

### **11.29A**

#### **Inference In Endangering The Life Or Health Of A Child—Unattended In Motor Vehicle**

You may infer that a child six years of age or younger is unattended if that child is left in a motor vehicle for more than ten minutes. Unattended means either not accompanied by a person fourteen years of age or older, or, if accompanied by a person fourteen years of age or older, out of sight of that person.

You are never required to make this inference. It is for the jury to determine whether the inference should be made. You should consider all of the evidence in determining whether to make this inference.

#### **Committee Note**

720 ILCS 5/12C-5(b), (c) (West, 2021).

The Committee notes that this inference is permissive, not mandatory. *People v Pomykala*, 203 Ill. 2d 198, 784 N.E. 2d 784 (2003); *People v Funches*, 212 Ill. 2d 334, 818 N.E. 2d 342 (2004). Mandatory presumptions are unconstitutional in criminal cases. *People v Watts*, 181 Ill. 2d. 133, 692 N.E. 2d 315 (1998). Accordingly, the Committee drafted the second paragraph of this instruction.