9.02
Issues In Indecent Solicitation Of A Child

To sustain the charge of indecent solicitation of a child, the State must prove the following propositions:

[1] *First Proposition*: That the defendant knowingly solicited [(a child under the age of 17 years) (one whom the defendant believed to be a child under the age of 17 years)] to perform an act of sexual [(penetration) (conduct)]; and

Second Proposition: That when the defendant did so, he intended that the offense of [(aggravated criminal sexual assault) (criminal sexual assault) (predatory criminal sexual assault of a child) (aggravated criminal sexual abuse)] be committed; and

Third Proposition: That the defendant was then 17 years of age or older.

[or]

[2] *First Proposition:* That the defendant knowingly discussed an act of sexual [(conduct) (penetration)] with [(a child under the age of 17 years) (one whom the defendant believed to be a child under the age of 17 years)] by means of the Internet; and

Second Proposition: That when the defendant did so, he intended that the offense of [(aggravated criminal sexual assault) (predatory criminal sexual assault of a child) (aggravated criminal sexual abuse)] be committed; and

Third Proposition: That the defendant was then 17 years of age or older.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

Amended Instruction and Committee Note Approved January 18, 2013.

720 ILCS 5/11-6 (West 2013) (formerly Ill.Rev.Stat. ch. 38, § 11-6 (1991)), amended by P.A. 91-226, § 5, effective July 22, 1999; P.A. 95-143, § 5, effective January 1, 2008; P.A. 96-1551, Art. 2, § 5, effective July 1, 2011.

This Instruction has been revised to conform with the rewriting and amendment of 720 ILCS 5/11-6 (West 1999), as acknowledged by the Illinois Appellate Court in *People v. Carter*, 405 Ill.App.3d 246, 939 N.E.2d 46 (1st Dist. 2010).

Give Instruction 9.01.

When applicable, give Instruction 11.57 defining "aggravated criminal sexual assault".

When applicable, give Instruction 11.55 defining "criminal sexual assault".

When applicable, give Instruction 11.103 defining "predatory criminal sexual assault of a child".

When applicable, give Instruction 11.61 defining "aggravated criminal sexual abuse".

When applicable, give Instruction 9.01C defining "solicit".

When applicable, give Instruction 11.65E defining "sexual penetration".

When applicable, give Instruction 11.65D defining "sexual conduct".

When applicable, give Instruction 4.27 defining "access".

When applicable, give Instruction 4.32 defining "computer".

When applicable, give Instruction 4.38 defining "Internet".

When applicable, give Instruction 4.48 defining "online".

When applicable, give Instruction 4.69 defining "wireless device".

The offense option of criminal sexual assault cannot be used in the Second Proposition of alternative [2]. *See* 720 ILCS 5/11-6(a-5) (West 2013).

It is also not a defense to Section 11-6(a-5) that the defendant did not solicit the child to perform sexual conduct or sexual penetration with the defendant. *See* 720 ILCS 5/11-6(a-6) (West 2013). When this issue is raised and the defendant is charged under Section 11-6(a-5), the committee suggests giving the last-bracketed sentence included in alternative [2] of Instruction 9.01.

Use applicable bracketed material.

The brackets and numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

When accountability is an issue, ordinarily the phrase "or one for whose conduct he is legally responsible" is inserted after the word "defendant" in each proposition. Give Instruction 5.03. However, some statutes appear to require that particular conduct be committed by the defendant personally or that a status that is an element of the offense pertain to the defendant himself. Whenever accountability language is to be inserted in an issues instruction, caution should be exercised to assure that accountability language is not used in any proposition that involves such conduct or status. *See* Committee Note to Instruction 5.03. Do not insert accountability language in the Third Proposition of this instruction. *See People v. Griffin*, 247 Ill. App. 3d 1, 616 N.E.2d 1242 (1st Dist. 1993) (holding that accountability language should not have been inserted into Instruction 11.58B, the aggravated criminal sexual assault issues

instruction, where the age of the person who actually penetrated the victim defines whether that crime ever occurred).