

## 4.24

### Definition Of Proximate Cause

[(For the offense of \_\_\_\_\_, the) (The)] term “proximate cause” means any cause which, in the natural or probable sequence, produced the [(great bodily harm) (permanent disability) (permanent disfigurement) (death of another person) (death of the child) (injury to a peace officer)]. [It need not be the only cause, nor the last or nearest cause. It is sufficient if it concurs with some other cause which in combination with it, causes the [(great bodily harm) (permanent disability) (permanent disfigurement) (death of another person) (death of the child) (injury to a peace officer)].]

### Committee Note

720 ILCS 5/8-4 (c)(1)(D) (West 2022)

720 ILCS 5/9-1.2(d)(4) (West 2022)

720 ILCS 5/10-2(a)(8) (West 2022)

720 ILCS 5/12-4.3 (b)(3) (West 2022)

720 ILCS 5/12-11(a)(5) (West 2022)

720 ILCS 5/12-14(a)(10) (West 2022)

720 ILCS 5/12-21.6(d) (West 2022)

720 ILCS 5/12C-5(d) (West 2022)

720 ILCS 5/18-2(a)(4) (West 2022)

720 ILCS 5/18-4(a)(6) (West 2022)

720 ILCS 5/31-1(a-7) (West 2022)

720 ILCS 5/33 A-2(c) (West 2022)

730 ILCS 5/5-8-1(a)(1)(d)(iii) (West 2022)

In *People v. Martin*, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645 (4th Dist. 1994), the court held that an instruction very similar to this instruction was properly given when a DUI is subject to enhancement pursuant to section 11-501(d)(3). The Committee based this instruction upon IPI Criminal Instruction 23.28A, but modified it for use in this context.

This definition should be given when causation is an issue in the above listed statutory offenses or sentencing enhancement factors.

The first part of this instruction should be given where the evidence shows that the sole cause of the injury or death was the conduct of the defendant. The instruction in its entirety, however, should be given when there is evidence of a concurring or contributing cause of the injury or death.

In the statutes listed above, the language regarding “proximate cause” is variously stated as follows:

(1) 720 ILCS 5/8-4(c)(1)(D), 720 ILCS 5/9-1.2(d)(4), 720 ILCS 5/10-2(a)(8), 720 ILCS 5/12-4.3(b)(3), 720 ILCS 5/12-14(a)(10), and 730 ILCS 5/5-8-1(a)(1), use the wording “proximately caused.”

(2) 720 ILCS 5/12-11(a)(5), 720 ILCS 5/18-2(a)(4), 720 ILCS 5/18-4(a)(6), and 720 ILCS 5/33A-2(c), use the wording “proximately causes.”

(3) 720 ILCS 5/12-21.6(d) and 720 ILCS 5/12C-5(d), use the wording “a proximate cause.”

(4) 720 ILCS 5/31-1(a-7), uses the wording “the proximate cause.”

The Committee believes there is no significance to the variation in the phraseology that affects the applicability of this definition with one possible exception. When using 720 ILCS 5/31-1(a-7) (the proximate cause) the Committee directs the user to *Sibenaller v. Milschewski*, 379 Ill.App.3d 717, 721-22, 884 N.E.2d 1215 (2nd Dist. 2008), where the appellate court discusses a principle of statutory construction when “the” is used instead of “a.” The Committee takes no position as to whether the bracketed second sentence should be given when defining “the proximate cause.”

This instruction should not be given when causation is an issue in intentional, knowing or reckless homicide cases. Instruction 7.15 should be given under those circumstances.

This instruction should not be given when causation is an issue in felony murder cases. Instruction 7.15A should be given under those circumstances.

This instruction should not be given when causation is an issue in driving under the influence cases. Instruction 23.28A should be given under those circumstances.

Use applicable bracketed material.

When instructing for offenses with different definitions of causation, such as involuntary manslaughter (720 ILCS 5/9.3) and felony endangerment of the life or health of a child (720 ILCS 5/12C-5(d)), use the bracketed material naming the appropriate offense.

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