

## **PARTIES TO A CRIME (ACCOUNTABILITY)**

This Section merely sets forth the circumstances under which a person is legally accountable for the conduct of another. In order to properly charge an accomplice with an offense, he should be charged as a principal, even though the accomplice may not have personally performed the acts for which he is being charged.

720 ILCS 5/5-1: A person is responsible for conduct which is an element of an offense if the conduct is either that of the person himself, or that of another and he is legally accountable for such conduct as provided in Section 5-2, or both.

(720 ILCS 5/5-2) (from Ch. 38, par. 5-2)

Sec. 5-2. When accountability exists. A person is legally accountable for the conduct of another when: (a) having a mental state described by the statute defining the offense, he or she causes another to perform the conduct, and the other person in fact or by reason of legal incapacity lacks such a mental state; (b) the statute defining the offense makes him or her so accountable; or (c) either before or during the commission of an offense, and with the intent to promote or facilitate that commission, he or she solicits, aids, abets, agrees, or attempts to aid that, such other person in the planning or commission of the offense. When 2 or more persons engage in a common criminal design or agreement, any acts in the furtherance of that common design committed by one party are considered to be the acts of all parties to the common design or agreement and all are equally responsible for the consequences of those further acts. Mere presence at the scene of a crime does not render a person accountable for an offense; a person's presence at the scene of a crime, however, may be considered with other circumstances by the trier of fact when determining accountability. A person is not so accountable, however, unless the statute defining the offense provides otherwise, if: (1) he or she is a victim of the offense committed; or (2) the offense is so defined that his or her conduct was inevitably incident to its commission; or (3) before the commission of the offense, he or she terminates his or her effort to promote or facilitate that commission, and does one of the following: (i) wholly deprives his or her prior efforts of effectiveness in that commission, (ii) or gives timely warning to the proper law enforcement authorities, or (iii) otherwise makes proper effort to prevent the commission of the offense.

**Legislative History:** Codified - Laws 1961, p.1983 (January 1, 1962). This subsection was amended by P. A. 96-0710. EFFECTIVE DATE: 1-1-10.

## **720 ILCS 5/ 8-1(a)**

### SOLICITATION

In violation of SECTION 8-1(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), with the intent that the offense of theft,<sup>1</sup> in violation of Section 16-1(a)(1)<sup>2</sup> of Act 5 of Chapter 720 of the Illinois Compiled Statutes, be committed, requested<sup>3</sup> Don Smith to commit that offense.

<sup>1</sup>or any offense other than first degree murder; <sup>2</sup>cite statute defining offense solicited;  
<sup>3</sup>or commanded or encouraged

**SENTENCING NOTE:** A person convicted of solicitation may be fined or imprisoned or both not to exceed the maximum provided for the offense solicited: Provided, however, the penalty shall not exceed the corresponding maximum limit provided by subparagraph (c) of Section 8-4 of this Act, as heretofore and hereafter amended. (720 ILCS 5/8-1(b)) See the Sentencing Guide.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Codified - Laws 1961, P. 1983 (January 1, 1962); Amended - Laws 1967, P. 2841 and P.A. 85-1030. This subsection was recently amended by Public Act: 96-0710; (Effective: 1-1-10).

**CHARGE:** See Note Above

**BOND:** See Note Above

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## **720 ILCS 5/ 8-1(b)**

### SOLICITATION OF MURDER

In violation of SECTION 8-1(b) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), with the intent that the offense of first degree murder, in violation of Section 9-1(a)(1) of Act 5 of Chapter 720 of the Illinois Compiled Statutes, be committed, requested<sup>1</sup> Don Smith to commit that offense.

<sup>1</sup>or commanded or encouraged

**SENTENCING NOTE:** A person convicted of Solicitation of Murder shall be sentenced to a term of imprisonment of not less than 15 years and not more than 30 years, except that a person convicted of solicitation of murder when the person solicited was a person under the age of 17 years shall be sentenced to a term of imprisonment of not less than 20 years and not more than 60 years

**CASE LAW:** This subsection withstood a constitutional challenge in People v. Kauten, 324 Ill. App. 3d 588, 755 N. E. 2d 1016, 258 Ill. Dec. 197 (2<sup>nd</sup> Dist., No. 2-00-1010, September 7, 2003).

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created - P.A. 85-1030 (July 1, 1988); Amended - P.A. 85-1440, 89-688 and 89-689. Re-numbered by Public Act: 96-0710 (Effective: 1-1-10).

**CHARGE:** Felony (Class X)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 8-1.2(a)**

### SOLICITATION OF MURDER FOR HIRE

In violation of SECTION 8-1.2(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), with the intent that the offense of first degree murder in violation of Section 9-1(a)(1) of Act 5 of Chapter 720 of the Illinois Compiled Statutes, be committed, procured Don Smith to commit that offense pursuant to an agreement<sup>1</sup> whereby Don Smith would kill Sam Brown and the defendant would pay Don Smith five thousand dollars, United States Currency.<sup>2</sup>

<sup>1</sup>or contract, understanding, command or request; <sup>2</sup>or anything of value

**SENTENCING NOTE:** Solicitation of murder for hire is a Class X felony, and a person convicted of solicitation of murder for hire shall be sentenced to a term of imprisonment of not less than 20 years and not more than 40 years, except that a person convicted of solicitation of murder for hire when the person solicited was a person under the age of 17 years shall be sentenced to a term of imprisonment of not less than 25 years and not more than 60 years.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created - P.A. 85-1030 (July 1, 1988); Amended - P.A. 85-1440 and 96-0710.

**CHARGE:** Felony (Class X)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 8-2(a)**

### CONSPIRACY (Armed Robbery)<sup>1</sup>

In violation of SECTION 8-2(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), with the intent that the offense of Armed Robbery,<sup>1</sup> in violation of Section 18-2<sup>2</sup> of Act 5 of Chapter 720 of the Illinois Compiled Statutes, be committed, agreed with Don Smith to the commission of that offense and performed an act in furtherance of that agreement, in that he procured two (2) .22 caliber automatic pistols and two (2) plastic masks.<sup>3</sup>

<sup>1</sup> any offense; <sup>2</sup> cite statute defining offense involved in conspiracy; <sup>3</sup> or the act in furtherance of the conspiracy may be committed by a co-conspirator

**NOTE:** No person may be convicted of conspiracy to commit an offense unless an act in furtherance of such agreement is alleged and proved to have been committed by him or by a co-conspirator.

**CHARGING NOTE:** Except as otherwise provided in this subsection or Code, a person convicted of conspiracy to commit: (A) a Class X felony shall be sentenced for a Class 1 felony; (B) a Class 1 felony shall be sentenced for a Class 2 felony; (C) a Class 2 felony shall be sentenced for a Class 3 felony; (D) a Class 3 felony shall be sentenced for a Class 4 felony; (E) a Class 4 felony shall be sentenced for a Class 4 felony; and (F) a misdemeanor may be fined or imprisoned or both not to exceed the maximum provided for the offense that is the object of the conspiracy. A person convicted of conspiracy to commit any of the following offenses shall be sentenced for a Class X felony: (A) aggravated insurance fraud conspiracy when the person is an organizer of the conspiracy (720 ILCS 5/46-4); or (B) aggravated governmental entity insurance fraud conspiracy when the person is an organizer of the conspiracy (720 ILCS 5/46-4). (3) A person convicted of conspiracy to commit any of the following offenses shall be sentenced for a Class 1 felony: (A) first degree murder (720 ILCS 5/9-1); or (B) aggravated insurance fraud (720 ILCS 5/46-3) or aggravated governmental insurance fraud (720 ILCS 5/46-3). (4) insurance fraud (720 ILCS 5/46-3) or governmental entity A person convicted of conspiracy to commit insurance fraud (720 ILCS 5/46-3) shall be sentenced for a Class 2 felony. (5) A person convicted of conspiracy to commit any of the following offenses shall be sentenced for a Class 3 felony: (A) soliciting for a prostitute (720 ILCS 5/11-14.3(a)(1)); (B) pandering (720 ILCS 5/11-14.3(a)(2)(A) or 14.3(a)(2)(B)); (C) keeping a place of prostitution (720 ILCS 5/11-14.3(a)(1)); (D) pimping (720 ILCS 5/14.3(a)(2)(C)); (E) unlawful use of weapons under Section 24-1(a)(1) (720 ILCS 5/24-1(a)(1)); (F) unlawful use of weapons under Section 24-1(a)(7) (720 ILCS 5/24-1(a)(7)); (G) gambling (720 ILCS 5/28-1); (H) keeping a gambling place (720 ILCS 5/28-3); (I) registration of federal gambling stamps violation (720 ILCS 5/28-4); (J) look-alike substances violation (720 ILCS 570/404); (K) miscellaneous controlled substance violation under Section 406(b) (720 ILCS 570/406(b)); or (L) an inchoate offense related to any of the principal offenses set forth in this item (5). See the Sentencing Guide.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Codified Laws 1961, P.1983 (January 1, 1962) - Amended Laws 1965, P.406; P.A.s 77-772; 77-2638; 78-255; 84-1450, 86-809, 94-184, 96-0710 and 96-1550.

**CHARGE:** See Note B Above

**BOND:** See Note B Above

Amended Complaint

720 ILCS 5/ 8-4(a)

ATTEMPT (BURGLARY)<sup>1</sup>

In violation of SECTION 8-4(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), with the intent to commit the offense of Burglary,<sup>1</sup> in violation of Section 19-1(a)<sup>2</sup> of Act 5 of Chapter 720 of the Illinois Compiled Statutes, performed *an act which constituted a substantial step toward the commission of that offense*, in that he, (describe the act.)

<sup>1</sup>or any specific offense; <sup>2</sup>cite statute defining offense attempted

**SENTENCING NOTE:** If the defendant proves by a preponderance of the evidence at sentencing that, at the time of the attempted murder, he or she was acting under a sudden and intense passion resulting from serious provocation by the individual whom the defendant endeavored to kill, or another, and, had the individual the defendant endeavored to kill died, the defendant would have negligently or accidentally caused that death, then the sentence for the attempted murder is the sentence for a Class 1 felony. (8-4(E)) (P.A. 96-710)

**CHARGING AND SENTENCING NOTE:** To determine penalty for this offense see the following: A person convicted of an attempt may be fined or imprisoned or both not to exceed the maximum provided for the offense attempted but, except for an attempt to commit the offense defined in Section 33A-2 of this Act: (1) the sentence for attempt to commit first degree murder is the sentence for a Class X felony, except that: (A) an attempt to commit first degree murder when at least one of the aggravating factors specified in paragraphs (1), (2) and (12) of subsection (b) of Section 9-1 is present is a Class X felony for which the sentence shall be a term of imprisonment of not less than 20 years and not more than 80 years; (B) an attempt to commit first degree murder while armed with a firearm is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court; (C) an attempt to commit first degree murder during which the person personally discharged a firearm is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court; (D) an attempt to commit first degree murder during which the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, is a Class X felony for which 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court. (E) if the defendant proves by a preponderance of the evidence at sentencing that, at the time of the attempted murder, he or she

was acting under a sudden and intense passion resulting from serious provocation by the individual whom the defendant endeavored to kill, or another, and, had the individual the defendant endeavored to kill died, the defendant would have negligently or accidentally caused that death, then the sentence for the attempted murder is the sentence for a Class 1 felony; (2) the sentence for attempt to commit a Class X felony is the sentence for a Class 1 felony; (3) the sentence for attempt to commit a Class 1 felony is the sentence for a Class 2 felony; (4) the sentence for attempt to commit a Class 2 felony is the sentence for a Class 3 felony; and (5) the sentence for attempt to commit any felony other than those specified in subsections (1), (2), (3) and (4) hereof is the sentence for a Class A misdemeanor. See the **Sentencing Guide**.

**CHARGING NOTE:** A prosecution for Attempt First-Degree Murder may be commenced at any time. (720 ILCS 5/3-5)

**IMPORTANT:** For sentencing and alternative charging information see the **Sentencing Guide**.

**Legislative History:** Codified Laws 1961, P.1983 (January 1, 1962) - Amended Laws 1967, 2595; P.A.s 77-2638; 78-342; 80-1099; 81-923, 84-1460, 87-921, 91-696 and 96-710.

**CHARGE:** See Note Above

**BOND:** See Note Above

**720 ILCS 5/ 9-1(a)(1)**

FIRST DEGREE MURDER

In violation of SECTION 9-1(a)(1) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), without lawful justification and with the intent to kill<sup>1</sup> Sam Smith,<sup>2</sup> stabbed Sam Smith with a knife, thereby causing the death of Sam Smith.

<sup>1</sup>or do great bodily harm; <sup>2</sup>or another person

**CASE LAW:** Murder indictment was sufficient even if it disjunctively phrased causes of death in single count; the allegation of the means used to cause the death was not an essential part of the indictment and the language adequately informed the defendant of the charges against him. People v. Weber (1st Dist., 1994) 264 Ill. App. 3d 310.

**SENTENCING NOTE:** Sentencing provisions for this offense are found in 730 ILCS 5/5-8-1(a)(1). Aggravating factors are found in Section 9-1(b) of this Act.

**CHARGING NOTES:** (1) For alternative charge under this subsection see next complaint. For a list of Aggravating Factors see: 720 ILCS 5/9-1(b) (2) A prosecution for this offense may be commenced at any time. (720 ILCS 5/3-5)

**IMPORTANT:** For sentencing and alternative charging information see the **Sentencing Guide**.

**Legislative History:** Codified - Laws 1961, P.1983 (January 1, 1962); Amended - P.A.s 77-2638, 78-921, 80-26, 80-1495, 82-677, 82-1025, 83-1067, 84-1450, 85-404, 88-277, 89-462, 91-404, 92-854, 93-605, 96-710 and 96-1475.

**CHARGE:** Felony (Separate Class)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 9-1(a)(1)**

FIRST DEGREE MURDER

In violation of SECTION 9-1(a)(1) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), without lawful justification, stabbed Sam Smith with a knife, knowing said act would cause the death of Sam Smith,<sup>1</sup> thereby causing the death of Sam Smith.

<sup>1</sup>or another person

**CHARGING NOTE:** For alternative charge under the subsection see prior complaint. For a list of Aggravating Factors see: 720 ILCS 5/9-1(b)

**SENTENCING NOTE:** Sentencing provisions for this offense are found in 730 ILCS 5/5-8-1(a)(1).

**CASE LAW:** The murder indictment in this case was sufficient even if it disjunctively phrased causes of death in single count; the allegation of the means used to cause the death was not an essential part of the indictment and the language adequately informed the defendant of the charges against him. People v. Weber (1st Dist., 1994) 264 Ill. App. 3d 310.

**CHARGING NOTE:** A prosecution for this offense may be commenced at any time. (720 ILCS 5/3-5)

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Separate Class)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 9-1(a)(2)**

### FIRST DEGREE MURDER

In violation of SECTION 9-1(a)(2) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), without lawful justification, struck Sam Smith on the head with a brick, knowing such act created a strong probability of death<sup>1</sup> to Sam Smith,<sup>2</sup> thereby causing the death of Sam Smith.

<sup>1</sup>or great bodily harm; <sup>2</sup>or another

**CHARGING NOTE:** A prosecution for this offense may be commenced at any time. (720 ILCS 5/3-5)

**SENTENCING NOTE:** Sentencing provisions for this offense are found in 730 ILCS 5/5-8-1(a)(1).

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Separate Class)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 9-1(a)(3)**

### FIRST DEGREE MURDER

In violation of SECTION 9-1(a)(3) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), without lawful justification, while committing<sup>1</sup> a forcible felony,<sup>2</sup> Armed Robbery, in violation of Section 18-2(a) of Act 5 of Chapter 720 of the Illinois Compiled Statutes, stabbed Sam Smith in the back with a knife and thereby caused the death of Sam Smith.

<sup>1</sup>or attempting to commit; <sup>2</sup>any forcible felony other than second degree murder (See Illinois Compiled Statutes, Chapter 720, Act 5, Sec. 2-8)

**DEFINITION:** Forcible Felony means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against any individual.) Aggravated Possession of a Stolen Motor Vehicle is not a forcible felony for purposes of the felony murder rule. People v. Belk, 203 Ill. 2d 187, 784 N. E. 2d 825, 271 Ill. Dec. 271 (2003)



**SENTENCING NOTE:** Sentencing provisions for this offense are found in 730 ILCS 5/5-8-1(a)(1). Aggravating factors are found in Section 9-1(b) of this Act.

**CHARGING NOTE:** A prosecution for this offense may be commenced at any time. (720 ILCS 5/3-5)

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Separate Class)

**BOND:** Must be Set by Judge

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### **720 ILCS 5/ 9-2(a)(1)**

#### SECOND DEGREE MURDER

In violation of SECTION 9-2(a)(1) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), while committing First Degree Murder in violation of Section 9-1(a)(1)<sup>1</sup> of Act 5 of Chapter 720 of the Illinois Compiled Statutes and, while acting under a sudden and intense passion resulting from serious provocation by Don Smith,<sup>2</sup> stabbed Don Smith with a knife, thereby causing the death of Don Smith.

<sup>1</sup>or Section 9-1(a)(2); <sup>2</sup>The serious provocation must have been caused by: (1) the individual killed, or (2) another whom the offender endeavors to kill, but he negligently or accidentally causes the death of the individual killed.

**DEFINITION:** “Serious provocation” is conduct sufficient to excite an intense passion in a reasonable person. (See following complaint)

**CHARGING NOTE:** A prosecution for this offense may be commenced at any time. (720 ILCS 5/3-5)

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Codified (As Voluntary Manslaughter) - Laws 1961, p.1983 (January 1, 1962); Amended - P.A.s 77-2638, 82-517, 84-1450 (Renamed) and 96-710.

**CHARGE:** Felony (Class 1)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 9-2(a)(1)**

### SECOND DEGREE MURDER

In violation of SECTION 9-2(a)(1) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), while committing First Degree Murder, in violation of Section 9-1(a)(2) of Act 5 of Chapter 720 of the Illinois Compiled Statutes, and, while acting under a sudden and intense passion resulting from serious provocation by Jim Adams,<sup>1</sup> endeavored to kill Jim Adams with a knife, but accidentally<sup>2</sup> stabbed Don Smith with a knife, thereby causing the death of Don Smith.

<sup>1</sup>The serious provocation must have been caused by: (1) the individual killed, or (2) another whom the offender endeavors to kill, but he negligently or accidentally causes the death of the individual killed; <sup>2</sup>or negligently

**DEFINITION:** “Serious provocation” is conduct sufficient to excite an intense passion in a reasonable person. (See prior complaint)

**CHARGING NOTE:** A prosecution for this offense may be commenced at any time. (720 ILCS 5/3-5)

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Class 1)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 9-2(a)(2)**

### SECOND DEGREE MURDER

In violation of SECTION 9-2(a)(2) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), while committing First Degree Murder, in violation of Section 9-1(a)(1)<sup>1</sup> of Act 5 of Chapter 720 of the Illinois Compiled Statutes, knowingly<sup>2</sup> killed Don Smith by stabbing him with a knife and that at the time of the killing he believed the circumstances to be such that, if they existed, would justify or exonerate<sup>3</sup> the killing, but his belief was unreasonable.

<sup>1</sup>or Section 9-1(a)(2); <sup>2</sup>or intentionally; <sup>3</sup>See: Article 7 - Justifiable use of force; Exoneration

**CHARGING NOTE:** A prosecution for this offense may be commenced at any time. (720 ILCS 5/3-5)

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Class 1)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 9-1(a)(3)**

FIRST DEGREE MURDER

In violation of SECTION 9-1(a)(3) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), without lawful justification, while committing<sup>1</sup> a forcible felony,<sup>2</sup> Armed Robbery, in violation of Section 18-2(a) of Act 5 of Chapter 720 of the Illinois Compiled Statutes, stabbed Sam Smith in the back with a knife and thereby caused the death of Sam Smith.

<sup>1</sup>or attempting to commit; <sup>2</sup>any forcible felony other than second degree murder (See Illinois Compiled Statutes, Chapter 720, Act 5, Sec. 2-8 - Forcible Felony means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against any individual.) Aggravated Possession of a Stolen Motor Vehicle is not a forcible felony for purposes of the felony murder rule. People v. Belk, 203 Ill. 2d 187, 784 N. E. 2d 825, 271 Ill. Dec. 271 (2003)

**NOTE:** Sentencing provisions for this offense are found in 730 ILCS 5/5-8-1(a)(1). Aggravating factors are found in Section 9-1(b) of this Act.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Separate Class)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 9-1.2(a)(1)**

INTENTIONAL HOMICIDE OF AN UNBORN CHILD

In violation of SECTION 9-1.2(a)(1) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), knowing that Dawn Smith was pregnant, without lawful justification, and with the intent cause the death of<sup>1</sup> Dawn Smith,<sup>2</sup> stabbed Dawn Smith in the abdomen with a knife thereby causing the death of the unborn child carried by its mother, Dawn Smith.

<sup>1</sup>or do great bodily harm to; <sup>2</sup>or her unborn child

**NOTE:** "unborn child" means any individual of the human species from fertilization until birth. A "person" under the statute may not be the pregnant woman whose unborn child is killed.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created - P.A. 84-1414 (September 19, 1986); Amended - P.A. 85-293, 91-404 and 96-1000.

**CHARGE:** Felony (Separate Class)

**BOND:** Must be Set by Judge

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### **720 ILCS 5/ 9-1.2(a)(1)**

#### INTENTIONAL HOMICIDE OF AN UNBORN CHILD

In violation of SECTION 9-1.2(a)(1) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), knowing that Dawn Smith was pregnant and without lawful justification, and with the knowledge that his acts would cause the death of<sup>1</sup> Dawn Smith,<sup>2</sup> stabbed Dawn Smith in the abdomen with a knife thereby causing the death of the unborn child carried by its mother, Dawn Smith.

<sup>1</sup>or cause great bodily harm to; <sup>2</sup>or her unborn child

**NOTE:** "Unborn child" means any individual of the human species from fertilization until birth. A "person" under this statute may not be the pregnant woman whose unborn child is killed.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Separate Class)

**BOND:** Must be Set by Judge

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### **720 ILCS 5/ 9-1.2(a)(2)**

#### INTENTIONAL HOMICIDE OF AN UNBORN CHILD

In violation of SECTION 9-1.2(a)(2) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), knowing that Dawn Smith was pregnant, without lawful justification and with the knowledge that his acts created a strong probability of death<sup>1</sup> to Mary O'Brien,<sup>2</sup> stabbed Mary O'Brien in the abdomen with a knife thereby causing the death of the unborn child carried by its mother, Mary O'Brien.

<sup>1</sup>or great bodily harm; <sup>2</sup>or her unborn child

**NOTE:** "Unborn child" means any individual of the human species from fertilization until birth. A "person" under this statute may not be the pregnant woman whose unborn child is killed.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Separate Class)

**BOND:** Must be Set by Judge

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### **720 ILCS 5/ 9-2(a)(1)**

#### SECOND DEGREE MURDER

In violation of SECTION 9-2(a)(1) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), while committing First Degree Murder, in violation of Section 9-1(a)(2) of Act 5 of Chapter 720 of the Illinois Compiled Statutes, and, while acting under a sudden and intense passion resulting from serious provocation by Jim Adams,<sup>1</sup> endeavored to kill Jim Adams with a knife, but accidentally<sup>2</sup> stabbed Don Smith with a knife, thereby causing the death of Don Smith.

<sup>1</sup>The serious provocation must have been caused by: (1) the individual killed, or (2) another whom the offender endeavors to kill, but he negligently or accidentally causes the death of the individual killed; <sup>2</sup>or negligently

**NOTE:** Serious provocation is conduct sufficient to excite an intense passion in a reasonable person.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Class 1)

**BOND:** Must be Set by Judge

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### **720 ILCS 5/ 9-2(a)(1)**

#### SECOND DEGREE MURDER

In violation of SECTION 9-2(a)(1) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), while committing First Degree Murder in violation of Section 9-1(a)(1)<sup>1</sup> of Act 5 of Chapter 720 of the Illinois Compiled Statutes and, while acting under a sudden and intense passion resulting from serious provocation by Don Smith,<sup>2</sup> stabbed Don Smith with a knife, thereby causing the death of Don Smith.

<sup>1</sup>or Section 9-1(a)(2); <sup>2</sup>The serious provocation must have been caused by: (1) the individual killed, or (2) another whom the offender endeavors to kill, but he negligently or accidentally causes the death of the individual killed.

**NOTE:** Serious provocation is conduct sufficient to excite an intense passion in a reasonable person.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Codified (As Voluntary Manslaughter) - Laws 1961, p.1983 (January 1, 1962); Amended - P.A.s 77-2638, 82-517, 84-1450 (Renamed) and 96-710.

**CHARGE:** Felony (Class 1)

**BOND:** Must be Set by Judge

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### **720 ILCS 5/ 9-2(a)(2)**

#### SECOND DEGREE MURDER

In violation of SECTION 9-2(a)(2) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), while committing First Degree Murder, in violation of Section 9-1(a)(1)<sup>1</sup> of Act 5 of Chapter 720 of the Illinois Compiled Statutes, knowingly<sup>2</sup> killed Don Smith by stabbing him with a knife and that at the time of the killing he believed the circumstances to be such that, if they existed, would justify or exonerate<sup>3</sup> the killing, but his belief was unreasonable.

<sup>1</sup>or Section 9-1(a)(2); <sup>2</sup>or intentionally; <sup>3</sup>See: Article 7 - Justifiable use of force; Exoneration

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Class 1)

**BOND:** Must be Set by Judge

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### **720 ILCS 5/ 9-2.1(a)**

#### VOLUNTARY MANSLAUGHTER OF AN UNBORN CHILD

In violation of SECTION 9-2.1(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), without lawful justification, while acting under a sudden and intense passion resulting from serious provocation by Jim Adams,<sup>1</sup> endeavored to kill Jim Adams with a knife, but accidentally<sup>2</sup> stabbed Dawn Smith in the abdomen with a knife, thereby causing the death of the unborn child carried by its mother, Dawn Smith.

<sup>1</sup>the serious provocation must have been caused by another whom the offender endeavored to kill, but he negligently or accidentally causes the death of the unborn child; <sup>2</sup>or negligently

**NOTE:** For definition of "unborn child" and for an exclusion of the pregnant woman as a defendant see Appendix C.

**NOTE:** Serious provocation is conduct sufficient to excite an intense passion in a reasonable person.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

Legislative History: Created - P.A. 84-1414 (September 19, 1986).

**CHARGE:** Felony (Class 1)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 9-2.1(b)**

### VOLUNTARY MANSLAUGHTER OF AN UNBORN CHILD

In violation of SECTION 9-2.1(b) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name) without lawful justification, knowingly<sup>1</sup> killed the unborn child carried by Dawn Smith by stabbing Dawn Smith in the abdomen with a knife and that at the time of the killing he believed the circumstances to be such that, if they existed, would justify<sup>2</sup> the killing, but his belief was unreasonable.

<sup>1</sup>or intentionally; <sup>2</sup>or exonerate (See: Article 7 - Justifiable use of force; Exoneration)

**NOTE:** For a definition of "unborn child" and for an exclusion of the pregnant woman as a defendant see Appendix C.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Class 1)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 9-3(a)**

### INVOLUNTARY MANSLAUGHTER<sup>1</sup>

In violation of SECTION 9-3(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), acting in a reckless manner, performed an act<sup>2</sup> likely to cause death or great bodily harm to some individual, in that he discharged a firearm in the presence of Don Smith, causing a projectile from that firearm to strike Don Smith, thereby causing the death of Don Smith.

<sup>1</sup>**NOTE:** Reckless Homicide under 720 ILCS 5/9-3(a): Where the cause of the death arises out of the reckless driving of a motor vehicle, the defendant must be charged with Reckless Homicide. (See following complaint); <sup>2</sup>act may be lawful or unlawful

**CHARGING NOTE:** A prosecution for this offense may be commenced at any time. (720 ILCS 5/3-5)

**CASE LAW:** In the case of People v. Boand, (2<sup>nd</sup> Dist., No. 2-04-0387, November 16, 2005, the appellate court ruled that a charging document that fails to allege that the defendant "unintentionally kills an individual" fails to properly charge the offense of Involuntary Manslaughter. I would maintain that alleging that the defendant acted recklessly should have been sufficient to identify the defendant's state of mind. However, with Boand in mind, you must make up your own mind concerning whether or not to include this language in your charging instrument.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Codified - Laws 1961, p.1983 (January 1, 1962); Amended - P.A.s 77-2638, 79-679, 84-272, 86-1317, 87-274, 87-1198, 90-43; 90-119, 90-655, 91-6, 91-122, 92-16, 93-178, 93-213, 93-682, 95-467, 95-551, 95-587, 95-591, 95-803, 95-876, 95-884 and 96-328.

**CHARGE:** Felony (Class 3)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 9-3(a)**

### RECKLESS HOMICIDE

In violation of SECTION 9-3(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), while acting in a reckless manner, performed acts likely to cause the death of or great bodily harm to some individual in that he operated a motor vehicle<sup>1</sup> in a westerly direction along and upon April Street at or near the intersection of May Street in the City of Union City, Union County, Illinois, at a speed which was greater than was reasonable and proper with regard to the existing traffic conditions and the safety of persons properly upon the roadway, and he entered into said intersection at April Street and May Street in disobedience to the steady red traffic control lights at the intersection, causing his motor vehicle to strike the person of Don Smith, thereby causing the death of Don Smith.

<sup>1</sup>or a snowmobile, an all-terrain vehicle, or a watercraft

**NOTE:** Reckless Homicide under 720 ILCS 5/9-3(a): Where the cause of death arises out of the reckless driving of a motor vehicle, a snowmobile, an all-terrain vehicle, or a watercraft, defendant must be charged with Reckless Homicide.

**CHARGING NOTE:** A prosecution for this offense may be commenced at any time. (720 ILCS 5/3-5)

**WARNING:** In the case of People v. Pomykala, 203 Ill. 2d 198, 784 N. E. 2d 784, 271 Ill. Dec. 230 (Ill., 2003), the Illinois Supreme Court declared unconstitutional the mandatory presumption that intoxication is proof of recklessness. Consequently, the Illinois Legislature amended the Reckless Homicide statute to strike this presumption and all references to intoxication within that statute.

**VERY IMPORTANT:** The charging and sentencing alternatives for this offense are many and varied depending upon the circumstances. For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Codified - Laws 1961, p.1983 (January 1, 1962); Amended - P.A. 77-2638, 79-679, 84-272, 86-1316, 87-274, 87-1198, 90-43, 90-119, 91-6, 91-122, 93-178, 93-213, 93-682, 95-467, 95-551, 95-587, 95-591, 95-803, 95-876, 95-884 and 96-328.

**CHARGE:** Felony (Class 3)

**BOND:** Must Be Set By Judge

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## **720 ILCS 5/ 9-3.2(a)**

### INVOLUNTARY MANSLAUGHTER OF AN UNBORN CHILD

In violation of SECTION 9-3.2(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), without lawful justification and while acting in a reckless manner, performed an act<sup>1</sup> likely to cause death or great bodily harm to some individual, in that he discharged a firearm in the presence of Dawn Smith, causing a projectile from that firearm to strike Dawn Smith in the abdomen, thereby causing the death of an unborn child carried by its mother, Dawn Smith.

<sup>1</sup>act may be either lawful or unlawful

**NOTE:** Where the cause of death arises out of the reckless driving of a motor vehicle, the defendant must be charged with Reckless Homicide of an unborn child (720 ILCS 5/9-3.2(a)) (See following complaint);

**NOTE:** For a definition of "unborn child" and for an exclusion of the pregnant woman as a defendant see Appendix C.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created - P.A. 84-1414 (September 19, 1986).

**CHARGE:** Felony (Class 3)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 9-3.2(a)**

### RECKLESS HOMICIDE OF AN UNBORN CHILD

In violation of SECTION 9-3.2(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), without lawful justification and while acting in a reckless manner, performed acts likely to cause the death of or great bodily harm to some individual in that he operated a motor vehicle in a westerly direction along and upon East Street at or near the intersection of West Street in the City of Union City, Union County, Illinois at a speed which was greater than was reasonable and proper with regard to its existing traffic conditions and the safety of persons properly upon the roadway, and he entered into said intersection at East Street and West Street in disobedience of a steady red traffic control light at that intersection, causing his motor vehicle to strike the person of Dawn Smith, thereby causing the death of an unborn child carried by its mother, Dawn Smith.

**NOTE:** For a definition of "unborn child" and for an exclusion of the pregnant woman as a defendant see Appendix C.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created - P.A. 84-1414 (September 19, 1986).

**CHARGE:** Felony (Class 3)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 9-3.3(a)**

DRUG INDUCED HOMICIDE

**In violation of SECTION 9-3.3(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), violated subsection (a)<sup>1</sup> of Section 401 of the Illinois Controlled Substance Act<sup>2</sup> by knowingly delivering heroin, a controlled substance,<sup>3</sup> to Don Smith and Don Smith<sup>4</sup> thereafter injected<sup>5</sup> a portion<sup>6</sup> of that heroin into his body and said injection of heroin caused the death of Don Smith.**

<sup>1</sup>or any subsection of 401; <sup>2</sup>or Section 55 of the Methamphetamine Control and Community Act; <sup>3</sup>or any controlled substance; <sup>4</sup>or any person; <sup>5</sup>or the inhalation or ingestion or absorption; <sup>6</sup>or any amount

**SENTENCING NOTE:** A person who commits drug-induced homicide by violating subsection (a) or subsection (c) of Section 401 of the Illinois Controlled Substances Act or Section 55 of the Methamphetamine Control and Community Protection Act commits a Class X felony for which the defendant shall in addition to a sentence authorized by law, be sentenced to a term of imprisonment of not less than 15 years and not more than 30 years or an extended term of not less than 30 years and not more than 60 years. See Sentencing Guide.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created - P.A. 85-1259 (January 1, 1989). Amended - P.A. 92-256, 94-560 and 94-556. This complaint was recently amended by Public Act 97-0191; Eff: 7-22-11.

**CHARGE:** Felony (Class X)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 9-3.4(a)**

### CONCEALMENT OF HOMICIDAL DEATH

In violation of SECTION 9-3.4(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), with knowledge that Don Smith<sup>1</sup> had died by homicidal means, knowingly concealed the death of Don Smith by (describe the affirmative act(s) of concealment).

<sup>1</sup>any person

**CHARGING NOTES:** (a) Nothing in this Section prevents the defendant from also being charged with and tried for First-Degree Murder, Second-Degree Murder, or involuntary manslaughter of the person whose death is concealed. (720 ILCS 5/9-3.1(b)) (b) A prosecution for this offense may be commenced at any time. (720 ILCS 5/3-5)

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Codified - P.A. 77-1369 (August 31, 1971); Amended - P.A.s 77-2638, 78-255, 84-1308, 84-1450 and 96-0710.

**CHARGE:** Felony (Class 3)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 9-3.5(b)**

### CONCEALMENT OF A DEATH

In violation of SECTION 9-3.5(b) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), knowingly concealed the death of Don Smith, a person who died by other than homicidal means, in that said defendant (describe the affirmative act(s) of concealment).

**NOTE:** For purposes of this Section, “conceal” means the performing of some act or acts for the purpose of preventing or delaying the discovery of a death. “Conceal” means something more than simply withholding knowledge or failing to disclose information. 720 ILCS 5/ 9-3-1.5(a).

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created by Public Act: 96-1361. (Effective: 1/1/11.) Amended and Re-numbered by: P.A. 97-333.

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 9-3.5(c)**

### CONCEALMENT OF A DEATH

In violation of SECTION 9-3.5(c) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), knowingly moved the body of Don Smith, a person who died by other than homicidal means, with the intent of concealing information regarding the place<sup>1</sup> of death of Don Smith<sup>2</sup>.

<sup>1</sup>or manner; <sup>2</sup>or the identity of any person with information regarding the death of Don Smith

**NOTE:** This subsection shall not apply to any movement of the body of a dead person by medical personnel, fire fighters, law enforcement officers, coroners, medical examiners, or licensed funeral directors, or by any person such person. 720 ILCS 5/ 9-3-1.5(c).

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created by Public Act: 96-1361. (Effective: 1/1/11.) Amended and Re-numbered by Public Act 97-0333.

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

## **720 ILCS 5/ 10-1(a)(1)**

### KIDNAPPING

In violation of SECTION 10-1(a)(1) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), knowingly and secretly confined Don Smith against his will.

**NOTE:** Confinement of a child under the age of 13 years, or of a person with a severe or profound intellectual disability, is against that child's or person's will within the meaning of this Section if that confinement is without the consent of that child's or person's parent or legal guardian. (720 ILCS 5/10-1(b))

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Laws 1961, p. 1983, § 10-1, eff. Jan. 1, 1962. Amended by P.A. 77-2638, 79-765 and 96-710. This subsection was recently amended by Public Act: 97-0227; (Effective: 1-1-12).

This subsection was amended by Public Act 99-0143. Effective: 1-1-16.

**CHARGE:** Felony (Class 2)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 10-1(a)(2)**

KIDNAPPING

In violation of SECTION 10-1(a)(2) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), knowingly, by the use of force<sup>1</sup> carried Don Smith from Union City, Union County, Illinois, to Springfield, Sangamon County, Illinois,<sup>2</sup> with the intent to secretly confine him against his will.

<sup>1</sup>or the threat of imminent force; <sup>2</sup>from one place to another

**NOTE:** Confinement of a child under the age of 13 years, or of a person with a severe or profound intellectual disability, is against that child's or person's will within the meaning of this Section if that confinement is without the consent of that child's or person's parent or legal guardian. (720 ILCS 5/10-1(b))

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Amended by Public Act: 96-0710 (Effective: 1-1-10).

This subsection was amended by Public Act 99-0143. Effective: 1-1-16.

**CHARGE:** Felony (Class 2)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 10-1(a)(3)**

KIDNAPPING

In violation of SECTION 10-1(a)(3) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), knowingly, by deceit,<sup>1</sup> induced Don Smith to go from Union City, Union County, Illinois, to Freeport, Stephenson County, Illinois,<sup>2</sup> with intent to secretly confine Don Smith against his will.

<sup>1</sup>or enticement; <sup>2</sup>from one place to another

**NOTE:** Confinement of a child under the age of 13 years, or of a person with a severe or profound intellectual disability, is against that child's or person's will within the meaning of this

Section if that confinement is without the consent of that child's or person's parent or legal guardian. (720 ILCS 5/10-1(b))

**IMPORTANT:** For sentencing and alternative charging information see the **Sentencing Guide.**

**Legislative History:** Amended by P.A.s 96-0710 (Effective: 1-1-10) and 97-0227. (Effective: 1-1-12)

This subsection was amended by Public Act 99-0143. Effective: 1-1-16.

**CHARGE:** Felony (Class 2)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-2(a)(1)**

### AGGRAVATED KIDNAPPING

In violation of SECTION **10-2(a)(1)** of ACT **5** of CHAPTER **720** of the Illinois Compiled Statutes, on **(date of offense)**, in the State of Illinois and the County of **\_\_\_\_\_**, defendant, **(defendant's name)**, in committing the offense of Kidnapping, in violation of Section 10-1(a)(1)<sup>1</sup> of Act 5 of Chapter 720 of the Illinois Compiled Statutes, knowingly and secretly confined Don Smith against his will for the purpose of obtaining ransom from James Smith.<sup>2</sup>

<sup>1</sup>or Section 10-1(a) (2) or Section 10-1(a) (3). For appropriate wording see those complaints; <sup>2</sup>or from the person kidnapped or from any other person

**SENTENCING NOTE:** (b) Sentence. Aggravated kidnaping in violation of paragraph (1) is a Class X felony. An offender under the age of 18 years at the time of the commission of aggravated kidnaping in violation of paragraph (1) of subsection (a) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of a second or subsequent offense of aggravated kidnaping shall be sentenced to a term of natural life imprisonment; except that a sentence of natural life imprisonment shall not be imposed under this Section unless the second or subsequent offense was committed after conviction on the first offense. An offender under the age of 18 years at the time of the commission of the second or subsequent offense shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. The charging document must state the prior violation. See the **Sentencing Guide** and **Appendix A.**

**IMPORTANT:** For sentencing and alternative charging information see the **Sentencing Guide.**

**Legislative History:** Laws 1961, p. 1983, § 10-2, eff. Jan. 1, 1962. Amended by Laws 1967, p. 2837, § 1, eff. Aug. 11, 1967; Laws 1967, p. 3510, § 1, eff. Sept. 1, 1967; Laws 1968, p. 539, § 1, eff. July 1, 1969; P.A. 77-2638, § 1, eff. Jan. 1, 1973; P.A. 79-765, § 1, eff. Sept. 5, 1975; P.A. 80-1099, § 1, eff. Feb. 1, 1978; P.A. 85-1392, § 1, eff. Jan. 1, 1989; P.A. 89-707, § 15, eff. June

1, 1997; P.A. 91-404, § 5, eff. Jan. 1, 2000; P.A. 92-434, § 5, eff. Jan. 1, 2002; P.A. 96-710, § 25, eff. Jan. 1, 2010; P.A. 97-227, § 135, eff. Jan. 1, 2012.

This subsection was amended by Public Act 99-0069. Effective: 1-1-16.

**CHARGE:** Felony (Class X)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-2(a)(2)**

### AGGRAVATED KIDNAPPING

In violation of SECTION 10-2(a)(2) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), in committing the offense of Kidnapping, in violation of Section 10-1(a)(1)<sup>1</sup> of Act 5 of Chapter 720 of the Illinois Compiled Statutes, knowingly and secretly confined Don Smith, a child under the age of 13 years,<sup>2</sup> against his will.

<sup>1</sup>or Section 10-1(a) (2) or Section 10-1(a) (3). For appropriate wording see those complaints; <sup>2</sup>or a person with a severe or profound intellectual disability

**NOTE:** Confinement of a child under the age of 13 years, or of a person with a severe or profound intellectual disability, is against that child's or person's will within the meaning of this Section if that confinement is without the consent of that child's or person's parent or legal guardian. (720 ILCS 5/10-1(b))

**NOTE:** "Severely or profoundly intellectually disabled person" means a person (i) whose intelligence quotient does not exceed 40 or (ii) whose intelligence quotient does not exceed 55 and the person suffers from significant mental illness to the extent that the person's ability to exercise rational judgment is impaired. (720 ILCS 5/ 2-10.1)

**SENTENCING NOTE:** (b) Sentence. Aggravated kidnaping in violation of paragraph (2) is a Class X felony. An offender under the age of 18 years at the time of the commission of aggravated kidnaping in violation of paragraph (2) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of a second or subsequent offense of aggravated kidnaping shall be sentenced to a term of natural life imprisonment; except that a sentence of natural life imprisonment shall not be imposed under this Section unless the second or subsequent offense was committed after conviction on the first offense. An offender under the age of 18 years at the time of the commission of the second or subsequent offense shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. The charging document must state the prior violation. See **Appendix A** and the **Sentencing Guide** for discussion.

**IMPORTANT:** For sentencing and alternative charging information see the **Sentencing Guide**.

**Legislative History:** Amended by Public Act: 97-0227; (Effective: 1-1-12).



This subsection was amended by Public Acts 99-0069 and 99-0143. Both effective: 1-1-16.

**CHARGE:** Felony (Class X)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 10-2(a)(3)**

AGGRAVATED KIDNAPPING

**In violation of SECTION 10-2(a)(3) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), in committing the offense of Kidnapping, in violation of Section 10-1(a)(1)<sup>1</sup> of Act 5 of Chapter 720 of the Illinois Compiled Statutes, knowingly and secretly confined Don Smith against his will and inflicted great bodily harm<sup>2</sup> upon him by breaking his leg.<sup>3</sup>**

<sup>1</sup>or Section 10-1(a) (2) or Section 10-1(a) (3). For appropriate wording see those complaints; <sup>2</sup>other than by the discharge of a firearm; <sup>3</sup>or committed another felony upon the victim

**SENTENCING NOTE:** (b) Sentence. Aggravated kidnaping in violation of paragraph (3) is a Class X felony. An offender under the age of 18 years at the time of the commission of aggravated kidnaping in violation of paragraphs (3) of subsection (a) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of a second or subsequent offense of aggravated kidnaping shall be sentenced to a term of natural life imprisonment; except that a sentence of natural life imprisonment shall not be imposed under this Section unless the second or subsequent offense was committed after conviction on the first offense. An offender under the age of 18 years at the time of the commission of the second or subsequent offense shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. The charging document must state the prior violation. See **Appendix A** and the **Sentencing Guide** for discussion.

**IMPORTANT:** For sentencing and alternative charging information see the **Sentencing Guide**.

This subsection was amended by Public Act 99-0069. Effective: 1-1-16.

**CHARGE:** Felony (Class X)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-2(a)(4)**

### AGGRAVATED KIDNAPPING

In violation of SECTION 10-2(a)(4) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), in committing the offense of Kidnapping, in violation of Section 10-1(a)(1)<sup>1</sup> of Act 5 of Chapter 720 of the Illinois Compiled Statutes, knowingly and secretly confined Don Smith against his will while wearing a mask.<sup>2</sup>

<sup>1</sup>or Section 10-1(a) (2) or Section 10-1(a) (3). For appropriate wording see those complaints; <sup>2</sup>or while hooded, robed or while otherwise concealing his identity

**SENTENCING NOTE:** (b) Sentence. Aggravated kidnaping in violation of paragraph (4) is a Class X felony. An offender under the age of 18 years at the time of the commission of aggravated kidnaping in violation of paragraph (4) of subsection (a) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of a second or subsequent offense of aggravated kidnaping shall be sentenced to a term of natural life imprisonment; except that a sentence of natural life imprisonment shall not be imposed under this Section unless the second or subsequent offense was committed after conviction on the first offense. An offender under the age of 18 years at the time of the commission of the second or subsequent offense shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. The charging document must state the prior violation. See **Appendix A** and the **Sentencing Guide** for discussion.

**IMPORTANT:** For sentencing and alternative charging information see the **Sentencing Guide**.

This subsection was amended by Public Act 99-0069. Effective: 1-1-16.

**CHARGE:** Felony (Class X)

**BOND:** Must be Set by Judge

## **720 ILCS 5/ 10-2(a)(5)**

### AGGRAVATED KIDNAPPING

In violation of SECTION 10-2(a)(5) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), in committing the offense of Kidnapping, in violation of Section 10-1(a)(1)<sup>1</sup> of Act 5 of chapter 720 of the Illinois Compiled Statutes, knowingly and secretly confined Don Smith against his will, while armed with a dangerous weapon, a dagger.<sup>2</sup>

<sup>1</sup>or Section 10-1(a) (2) or Section 10-1(a) (3). For appropriate wording see those complaints; <sup>2</sup>or any other dangerous weapon as defined in 720 ILCS 5/33A-1 other than a firearm.

**SENTENCING NOTE:** (b) Sentence. Aggravated kidnaping in violation of paragraph (5) of subsection (a) is a Class X felony. An offender under the age of 18 years at the time of the commission of aggravated kidnaping in violation of paragraphs (5) of subsection (a) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of a second or subsequent offense of aggravated kidnaping shall be sentenced to a term of natural life imprisonment; except that a sentence of natural life imprisonment shall not be imposed under this Section unless the second or subsequent offense was committed after conviction on the first offense. An offender under the age of 18 years at the time of the commission of the second or subsequent offense shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. The charging document must state the prior violation. See **Appendix A** and the **Sentencing Guide** for discussion.

**IMPORTANT:** For sentencing and alternative charging information see the **Sentencing Guide**.

This subsection was amended by Public Act 99-0069. Effective: 1-1-16.

**CHARGE:** Felony (Class X)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 10-2(a)(6)**

AGGRAVATED KIDNAPPING

In violation of SECTION **10-2(a)(6)** of ACT **5** of CHAPTER **720** of the Illinois Compiled Statutes, on **(date of offense)**, in the State of Illinois and the County of **\_\_\_\_\_**, defendant, **(defendant's name)**, while armed with a firearm, committed the offense of kidnaping in violation of Section 10-1(a)(1) of Act 5 of Chapter 720 of the Illinois Compiled Statutes in that he knowingly and secretly confined Don Smith against his will.

**SENTENCING NOTE:** (b) Sentence. \*\*\* A violation of subsection (a) (6) is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a) (7) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. An offender under the age of 18 years at the time of the commission of aggravated kidnaping in violation of paragraph (6) of subsection (a) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of a second or subsequent offense of aggravated kidnaping shall be sentenced to a term of natural life imprisonment; except that a sentence of natural life imprisonment shall not be imposed under this Section unless the second or subsequent offense was committed after conviction on the first offense. An offender under the age of 18 years at the time of the commission of the second or subsequent offense shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. The charging document must state the prior violation. See **Appendix A** and the **Sentencing Guide** for discussion.

**IMPORTANT:** For sentencing and alternative charging information see the **Sentencing Guide**.

This subsection was amended by Public Act 99-0069. Effective: 1-1-16.

**CHARGE:** Felony (Class X)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 10-2(a)(7)**

AGGRAVATED KIDNAPPING

**In violation of SECTION 10-2(a)(7) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), committed the offense of kidnapping in violation of Section 10-1(a)(1) of Act 5 of Chapter 720 of the Illinois Compiled Statutes in that he knowingly and secretly confined Don Smith against his will and during the commission of this offense said defendant personally discharged a firearm.**

**SENTENCING NOTE A:** A violation of subsection (a) (7) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court.

**SENTENCING NOTE B:** (b) Sentence. Aggravated kidnaping in violation of paragraph (1), (2), (3), (4), or (5) of subsection (a) is a Class X felony. A violation of subsection (a) (6) is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a) (7) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a) (8) is a Class X felony for which 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court. An offender under the age of 18 years at the time of the commission of aggravated kidnaping in violation of paragraphs (1) through (8) of subsection (a) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of a second or subsequent offense of aggravated kidnaping shall be sentenced to a term of natural life imprisonment; except that a sentence of natural life imprisonment shall not be imposed under this Section unless the second or subsequent offense was committed after conviction on the first offense. An offender under the age of 18 years at the time of the commission of the second or subsequent offense shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. The charging document must state the prior violation. See **Appendix A** and the **Sentencing Guide** for discussion.

**IMPORTANT:** For sentencing and alternative charging information see the **Sentencing Guide**.

This subsection was amended by Public Act 99-0069. Effective: 1-1-16.

**CHARGE:** Felony (Class X)

**BOND:** Must be Set By Judge

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## **720 ILCS 5/ 10-2(a)(8)**

### AGGRAVATED KIDNAPPING

In violation of SECTION 10-2(a)(8) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), committed the offense of kidnapping in violation of Section 10-1(a)(1) of Act 5 of Chapter 720 of the Illinois Compiled Statutes in that he knowingly and secretly confined Don Smith against his will and during the commission of this offense said defendant personally discharged a firearm that proximately caused great bodily harm to John O'Brien.<sup>1</sup>

<sup>1</sup>or any other person

**SENTENCING NOTE:** (b) Sentence. \*\*\* A violation of subsection (a) (8) is a Class X felony for which 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court. An offender under the age of 18 years at the time of the commission of aggravated kidnaping in violation of paragraphs (1) through (8) of subsection (a) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of a second or subsequent offense of aggravated kidnaping shall be sentenced to a term of natural life imprisonment; except that a sentence of natural life imprisonment shall not be imposed under this Section unless the second or subsequent offense was committed after conviction on the first offense. An offender under the age of 18 years at the time of the commission of the second or subsequent offense shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections. The charging document must state the prior violation. See **Appendix A** and the **Sentencing Guide** for discussion.

**IMPORTANT:** For sentencing and alternative charging information see the **Sentencing Guide.**

This subsection was amended by Public Act 99-0069. Effective: 1-1-16.

**CHARGE:** Felony (Class X)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-3(a)**

### UNLAWFUL RESTRAINT

In violation of SECTION 10-3(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), knowingly and without legal authority detained Don Smith in that (describe the specific act(s) of detention).

**IMPORTANT:** For sentencing and alternative charging information see the **Sentencing Guide.**

**Legislative History:** Laws 1961, p. 1983, § 10-3, eff. Jan. 1, 1962. Amended by Laws 1967, p. 3510; P.A. 77-2638, 79-840 and 96-710.

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 10-3.1(a)**

AGGRAVATED UNLAWFUL RESTRAINT

In violation of SECTION 10-3.1(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant’s name), used a deadly weapon while committing the offense of unlawful restraint in violation of Section 10-3 of the Criminal Code in that (describe the specific act(s) of detention).

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Laws 1961, p. 1983, § 10-3.1, added by P.A. 84-930, § 1, eff. Jan. 1, 1986. Amended by P.A. 96-710.

**CHARGE:** Felony (Class 3)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 10-4(a)(1)**

FORCIBLE DETENTION

In violation of SECTION 10-4(a)(1) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant’s name), while armed with a dangerous weapon,<sup>1</sup> a Thompson machine gun, and without lawful authority, knowingly held Don Smith hostage for the purpose of obtaining the payment of \$100,000 United States currency,<sup>2</sup> which he demanded from James Smith.<sup>3</sup>

<sup>1</sup>any dangerous weapon as defined in Section 33A-1; <sup>2</sup>or any other demand; <sup>3</sup>any third person

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created - P.A. 79-941 (October 1, 1975).

**CHARGE:** Felony (Class 2)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-4(a)(2)**

### FORCIBLE DETENTION

In violation of SECTION 10-4(a)(2) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), without lawful authority, held Don Smith hostage for the purpose of obtaining his release from the Union County jail, which he demanded of James White,<sup>1</sup> Sheriff of Union County, knowing Don Smith to be a peace officer<sup>2</sup> engaged in the performance of his official duties.

<sup>1</sup>any third person; <sup>2</sup>or a correctional employee

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Class 2)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-5(b)(1)**

### CHILD ABDUCTION

In violation of SECTION 10-5(b)(1) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), intentionally violated the terms<sup>1</sup> of a valid court order (insert date and issuing court) granting sole<sup>2</sup> custody<sup>3</sup> of Don Smith, a child, to Dawn Smith by removing Don Smith, from the jurisdiction of the court.<sup>4</sup>

<sup>1</sup>any terms; <sup>2</sup>or joint; <sup>3</sup>or care or possession; <sup>4</sup>or by detaining or concealing Joe Brown

**NOTE:** "Child" means a person under the age of 18 years or was a person with a severe or profound intellectual disability. (720 ILCS 5/10-5(a) (1) and 2-10.1)

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Laws 1961, p. 1983, § 10-5, added by P.A. 80-1393, § 1, eff. Aug. 22, 1978. Amended by 83-1396; 84-160; 84-234; 84-1281; 84-1305; 84-1308; 84-1438; 85-1191; 85-1392; 85-1440; 86-312; 90-494; 92-434; 95-1052; 96-710; 96-1000; 97-160; 97-227; 97-813. This complaint was recently amended by Public Act 97-0227; Eff: 1-1-12.

This subsection was amended by Public Act 99-0143. Effective: 1-1-16.

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-5(b)(2)**

### CHILD ABDUCTION

In violation of SECTION 10-5(b)(2) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), intentionally violated a court order (insert date and issuing court) which prohibited the defendant from removing Don Smith, a child, from the jurisdiction of the court<sup>1</sup> in that the defendant took Don Smith to California.

<sup>1</sup>or from concealing or detaining Joe Brown

**NOTE:** For a definition of "child" see Appendix C.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-5(b)(3)**

### CHILD ABDUCTION

In violation of SECTION 10-5(b)(3) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), being the putative father of Don Smith, a child, and without having established the paternity of Don Smith,<sup>1</sup> intentionally concealed<sup>2</sup> Don Smith without the consent of Dawn Smith, the mother<sup>3</sup> of Don Smith.

<sup>1</sup>or (B) the paternity of the child has been legally established but no orders relating to custody have been entered; <sup>2</sup>or detained or removed; <sup>3</sup>or lawful custodian

**NOTE:** However, notwithstanding the presumption created by 720 ILCS 5/10-5(a)(3), a mother commits child abduction when she intentionally conceals or removes a child, whom she has abandoned or relinquished custody of, from an un-adjudicated father who has provided sole ongoing care and custody of the child in her absence.

**NOTE:** For a definition of "child" see Appendix C.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-5(b)(4)**

### CHILD ABDUCTION

In violation of SECTION 10-5(b)(4) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), after being served with process<sup>1</sup> in an action affecting marriage<sup>2</sup> but prior to the issuance of a final<sup>3</sup> order determining the custody of Don Smith, a child, intentionally removed<sup>4</sup> Don Smith from Dawn Smith, the mother<sup>5</sup> of Don Smith.

<sup>1</sup>or after filing a petition; <sup>2</sup>or paternity; <sup>3</sup>temporary; <sup>4</sup>or concealed; <sup>5</sup>or father

**NOTE:** For a definition of "child" see Appendix C.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-5(b)(5)**

### CHILD ABDUCTION

In violation of SECTION 10-5(b)(5) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), at the expiration of visitation rights in Mississippi,<sup>1</sup> intentionally failed<sup>2</sup> to return<sup>3</sup> Don Smith, a child, to Dawn Smith, the lawful custodian of Don Smith, in Illinois.

<sup>1</sup>anywhere outside the State of Illinois; <sup>2</sup>or refused; <sup>3</sup>or impeded the return of

**NOTE:** For a definition of "child" see Appendix C.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-5(b)(6)**

### CHILD ABDUCTION

In violation of SECTION 10-5(b)(6) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), being the father<sup>1</sup> of Don Smith, a child, being married<sup>2</sup> to Dawn Smith, the mother<sup>1</sup> of Don Smith, and there being no court order of custody of Don Smith, did knowingly conceal Don Smith for 15 days<sup>3</sup> and did fail to make a reasonable attempt within that 15-day period to notify Dawn Smith, the mother of Don Smith, as to the specific whereabouts of Don Smith, including a means by which to contact Don Smith.<sup>4</sup>

<sup>1</sup>or other parent; <sup>2</sup>or having been married; <sup>3</sup>at least 15 days; <sup>4</sup>or to arrange reasonable visitation or contact with the child

**NOTE:** It is not a violation of this Section for a person fleeing domestic violence to take the child with him or her to services provided by a domestic violence program.

**NOTE:** For a definition of "child" see Appendix C.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Amended by Public Act: 96-0710 (Effective: 1-1-10).

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-5(b)(7)**

### CHILD ABDUCTION

In violation of SECTION 10-5(b)(7) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), being the father<sup>1</sup> of Don Smith, a child, being married<sup>2</sup> to Dawn Smith, the mother<sup>1</sup> of Don Smith, and there being no court order of custody of Don Smith, knowingly removed<sup>3</sup> Don Smith from Dawn Smith by the use of physical force.<sup>4</sup>

<sup>1</sup>or other parent; <sup>2</sup>or having been married; <sup>3</sup>or concealed or detained; <sup>4</sup>or the threat of physical force

**NOTE:** For a definition of "child" see Appendix C.

**NOTE:** See Appendix B for discussion of necessity of alleging mental state.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Amended by Public Act: 96-0710 (Effective: 1-1-10).

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 10-5(b)(8)**

CHILD ABDUCTION

In violation of SECTION 10-5(b)(8) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), knowingly detained<sup>1</sup> Don Smith, a child, for payment<sup>2</sup> at the instruction of Dawn Smith, a person who had no legal right to the custody of Don Smith.

<sup>1</sup>or concealed or removed; <sup>2</sup>or promise of payment

**NOTE:** For a definition of "child" see Appendix C.

**NOTE:** See Appendix B for discussion of necessity of alleging mental state.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Amended by Public Act: 96-0710 (Effective: 1-1-10).

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 10-5(b)(9)**

CHILD ABDUCTION

In violation of SECTION 10-5(b)(9) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), knowingly retained Don Smith, a child, in Illinois for 30 days after removing Don Smith from California<sup>1</sup> without the consent of Dawn Smith, the lawful custodian of Don Smith.<sup>2</sup>

<sup>1</sup>or any other state; <sup>2</sup>or in violation of a valid court order of custody

**NOTE:** For a definition of "child" see Appendix C.

**NOTE:** See Appendix B for discussion of necessity of alleging mental state.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Amended by Public Act: 96-0710 (Effective: 1-1-10).

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 10-5(b)(10)**

CHILD ABDUCTION

In violation of SECTION 10-5(b)(10) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), intentionally lured<sup>1</sup> Don Smith, a child under the age of 17 years<sup>2</sup>, into a motor vehicle<sup>3</sup> without the consent of a parent<sup>4</sup> of Don Smith for other than a lawful purpose.

<sup>1</sup>or attempted to lure; <sup>2</sup>or while traveling to or from a primary or secondary school; <sup>3</sup>or building, house-trailer, or dwelling place; <sup>4</sup>or lawful custodian

**PERMISSIVE INFERENCE:** For the purposes of this subsection (10), the trier of fact may infer that luring or attempted luring of a child under the age of 17 into a motor vehicle, building, house-trailer, or dwelling place without the express consent of the child's parent or lawful custodian or with the intent to avoid the express consent of the child's parent or lawful custodian was for other than a lawful purpose.

**NOTE:** For a definition of "child"; "express consent"; "luring" and "unlawful purpose" see this subsection and/or Appendix C.

**SENTENCING NOTE:** A person convicted of child abduction under this subsection shall undergo a sex offender evaluation prior to a sentence being imposed. A person convicted of child abduction under this subsection, when the person has a prior conviction of a sex offense as defined in the Sex Offender Registration Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign government offense is guilty of a Class 2 felony.

**CHARGING NOTE:** A person convicted of a second or subsequent violation of this offense is guilty of a Class 3 felony. The charging instrument must state the prior conviction. See the Sentencing Guide.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** This subsection was recently amended by Public Act: 96-0160; (Eff: 1-1-12) and by P. A. 97-0998. (Eff: 1-1-13).

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-5(b)(11)**

### CHILD ABDUCTION

In violation of SECTION 10-5(b)(11) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), with the intent to obstruct<sup>1</sup> efforts to locate Dawn Smith, the child victim of a child abduction, knowingly destroyed<sup>2</sup> physical evidence<sup>3</sup> in that (describe the act of the defendant).

<sup>1</sup>or prevent; <sup>2</sup>or concealed or disguised; <sup>3</sup>or furnished false information.

**NOTE:** For a definition of "child" see Appendix C.

**NOTE:** See Appendix B for discussion of necessity of alleging mental state.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created by Public Act: 96-0710 (Effective: 1-1-10).

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-5.1**

### UNLAWFUL LURING OF A MINOR

In violation of SECTION 10-5.1 of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), being 21 years of age or older and being a stranger to the parents<sup>1</sup> of Don Smith and knowing Don Smith to be a minor under 15 years of age, with the intent to lure<sup>2</sup> Don Smith away from his home<sup>3</sup> for an unlawful purpose; to wit: (identify the unlawful purpose) and without the express consent of the parents<sup>1</sup> of Don Smith and with the intent to avoid the express consent of the parents<sup>1</sup> of Don Smith said defendant electronically communicated<sup>4</sup> with Don Smith and after so communicating said defendant committed an act<sup>5</sup> in furtherance of his intent to lure Don Smith away from his home in that he (describe the act committed in furtherance).

<sup>1</sup>or legal guardian; <sup>2</sup>or persuade or transport; <sup>3</sup>or other location known by the minor's parents or guardian to be the place where the minor is to be located; <sup>4</sup>or contacts; <sup>5</sup>any act

**VERY IMPORTANT:** The charging and sentencing provisions of this offense are many and varied depending upon the circumstances. For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created by Public Act 95-625 (Eff: 6-1-08).

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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**720 ILCS 5/ 10-5.5**

UNLAWFUL VISITATION<sup>1</sup> INTERFERENCE

In violation of SECTION 10-5.5 of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant’s name), in violation of the visitation<sup>2</sup> provisions of a court order (identify and describe the court order) relating to the custody of Don Smith, a child, detained<sup>3</sup> Don Smith with the intent to deprive James Smith<sup>4</sup> of his<sup>5</sup> rights to visitation concerning Don Smith.

<sup>1</sup>or parenting time; <sup>2</sup>or parenting time or custody time; <sup>3</sup>concealed; <sup>4</sup>or another person;  
<sup>5</sup>or her

**CHARGING NOTE:** A person convicted of a third or subsequent violation of this offense is guilty of a Class A misdemeanor. The charging instrument must state the prior conviction. See Appendix A for discussion.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Laws 1961, p. 1983, § 10-5.5, added by P.A. 88-96, § 5, eff. Jan. 1, 1994. Amended by P.A. 96-333; 96-675; 96-710 and 96-1000.

**CHARGE:** Petty Offense

**BOND:** No bond is now needed.  
Public Act: 98-0870; Eff: 1-1-15

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**720 ILCS 5/ 10-6(a)**

HARBORING A RUNAWAY

In violation of SECTION 10-6(a) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant’s name), without the knowledge and consent of the parents<sup>1</sup> of Don Smith, an unemancipated minor, knowingly gave shelter to Don Smith for more than 48 hours and failed to notify the local law enforcement authorities of the minor's name and the fact that the minor was being provided shelter.

<sup>1</sup>or guardian

**NOTE:** This act does not include an agency or association providing crisis intervention services as defined in Section 3-5 of the Juvenile Court Act. (705 ILCS 405/3-5)

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Laws 1961, p. 1983, § 10-6, added by P.A. 84-185, § 1, eff. Aug. 23, 1985. Amended by P.A. 85-1209; 86-278, 86-386 and 95-331.

**CHARGE:** Misdemeanor (Class A)

**BOND:** \$1,500

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### **720 ILCS 5/ 10-7(a)(i)**

#### AIDING AND ABETTING A CHILD ABDUCTION

In violation of SECTION 10-7(a)(i) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), before<sup>1</sup> the commission of the child abduction of Don Smith and with the intent to facilitate<sup>2</sup> the child abduction of Don Smith, did intentionally aid<sup>3</sup> Dawn Smith in the commission<sup>4</sup> of the child abduction of Don Smith.

<sup>1</sup>or during; <sup>2</sup>or promote; <sup>3</sup>or abet; <sup>4</sup>or planning

**NOTE:** See Child Abduction statute for affirmative defenses. (720 ILCS 5/10-5(c))

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created - P.A. 84-234 (September 3, 1985); Amended - P.A. 84-1308 and 96-0710.

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

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### **720 ILCS 5/ 10-7(a)(ii)**

#### AIDING AND ABETTING A CHILD ABDUCTION

In violation of SECTION 10-7(a)(ii) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), with the intent to obstruct<sup>1</sup> efforts to locate Don Smith, the victim of a child abduction, did knowingly destroy<sup>2</sup> physical evidence concerning the location of Joe Brown.

<sup>1</sup>or prevent; <sup>2</sup>or alter, conceal or disguise physical evidence, or furnish false information concerning said victim of the child abduction

**NOTE:** See Child Abduction statute for affirmative defenses. (720 ILCS 5/10-5(c))

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Felony (Class 4)

**BOND:** Must be Set by Judge

**720 ILCS 5/ 10-8**

UNLAWFUL SALE OF A PUBLIC CONVEYANCE  
TRAVEL TICKET TO A MINOR

In violation of SECTION 10-8 of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), knowingly<sup>1</sup> and without the consent of the parents of Don Smith,<sup>2</sup> sold to Don Smith, an unemancipated minor under 17 years of age, a ticket for travel on a Northfield bus<sup>3</sup> from Union City, Illinois, to St. Joseph, Missouri,<sup>4</sup> and failed to take reasonable measures to ascertain the age of Don Smith.<sup>5</sup>

<sup>1</sup>or intentionally or recklessly; <sup>2</sup>or his guardian; <sup>3</sup>or for any public conveyance; <sup>4</sup>or to any destination outside of Illinois; <sup>5</sup>or knew the age of the minor

**NOTE:** "Public conveyance" includes an airplane, boat, bus, railroad train, taxicab, or other vehicle used for the transportation of passengers for hire.

**NOTE:** See Appendix B for discussion of necessity of alleging mental state.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGE:** Misdemeanor (Class C)

**BOND:** \$120

**720 ILCS 5/ 10-8.1(b)**

UNLAWFUL SENDING OF A PUBLIC CONVEYANCE TRAVEL TICKET TO A MINOR

In violation of SECTION 10-8.1(b) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), without the consent of the parents<sup>1</sup> of Sally Smith and for other than a lawful purpose under Illinois law, knowingly sent<sup>2</sup> a public conveyance travel ticket to (name the location)<sup>3</sup> to Sally Smith, a person known to the defendant to be an unemancipated minor under 17 years of age<sup>4</sup>.

<sup>1</sup>or guardian; <sup>2</sup>or caused to be sent, or purchased; <sup>3</sup>any location; <sup>4</sup>or a person he or she believes to be an un-emancipated minor under 17 years of age.



**NOTE:** This offense may also be committed when a defendant, without the consent of a minor’s parent or guardian, knowingly arranges for travel to any location on any public conveyance for a person known by the defendant to be an un-emancipated minor under 17 years of age or a person he or she believed to be such a minor other than for a lawful purpose under Illinois law.

**CHARGING NOTE:** If the defendant is more than 5 years older than his or her victim, this offense is a Class 4 felony.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created by Public Act 95-0983 (Eff: 6-1-09).

**CHARGE:** Misdemeanor (Class A)

**BOND:** \$1500

**720 ILCS 5/ 10-9(b)(1)**

INVOLUNTARY SERVITUDE

In violation of SECTION **10-9(b)(1)** of ACT 5 of CHAPTER **720** of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant’s name), knowingly subjected<sup>1</sup> Dawn Smith to labor<sup>2</sup> and in so doing caused<sup>3</sup> physical harm to Dawn Smith<sup>5</sup> in that (describe the act of labor and physical harm).

<sup>1</sup>or attempts to subject or engages in a conspiracy to subject; <sup>2</sup>or services; <sup>3</sup>or threatened to cause; <sup>4</sup>see note below; <sup>5</sup>to any person

**NOTE:** This offense is committed when the defendant knowingly subjects, attempts to subject, or engages in a conspiracy to subject another person to labor or services obtained or maintained through any of the following means, or any combination of these means obtained or maintained through any of the following means, or any combination of these means and: (1) causes or threatens to cause physical harm to any person; (2) physically restrains or threatens to physically restrain another person; (3) abuses or threatens to abuse the law or legal process; (4) knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person; or (5) uses intimidation, or uses or threatens to cause financial harm to or exerts financial control over any person; or (6) uses any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform the labor or services, that person or another person would suffer serious harm or physical restraint.

**NOTE:** For definitions of the following phrases: “Intimidation,” “Commercial sexual activity,” “Financial harm,” “Serious harm,” “Labor,” “Maintain,” “Obtain,” “Services,” “Sexually-explicit performance,” “Trafficking victim.” See Appendix C.

**CHARGING AND SENTENCING NOTE:** This subsection may also be violated as follows: (b)(2) by physically restraining or threatening to physically restrain another person. (This would constitute a Class 1 felony.) (b)(3) By abusing or threatening to abuse the law or legal process. (This would constitute a Class 2 Felony.) (b)(4) by knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person. (This would constitute a Class 3 felony.) (b)(5) uses intimidation, or uses or threatens to cause financial harm to or exerts financial control over any person. (This would constitute a Class 4 felony) See the Sentencing Guide.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created by Public Act 94-0009 (January 1, 2006). Amended by Public Act: 96-0710 (Effective: 1-1-10.) and amended and renumbered by P. A. 97-0897. (Eff: 1-1-13).

**CHARGE:** Felony (Class X)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-9(c)(3)**

### INVOLUNTARY SERVITUDE OF A MINOR

In violation of SECTION 10-9(c)(3) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), by the use of force<sup>1</sup> knowingly recruited<sup>2</sup> Dawn Smith, a person under 18 years of age, knowing that Dawn Smith would engage in commercial sexual activity<sup>3</sup> in that said defendant (describe the act of force and the commercial sexual activity).

<sup>1</sup>or threat; <sup>2</sup>or enticed, harbored, transported, provided, or obtained by any means or attempted to recruit, entice, harbor, provide, or obtain by any means; <sup>3</sup>or a sexually-explicit performance, or the production of pornography, or attempts to cause the minor to engage in a commercial sexual activity, a sexually-explicit performance, or the production of pornography

**DEFINITIONS:** For definitions of the following phrases: "Intimidation," "Commercial sexual activity," "Financial harm," "Serious harm," "Labor," "Maintain," "Obtain," "Services," "Sexually-explicit performance," "Trafficking victim." See Appendix C.

**CHARGING NOTE:** This subsection may also be violated as follows: (c)(1) In cases involving a minor between the ages of 17 and 18 years, not involving overt force or threat. (This would constitute a Class 1 felony.) (c)(2) In cases involving a minor who has not attained the age of 17 years, not involving overt force or threat. (This would constitute a Class X felony.) See the Sentencing Guide.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**Legislative History:** Created by Public Act 94-0009 (Eff: 1-1-06) This offense was amended by Public Act: 96-0710 (Effective: 1-1-10) and amended and re-numbered by P. A. 97-0897. (Eff: 1-1-13).

**CHARGE:** Felony (Class X)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-9(d)(1)**

### **TRAFFICKING OF PERSONS FOR LABOR<sup>1</sup>**

**In violation of SECTION 10-9(d)(1) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), knowingly recruited<sup>2</sup> Dawn Smith, knowing<sup>3</sup> that Dawn Smith would be subjected to labor,<sup>1</sup> in that said defendant (describe the actions of the defendant).**

<sup>1</sup>or services; <sup>2</sup>or enticed, harbored, transported, provided, or obtained by any means or attempted to recruit, entice, harbor, provide, or obtain by any means; <sup>3</sup>or intending

**DEFINITIONS:** For definitions of the following phrases: "Intimidation," "Commercial sexual activity," "Financial harm," "Serious harm," "Labor," "Maintain," "Obtain," "Services," "Sexually-explicit performance," "Trafficking victim." See Appendix C.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

**CHARGING NOTE:** This subsection may also be violated as follows: (d)(2) The defendant benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act in violation of paragraphs (a) or (b) of this Section. (This would also constitute a Class 1 Felony.) See the Sentencing Guide.

**Legislative History:** Created by Public Act 94-0009 (Eff: 1-1-06); Amended by Public Act: 96-0710 (Effective: 1-1-10) and amended and re-numbered by P. A. 97-0897. (Eff: 1-1-13).

**CHARGE:** Felony (Class 1)

**BOND:** Must be Set by Judge

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## **720 ILCS 5/ 10-10(a)**

### **FAILURE TO REPORT THE DEATH<sup>1</sup> OF A CHILD**

**In violation of SECTION 10-10(A) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, on (date of offense), in the State of Illinois and the County of \_\_\_\_\_, defendant, (defendant's name), the parent<sup>2</sup> of Sammy Smith, a child under 13 years of age, knew<sup>3</sup> that Sammy Smith was dead<sup>4</sup> and failed to report Sammy Smith as deceased<sup>4</sup> to a law enforcement agency within 24 hours<sup>5</sup> after becoming aware that Sammy Smith was deceased<sup>4</sup>.**

<sup>1</sup>or disappearance; <sup>2</sup>or guardian or caretaker; <sup>3</sup>or should hand known; <sup>4</sup>or missing; <sup>5</sup>or if the child is under two years of age, within one hour.

**NOTE:** A parent, legal guardian, or caretaker of a child under 13 years of age must report the death of the child to the law enforcement agency of the county where the child's corpse was found if the parent, legal guardian, or caretaker reasonably believes that the death of the child was caused by a homicide, accident, or other suspicious circumstance. 720 ILCS 5/ 10-10(b)

**EXEMPTION:** A parent, legal guardian, or caretaker does not commit the offense of failure to report the death or disappearance of a child under 13 years of age when: (1) the failure to report is due to an act of God, act of war, or inability of a law enforcement agency to receive a report of the disappearance of a child; (2) the parent, legal guardian, or caretaker calls 911 to report the disappearance of the child; (3) the parent, legal guardian, or caretaker knows that the child is under the care of another parent, family member, relative, friend, or baby sitter; or (4) the parent, legal guardian, or caretaker is hospitalized, in a coma, or is otherwise seriously physically or mentally impaired as to prevent the person from reporting the death or disappearance. 720 ILCS 5/ 10-10(d)

**NOTE:** See Appendix B for discussion of necessity of alleging mental state.

**IMPORTANT:** For sentencing and alternative charging information see the Sentencing Guide.

Legislative History: Created by P. A. 97-0847. (Eff: 1-1-13).

**CHARGE:** Felony (Class 4)

**BOND:** Must be set by Judge

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