



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB5520**

Introduced 1/27/2006, by Rep. Aaron Schock

**SYNOPSIS AS INTRODUCED:**

720 ILCS 5/10-5

from Ch. 38, par. 10-5

Amends the Criminal Code of 1961. Provides that the offense of child abduction also includes intentionally luring or attempting to lure a child under the age of 16 into an aircraft, watercraft, or isolated area without the consent of the parent or lawful custodian of the child for other than a lawful purpose. Effective immediately.

LRB094 16437 RLC 51697 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

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 shall  
9 have the following meanings:

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

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

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

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

28 (1) Intentionally violates any terms of a valid court  
29 order granting sole or joint custody, care or possession to  
30 another, by concealing or detaining the child or removing  
31 the child from the jurisdiction of the court; or

32 (2) Intentionally violates a court order prohibiting

1 the person from concealing or detaining the child or  
2 removing the child from the jurisdiction of the court; or

3 (3) Intentionally conceals, detains or removes the  
4 child without the consent of the mother or lawful custodian  
5 of the child if the person is a putative father and either:

6 (A) the paternity of the child has not been legally  
7 established or (B) the paternity of the child has been  
8 legally established but no orders relating to custody have  
9 been entered. However, notwithstanding the presumption  
10 created by paragraph (3) of subsection (a), a mother  
11 commits child abduction when she intentionally conceals or  
12 removes a child, whom she has abandoned or relinquished  
13 custody of, from an unadjudicated father who has provided  
14 sole ongoing care and custody of the child in her absence;  
15 or

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

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

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

36 (7) Being a parent of the child, and where the parents

1 of the child are or have been married and there has been no  
2 court order of custody, conceals, detains, or removes the  
3 child with physical force or threat of physical force; or

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

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

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

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

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

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

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

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

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

8           (d) A person convicted of child abduction under this  
9 Section is guilty of a Class 4 felony. A person convicted of a  
10 second or subsequent violation of paragraph (10) of subsection  
11 (b) of this Section is guilty of a Class 3 felony. It shall be a  
12 factor in aggravation for which a court may impose a more  
13 severe sentence under Section 5-8-1 of the Unified Code of  
14 Corrections, if upon sentencing the court finds evidence of any  
15 of the following aggravating factors:

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

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

24           (3) that the defendant demanded payment in exchange for  
25 return of the child or demanded that he or she be relieved  
26 of the financial or legal obligation to support the child  
27 in exchange for return of the child; or

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

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

33           (6) that the defendant committed the abduction while in  
34 a school, regardless of the time of day or time of year; in  
35 a playground; on any conveyance owned, leased, or  
36 contracted by a school to transport students to or from

1 school or a school related activity; on the real property  
2 of a school; or on a public way within 1,000 feet of the  
3 real property comprising any school or playground. For  
4 purposes of this paragraph (6), "playground" means a piece  
5 of land owned or controlled by a unit of local government  
6 that is designated by the unit of local government for use  
7 solely or primarily for children's recreation; and  
8 "school" means a public or private elementary or secondary  
9 school, community college, college, or university.

10 (e) The court may order the child to be returned to the  
11 parent or lawful custodian from whom the child was concealed,  
12 detained or removed. In addition to any sentence imposed, the  
13 court may assess any reasonable expense incurred in searching  
14 for or returning the child against any person convicted of  
15 violating this Section.

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

18 (g) Every law enforcement officer investigating an alleged  
19 incident of child abduction shall make a written police report  
20 of any bona fide allegation and the disposition of such  
21 investigation. Every police report completed pursuant to this  
22 Section shall be compiled and recorded within the meaning of  
23 Section 5.1 of "An Act in relation to criminal identification  
24 and investigation", approved July 2, 1931, as now or hereafter  
25 amended.

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

30 (i) If during the course of an investigation under this  
31 Section the child is found in the physical custody of the  
32 defendant or another, the law enforcement officer shall return  
33 the child to the parent or lawful custodian from whom the child  
34 was concealed, detained or removed, unless there is good cause  
35 for the law enforcement officer or the Department of Children  
36 and Family Services to retain temporary protective custody of

1 the child pursuant to the Abused and Neglected Child Reporting  
2 Act, as now or hereafter amended.

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

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.