

## 11.106

### Issues In Predatory Criminal Sexual Assault Of A Child-Great Bodily Harm, Firearm Or Controlled Substance

To sustain the charge of predatory criminal sexual assault of a child [(resulting in great bodily harm) (when the defendant is [(armed with a firearm) (personally discharges a firearm during the commission of the offense)]) (when the defendant delivers any controlled substance)], the State must prove the following propositions:

[1] *First Proposition:* That the defendant [(intentionally) (knowingly) (recklessly)] committed an act of contact, however slight, between the [(sex organ) (anus)] of one person and the part of the body of another for the purposes of [(sexual gratification) (arousal)] of \_\_\_\_\_; and

[or]

[2] *First Proposition:* That the defendant [(intentionally) (knowingly) (recklessly)] committed an act of sexual penetration with \_\_\_\_; and

*Second Proposition:* That the defendant was 17 years of age or older when the act was committed; and

*Third Proposition:* That \_\_\_\_ was under 13 years of age when the act was committed; and

*Fourth Proposition:* That the defendant caused great bodily harm to \_\_\_\_ that [(resulted in permanent disability) (was life threatening)].

[or]

*Fourth Proposition:* That the defendant [(was armed with a firearm) (personally discharged a firearm during the commission of the offense)].

[or]

*Fourth Proposition:* That the defendant delivered by [(injection) (inhalation) (ingestion) (transfer of possession) (any means)] any controlled substance to \_\_\_\_\_ [(without \_\_\_\_\_'s consent) (by threat) (by deception)] for other than medical purposes.

If you find from your consideration of all the evidence that each 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

#### Instruction and Committee Note Approved April 26, 2016.

720 ILCS 5/11-1.40(a) (Renumbered and amended as §11-1.40 by P.A. 96-1551, Art.2, §5, effective July 1, 2011). Added by P.A. 89-428, effective December 13, 1995; Amended by

89-462, effective May 29, 1996, Amended by P.A. 90-396, effective January 1, 1998; Amended by P.A. 90-735, effective August 11, 1998; 91-238, effective January 1, 2000; Amended by P.A. 91-404, effective January 1, 2000; Amended by P.A. 92-16, effective June 28, 2001; Amended by P.A. 95-640, effective June 1, 2008; Amended by P.A. 98-370, effective January 1, 2014; Amended by P.A. 98-903, effective August 15, 2014.

Give Instruction 11.103.

Do not use Instruction 11.105 with this Instruction.

When this Instruction is given, there must be four propositions stated.

When applicable, give Instruction 18.35G, defining “firearm”.

When applicable, give Instruction 4.36, defining “armed with a firearm”.

When applicable, give Instruction 4.37, defining “personally discharged a firearm”.

See Committee Note to Instruction 11.103 regarding the use of mental states in this instruction.

When, in the First Proposition the allegation is “an act of contact, however slight, . . .”, insert in the blank the word “defendant” or the name of the victim as applicable.

When, in the First Proposition the allegation is “an act of sexual penetration”, insert in the blank the name of the victim.

In the Third Proposition, insert in the blank the name of the victim.

In the Fourth Proposition, insert in the blank(s) the name of the victim.

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.