

**8.00
KIDNAPPING**

**8.01
Definition Of Kidnapping**

A person commits the offense of kidnapping when he knowingly and
[1] secretly confines another person against his will.

[or]

[2] by force or by threat of imminent force carries another person from one place to another with intent secretly to confine that other person against his will.

[or]

[3] by deceit or enticement induces another person to go from one place to another place with intent secretly to confine that other person against his will.

Committee Note

720 ILCS 5/10-1 (West 2020).

When applicable, give Instruction 8.01A or 8.01B.

Use applicable paragraphs.

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.

8.01A
Confinement Of A Child Under Age 13

Confinement of a child under the age of 13 years is against that child's will if that confinement is without the consent of that child's parent or legal guardian.

Committee Note

720 ILCS 5/10-1(b) (West 2020).

See Instruction 8.04.

8.01B

Confinement Of A Person With A Severe Or Profound Intellectual Disability

Confinement of a person with a severe or profound intellectual disability is against that person's will if that confinement is without the consent of that person's parent or legal guardian.

Committee Note

720 ILCS 5/10-1(b) (West 2020).

Give Instruction 11.65G, defining "severe or profound intellectual disability".

See Instruction 8.04.

8.02
Issues In Kidnapping

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

First Proposition: That the defendant acted knowingly; and

Second Proposition: That the defendant secretly confined _____ against [(his) (her)] will.

[or]

_____ *Second Proposition:* That the defendant, by force or threat of imminent force, carried from one place to another place; and

Third Proposition: That when the defendant did so, he intended secretly to confine _____ against [(his) (her)] will.

[or]

Second Proposition: That the defendant, by deceit or enticement, induced _____ to go from one place to another place; and

Third Proposition: That when the defendant did so, he intended secretly to confine _____ against [(his) (her)] will.

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 5/10-1 (West 2020).

Insert in the blanks the name of the victim.

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.

8.03
Reserved

8.04

Definition Of Aggravated Kidnapping

A person who kidnaps another commits the offense of aggravated kidnapping when he

[1] kidnaps with the intent to obtain ransom from the person kidnapped or from any other person.

[or]

[2] takes as his victim [(a child under the age of 13 years) (a person with a severe or profound intellectual disability)].

[or]

[3] [(inflicts great bodily harm, other than by the discharge of a firearm) (commits _____)] upon the victim.

[or]

[4] [(wears a hood, robe, or mask) (conceals his identity)].

[or]

[5] does so while armed with a dangerous weapon other than a firearm.

[or]

[6] does so while armed with a firearm.

[or]

[7] during the commission of the offense of kidnapping, he personally discharges a firearm.

[or]

[8] during the commission of the offense of kidnapping, he personally discharges a firearm that proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.

Committee Note

720 ILCS 5/10-2 (West 2020).

Give Instruction 8.01 and either Instruction 8.05, 8.05A, or 8.05B. The underlying offense of kidnapping can be committed in one of three ways: (1) secret confinement (720 ILCS 5/10(a)(1)); (2) carrying another by force or threat of imminent force (720 ILCS 5/10-1(a)(2)); or (3) inducing travel by deceit or enticement (720 ILCS 5/10-1(a)(3)). When the defendant is

charged under Section 10-1(a)(1), give this instruction and Instruction 8.05. When the defendant is charged under Section 10-1(a)(2), give this instruction and Instruction 8.05A. When the defendant is charged under Section 10-1(a)(3), give this instruction and Instruction 8.05B.

Give Instruction 8.01A when the defendant is charged with confining a child under the age of 13 years.

Give Instruction 8.01B when the defendant is charged with confining a person with a severe or profound intellectual disability.

Give Instruction 11.65G when the victim is alleged to be a person with a severe or profound intellectual disability.

Give Instruction 8.04A, defining the word “ransom” when paragraph [1] is used.

In paragraph [3], insert in the blank the name of the applicable felony and give the instruction defining that felony immediately following this instruction.

When paragraph [5] is used, give the definition of the term “dangerous weapon” which is found in 720 ILCS 5/33A-1. See Committee Note to Instruction 4.17.

Use applicable 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.

8.04A
Definition Of Ransom

The word “ransom” means money, benefit, or other valuable thing or concession.

Committee Note

720 ILCS 5/10-2(a) (West 2020).

Give this instruction when paragraph [1] of Instruction 8.04 is used.

8.05

Issues In Aggravated Kidnapping—Kidnapping By Secret Confinement

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

First Proposition: That the defendant secretly confined _____ against [(his) (her)] will; and

Second Proposition: That the defendant acted knowingly; and

Third Proposition: That the defendant acted for the purpose of obtaining ransom from _____ or from any other person.

[or]

Third Proposition: That _____ was [(a child under the age of 13 years who was confined without the consent of [(his) (her)] parent or legal guardian) (a person with a severe or profound intellectual disability who was confined without the consent of [(his) (her)] legal guardian)].

[or]

Third Proposition: That the defendant [(inflicted great bodily harm, other than by the discharge of a firearm) (committed _____)] upon _____.

[or]

Third Proposition: That the defendant [(wore a hood, robe, or mask) (concealed his identity)].

[or]

Third Proposition: That the defendant during the commission of the offense was armed with a dangerous weapon, other than a firearm.

[or]

Third Proposition: That the defendant during the commission of the offense was armed with a firearm.

[or]

Third Proposition: That the defendant during the commission of the offense personally discharged a firearm.

[or]

Third Proposition: That the defendant during the commission of the offense personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person.

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 5/10-1(a) and 5/10-2 (West 2020).

Give Instruction 8.04.

See the Committee Note to Instruction 8.04 concerning whether to give Instruction 8.05, 8.05A, or 8.05B.

Insert in the appropriate blank the name of the victim or specific felony committed. See Committee Note to Instruction 8.04.

Use applicable propositions and bracketed material.

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.

8.05A

Issues In Aggravated Kidnapping--Kidnapping By Force Or Threat

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

First Proposition: That the defendant acted knowingly; and

Second Proposition: That the defendant, by force or threat of imminent force, carried _____ from one place to another place; and

Third Proposition: That when the defendant did so, he intended secretly to confine _____ against [(his) (her)] will; and

Fourth Proposition: That the defendant acted for the purpose of obtaining ransom from _____ or from any other person.

[or]

Fourth Proposition: That _____ was [(a child under the age of 13 years who was confined without the consent of [(his) (her)] parent or legal guardian) (a person with a severe or profound intellectual disability who was confined without the consent of [(his) (her)] legal guardian)].

[or]

Fourth Proposition: That the defendant [(inflicted great bodily harm, other than by the discharge of a firearm), (committed _____)] upon _____.

[or]

Fourth Proposition: That the defendant [(wore a hood, robe, or mask) (concealed his identity)].

[or]

Fourth Proposition: That the defendant during the commission of the offense was armed with a dangerous weapon, other than a firearm.

[or]

Fourth Proposition: That the defendant during the commission of the offense was armed with a firearm.

[or]

Fourth Proposition: That the defendant during the commission of the offense personally discharged a firearm.

[or]

Fourth Proposition: That the defendant during the commission of the offense personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person.

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 5/10-1(a)(2) and 5/10-2 (West 2020).

Give Instruction 8.04.

See the Committee Note to Instruction 8.04 concerning whether to give Instruction 8.05, 8.05A, or 8.05B.

Insert in the appropriate blank the name of the victim or specific felony committed. See Committee Note to Instruction 8.04.

Use applicable propositions and bracketed material.

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.

8.05B

Issues In Aggravated Kidnapping--Kidnapping By Deceit Or Enticement

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

First Proposition: That the defendant acted knowingly; and

Second Proposition: That the defendant, by deceit or enticement, induced _____ to go from one place to another place; and

Third Proposition: That when the defendant did so, he intended secretly to confine _____ against [(his) (her)] will; and

Fourth Proposition: That the defendant acted for the purpose of obtaining ransom from _____ or from any other person.

[or]

Fourth Proposition: That _____ was [(a child under the age of 13 years who was confined without the consent of [(his) (her)] parent or legal guardian) (a person with a severe or profound intellectual disability who was confined without the consent of [(his) (her)] legal guardian)].

[or]

Fourth Proposition: That the defendant [(inflicted great bodily harm, other than by the discharge of a firearm), (committed _____)] upon _____.

[or]

Fourth Proposition: That the defendant [(wore a hood, robe, or mask) (concealed his identity)].

[or]

Fourth Proposition: That the defendant during the commission of the offense was armed with a dangerous weapon, other than a firearm.

[or]

Fourth Proposition: That the defendant during the commission of the offense was armed with a firearm.

[or]

Fourth Proposition: That the defendant during the commission of the offense personally discharged a firearm.

[or]

Fourth Proposition: That the defendant during the commission of the offense personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person.

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 5/10-1(a)(3) and 5/10-2 (West 2020).

Give Instruction 8.04.

See the Committee Note to Instruction 8.04 concerning whether to give Instruction 8.05, 8.05A, or 8.05B.

Insert in the appropriate blank the name of the victim or specific felony committed. See Committee Note to Instruction 8.04.

Use applicable propositions and bracketed material.

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.

8.06
Definition Of Unlawful Restraint

A person commits the offense of unlawful restraint when he knowingly and without legal authority detains another person.

Committee Note

720 ILCS 5/10-3 (West 2020).

Give Instruction 8.07.

If legal authority is a question of fact, an instruction defining legal authority should be given as applied to the facts in the case. See e.g., 720 ILCS 5/16-26 (merchant's defense) and 725 ILCS 5/107-3 (arrest by private person). See also 720 ILCS 5/7-1 *et seq.* (justifiable use of force; exoneration).

8.06A

Definition Of Aggravated Unlawful Restraint

A person commits the offense of aggravated unlawful restraint when he knowingly and without legal authority detains another person while using a deadly weapon.

Committee Note

720 ILCS 5/10-3.1 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §10-3.1 (1991)).

Give Instruction 8.07A.

If legal authority is a question of fact, an instruction defining legal authority should be given as applied to the facts in the case. See, for example, Section 107-3 (arrest by private person) and Section 16A-6 (merchant's defense). See also Article 7 of Chapter 720.

The Committee notes that the legislative phrase “while using a deadly weapon” in the new section contrasts with the phrase “while armed with a dangerous weapon” found elsewhere in Chapter 720 (see, e.g., Sections 10-2(a)(5), 10-4(a)(1), and 33A-2), and defined in Section 33A-1. No definition of the new phrase is suggested by the Committee. This conforms with previous instructions involving the phrase “uses a deadly weapon.” See Instructions 11.03 and 11.09.

8.07
Issue In Unlawful Restraint

To sustain the charge of unlawful restraint, the State must prove the following proposition:

That the defendant knowingly and without legal authority detained _____.

If you find from your consideration of all the evidence that this proposition 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 proposition has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

720 ILCS 5/10-3 (West 2020).

Give Instruction 8.06.

When the question of legal authority is involved, see Committee Note to Instruction 8.06.

Insert in the blank the name of the victim.

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.

8.07A
Issues In Aggravated Unlawful Restraint

To sustain the charge of aggravated unlawful restraint, the State must prove the following propositions:

First Proposition: That the defendant knowingly and without legal authority detained _____; and

Second Proposition: That the defendant did so while using a deadly weapon.

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 5/10-3.1 (West 2020).

Give Instruction 8.06A.

When the question of legal authority is involved, see Committee Note to Instruction 8.06A.

Insert in the blank the name of the victim.

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.

8.08
Merchant's Defense To Unlawful Restraint

Committee Note

720 ILCS 5/16-26 (West 2020).

The Committee decided not to include an instruction on this defense because so few cases are brought under this statute.

8.09
Definition Of Forcible Detention

A person commits the offense of forcible detention when he holds an individual hostage without lawful authority for the purpose of obtaining performance by a third person of demands made by the person holding the hostage, and

[1] the person holding the hostage is armed with a dangerous weapon.

[or]

[2] the hostage is known to the person holding him to be [(a peace officer) (a correctional employee)] engaged in the performance of his official duties.

Committee Note

720 ILCS 5/10-4 (West 2020).

Give Instruction 8.10.

Give Instruction 4.08, defining the term “peace officer,” when paragraph [2] is given.

When appropriate, give the definition of the term “armed with a dangerous weapon” found in 720 ILCS 5/33A-1(c)(1). See Committee Note to Instruction 4.17.

If lawful authority is a question of fact, an instruction defining lawful authority should be given as applied to the facts in the case. See e.g., 725 ILCS 5/107-3 (arrest by private person). See also 720 ILCS 5/7-1 *et seq.* (justifiable use of force; exoneration).

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.

8.10
Issues In Forcible Detention

To sustain the charge of forcible detention, the State must prove the following propositions:

First Proposition: That the defendant held _____ hostage without lawful authority; and

Second Proposition: That _____ was held hostage for the purpose of obtaining performance by a third person upon the demand of the defendant; and

Third Proposition: That the defendant was armed with a dangerous weapon.

[or]

Third Proposition: That _____ was known to the defendant to be [(a peace officer) (a correctional employee)] engaged in the performance of his 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.

Committee Note

720 ILCS 5/10-4 (West 2020).

Give Instruction 8.09.

When the question of lawful authority is involved, see Committee Note to Instruction 8.09.

Insert in the blanks the name of the person held hostage.

Use applicable propositions and bracketed material.

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.

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 from concealing or detaining a child or removing a child from the jurisdiction of the court.

[or]

[3] he intentionally conceals, detains, or removes the child without the consent of the child's mother or lawful custodian if the person is a putative father and [(paternity of the child has not been legally established) (paternity of the child has been legally established but no custody order has been entered)].

[or]

[3a] she is a mother who has [(abandoned a child) (relinquished custody of a child)] and intentionally [(conceals) (removes)] the child from an unadjudicated father who has provided sole ongoing care and custody of the child in the mother's absence.

[or]

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

[or]

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

[or]

[6] 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) (arrange reasonable visitation) (arrange reasonable contact)] with the child.

[or]

[7] he, being a parent of the child, [(being) (having been)] married to the child's other

parent and there has been no court order for custody, knowingly [(conceals) (detains) (removes)] the child with [(physical force) (threat of physical force)].

[or]

[8] 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]

[9] 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 court order of custody)].

[or]

[10] 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) (lawful custodian)] for other than a lawful purpose.

[or]

[11] he knowingly [(destroys) (alters) (conceals) (disguises)] physical evidence (furnishes false information)] with the intent to [(obstruct) (prevent)] efforts to locate the abducted child.

Committee Note

720 ILCS 5/10-5 (West 2020).

Give Instruction 8.16.

When applicable, give Instruction 8.12, defining “putative father,” Instruction 8.13, defining the word “child,” and Instruction 8.14, defining the word “detains”.

When the defendant is charged with child abduction under Section 10-5(b)(10), give IPI 8.11A.

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 the court and counsel and should not be included in the instruction submitted to the jury.

8.11A
Inference Of Unlawful Purpose In Child Abduction

If you find that the defendant lured or attempted to lure a child under 17 years of age into a [(motor vehicle) (building) (house trailer) (dwelling place)] and that he did so [(without the express consent of the child's parent or lawful custodian of the child) (with the intent to avoid the express consent of the child's parent or lawful custodian)], you may infer it was for other than a lawful purpose.

You are never required to make this inference. It is for the jury to determine whether the inference should be made. You should consider all of the evidence in determining whether to make this inference.

Committee Note

720 ILCS 5/10-5(b)(10) (West 2020), previously amended by P.A. 97-160, effective January 1, 2012, removed the mandatory presumption; this section, previously amended by P.A. 97-998, effective January 1, 2013, raised the age of the child from 16 to 17.

In *People v. Woodrum*, 223 Ill.2d 286 (2006), 860 N.E.2d 259 (2006) the Illinois Supreme Court held Section 10-5(b)'s requirement that the luring into a building of a child without parental consent was prima facie evidence that defendant's intent was for "other than a lawful purpose" and resulted in an unconstitutional mandatory rebuttable presumption. In 2011, Section 10-5(b) was amended by stating that the presumption was permissive and not mandatory.

This instruction should be used *only* when the defendant is charged with child abduction under Section 10-5(b)(10).

8.11B
Definition Of Luring

The term “luring” means any knowing act to solicit, entice, tempt, or attempt to attract the minor.

Committee Note

720 ILCS 5/10-5(a)(2.2) (West 2020).

For a discussion of the sufficiency of the evidence as to “luring”, see *People v. Trotter*, 2013 IL App (2d) 120363, 2 N.E.3d 543 (2nd Dist. 2013).

8.12

Definition Of Putative Father--Child Abduction

The term “putative father” means a man who has a reasonable belief that he is the father of a child born of a woman who is not his wife.

Committee Note

720 ILCS 5/10-5(a)(4) (West 2020).

8.13

Definition Of Child--Child Abduction

The word “child” means a person who, at the time the alleged violation occurs, [(is under the age of 18) (has a severe or profound intellectual disability)].

Committee Note

720 ILCS 5/10-5(a)(1) (West 2020).

When applicable, give Instruction 11.65G, defining “severe or profound intellectual disability”.

Use applicable bracketed material.

8.14

Definition Of Detains--Child Abduction

The word “detains” means taking or retaining physical custody of a child, whether or not the child resists or objects.

Committee Note

720 ILCS 5/10-5(a)(2) (West 2020).

8.15

Definition Of Lawful Custodian--Child Abduction

Committee Note

The Committee believes that application of the definition of the term “lawful custodian” involves questions of law to be determined by the court rather than the jury. When a case involves a subsection of the child abduction statute that uses the term “lawful custodian,” the court should determine who is the lawful custodian of the child under 720 ILCS 5/10-5(a)(3), and should insert in the appropriate blank the name of that person or persons in Instruction 8.16.

720 ILCS 5/10-5(a)(3) provides that the term “lawful custodian” means a person or persons granted legal custody or entitled to physical possession of a child pursuant to a court order. This statute further provides that if the parents of a child have never been married to each other, it is presumed that a mother has legal custody of the child unless a valid court order states otherwise, and that if an adjudication of paternity has been completed and the father has been assigned support obligations or visitation rights, such a paternity order should be considered a valid court order granting custody to the mother.

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) (a severely or profoundly intellectually disabled 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) (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 the 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 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 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 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 knowingly retained [child] in the State of Illinois for 30 days; and

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

[or]

[11] *First Proposition:* That [(child)] [(was under the age of [(16) (17)] years) (was traveling to or from a primary or secondary school)]; 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 a [(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

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 8.11.

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”.

Insert in the blanks labeled “(child)” the name of the child or severely or profoundly or intellectually disabled 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. Give Instruction 5.03.

8.17
Affirmative Defenses To Child Abduction

It is a defense to the charge of child abduction

[1] that at the time of the alleged violation, the defendant had custody of ____ pursuant to a court order granting legal custody or visitation rights.

[or]

[2] that prior to the time of the alleged violation, the defendant had physical custody of ____ pursuant to a court order granting legal custody or visitation rights; that defendant failed to return ____ as a result of circumstances beyond his control; and that the defendant [(notified and disclosed to the other parent or legal custodian the specific whereabouts of ____ and a means by which ____ could be contacted) (within 24 hours after the custody or visitation period had expired, made a reasonable attempt to notify the other parent or lawful custodian of such circumstances and returned the child as soon as possible)].

[or]

[3] that the defendant was fleeing an incidence or pattern of domestic violence.

Committee Note

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

Whenever this instruction is given, it will be necessary to add a proposition to the issues instruction. For example, if the defendant asserts as an affirmative defense that he had custody pursuant to a court order at the time of the alleged visitation, the following proposition should be added to Instruction 8.16:

See Chapter 720, Section 3-2, and the Introduction to Chapter 24-25.00.

Section 10-5(c)(4) states what is designated as a fourth affirmative defense to child abduction, but only to Section 10-5(b)(10). Section 10-5(b)(10) makes it an offense to lure or attempt to lure a child under 16 into certain vehicles or structures “for other than a lawful purpose.” Section 10-5(c)(4) merely provides that it is an affirmative defense to that particular subsection if the defendant lured or attempted to lure the child “for a lawful purpose.” Since the jury must find, under Instructions 8.11 and 8.16, that the defendant’s purpose was unlawful, the Committee believes that no purpose would be served by a further instruction on Section 10-5(c)(4).

Insert in the blanks the name of the child.

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.

8.18

Definition Of Aiding And Abetting Child Abduction

A person commits the offense of aiding and abetting child abduction when

[1] before or during the commission of a child abduction, and with the intent to promote or facilitate the child abduction, he intentionally aids or abets another in the planning or commission of that offense, unless before the offense is committed, he makes proper effort to prevent its commission.

[or]

[2] with the intent to prevent the apprehension of a person known to have committed the offense of child abduction, he knowingly [([(destroys) (alters) (conceals) (disguises)] physical evidence) (furnishes false information)].

[or]

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

Committee Note

720 ILCS 5/10-7 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §10-7 (1991)).

Give Instructions 8.11 and 8.19.

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.

8.19
Issues In Aiding And Abetting Child Abduction

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

[1] *First Proposition:* That a child abduction was committed; and

Second Proposition: That before or during the commission of the child abduction, the defendant aided or abetted another in the planning or commission of that offense; and

Third Proposition: That when the defendant did so, he intended to promote or facilitate commission of the offense of child abduction; and

Fourth Proposition: That the defendant did not make a proper effort to prevent the child abduction before it was committed.

[or]

[2] *First Proposition:* That the defendant knowingly [([(destroyed) (altered) (concealed) (disguised)] physical evidence) (furnished false information)]; and

Second Proposition: That the defendant did so with the intent to prevent the apprehension of ____; and

Third Proposition: That the defendant knew that ____ had committed the offense of child abduction.

[or]

[3] *First Proposition:* That the defendant knowingly [([(destroyed) (altered) (concealed) (disguised)] physical evidence) (furnished false information)]; and

Second Proposition: That the defendant did so with the intent to [(obstruct) (prevent)] efforts to locate a child victim of a child abduction.

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 5/10-7 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §10-7 (1991)).

Give Instructions 8.18 and 8.11.

Insert in the blank the name of the person who committed the child abduction and whose apprehension the defendant had allegedly sought to prevent.

Use applicable 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.

8.20

Definition Of Harboring A Runaway

A person commits the offense of harboring a runaway when he knowingly gives shelter to a minor for more than 48 hours without the knowledge and consent of the minor's parent or guardian, and without notifying local law enforcement authorities of the minor's name and the fact that the minor is being provided shelter.

Committee Note

720 ILCS 5/10-6 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §10-6 (1991)).

Give Instruction 8.21.

By its terms, Section 10-6 does not apply to agencies or associations providing crisis intervention services as defined in Section 3-5 of the Juvenile Court Act of 1987, Chapter 705, Section 405/3-5, or to operators of youth emergency shelters as defined in Section 2.21 of the Child Care Act of 1969, Chapter 225. In addition, Section 10-6 does not apply to minors who have been emancipated under the Emancipation of Mature Minor's Act, Chapter 750, Section 30/1 *et seq.* Whenever the evidence in the case raises issues as to those exclusions, this instruction must be modified to indicate the exclusion, a definition of the excluded class of persons should be given, and an additional proposition requiring the jury to find that the defendant did not belong to the excluded class or that the minor was not emancipated at the time the shelter was given must be added to Instruction 8.21.

8.21
Issues In Harboring A Runaway

To sustain the charge of harboring a runaway, the State must prove the following propositions:

First Proposition: That the defendant knowingly gave shelter to ____ for more than 48 hours; and

Second Proposition: That when the defendant did so, ____ was a minor; and

Third Proposition: That the defendant did so without the knowledge of ____'s parent or guardian; and

Fourth Proposition: That the defendant did so without the consent of ____'s parent or guardian; and

Fifth Proposition: That the defendant did so without notifying local law enforcement authorities of ____'s name; and

Sixth Proposition: That the defendant did so without notifying local law enforcement authorities that he was providing shelter to ____.

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 5/10-6 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §10-6 (1991)).

Give Instruction 8.20.

Insert in the blank the name of the child to whom the defendant allegedly gave shelter.

Whenever the evidence in the case presents an issue as to whether the defendant falls within a category of persons excluded from criminal liability under Section 10-6, or whether the minor was emancipated at the time of the offense, an additional proposition must be added to this instruction. See Committee Note to Instruction 8.20.

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.

8.22

Definition Of Unlawful Visitation Or Parenting Time Interference

A person commits the offense of unlawful visitation or parenting time interference when he or she, in violation of the [(visitation) (parenting time) (custody time)] provisions of a court order relating to child custody, [(detains) (conceals)] a child with the intent to deprive another person of his or her rights to [(visitation) (parenting time) (custody time)].

Committee Note

Instruction and Note Approved January 18, 2013.

720 ILCS 5/10-5.5 (West 2013).

Give Instruction 8.23.

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

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

Chapter 720, Section 10-5(a)(3) provides that the term “lawful custodian” means a person granted legal custody or entitled to physical possession of a child pursuant to a court order. That statute further provides that if the parents of a child have never been married to each other, it is presumed that a mother has legal custody of the child unless a valid court order states otherwise, and that if an adjudication of paternity has been completed and the father has been assigned support obligations or visitation rights, such a paternity order should be considered a valid court order granting custody to the mother.

The Committee believes that application of the above definition involves questions of law to be determined by the court rather than the jury. When a case involves the interference of the visitation, parenting time or custody time of a lawful custodian, the court should determine who the lawful custodian of the child is under 720 ICLS 5/10-5(3), and should insert in the appropriate blank the name of that person in Instruction 8.23.

The Illinois Supreme Court upheld the constitutionality of this statute in *People v. Warren*, 173 Ill.2d 348, 671 N.E.2d 700 (1996).

Only non-custodial parents can be aggrieved by visitation interference. *Id.* at 365. Persons with joint custody cannot commit visitation interference. *Id.* at 364.

Use applicable bracketed material.

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

8.23

Issues In Unlawful Visitation Or Parenting Time Interference

To sustain the charge of unlawful visitation or parenting time interference, the State must prove the following propositions:

First Proposition: That there was a court order relating to child custody [(visitation) (parenting time) (custody time)].

Second Proposition: That the defendant detained or concealed _____ with the
(child)
intent to deprive _____ of [(his) (her)] rights to
(parent or other person granted custody)
[(visitation) (parenting time) (custody time)].

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

Instruction and Note Approved January 18, 2013.

720 ILCS 5/10-5.5 (West 2013).

Give instruction 8.22

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

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The Committee believes that application of the above definition involves questions of law to be determined by the court rather than the jury. When a case involves the interference of the visitation, parenting time or custody time of a lawful custodian, the court should determine who the lawful custodian of the child is under 720 ICLS 5/10-5(3), and should insert in the appropriate blank the name of that person in Instruction 8.23.

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Use applicable bracketed material.

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When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in the Second Proposition.

8.24

**Affirmative Defenses To The Charge Of Unlawful Visitation Or
Parenting Time Interference**

It is a defense to the charge of unlawful visitation or parenting time interference that the defendant committed the act to protect _____ from imminent physical harm, (child) provided that the defendant's belief that there was physical harm imminent was reasonable and that the defendant's conduct in withholding [(visitation rights) (parenting time) or (custody time)] was a reasonable response to the harm believed to be imminent.

[or]

the act was committed with the mutual consent of all parties having a right to custody and [(visitation of) or (parenting time with)] _____.
(child)

[or]

the act was otherwise authorized by law.

Committee Note

Instruction and Note Approved January 18, 2013.

720 ILCS 5/10-5.5 (West 2013).

Give this instruction when any of these issues are raised by the evidence.

Use applicable bracketed material.

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