

8.11A Inference Of Unlawful Purpose In Child Abduction

If you find that the defendant lured or attempted to lure a child under 17 years of age into a [(motor vehicle) (building) (house trailer) (dwelling place)] and that he did so [(without the express consent of the child's parent or lawful custodian of the child) (with the intent to avoid the express consent of the child's parent or lawful custodian)], you may infer it was for other than a lawful purpose.

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 5/10-5(b)(10) (West 2020), previously amended by P.A. 97-160, effective January 1, 2012, removed the mandatory presumption; this section, previously amended by P.A. 97-998, effective January 1, 2013, raised the age of the child from 16 to 17.

In *People v. Woodrum*, 223 Ill.2d 286 (2006), 860 N.E.2d 259 (2006) the Illinois Supreme Court held Section 10-5(b)'s requirement that the luring into a building of a child without parental consent was prima facie evidence that defendant's intent was for "other than a lawful purpose" and resulted in an unconstitutional mandatory rebuttable presumption. In 2011, Section 10-5(b) was amended by stating that the presumption was permissive and not mandatory.

This instruction should be used *only* when the defendant is charged with child abduction under Section 10-5(b)(10).