

COERCION IN THE FIRST DEGREE
(Class D felony)
PENAL LAW 135.65(1)
(Committed on or after September 1, 1967)

The _____ count is Coercion in the First Degree.

Under our law, a person is guilty of coercion in the first degree when¹ he or she compels or induces a person to engage in conduct which the latter has a legal right to abstain from engaging in, to abstain from engaging in conduct in which he or she has a legal right to engage, by means of instilling in him or her a fear that, if the demand is not complied with, the actor or another will:

Select appropriate alternative(s):

Cause physical injury to a person;

Cause damage to property.

[The term, "PHYSICAL INJURY," used in this definition has its own special meaning in our law. I will now give you the meaning of that term.

"PHYSICAL INJURY" means impairment of physical condition or substantial pain.²]

[NOTE: Add if applicable:

It is no defense to a prosecution for coercion [or an attempt to commit coercion] that, by reason of the same conduct, the defendant also committed

¹ Penal Law §135.65 reads: "A person is guilty of coercion in the first degree when he commits the crime of coercion in the second degree ..." The charge substitutes the language of coercion in the second degree in the appropriate place.

² Penal Law § 10.00(9); See *People v. Chiddick*, 8 NY3d 445 (2007).

Select appropriate crime:

bribe receiving by a labor official³
bribe receiving⁴].⁵

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name),

Select appropriate alternative(s):

compelled or induced (*specify*) to engage in conduct which (*specify*) had a legal right to abstain from engaging in,

or

compelled or induced (*specify*) to abstain from engaging in conduct in which he/she had a legal right to engage; and

2. That the defendant did so by means of instilling in (*specify*) a fear that, if the demand is not complied with, the actor or another would:

Select appropriate provision:

Cause physical injury to a person.

Cause damage to property.

³ The statute states "bribe receiving by a labor official as defined in section 180.20." However, that crime is defined in section 180.25.

⁴ The statute states "bribe receiving as defined in section 200.05." However, that crime is defined in section 200.10.

⁵ Penal Law § 135.70.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Coercion in the First Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Coercion in the First Degree as charged in the _____ count.