

1 AN ACT concerning criminal law.

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 changing
5 Sections 8-4 and 10-5 as follows:

6 (720 ILCS 5/8-4) (from Ch. 38, par. 8-4)
7 Sec. 8-4. Attempt.

8 (a) Elements of the offense.

9 A person commits the offense of attempt when, with intent
10 to commit a specific offense, he or she does any act that
11 constitutes a substantial step toward the commission of that
12 offense.

13 (b) Impossibility.

14 It is not a defense to a charge of attempt that because of
15 a misapprehension of the circumstances it would have been
16 impossible for the accused to commit the offense attempted.

17 (c) Sentence.

18 A person convicted of attempt may be fined or imprisoned or
19 both not to exceed the maximum provided for the offense
20 attempted but, except for an attempt to commit the offense
21 defined in Section 33A-2 of this Code:

22 (1) the sentence for attempt to commit first degree
23 murder is the sentence for a Class X felony, except that

1 (A) an attempt to commit first degree murder when
2 at least one of the aggravating factors specified in
3 paragraphs (1), (2), and (12) of subsection (b) of
4 Section 9-1 is present is a Class X felony for which
5 the sentence shall be a term of imprisonment of not
6 less than 20 years and not more than 80 years;

7 (B) an attempt to commit first degree murder while
8 armed with a firearm is a Class X felony for which 15
9 years shall be added to the term of imprisonment
10 imposed by the court;

11 (C) an attempt to commit first degree murder during
12 which the person personally discharged a firearm is a
13 Class X felony for which 20 years shall be added to the
14 term of imprisonment imposed by the court;

15 (D) an attempt to commit first degree murder during
16 which the person personally discharged a firearm that
17 proximately caused great bodily harm, permanent
18 disability, permanent disfigurement, or death to
19 another person is a Class X felony for which 25 years
20 or up to a term of natural life shall be added to the
21 term of imprisonment imposed by the court; and

22 (E) if the defendant proves by a preponderance of
23 the evidence at sentencing that, at the time of the
24 attempted murder, he or she was acting under a sudden
25 and intense passion resulting from serious provocation
26 by the individual whom the defendant endeavored to

1 kill, or another, and, had the individual the defendant
2 endeavored to kill died, the defendant would have
3 negligently or accidentally caused that death, then
4 the sentence for the attempted murder is the sentence
5 for a Class 1 felony;

6 (1.5) the sentence for attempt to commit child
7 abduction under paragraph (10) of subsection (b) of Section
8 10-5 of this Code is the sentence for a Class 4 felony;

9 (2) the sentence for attempt to commit a Class X felony
10 is the sentence for a Class 1 felony;

11 (3) the sentence for attempt to commit a Class 1 felony
12 is the sentence for a Class 2 felony;

13 (4) the sentence for attempt to commit a Class 2 felony
14 is the sentence for a Class 3 felony; and

15 (5) the sentence for attempt to commit any felony other
16 than those specified in items (1), (1.5), (2), (3), and (4)
17 of this subsection (c) is the sentence for a Class A
18 misdemeanor.

19 (Source: P.A. 96-710, eff. 1-1-10.)

20 (720 ILCS 5/10-5) (from Ch. 38, par. 10-5)

21 Sec. 10-5. Child abduction.

22 (a) For purposes of this Section, the following terms have
23 the following meanings:

24 (1) "Child" means a person who, at the time the alleged
25 violation occurred, was under the age of 18 or severely or

1 profoundly mentally retarded.

2 (2) "Detains" means taking or retaining physical
3 custody of a child, whether or not the child resists or
4 objects.

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

16 (4) "Putative father" means a man who has a reasonable
17 belief that he is the father of a child born of a woman who
18 is not his wife.

19 (b) A person commits the offense of child abduction when he
20 or she does any one of the following:

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

25 (2) Intentionally violates a court order prohibiting
26 the person from concealing or detaining the child or

1 removing the child from the jurisdiction of the court.

2 (3) Intentionally conceals, detains, or removes the
3 child without the consent of the mother or lawful custodian
4 of the child if the person is a putative father and either:
5 (A) the paternity of the child has not been legally
6 established or (B) the paternity of the child has been
7 legally established but no orders relating to custody have
8 been entered. Notwithstanding the presumption created by
9 paragraph (3) of subsection (a), however, a mother commits
10 child abduction when she intentionally conceals or removes
11 a child, whom she has abandoned or relinquished custody of,
12 from an unadjudicated father who has provided sole ongoing
13 care and custody of the child in her absence.

14 (4) Intentionally conceals or removes the child from a
15 parent after filing a petition or being served with process
16 in an action affecting marriage or paternity but prior to
17 the issuance of a temporary or final order determining
18 custody.

19 (5) At the expiration of visitation rights outside the
20 State, intentionally fails or refuses to return or impedes
21 the return of the child to the lawful custodian in
22 Illinois.

23 (6) Being a parent of the child, and if the parents of
24 that child are or have been married and there has been no
25 court order of custody, knowingly conceals the child for 15
26 days, and fails to make reasonable attempts within the

1 15-day period to notify the other parent as to the specific
2 whereabouts of the child, including a means by which to
3 contact the child, or to arrange reasonable visitation or
4 contact with the child. It is not a violation of this
5 Section for a person fleeing domestic violence to take the
6 child with him or her to housing provided by a domestic
7 violence program.

8 (7) Being a parent of the child, and if the parents of
9 the child are or have been married and there has been no
10 court order of custody, knowingly conceals, detains, or
11 removes the child with physical force or threat of physical
12 force.

13 (8) Knowingly conceals, detains, or removes the child
14 for payment or promise of payment at the instruction of a
15 person who has no legal right to custody.

16 (9) Knowingly retains in this State for 30 days a child
17 removed from another state without the consent of the
18 lawful custodian or in violation of a valid court order of
19 custody.

20 (10) Intentionally lures or attempts to lure a child
21 under the age of 16 into a motor vehicle, building,
22 housetrailer, or dwelling place without the consent of the
23 child's parent or lawful custodian for other than a lawful
24 purpose. For the purposes of this item (10), the luring or
25 attempted luring of a child under the age of 16 into a
26 motor vehicle, building, housetrailer, or dwelling place

1 without the consent of the child's parent or lawful
2 custodian is prima facie evidence of other than a lawful
3 purpose.

4 (11) With the intent to obstruct or prevent efforts to
5 locate the child victim of a child abduction, knowingly
6 destroys, alters, conceals, or disguises physical evidence
7 or furnishes false information.

8 (c) It is an affirmative defense to subsections (b) (1)
9 through (b) (10) of this Section that:

10 (1) the person had custody of the child pursuant to a
11 court order granting legal custody or visitation rights
12 that existed at the time of the alleged violation;

13 (2) the person had physical custody of the child
14 pursuant to a court order granting legal custody or
15 visitation rights and failed to return the child as a
16 result of circumstances beyond his or her control, and the
17 person notified and disclosed to the other parent or legal
18 custodian the specific whereabouts of the child and a means
19 by which the child could be contacted or made a reasonable
20 attempt to notify the other parent or lawful custodian of
21 the child of those circumstances and made the disclosure
22 within 24 hours after the visitation period had expired and
23 returned the child as soon as possible;

24 (3) the person was fleeing an incidence or pattern of
25 domestic violence; or

26 (4) the person lured or attempted to lure a child under

1 the age of 16 into a motor vehicle, building, housetrailer,
2 or dwelling place for a lawful purpose in prosecutions
3 under paragraph (10) of subsection (b).

4 (d) Other than a person convicted for a violation of
5 paragraph (10) of subsection (b), a ~~A~~ person convicted of child
6 abduction under this Section is guilty of a Class 4 felony. A
7 person convicted of a violation of paragraph (10) of subsection
8 (b) of this Section is guilty of a Class 3 felony. A person
9 convicted of a second or subsequent violation of paragraph (10)
10 of subsection (b) of this Section is guilty of a Class 2 ~~3~~
11 felony. It is a factor in aggravation under subsections (b)(1)
12 through (b)(10) of this Section for which a court may impose a
13 more severe sentence under Section 5-8-1 (730 ILCS 5/5-8-1) or
14 Article 4.5 of Chapter V of the Unified Code of Corrections if,
15 upon sentencing, the court finds evidence of any of the
16 following aggravating factors:

17 (1) that the defendant abused or neglected the child
18 following the concealment, detention, or removal of the
19 child;

20 (2) that the defendant inflicted or threatened to
21 inflict physical harm on a parent or lawful custodian of
22 the child or on the child with intent to cause that parent
23 or lawful custodian to discontinue criminal prosecution of
24 the defendant under this Section;

25 (3) that the defendant demanded payment in exchange for
26 return of the child or demanded that he or she be relieved

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

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

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

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

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

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

3 (g) Every law enforcement officer investigating an alleged
4 incident of child abduction shall make a written police report
5 of any bona fide allegation and the disposition of that
6 investigation. Every police report completed pursuant to this
7 Section shall be compiled and recorded within the meaning of
8 Section 5.1 of the Criminal Identification Act.

9 (h) Whenever a law enforcement officer has reasons to
10 believe a child abduction has occurred, she or he shall provide
11 the lawful custodian a summary of her or his rights under this
12 Code, including the procedures and relief available to her or
13 him.

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

23 (Source: P.A. 95-1052, eff. 7-1-09; 96-710, eff. 1-1-10;
24 96-1000, eff. 7-2-10.)