

**18.18**

**Issues In Unlawful Possession Of Firearms And Firearm Ammunition**

To sustain the charge of unlawful possession of [ (firearms) (firearm ammunition) (handguns) ], the State must prove the following proposition[s]:

[1] *First Proposition:* That the defendant was under 18 years of age; and

*Second Proposition:* That the defendant knowingly had in his possession a [ (firearm) (handgun) ]; and

*Third Proposition:* That the [ (firearm) (handgun) ] was of a size which could be concealed on defendant's person.

[or]

[2] *First Proposition:* That the defendant was under 21 years of age; and

*Second Proposition:* That the defendant had been [ (convicted of the offense of \_\_\_\_ ) (adjudged delinquent) ]; and

*Third Proposition:* That the defendant knowingly had in his possession [ (a firearm) (firearm ammunition) (a handgun) ].

[or]

[3] *First Proposition:* That the defendant was a narcotic addict; and

*Second Proposition:* That the defendant knowingly had in his possession [ (a firearm) (firearm ammunition) (a handgun) ].

[or]

[4] *First Proposition:* That the defendant was a patient in a mental hospital within the past 5 years; and

*Second Proposition:* That the defendant knowingly had in his possession [ (a firearm) (firearm ammunition) (a handgun) ].

[or]

[5] *First Proposition:* That the defendant was mentally retarded; and

*Second Proposition:* That the defendant knowingly had in his possession [ (a firearm) (firearm ammunition) (a handgun) ].

[or]

[6] That the defendant knowingly had in his possession an explosive bullet.

If you find from your consideration of all the evidence that [ (this) (each one of these) ] proposition[s] has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that [ (this) (any one of these) ] proposition[s] has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

### **Committee Note**

720 ILCS 5/24-3.1 (West, 1994) (formerly Ill.Rev.Stat. ch. 38, §24-3.1 (1991)), amended by P.A. 88-680, effective January 1, 1995.

Give Instruction 18.17.

The bracketed numbers [1] through [6] correspond to the paragraphs of the same number in Instruction 18.17, the definitional instruction for these offenses.

Insert in the blank in the second set of propositions the name of the misdemeanor other than a traffic offense when applicable.

P.A. 88-680, effective January 1, 1995, provides that if the violation of Section 24-3.1 is committed with a handgun, the offense is increased from a Class A misdemeanor to a Class 4 felony. Accordingly, the Committee has provided the bracketed alternative “(handgun)” to the title of the offense in the opening phrase of this instruction and alternatives [1] through [5] to allow the jury to specifically find this element of the Class 4 felony offense. See the Committee Note to Instruction 18.17.

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.