

8.11

Definition Of Child Abduction

A person commits the offense of child abduction when

[1] he intentionally violates any terms of a court order granting sole or joint custody, care, or possession of a child to another, by concealing or detaining the child or removing the child from the jurisdiction of the court.

[or]

[2] he intentionally violates a court order prohibiting [(him) (her)] from concealing or detaining a child or removing a child from the jurisdiction of the court.

[or]

[3] he, being a putative father of a child [(whose paternity of the child has not been legally established) (whose paternity of the child has been legally established in a court proceeding where no custody order has been entered)] intentionally conceals, detains, or removes the child without the consent of the child's mother or lawful custodian.

[or]

[4] she, being a mother who has [(abandoned a child) (relinquished custody of a child)], intentionally conceals or removes the child from the child's putative father who has not established paternity of the child, but who has provided sole ongoing care and custody of the child in the mother's absence.

[or]

[5] he, after [(filing a petition)] (being served with process) in an action affecting [(marriage) (paternity)], but before issuance of a temporary or final order determining custody, intentionally conceals or removes a child from a parent.

[or]

[6] he, at the expiration of visitation rights outside the State, intentionally [(fails to return) (refuses to return) (impedes the return of)] a child to the child's lawful custodian in Illinois.

[or]

[7] he, being a parent of a child and [(being) (having been)] married to the child's other parent, knowingly conceals the child for 15 days when there has been no court order of custody, and fails to make reasonable attempts within the 15 day period to notify the other parent as to the specific whereabouts of the child, including a means by which to contact such child or to arrange reasonable visitation or contact with the child.

[or]

[8] he, being a parent of a child and [(being) (having been)] married to the child's other parent, knowingly [(conceals) (detains) (removes)] the child with physical force or threat of physical force when there has been no court order of custody.

[or]

[9] he knowingly [(conceals) (detains) (removes)] a child for [(payment) (promise of payment)] at the instruction of a person who has no legal right to custody of the child.

[or]

[10] he knowingly retains in this State for 30 days a child removed from another state [(without the consent of the lawful custodian) (in violation of a valid court order of custody)].

[or]

[11] he intentionally [(lures) (attempts to lure)] a child under the age of 16 into a [(motor vehicle) (building) (house trailer) (dwelling place)] without the consent of the child's parent or lawful custodian for other than a lawful purpose.

[or]

[12] he intentionally [(lures) (attempts to lure)] a child [(under the age of 17) (while traveling to or from a primary or secondary school)] into a [(motor vehicle) (building) (house trailer) (dwelling place)] without the consent of the child's parent or lawful custodian for other than a lawful purpose.

[or]

[13] he, with the intent to obstruct or prevent efforts to locate the child victim of a child abduction, [(knowingly) (destroys) (alters) (conceals) (disguises) physical evidence) (knowingly furnishes false information)].

Committee Note

Instruction and Committee Note Approved October 17, 2014

720 ILCS 5/10-5 (West 2013), amended by P.A. 92-434, effective January 1, 2002, substituting "a" for "an institutionalized"; amended by P.A. 97-227, effective January 1, 2012, substituting "intellectually disabled" for "mentally retarded"; amended by P.A. 97-998, effective January 1, 2013.

Give Instruction 8.16.

When applicable, give Instruction 8.11A, defining "inference of unlawful purpose in child abduction". See Committee Note to Instruction 8.11A.

When applicable, give Instruction 8.12, defining "putative father".

When applicable, give Instruction 8.13, defining “child”.

When applicable, give Instruction 8.14, defining “detains”.

When applicable, give Instruction 8.17, “affirmative defense to child abduction”.

When applicable, give Instruction 11.65G, defining “severely or profoundly intellectually disabled person”.

The legislature amended Section 10-5(b)(10), effective January 1, 2013. Accordingly, use paragraph [11] for offenses committed before the effective date of the amendment and use paragraph [12] for offenses committed on or after the effective date of the amendment. The legislature also amended the statute by adding Section 10-5(b)(11), effective January 1, 2013. Accordingly, use paragraph [13] for offenses committed on or after the effective date.

In *People v. Williams*, 133 Ill.2d 449, 551 N.E.2d 631 (1990), the Illinois Supreme Court upheld the constitutionality of Section 10-5(b)(10).

Several subsections of Section 10-5 refer to the existence of a valid court order. The Committee believes that the court, and not the jury, should determine whether a court order is valid, so that the word “valid” has been omitted from instructions on this offense.

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.