

7.10A
Issues In Aggravated Reckless Homicide

To sustain the charge of aggravated reckless homicide, the State must prove the following propositions:

[1] *First Proposition:* That the defendant caused the death of [(_____) (two or more persons as part of a single course of conduct)] [without lawful justification] by [(driving a motor vehicle) (operating a snowmobile) (operating an all-terrain vehicle) (operating a watercraft)]; and

Second Proposition: That the defendant [(drove a motor vehicle) (operated a snowmobile) (operated an all-terrain vehicle) (operated a watercraft)] recklessly; and

Third Proposition: That the defendant [(drove a motor vehicle) (operated a snowmobile) (operated an all-terrain vehicle) (operated a watercraft)] in a manner likely to cause death or great bodily harm; and

Fourth Proposition: That in doing so, the defendant's [(motor vehicle) (snowmobile) (all-terrain vehicle) (watercraft)] was upon a public thoroughfare where children pass going to and from school when a school crossing guard is performing official duties.

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.

[or]

[2] *First Proposition:* That the defendant caused the death of [(_____) (two or more persons as part of a single course of conduct)] [without lawful justification] by driving a motor vehicle; and

Second Proposition: That the defendant, drove the vehicle recklessly; and

Third Proposition: That the defendant drove the vehicle in a manner likely to cause death or great bodily harm; and

Fourth Proposition: That in doing so, the defendant was driving in a construction or maintenance zone.

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.

[or]

[3] *First Proposition:* That the defendant caused the death of [(_____) (two or more persons as part of a single course of conduct)] [without lawful justification] by [(driving a motor vehicle) (operating a snowmobile) (operating an all-terrain vehicle) (operated a watercraft)]; and

Second Proposition: That the defendant [(drove a motor vehicle) (operated a snowmobile) (operated an all-terrain vehicle) (operated a watercraft)] recklessly; and

Third Proposition: That the defendant [(drove a motor vehicle) (operated a snowmobile) (operated an all-terrain vehicle) (operated a watercraft)] in a manner likely to cause death or great bodily harm; and

Fourth Proposition: That in doing so, the defendant failed or refused to comply with any lawful order or direction of any [(authorized police officer) (traffic control aide)] engaged in traffic control.

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.

[or]

[4] *First Proposition:* That the defendant caused the death of two or more persons as part of a single course of conduct [without lawful justification] by driving a vehicle; and

Second Proposition: That the defendant, while driving the vehicle, recklessly used an incline in a roadway to cause the vehicle to become airborne.

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.

[or]

[5] *First Proposition:* That the defendant caused the death of a peace officer during performance of his official duties as a peace officer [without lawful justification] by [(driving a motor vehicle) (operating a snowmobile) (operating an all-terrain vehicle) (operating a watercraft)]; and

Second Proposition: That the defendant [(drove a motor vehicle) (operated a snowmobile) (operated an all-terrain vehicle) (operated a watercraft)] recklessly; and

Third Proposition: That the defendant [(drove a motor vehicle) (operated a snowmobile) (operated an all-terrain vehicle) (operated a watercraft)] in a manner likely to cause death or great bodily harm.

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.

[or]

[6] *First Proposition:* That the defendant caused the death of [(_____) (two or more persons as part of a single course of conduct)] [without lawful justification] by driving a vehicle; and

Second Proposition: That the defendant drove the vehicle recklessly; and

Third Proposition: That the defendant drove the vehicle in a manner likely to cause death or great bodily harm; and

Fourth Proposition: That the defendant drove the vehicle on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the defendant's vehicle, when approaching a stationary authorized emergency vehicle displaying alternately flashing [(red) (red and white) (blue) (red and blue) (amber) (yellow)] warning lights; and

Fifth Proposition: That the defendant failed to proceed with due caution, reduce the speed of the vehicle, maintain a safe speed for road conditions, be prepared to stop, and leave a safe distance until safely passed the authorized emergency vehicle, and yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with due regard for safety and traffic conditions.

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.

[or]

[7] *First Proposition:* That the defendant caused the death of [(_____) (two or more persons as part of a single course of conduct)] [without lawful justification] by driving a vehicle; and

Second Proposition: That the defendant drove the vehicle recklessly; and

Third Proposition: That the defendant drove the vehicle in a manner likely to cause death or great bodily harm; and

Fourth Proposition: That the defendant drove the vehicle on a roadway where changing lanes would be impossible or unsafe, when approaching a stationary authorized emergency vehicle displaying alternately flashing [(red) (red and white) (blue) (red and blue) (amber) (yellow)] warning lights; and

Fifth Proposition: That the defendant failed to proceed with due caution, reduce the speed of the vehicle, maintain a safe speed for road conditions, and leave a safe distance until safely past the authorized emergency vehicle.

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.

[or]

[8] *First Proposition:* That the defendant caused the death of a firefighter or other emergency medical services personnel in the performance of their official duties [without lawful justification] by driving a vehicle; and

Second Proposition: That the defendant drove the vehicle recklessly; and

Third Proposition: That the defendant drove the vehicle in a manner likely to cause death or great bodily harm; and

Fourth Proposition: That the defendant drove the vehicle on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the defendant's vehicle, when approaching a stationary authorized emergency vehicle displaying alternately flashing [(red) (red and white) (blue, or red and blue lights) (amber or yellow)] warning lights; and

Fifth Proposition: That the defendant failed to proceed with due caution, reduce the speed of the vehicle, maintain a safe speed for road conditions, be prepared to stop, and leave a safe distance until safely passed the authorized emergency vehicle, and yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with due regard for safety and traffic conditions.

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.

[or]

[9] *First Proposition:* That the defendant caused the death of a firefighter or other emergency medical services personnel in the performance of their official duties [without lawful justification] by driving a vehicle; and

Second Proposition: That the defendant drove the vehicle recklessly; and

Third Proposition: That the defendant drove the vehicle in a manner likely to cause death or great bodily harm; and

Fourth Proposition: That the defendant drove the vehicle on a roadway where changing lanes would be impossible or unsafe, when approaching a stationary authorized emergency vehicle displaying alternately flashing [(red) (red and white) (blue, or red and blue lights) (amber or yellow)] warning lights; and

Fifth Proposition: That the defendant failed to proceed with due caution, reduce the speed of the vehicle, maintain a safe speed for road conditions, and leave a safe distance until safely past the authorized emergency vehicle.

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 5/9-3(e-2) and 9-3(e-3) (West 2020), amended by P.A. 95-467, effective June 1, 2008); 720 ILCS 5/9-3(e-7) and (e-8) (West 2020), amended by P.A. 93-178, effective January 1, 2004); 720 ILCS 5/9-3(e-9) (West 2020), amended by P.A. 93-682, effective January 1, 2005); 720 ILCS 5/9-3(e-7) and (e-8) (West 2020), amended by P.A. 95-591, effective September 10, 2007); 720 ILCS 5/9-3(e-10) (West 2020), amended by P.A. 95-551, effective June 1, 2008); 720 ILCS 5/9-3(e-12) and (e-13) (West 2020), amended by P.A. 95-803, effective January 1, 2009); 720 ILCS 5/9-3(e-15) (West 2020), amended by P.A. 101-173, effective January 1, 2020); 625 ILCS 5/11-907 (West 2021), amended by P.A. 102-0336, effective January 1, 2022.

Give Instruction 7.09A.

Give Instruction 5.01, defining the term “recklessness.”

When applicable, give Instruction 23.79X, defining the term “authorized emergency vehicle”.

When applicable, define the term “construction or maintenance zone”. See Instruction 4.23 on school speed zones.

When applicable, give Instruction 7.09Y (Inferences of ‘Reckless’ Conduct—Reckless Homicide).

When applicable, insert in the blank the name of the victim.

The propositions in paragraph [1] track the language of the reckless homicide statute as codified in 720 ILCS 5/9-3(e-2) and 720 ILCS 5/9-3(e-3), after enactment of P.A. 95-467, effective June 1, 2008.

The propositions in paragraph [2] track the language of the reckless homicide statute as codified in 720 ILCS 5/9-3(e-7) and 720 ILCS 5/9-3(e-8), after enactment of P.A. 93-178, effective June 1, 2005.

The propositions in paragraph [3] track the language of the reckless homicide statute as codified in 720 ILCS 5/9-3(e-7) and (e-8), after enactment of by P.A. 95-591, effective September 10, 2007).

The propositions in paragraph [4] track the language of the reckless homicide statute as codified in 720 ILCS 5/9-3(e-9), after enactment of P.A. 93-682, effective January 1, 2005.

The propositions in paragraph [5] track the language of the reckless homicide statute as codified in 720 ILCS 5/9-3(e-10), after enactment of P.A. 95-551, effective June 1, 2008.

The propositions in paragraphs [6] and [7] track the language of the reckless homicide statute as codified in 720 ILCS 5/9-3(e-12) and (e-13), after enactment of P.A. 95-803, effective January 1, 2009.

The propositions in paragraphs [8] and [9] track the language of the reckless homicide statute as codified in 720 ILCS 5/9-3(e-15), the enactment of P.A. 101-173, effective January 1, 2020.

Because the reckless homicide statute expressly refers to subsection (c) of Section 11-907 of the Illinois Vehicle Code, the bracketed language used in paragraphs [6], [7], [8], and [9] incorporates the requirements of Scott's Law as set forth in Instruction 23.79 and Instruction 23.79A.

The terms "due caution" and "due regard for safety and traffic conditions" in paragraphs [6], [7], [8], and [9] are undefined in the Illinois Vehicle Code, and the Committee takes no position on their meaning.

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.

Use applicable paragraph and bracketed material.

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