

1 AN ACT in relation to criminal matters.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Criminal Code of 1961 is amended by
5 changing Sections 10-1 and 10-5 as follows:

6 (720 ILCS 5/10-1) (from Ch. 38, par. 10-1)

7 Sec. 10-1. Kidnapping.) (a) Kidnapping occurs when a
8 person knowingly:

9 (1) And secretly confines another against his will, or

10 (2) By force or threat of imminent force carries another
11 from one place to another with intent secretly to confine him
12 against his will, or

13 (3) By deceit or enticement induces another to go from
14 one place to another with intent secretly to confine him
15 against his will.

16 (b) Confinement of a child under the age of 13 years is
17 against his will within the meaning of this Section if such
18 confinement is without the consent of his parent or legal
19 guardian.

20 (c) Sentence.

21 Kidnapping is a Class 2 felony. If, in the course of
22 committing kidnapping against a child under 16 years of age,
23 the defendant commits a forcible felony against the child,
24 commits a violation of Section 11-6, 11-9, 11-9.1, 11-15.1,
25 11-20.1, 12-13, 12-14, 12-14.1, 12-15, or 12-16, or attempts
26 to commit a violation of Section 12-13, 12-14, 12-14.1,
27 12-15, or 12-16 against the child, the defendant shall not be
28 eligible for probation.

29 (Source: P.A. 79-765.)

30 (720 ILCS 5/10-5) (from Ch. 38, par. 10-5)

1 Sec. 10-5. Child Abduction.

2 (a) For purposes of this Section, the following terms
3 shall have the following meanings:

4 (1) "Child" means a person under the age of 18 or a
5 severely or profoundly mentally retarded person at the
6 time the alleged violation occurred; and

7 (2) "Detains" means taking or retaining physical
8 custody of a child, whether or not the child resists or
9 objects; and

10 (3) "Lawful custodian" means a person or persons
11 granted legal custody of a child or entitled to physical
12 possession of a child pursuant to a court order. It is
13 presumed that, when the parties have never been married
14 to each other, the mother has legal custody of the child
15 unless a valid court order states otherwise. If an
16 adjudication of paternity has been completed and the
17 father has been assigned support obligations or
18 visitation rights, such a paternity order should, for the
19 purposes of this Section be considered a valid court
20 order granting custody to the mother.

21 (b) A person commits child abduction when he or she:

22 (1) Intentionally violates any terms of a valid
23 court order granting sole or joint custody, care or
24 possession to another, by concealing or detaining the
25 child or removing the child from the jurisdiction of the
26 court; or

27 (2) Intentionally violates a court order
28 prohibiting the person from concealing or detaining the
29 child or removing the child from the jurisdiction of the
30 court; or

31 (3) Intentionally conceals, detains or removes the
32 child without the consent of the mother or lawful
33 custodian of the child if the person is a putative father
34 and either: (A) the paternity of the child has not been

1 legally established or (B) the paternity of the child has
2 been legally established but no orders relating to
3 custody have been entered. However, notwithstanding the
4 presumption created by paragraph (3) of subsection (a), a
5 mother commits child abduction when she intentionally
6 conceals or removes a child, whom she has abandoned or
7 relinquished custody of, from an unadjudicated father who
8 has provided sole ongoing care and custody of the child
9 in her absence; or

10 (4) Intentionally conceals or removes the child
11 from a parent after filing a petition or being served
12 with process in an action affecting marriage or paternity
13 but prior to the issuance of a temporary or final order
14 determining custody; or

15 (5) At the expiration of visitation rights outside
16 the State, intentionally fails or refuses to return or
17 impedes the return of the child to the lawful custodian
18 in Illinois; or

19 (6) Being a parent of the child, and where the
20 parents of such child are or have been married and there
21 has been no court order of custody, conceals the child
22 for 15 days, and fails to make reasonable attempts within
23 the 15 day period to notify the other parent as to the
24 specific whereabouts of the child, including a means by
25 which to contact such child, or to arrange reasonable
26 visitation or contact with the child. It is not a
27 violation of this Section for a person fleeing domestic
28 violence to take the child with him or her to housing
29 provided by a domestic violence program; or

30 (7) Being a parent of the child, and where the
31 parents of the child are or have been married and there
32 has been no court order of custody, conceals, detains, or
33 removes the child with physical force or threat of
34 physical force; or

1 (8) Conceals, detains, or removes the child for
2 payment or promise of payment at the instruction of a
3 person who has no legal right to custody; or

4 (9) Retains in this State for 30 days a child
5 removed from another state without the consent of the
6 lawful custodian or in violation of a valid court order
7 of custody; or

8 (10) Intentionally lures or attempts to lure a
9 child under the age of 16 into a motor vehicle, building,
10 housetrailer, or dwelling place without the consent of
11 the parent or lawful custodian of the child for other
12 than a lawful purpose.

13 For the purposes of this subsection (b), paragraph (10),
14 the luring or attempted luring of a child under the age of 16
15 into a motor vehicle, building, housetrailer, or dwelling
16 place without the consent of the parent or lawful custodian
17 of the child shall be prima facie evidence of other than a
18 lawful purpose.

19 (c) It shall be an affirmative defense that:

20 (1) The person had custody of the child pursuant to
21 a court order granting legal custody or visitation rights
22 which existed at the time of the alleged violation; or

23 (2) The person had physical custody of the child
24 pursuant to a court order granting legal custody or
25 visitation rights and failed to return the child as a
26 result of circumstances beyond his or her control, and
27 the person notified and disclosed to the other parent or
28 legal custodian the specific whereabouts of the child and
29 a means by which such child can be contacted or made a
30 reasonable attempt to notify the other parent or lawful
31 custodian of the child of such circumstances and make
32 such disclosure within 24 hours after the visitation
33 period had expired and returned the child as soon as
34 possible; or

1 (3) The person was fleeing an incidence or pattern
2 of domestic violence; or

3 (4) The person lured or attempted to lure a child
4 under the age of 16 into a motor vehicle, building,
5 housetrailer, or dwelling place for a lawful purpose in
6 prosecutions under subsection (b), paragraph (10).

7 (d) Except as otherwise provided in this subsection (d),
8 a person convicted of child abduction under this Section is
9 guilty of a Class 4 felony. Except as otherwise provided in
10 this subsection (d), a person convicted of a second or
11 subsequent violation of paragraph (10) of subsection (b) of
12 this Section is guilty of a Class 3 felony. A person
13 convicted of child abduction for a violation of paragraph
14 (10) of subsection (b) of this Section is guilty of a Class
15 2, non-probationable felony if, in the course of committing
16 child abduction, the defendant commits a forcible felony
17 against the child, commits a violation of Section 11-6, 11-9,
18 11-9.1, 11-15.1, 11-20.1, 12-13, 12-14, 12-14.1, 12-15, or
19 12-16, or attempts to commit a violation of Section 12-13,
20 12-14, 12-14.1, 12-15, or 12-16 against the child. It shall
21 be a factor in aggravation for which a court may impose a
22 more severe sentence under Section 5-8-1 of the Unified Code
23 of Corrections, if upon sentencing the court finds evidence
24 of any of the following aggravating factors:

25 (1) that the defendant abused or neglected the
26 child following the concealment, detention or removal of
27 the child; or

28 (2) that the defendant inflicted or threatened to
29 inflict physical harm on a parent or lawful custodian of
30 the child or on the child with intent to cause such
31 parent or lawful custodian to discontinue criminal
32 prosecution of the defendant under this Section; or

33 (3) that the defendant demanded payment in exchange
34 for return of the child or demanded that he or she be

1 relieved of the financial or legal obligation to support
2 the child in exchange for return of the child; or

3 (4) that the defendant has previously been
4 convicted of child abduction; or

5 (5) that the defendant committed the abduction
6 while armed with a deadly weapon or the taking of the
7 child resulted in serious bodily injury to another; or

8 (6) that the defendant committed the abduction
9 while in a school, regardless of the time of day or time
10 of year; in a playground; on any conveyance owned,
11 leased, or contracted by a school to transport students
12 to or from school or a school related activity; on the
13 real property of a school; or on a public way within
14 1,000 feet of the real property comprising any school or
15 playground. For purposes of this paragraph (6),
16 "playground" means a piece of land owned or controlled by
17 a unit of local government that is designated by the unit
18 of local government for use solely or primarily for
19 children's recreation; and "school" means a public or
20 private elementary or secondary school, community
21 college, college, or university.

22 (e) The court may order the child to be returned to the
23 parent or lawful custodian from whom the child was concealed,
24 detained or removed. In addition to any sentence imposed,
25 the court may assess any reasonable expense incurred in
26 searching for or returning the child against any person
27 convicted of violating this Section.

28 (f) Nothing contained in this Section shall be construed
29 to limit the court's contempt power.

30 (g) Every law enforcement officer investigating an
31 alleged incident of child abduction shall make a written
32 police report of any bona fide allegation and the disposition
33 of such investigation. Every police report completed
34 pursuant to this Section shall be compiled and recorded

1 within the meaning of Section 5.1 of "An Act in relation to
2 criminal identification and investigation", approved July 2,
3 1931, as now or hereafter amended.

4 (h) Whenever a law enforcement officer has reasons to
5 believe a child abduction has occurred, he shall provide the
6 lawful custodian a summary of her or his rights under this
7 Act, including the procedures and relief available to her or
8 him.

9 (i) If during the course of an investigation under this
10 Section the child is found in the physical custody of the
11 defendant or another, the law enforcement officer shall
12 return the child to the parent or lawful custodian from whom
13 the child was concealed, detained or removed, unless there is
14 good cause for the law enforcement officer or the Department
15 of Children and Family Services to retain temporary
16 protective custody of the child pursuant to the Abused and
17 Neglected Child Reporting Act, as now or hereafter amended.

18 (Source: P.A. 92-434, eff. 1-1-02.)