

**8.16**  
**Issues In Child Abduction**

To sustain the charge of child abduction, the State must prove the following propositions:

*First Proposition:* That [(child)] was [(under the age of 18) (a severely or profoundly intellectually disabled person)]; and

[1] *Second Proposition:* That the defendant [(concealed [(child)]) (detained [(child)]) (removed [(child)] from the jurisdiction of the court)]; and

*Third Proposition:* That when the defendant did so, there was a court order granting [(sole) (joint)] [(custody) (care) (possession)] of the child to another; and

*Fourth Proposition:* That when he did so, the defendant intended to violate any terms of that court order.

[or]

[2] *Second Proposition:* That the defendant [(concealed [(child)]) (detained [(child)]) (removed [(child)] from the jurisdiction of the court)]; and

*Third Proposition:* That when the defendant did so, there was a court order that prohibited him from [(concealing [(child)]) (detaining [(child)]) (removing [(child)] from the jurisdiction of the court)]; and

*Fourth Proposition:* That when he did so, the defendant intended to violate that order.

[or]

[3] *Second Proposition:* That the defendant was [(child)]'s putative father, and,

*Third Proposition:* That the defendant's paternity of [(child)] [(had not been legally established) (had been legally established in a court proceeding where no custody order had been entered)]; and

*Fourth Proposition:* That the defendant intentionally [(concealed) (detained) (removed) [(child)] without the consent of [(mother) (lawful custodian)].

[or]

[4] *Second Proposition:* That the defendant was [(child)]'s mother; and

*Third Proposition:* That the defendant intentionally [(concealed) (removed)] [(child)] from [(child)]'s putative father; and

*Fourth Proposition:* That defendant had previously [(abandoned) (relinquished custody of)] [(child)]; and

*Fifth Proposition:* That [(child)]'s putative father had provided sole ongoing care and custody of [(child)] in defendant's absence.

[or]

[5] *Second Proposition:* That the defendant intentionally [(concealed) (removed)] [(child)] from his parent; and

*Third Proposition:* That at the time the defendant did so, defendant had [(filed a petition) (been served with process)] in an action affecting [(marriage) (paternity)]; and

*Fourth Proposition:* That at the time the defendant did so, no temporary or final order determining custody had issued.

[or]

[6] *Second Proposition:* That the defendant intentionally [(failed to return) (refused to return) (impeded the return of)] [(child)] to the lawful custodian in Illinois; and

*Third Proposition:* That at the time the defendant did so, visitation rights outside the State of Illinois had expired.

[or]

[7] *Second Proposition:* That the defendant is [(child)]'s parent; and

*Third Proposition:* That the defendant [(is) (was)] married to [(child)]'s other parent; and

*Fourth Proposition:* That the defendant knowingly concealed [(child)] for 15 days; and

*Fifth Proposition:* That at the time the defendant did so, there was no court order of custody; and

*Sixth Proposition:* That the defendant failed to make reasonable attempts within the 15 day period to notify [(child)]'s other parent as to [(child)]'s specific whereabouts, including notifying the other parent of a means by which to contact [(child)] or to arrange reasonable visitation or contact with [(child)].

[or]

[8] *Second Proposition:* That the defendant is [(child)]'s parent; and

*Third Proposition:* That the defendant [(is) (was)] married to [(child)]'s other parent; and

*Fourth Proposition:* That the defendant knowingly [(concealed) (detained) (removed)] [(child)]; and

*Fifth Proposition:* That when the defendant did so, he [(used physical force) (threatened physical force)]; and

*Sixth Proposition:* That when the defendant did so, there was no court order of custody.

[or]

[9] *Second Proposition:* That the defendant knowingly [(concealed) (detained) (removed)] [(child)]; and

*Third Proposition:* That the defendant did so for [(payment) (promise of payment)]; and

*Fourth Proposition:* That the defendant did so at the instruction of a person who had no legal right to custody of [(child)].

[or]

[10] *Second Proposition:* That [(child)] had been removed from another state; and

*Third Proposition:* That the defendant knowingly retained [child]) in the State of Illinois for 30 days; and

*Fourth Proposition:* That the defendant did so [(without the consent of the [(lawful custodian)])] (in violation of a court order of custody)].

[or]

[11] *First Proposition:* That [(child)] [(was under the age of [(16) (17)] years) (was traveling to or from a primary or secondary school)]; and

*Second Proposition:* That the defendant intentionally [(lured) (attempted to lure)] [(child)] into a [(motor vehicle) (building) (house trailer) (dwelling place)]; and

*Third Proposition:* That the defendant did so without the consent of a [(parent or lawful custodian)]; and

*Fourth Proposition:* That the defendant did so for other than a lawful purpose.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

### **Committee Note**

*Instruction and Committee Note Approved October 17, 2014*

720 ILCS 5/10-5 (West 2013), amended by P.A. 92-434, effective January 1, 2002, substituting “a” for “an institutionalized”; amended by P.A. 97-227, effective January 1, 2012, substituting “intellectually disabled” for “mentally retarded”; amended by P.A. 97-998, effective January 1, 2013.

Give Instruction 8.11.

When applicable, give Instruction 8.11A, defining “inference of unlawful purpose in child abduction”. See Committee Note to Instruction 8.11A.

When applicable, give Instruction 8.12, defining “putative father”.

When applicable, give Instruction 8.13, defining “child”.

When applicable, give Instruction 8.14, defining “detains”.

When applicable, give Instruction 8.17, “affirmative defense to child abduction”.

When applicable, give Instruction 11.65G, defining “severely or profoundly intellectually disabled person”.

Insert in the blanks labeled “(child)” the name of the child or severely or profoundly or intellectually disabled person. Insert in the blanks labeled “(lawful custodian)” or “(parent or lawful custodian)” the name of the child’s parent or lawful custodian.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. Give Instruction 5.03.