

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 Section 10-5 as follows:

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

7 Sec. 10-5. Child abduction.

8 (a) For purposes of this Section, the following terms have  
9 the following meanings:

10 (1) "Child" means a person who, at the time the alleged  
11 violation occurred, was under the age of 18 or severely or  
12 profoundly mentally retarded.

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

16 (2.1) "Express consent" means oral or written  
17 permission that is positive, direct, and unequivocal,  
18 requiring no inference or implication to supply its  
19 meaning.

20 (2.2) "Luring" means any knowing act to solicit,  
21 entice, tempt, or attempt to attract the minor.

22 (3) "Lawful custodian" means a person or persons  
23 granted legal custody of a child or entitled to physical

1 possession of a child pursuant to a court order. It is  
2 presumed that, when the parties have never been married to  
3 each other, the mother has legal custody of the child  
4 unless a valid court order states otherwise. If an  
5 adjudication of paternity has been completed and the father  
6 has been assigned support obligations or visitation  
7 rights, such a paternity order should, for the purposes of  
8 this Section, be considered a valid court order granting  
9 custody to the mother.

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

13 (5) "Unlawful purpose" means any misdemeanor or felony  
14 violation of State law or a similar federal or sister state  
15 law or local ordinance.

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

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

22 (2) Intentionally violates a court order prohibiting  
23 the person from concealing or detaining the child or  
24 removing the child from the jurisdiction of the court.

25 (3) Intentionally conceals, detains, or removes the  
26 child without the consent of the mother or lawful custodian

1 of the child if the person is a putative father and either:  
2 (A) the paternity of the child has not been legally  
3 established or (B) the paternity of the child has been  
4 legally established but no orders relating to custody have  
5 been entered. Notwithstanding the presumption created by  
6 paragraph (3) of subsection (a), however, a mother commits  
7 child abduction when she intentionally conceals or removes  
8 a child, whom she has abandoned or relinquished custody of,  
9 from an unadjudicated father who has provided sole ongoing  
10 care and custody of the child in her absence.

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

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

20 (6) Being a parent of the child, and if the parents of  
21 that child are or have been married and there has been no  
22 court order of custody, knowingly conceals the child for 15  
23 days, and fails to make reasonable attempts within the  
24 15-day period to notify the other parent as to the specific  
25 whereabouts of the child, including a means by which to  
26 contact the child, or to arrange reasonable visitation or

1 contact with the child. It is not a violation of this  
2 Section for a person fleeing domestic violence to take the  
3 child with him or her to housing provided by a domestic  
4 violence program.

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

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

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

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

1 parent or lawful custodian was for ~~is prima facie evidence~~  
2 ~~of~~ other than a lawful purpose.

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

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

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

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

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

25 (4) the person lured or attempted to lure a child under  
26 the age of 16 into a motor vehicle, building, housetrailer,

1 or dwelling place for a lawful purpose in prosecutions  
2 under paragraph (10) of subsection (b).

3 (d) A person convicted of child abduction under this  
4 Section is guilty of a Class 4 felony. A person convicted of  
5 child abduction under subsection (b)(10) shall undergo a sex  
6 offender evaluation prior to a sentence being imposed. A person  
7 convicted of a second or subsequent violation of paragraph (10)  
8 of subsection (b) of this Section is guilty of a Class 3  
9 felony. A person convicted of child abduction under subsection  
10 (b)(10) when the person has a prior conviction of a sex offense  
11 as defined in the Sex Offender Registration Act or any  
12 substantially similar federal, Uniform Code of Military  
13 Justice, sister state, or foreign government offense is guilty  
14 of a Class 2 felony. It is a factor in aggravation under  
15 subsections (b)(1) through (b)(10) of this Section for which a  
16 court may impose a more severe sentence under Section 5-8-1  
17 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V of the Unified  
18 Code of Corrections if, upon sentencing, the court finds  
19 evidence of any of the following aggravating factors:

20 (1) that the defendant abused or neglected the child  
21 following the concealment, detention, or removal of the  
22 child;

23 (2) that the defendant inflicted or threatened to  
24 inflict physical harm on a parent or lawful custodian of  
25 the child or on the child with intent to cause that parent  
26 or lawful custodian to discontinue criminal prosecution of

1 the defendant under this Section;

2 (3) that the defendant demanded payment in exchange for  
3 return of the child or demanded that he or she be relieved  
4 of the financial or legal obligation to support the child  
5 in exchange for return of the child;

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

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

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

24 (e) The court may order the child to be returned to the  
25 parent or lawful custodian from whom the child was concealed,  
26 detained, or removed. In addition to any sentence imposed, the

1 court may assess any reasonable expense incurred in searching  
2 for or returning the child against any person convicted of  
3 violating this Section.

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

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

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

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

26 (Source: P.A. 95-1052, eff. 7-1-09; 96-710, eff. 1-1-10;



1 96-1000, eff. 7-2-10.)