

8.16
Issues In Child Abduction

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

First Proposition: That [(child)] was [(under the age of 18 years) (an institutionalized severely or profoundly mentally retarded person)]; and

[1] *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 the child to another; and

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

[or]

[2] *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] *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 or lawful custodian)].

[or]

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

Third Proposition: That the defendant intentionally [(concealed) (removed)] [(child)] from [(child)]'s putative father; and

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

Fifth Proposition: That [(child)]'s putative father had provided sole ongoing care and custody of [(child)] in defendant's absence.

[or]

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

[6] *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]

[7] *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 [(intentionally) (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)] or to arrange reasonable visitation or contact with [(child)].

[or]

[8] *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 [(intentionally) (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]

[9] *Second Proposition:* That the defendant [(intentionally) (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]

[10] *Second Proposition:* That [(child)] had been removed from another state; and

Third Proposition: That the defendant retained [(child)] in the State of Illinois for 30 days; and

Fourth Proposition: That the defendant did so [(without the consent of [(lawful custodian)]) (in violation of a court order of custody)].

[or]

[11] *First Proposition:* That [(child)] was under the age of 16 years; 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 or lawful custodian)]; and

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

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 10-5 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §10-5 (1991)).

Give Instruction 8.11.

See Committee Note to Instruction 8.15.

Insert in the blanks labeled “(child)” the name of the child or institutionalized mentally retarded person. Insert in the blanks labeled “(lawful custodian)” or “(parent or lawful custodian)” the name of the child’s parent or lawful custodian.

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.