cause economic hardship or bodily injury to,
or damage the property or reputation of,
the threatened person or another person;

and (b) The person threatens to cause the results
described in paragraph (a) of this subsection (1) by:

(I) Performing or causing an unlawful act to be performed;
or (II) Invoking action by a third party, including, but not limited to,
the state or any of its political subdivisions,
whose interests are not substantially related to
the interests pursued by the person making the threat.

(1.5) A person commits criminal extortion if the person, with the intent to induce another person
against that other person's will to give the person money or another item of value,
threatens to report to law enforcement officials the immigration status of
the threatened person or another person.

(2) A person commits aggravated criminal extortion if, in addition to
the acts described in subsection (1) of this section, the person threatens to cause
the results described in paragraph (a) of subsection (1) of this section by means of
chemical, biological, or harmful radioactive agents, weapons, or poison.

(3) For the purposes of this section, "substantial threat" means a threat that is
reasonably likely to induce a belief that the threat will be carried out and is one
that threatens that significant confinement, restraint, injury, or damage will occur.

(4) Criminal extortion, as described in subsections (1) and (1.5) of this section, is a class 4 felony.
Aggravated criminal extortion, as described in subsection (2) of this section, is a class 3 felony.

Case Notes, Annotation:

Law reviews. For article, "Criminal Law", which discusses a Tenth Circuit decision dealing with extortion, see 62 Den. U. L. Rev. 153 (1985). For article, "2006 Immigration Legislation in Colorado", see 35 Colo. Law. 79 (Oct. 2006).

This section is applicable to efforts to collect a legally enforceable debt. *People v. Rosenberg*, 194 Colo. 423, 572 P.2d 1211 (1978).

This section and § 18-9-111, which classifies harassment as a misdemeanor, address separate and distinct crimes and the classification of such offenses have a rational basis in fact and are reasonably related to legitimate government interests. *People v. Czemerynski*, 786 P.2d 1100 (Colo. 1990).

Statute is facially overbroad because it sweeps within its reach both protected and unprotected speech. *Whimbush v. People*, 869 P.2d 1245 (Colo. 1994) (decided prior to 1994 repeal and reenactment).

Statute is facially overbroad because it also covers constitutionally protected threats of collective action in support of group demands. *Whimbush v. People*, 869 P.2d 1245 (Colo. 1994) (decided prior to 1994 repeal and reenactment).

A specific intent requirement does not eliminate overbreadth concerns when the effect associated with the intent provision, here, to induce another to act against his or her will, encompasses a substantial amount of protected activity. *Whimbush v. People*, 869 P.2d 1245 (Colo. 1994) (decided prior to 1994 repeal and reenactment).

The trial court must vacate defendant's conviction and sentence for criminal extortion where the statute requires extensive revision to comply with constitutional requirements and rewriting the statute is more appropriately left to the general assembly rather than to the court. *Whimbush v. People*, 869 P.2d 1245 (Colo. 1994) (decided prior to 1994 repeal and reenactment).

Subsection (1) does not include within its reach protected speech, and therefore, it is not unconstitutionally overbroad. The legislature repealed and reenacted this section in 1994 with substantial modifications. Thus, the types of protected speech found to be criminalized under the prior statute are no longer included within the definition of extortion. *People v. Campbell*, 174 P.3d 860 (Colo. App. 2007).

This section gives sufficient notice of the proscribed conduct and is not unconstitutionally vague. A person of reasonable intelligence could conclude that phone calls made with the intent to threaten the victim is prohibited. *People v. Czemerynski*, 786 P.2d 1100 (Colo. 1990).

Indictment did not adequately allege a violation of the threat to confine or restrain element of the criminal extortion charge where it did not allege that sheriff made a substantial threat to confine or restrain an inmate who was already confined as an inmate. The indictment and the bill of particulars alleged only that sheriff threatened to transfer the inmate to another jail if inmate did not agree to work on sheriff's home. *People v. Gallegos*, 260 P.3d 15 (Colo. App. 2010).

Even if evidence of threatened loss of good time would otherwise have been sufficient to establish a violation of the extortion statute, it cannot cure the absence of such a factual allegation in the indictment or bill of particulars. *People v. Gallegos*, 260 P.3d 15 (Colo. App. 2010).

Applied in

People v. Hearty, 644 P.2d 302 (Colo. 1982).