

## **10.00 ABORTION**

### **10.01**

#### **Definition Of Unauthorized Waiver Of Notice**

A person commits the offense of unauthorized waiver of notice when he signs a waiver of notice required before an abortion for [(a minor) (an incompetent person)] and he is not an adult family member of the [(minor) (incompetent person)].

#### **Committee Note**

##### ***Instruction and Committee Note Approved October 28, 2016***

750 ILCS 70/40(b) (West 2016).

Give Instruction 10.02.

When applicable, give Instruction 10.01A, defining the word “minor”.

When applicable, give Instruction 10.01B, defining the word “incompetent”.

When applicable, give Instruction 10.01C, defining the term “adult family member”.

**10.01A**  
**Definition Of Minor**

The word “minor” means any person under 18 years of age who is not or has not been married or who has not been emancipated.

**Committee Note**

*Instruction and Committee Note Approved October 28, 2016*

750 ILCS 70/10 (West 2016).

The statute defining the term “minor” requires that the minor was emancipated under the Emancipation of Minors Act. Whether the minor was emancipated under the Emancipation of Minors Act, 750 ILCS 30/1 *et. seq.*, is a legal issue for the court to determine.

**10.01B**  
**Definition Of Incompetent**

The word “incompetent” means any person who [(has been adjudged as mentally ill) (is a person with developmental disabilities and who, because of her mental illness or developmental disability, is not fully able to manage her person and for whom a guardian of the person has been appointed)].

**Committee Note**  
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750 ILCS 70/10 (West 2016).

When the issue involves a person for whom a guardian has been appointed, the statute requires that the guardian was appointed under Section 11a-3(a)(1) of the Probate Code of 1975, (755 ILCS 5/1-1 *et. seq.*). Whether a guardian was appointed pursuant to that Act is a legal issue for the court to determine.

**10.01C**  
**Definition Of Adult Family Member**

The term “adult family member” means a person over 21 years of age who is the parent, grandparent, step-parent living in the household, or legal guardian.

**Committee Note**

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750 ILCS 70/10 (West 2016).

**10.02**  
**Issues In Unauthorized Waiver Of Notice**

To sustain the charge of unauthorized waiver of notice, the State must prove the following propositions:

*First Proposition:* That the defendant signed a waiver of notice for [(a minor) (an incompetent person)] who was seeking an abortion, and

*Second Proposition:* That the defendant was not an adult family member of the [(minor) (incompetent person)].

**Committee Note**

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750 ILCS 70/1 *et seq.* (West 2016).

Give Instruction 10.01.