

8.16
Issues In Child Abduction

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

[1] *First Proposition:* That, at the time of the alleged violation, [(child)] was [(under the age of 18 years) (a person with a severe or profound intellectual disability)]; and

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 [(child)] to another; and

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

[or]

[2] *First Proposition:* That, at the time of the alleged violation, [(child)] was [(under the age of 18 years) (a person with a severe or profound intellectual disability)]; and

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] *First Proposition:* That, at the time of the alleged violation, [(child)] was [(under the age of 18 years) (a person with a severe or profound intellectual disability)]; and

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]

[3a] *First Proposition:* That, at the time of the alleged violation, [(child)] was [(under the age of 18 years) (a person with a severe or profound intellectual disability)]; and

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

Third Proposition: That the defendant intentionally [(concealed) (removed)] [(child)] from [(unadjudicated father)] who provided sole ongoing care and custody of [(child)] in [(mother)]'s absence; and

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

[or]

[4] *First Proposition:* That, at the time of the alleged violation, [(child)] was [(under the age of 18 years) (a person with a severe or profound intellectual disability)]; and

Second Proposition: That the defendant intentionally [(concealed) (removed)] [(child)] from [(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]

[5] *First Proposition:* That, at the time of the alleged violation, [(child)] was [(under the age of 18 years) (a person with a severe or profound intellectual disability)]; and

Second Proposition: That the defendant intentionally [(failed to return) (refused to return) (impeded the return of)] [(child)] to [(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]

[6] *First Proposition:* That, at the time of the alleged violation, [(child)] was [(under the age of 18 years) (a person with a severe or profound intellectual disability)]; and

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))] (arranging reasonable visitation with [(child))] (arranging contact with [(child))].

[or]

[7] *First Proposition:* That, at the time of the violation, [(child)] was [(under the age of 18 years) (a person with a severe or profound intellectual disability)]; and

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]

[8] *First Proposition:* That, at the time of the violation, [(child)] was [(under the age of 18 years) (a person with a severe or profound intellectual disability)]; and

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]

[9] *First Proposition:* That, at the time of the violation, [(child)] was [(under the age of 18 years) (a person with a severe or profound intellectual disability)]; and

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]

[10] *First Proposition:* That [(child)] [(was under the age of 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 [(parent) (lawful custodian)]; and

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

[or]

[11] *First Proposition:* That, at the time of the violation, [(child)] was [(under the age of 18 years) (a person with a severe or profound intellectual disability)]; and

Second Proposition: That the defendant knowingly [(destroyed) (altered) (concealed) (disguised)] physical evidence) (furnished false information)]; and

Third Proposition: That the defendant did so with intent to [(obstruct) (prevent)] efforts to locate the child victim of a child abduction.

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

720 ILCS 5/10-5 (West 2020).

Give Instruction 8.11. See Committee Note regarding definitions.

The bracket numbers correspond to the numbered subsections in 720 ILCS 5/10-5(b). The offenses contained in Section 10-5(b)(3) have been split into brackets 3 and 3A.

If the defendant is charged with a violation of 720 ILCS 5/10-5(b)(10), give Instruction 8.11A. See Committee Note to Instruction 8.11A.

See Committee Note to Instruction 8.15.

Replace the word “(child)” with the name of the child or person with a severe or profound intellectual disability. Replace the words “(unadjudicated father)”, “(parent)”, or “(lawful custodian)” with the name of the child’s unadjudicated father, parent, or lawful custodian.

If an affirmative defense is warranted, give Instruction 8.17.

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. See Instruction 5.03.