

# Arizona Peace Officer Standards and Training

## Basic Curriculum Model Lesson Plan

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**LESSON TITLE: SUBSTANTIVE CRIMINAL LAW 2.11**

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SUBJECT:	Substantive Criminal Law
AZ POST DESIGNATION:	2.11 Chapter 12 Assault, Chapter 13 Kidnapping
HOURS:	2
COURSE CONTENT:	An analysis of the most frequently used statutes in this chapter.
PERFORMANCE OBJECTIVES:	Upon completion of this course of instruction, students using notes, handouts and other support materials as references, within the allotted time, will: <ul style="list-style-type: none"><li>2.11.12.1 Given a written, verbal or visual description depicting the possible commission of the following crime(s), identify if a crime occurred and, if so, the common crime name and classification:<ul style="list-style-type: none"><li>A. Assault and related offenses (A.R.S. Title 13, Chapter 12).</li></ul></li><li>2.11.13.1 Given a written, verbal or visual description depicting the possible commission of the following crime(s), identify if a crime occurred and, if so, the common crime name and classification:<ul style="list-style-type: none"><li>A. Kidnapping and related offenses (A.R.S. Title 13, Chapter 13).</li></ul></li></ul>

DATE FIRST PREPARED: November 2000

PREPARED BY: SME Committee

<b>REVIEWED – REVISED:</b>	SME Committee	DATE: May 2002
REVIEWED – <b>REVISED:</b>	Sgt. George Sloane, Tucson P.D.	DATE: August 2002
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AZ POST – APPROVAL:	Lori Wait	DATE: January 2025

INSTRUCTOR REFERENCES: A.R.S. Title 13

CLASS LEVEL: Student

TRAINING AIDS: <http://www.azleg.gov/ArizonaRevisedStatutes.asp>

INSTRUCTIONAL STRATEGY: Interactive lecture.

SUCCESS CRITERIA: 70% or higher on a written, multiple-choice examination.

COMPUTER FILE NAME: 2-11 Ch 12 and Ch13 Assault, Kidnapping and related offenses

DATE RELEASED TO SHARE FILE: January, 2025

**I. INTRODUCTION**

- A. Instructor – (self) introduction.
- B. Preview of performance objectives. **INSTRUCTOR NOTE:** *This lesson plan can be taught as a “stand alone” lesson plan.*

**II. 13-1201 – ENDANGERMENT**

**P. O. 2.11.12.1A**

- A. A person commits endangerment by recklessly endangering another person with a substantial risk of IMMEDIATE DEATH OR PHYSICAL INJURY.
- B. If we can show that there was a substantial risk of DEATH then endangerment becomes a felony.
- C. If we can only show that there was a substantial risk of PHYSICAL INJURY then it is a misdemeanor.
- D. You will note that in this statute there is no requirement that anyone actually be injured even the slightest.
  - 1. This statute is based upon the RECKLESS conduct of a person which is at least likely to cause physical injury, but does not actually do so.
  - 2. We must not try to go so far as to arrest a person for ATTEMPTED ASSAULT in some circumstances because no one can ATTEMPT to act RECKLESSLY. **INSTRUCTOR NOTE:** *In a prosecution for endangerment the identity of the victim is not an element of the offense. it is sufficient to prove that some unidentified person was endangered by the defendant’s conduct. (State v. Vilages-Rojas) 2012 WL 4478412 (9/28/12)*
    - a. A person who throws a rock through a window of a house without knowing or caring whether anyone is in the room at the time is guilty of RECKLESSLY causing physical injury (assault) if such is the result, but if no one is injured, he/she is not guilty of ATTEMPTED ASSAULT. He/she would be guilty of endangerment.
    - b. A person cannot intend to act recklessly or with criminal negligence toward a result and, therefore, cannot commit a criminal attempt for a crime having one (1) of these types of culpability as its essential mental state.

E. Examples of endangerment:

- 1. Discharging a firearm in public.

2. Pointing firearms at others.

- F. In order to arrest for endangerment, it is not necessary to show that certain acts were directed towards one (1) particular person; all that is necessary is to show a certain degree of risk to another person in general. (People v. Grahn, 1973, 41 A.D. 2d 226, 342 N.Y.S. 2d 361.
- G. The defendant's conduct in pointing the pistol at the victim's chest and pulling the trigger, even though there was no bullet in the chamber, warranted a conviction of endangerment (felony).

**III. 13-1202 – THREATENING OR INTIMIDATING**

**P. O. 2.11.12.1A**

- A. A person commits threatening or intimidating if such person threatens or intimidates by word or conduct:
  - 1. To cause physical injury to another person or serious damage to the property of another; or
  - 2. To cause, or in reckless disregard to causing, serious public inconvenience including, but not limited to, evacuation of a building, place of assembly or transportation facility; or
  - 3. To cause physical injury to another person or damage to the property of another in order to promote, further, or assist in the interests of, or to cause, induce or solicit another person to participate in a criminal street gang, a criminal syndicate or a racketeering enterprise.
- B. This statute is directed towards BOMB THREATS, but can cover other circumstances.  
**INSTRUCTOR NOTE:** *Note that it would not cover the false reporting of a fire- this is covered under another statute.*
  - 1. Violation of A (1) and (2) are misdemeanors, or if committed in retaliation for a victim's either reporting criminal activity or being involved in an organization, other than a law enforcement agency, that is established for the purpose of reporting or preventing criminal activity. **INSTRUCTOR NOTE:** *Although still in the statute, AZ courts have ruled this is unconstitutional.*
  - 2. Violation of A (3) is a felony.
- C. **From the Model Penal Code**, Section 211.3 – this section: "Proscribes threats that cause serious alarm for personal safety or the disruption of public services or activities.
- D. This activity is an offense against the individual of substantial magnitude and danger, even allowing for the lack of any actual harm since threats of this nature generally cause substantial psychological trauma and public inconvenience.

- E. People who are attempting to avoid what they believe to be immediate serious harm may often take action so precipitous as to harm themselves. . . ."
- F. Question: If a person goes into a theater and yells "FIRE," more than likely we have what kind of crime?
1. Even though this fits perfectly into this statute, we might be better off with felony endangerment.
  2. You, as the investigating officer, must use your investigative skills to determine which crime was committed (if any) and which one to use.
    - a. How many people were in the theater?
    - b. Was there really a fire?
    - c. Was anyone hurt?
    - d. What was the suspect's mental state?

**IV. 13-1203 – ASSAULT**

**P. O. 2.11.12.1A**

- A. A person commits assault by:
1. Intentionally, knowingly or recklessly causing any physical injury to another person; or
  2. Intentionally placing another person in reasonable apprehension of imminent physical injury; or
  3. Knowingly touching another person with the intent to injure, insult or provoke such a person.
    - a. Subsection 1: This discusses the intentional, knowing or reckless infliction of any bodily injury on another person. **WITHOUT SOME BODILY INJURY, THERE IS NO ASSAULT** under this Subsection.
    - b. Subsection 2: This penalizes someone who puts another in apprehension of harm. This LOOKS a lot like endangerment, but the mental states requirements are different.
    - c. Subsection 3: This section punishes injurious, insulting or provoking physical

touching. The definitions for these results will depend upon a case-by-case adjudication.

- B. Discuss with the students what would, in our society, be considered an insulting touch.
- C. All assaults are misdemeanors, but the degree depends upon the assailant's mental state.

**V. 13-1204 – AGGRAVATED ASSAULT**

**P. O. 2.11.12.1A**

- A. A person commits aggravated assault if such person commits assault as defined in A.R.S. §13-1203 under any of the following circumstances:
  - 1. If such person causes serious physical injury to another; or
  - 2. This paragraph concentrates upon the amount of injury done. The amount separates this crime from assault. Assault requires only physical injury while aggravated assault requires, under this paragraph, SERIOUS PHYSICAL INJURY.
  - 3. It is very important that students have a good understanding of the difference between the meanings of "physical injury" and "serious physical injury." **INSTRUCTOR NOTE:** *Students should look back on the definitions in ARS 13-105.*
  - 4. If such person uses a deadly weapon or dangerous instrument; or
  - 5. This paragraph punishes the use of a deadly weapon or a dangerous instrument in an assault. **INSTRUCTOR NOTE:** *"Dangerous instrument" means anything that under the circumstances in which it is used, attempted to be used or threatened to be used is readily capable of causing death or serious physical injury. "Deadly weapon" means anything designed for lethal use, including a firearm.*
    - a. Note that it does not require that injury actually be sustained by the victim – mere use, display, etc., can sometimes qualify as an aggravated assault.
    - b. To sustain a charge of aggravated assault, it is only necessary to prove that the victim had reasonable apprehension of receiving bodily harm from the person who is using the deadly weapon. ( *People v. Hoggs, 1974, 17Ill App3d 67N.E. 2d 800 and People v. Graham, 1975, 25Ill. App 3d 853, 323 N.E. 2d 441.*)
    - c. Assault that is made with an unloaded gun is made with a deadly weapon.
    - d. Review the definitions of "deadly weapon" and "dangerous instrument".
  - 6. If the person commits the assault by any means of force that causes temporary but

substantial disfigurement, temporary but substantial loss or impairment of any body organ or part or a fracture of any body part.

7. If the person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired. **INSTRUCTOR NOTE:** *This is a double edged sword as a LEO who hits a suspect in handcuffs may be charged with Aggravated Assault.*
8. If such person commits the assault after entering the private home of another with the intent to commit the assault; or
9. This paragraph punishes those who trespass upon the sanctity of one's home in order to commit an assault.
  - a. Note that this paragraph DOES NOT say that any assault that occurs in a private home automatically becomes aggravated -- we must show that the suspect entered WITH THE INTENT to commit the assault and did, in fact, commit the assault.
  - b. If you have a poker party at your house and you get into verbal argument with one of the invited guests and he hits you, it would be considered an assault only.
  - c. However, if you are on the sidewalk in front of your house and you are having an argument with your neighbor and he ends up chasing you into your house and he assaults you inside the house, then it becomes aggravated.
10. If such person is 18 years of age or more (an adult) and commits the assault upon a child the age of 15 years or under; or
11. This paragraph covers those circumstances where you have an adult suspect and a victim who is 15 years old or younger. Caution: A lot of people believe that an assault on a JUVENILE by an adult is aggravated – NOT NECESSARILY SO.
  - a. The problem with this paragraph is that we could have circumstances where it is a mutual combat situation and the adult and the person 15 years old or younger is about the same size. ENFORCE THE SPIRIT OF THE LAW, NOT THE LETTER.
  - b. The obvious intent of the legislature with this paragraph is to protect the young or small from those who are older and/or larger. (common sense should dictate.)
12. If the person commits assault as prescribed by section 13-1203, subsection A, paragraph 1 or 3 and the person is in violation of an order of protection issued against the person

pursuant to section 13-3602 or 13-3624. **INSTRUCTOR NOTE:** *The suspect must knowingly assault the peace officer. If an officer is out of uniform, off-duty, and sitting in a bar having a drink when the assault occurs- it is simple assault. The citizen who is summoned or directed to assist an officer, and while that citizen is engaged in the performance of.*

13. If the person commits the assault knowing, or having reason to know, that the victim is any of the following:
- a. A public servant listed in subsections (a)(b)(c)(f)(g)(h)(i) and (j), if the victim engaged in the execution of any official duties or if the assault results from the execution of the public servants official duties:
    - i. A peace officer.
    - ii. A constable.
    - iii. A firefighter, fire investigator, fire inspector, emergency medical technician or paramedic.
    - iv. A prosecutor.
    - v. A code enforcement officer.
    - vi. A state or municipal park ranger.
    - vii. A public defender.
    - viii. A judicial officer.
  - b. A teacher or other person employed by any school and the teacher or other employee is on the grounds of a school or grounds adjacent to the school or is in any part of a building or vehicle used for school purposes, any teacher or school nurse visiting a private home in the course of the teacher's or nurse's professional duties or any teacher engaged in any authorized and organized classroom activity held on other than school grounds.
  - c. The employee must be either on school grounds, grounds adjacent to the school, on school business, et.
  - d. Note: The assault can be committed by anyone, not just students.
  - e. A licensed health care practitioner who is certified or licensed pursuant to title

32, chapter 13, 15, 17 or 25, or a person summoned and directed by the licensed health care practitioner while engaged in the person's professional duties. This subdivision does not apply if the person who commits the assault is seriously mentally ill, as defined in section 36-550, or is afflicted with Alzheimer's disease or related dementia.

- f. If a person who is mentally ill and commits assault against a healthcare worker/healthcare professional this statute does not apply. They lack the culpable state required because of a mental disability, ***developmental disability or cognitive disability*** or because the person is seriously mentally ill.
14. If the person knowingly takes or attempts to exercise control over a **peace officer's**:
- a. Firearm **and** the person knows or has reason to know that the victim is a peace officer **and** is engaged in the execution of any official duties.
  - b. Any weapon other than a firearm that is being used or being attempted to use, and the person knows or has reason to know that the victim is a peace officer and is engaged in the execution of any official duties.
  - c. Any implement that is being used or attempting to be used, **and** the person knows or has reason to know that the victim is a peace officer **and** is engaged in the execution of any official duties. For the purposes of this subdivision, "implement" means an object that is designed for or that is capable of restraining or injuring an individual. The implement does not include handcuffs.
15. It is also a violation of 9 (a) (b) and (c),
- a. If the person is imprisoned or otherwise subject to the custody of the (i) state department of corrections (adult or juvenile), (ii) a law enforcement agency, (iii) a county or city jail or detention facility (adult or juvenile), or (iv) any other entity that is contracting with the entities identified in (i) (ii) or (iii) or the federal bureau of prisons or other federal agency responsible for sentenced or unsentenced prisoners **and**
  - b. The person commits an assault knowing or having reason to know that the victim is acting in an official capacity as an employee of any of the entities listed in 10(a).
  - c. Note: The assault must be committed by someone who is jailed or is subject to being jailed.
    - i. Inmate.

ii. Inmate on work furlough,  
etc.

16. If a person uses a simulated deadly weapon.

- B. A person commits aggravated assault if the person commits assault by either intentionally, knowingly or recklessly causing any physical injury to another person, intentionally placing another person in reasonable apprehension of imminent physical injury or knowingly touching another person with the intent to injure the person and both the following occur:
1. The person intentionally or knowingly impedes the normal breathing or circulation of blood of another person by applying pressure to the throat or neck or by obstructing the nose and mouth either manually or through use of an instrument.
  2. Any of the circumstances exist that are set forth in section 13-3601, subsection A, paragraph 1,2,3,4,5 or 6. (Domestic violence offenses)
- C. Aggravated assault is always a felony offense, but the degree depends upon which Subsection of the statute was committed.

**VI. 13-1205 – UNLAWFULLY ADMINISTERING INTOXICATING LIQUORS, NARCOTIC DRUGS OR DANGEROUS DRUGS P. O. 2.11.12.1A**

- A. A person commits unlawfully administering intoxicating liquors, a narcotic drug or dangerous drug if, for a purpose other than lawful medical or therapeutic treatment, such person knowingly introduces, or causes to be introduced, into the body of another person, without consent of such person, intoxicating liquors, a narcotic drug or a dangerous drug.
- B. If the victim of the crime is an adult, the crime is a Class 6 felony.
- C. If the victim of the crime is a minor, the crime is a Class 5 felony.
- D. "Slipping someone a mickey" would be covered under this statute. (Discuss the slang terms)

**VII. 13-1206 – DANGEROUS OR DEADLY ASSAULT BY A PRISONER P. O. 2.11.12.1A**

- A. A person, while in the custody of the state Department of Corrections, **the Department of Juvenile Corrections**, a law enforcement agency, or county or city jail, who commits an assault involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or who intentionally or knowingly inflicts serious physical injury upon another person is guilty of a Class 2 felony.

**VIII. 13-1207 – PRISONERS WHO COMMIT ASSAULT WITH INTENT TO INCITE TO RIOT OR PARTICIPATE IN A RIOT P. O. 2.11.12.1A**

- A. A person, while in the custody of the state Department of Corrections or a county or city jail, who commits assault upon another person with the intent to incite to riot or who participates in a riot is guilty of a Class 2 felony.

**IX. 13-1208 – ASSAULT; VICIOUS ANIMAL**

- A. A person who intentionally or knowingly causes any dog to bite and inflict serious physical injury on a human being or otherwise cause serious physical injury to a human being is guilty of a class 3 felony, unless the person would be justified in using physical force or deadly physical force in self-defense or defense of a third person pursuant to chapter 4 of this title.

***INSTRUCTOR NOTE:*** A person who owns an aggressive dog must exercise reasonable care to confine to your property and control, when off your property, the dog in order to prevent it from biting a person or domestic animal. Failure to do so is a misdemeanor. ARS 11-1014.01

- B. A person who owns a dog that the owner knows or has reason to know has a history of biting or a propensity to cause injury or to otherwise endanger the safety of human beings without provocation or that has been found to be a vicious animal by a court of competent jurisdiction and that bites, inflicts physical injury on or attacks a human being while at large is guilty of a class 5 felony.
- C. A person who owns or who is responsible for the care of a dog that the owner or responsible person knows or has reason to know has a history of biting or a propensity to cause injury or to otherwise endanger the safety of human beings without provocation or that has been found to be a vicious animal by a court of competent jurisdiction and who does not take reasonable care to prohibit the dog from escaping to the outside of a residence or enclosed area, yard or structure is guilty of a class 1 misdemeanor.
- D. This does not apply to police dogs that are owned or used by a law enforcement agency and that are used in the performance of police work.

**X. 13-1209 – DRIVE BY SHOOTING**

**P. O. 2.11.12.1A**

- A. A person commits a drive-by shooting by intentionally discharging a weapon from a motor vehicle at a person, another occupied motor vehicle or an occupied structure.
- B. Motor vehicles that are used in violation of this section are subject to seizure for forfeiture in the manner provided for in Chapter 39 of this title.
- C. Notwithstanding Title 28, Chapter 8, the judge shall order the surrender to the judge of any driver's license of the convicted person and, on surrender of the license, shall invalidate or destroy the license and forward the abstract of conviction to the Department of Transportation with an order of the court revoking the driving privilege of the person for a period of at least one year, but not more than five years.

D. Drive-by shooting is a Class 2 felony.

**XI. 12-1210 – ASSAULTS ON PUBLIC SAFETY EMPLOYEES AND VOLUNTEERS; DISEASE TESTING**

**P. O. 2.11.12.1A**

A. **Permits a court to order testing, at the request of the involved public safety employees and volunteers or the employing agency, for HIV, common blood-borne diseases and other diseases specified in the order, if there are reasonable grounds to believe that the officer has been exposed, and:**

1. The person responsible for the exposure is charged in any criminal complaint alleging that the person interfered with the public safety employee or volunteer by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the public safety employee or volunteer.; or
2. There is probable cause to believe that the person interfered with the official duties of **the public safety employee or volunteer** by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the public safety employee or volunteer **and the person is deceased.**

B. "Public safety employee or volunteer" means a law enforcement officer, any employee, contractor or volunteer of a state or local law enforcement agency, or correctional facility, a probation officer, a surveillance officer, an adult or juvenile correctional service officer, a detention officer, a private prison security officer, a firefighter or an emergency medical technician, or any other person who is authorized to perform official duties or be present within a correctional facility.

**XII. 13-1211 – DISCHARGING A FIREARM AT A STRUCTURE**

**P. O. 2.11.12.1A**

- A. A person who knowingly discharges a firearm at a residential structure is guilty of a Class 2 felony.
- B. A person who knowingly discharges a firearm at a non-residential structure is guilty of a Class 3 felony.

**XIII. 13-1212 – PRISONER ASSAULT WITH BODILY FLUIDS**

**P. O. 2.11.12.1A**

- A. A prisoner commits this crime by throwing or projecting any bodily fluids at, or onto, a correctional facility employee or private prison security officer who the prisoner knows, or reasonably should know, is an employee of the facility or prison.
- B. This is a Class 6 felony.

**XIV 13-1213 – AIMING A LASER POINTER AT A PEACE OFFICER P. O. 2.11.12.1A**

- A. A person commits this crime by aiming a laser pointer at a peace officer, if the person intentionally or knowingly directs the beam of light from an operating laser pointer at another person and knows, or reasonably should know, that the other person is a peace officer.
- B. This is a Class 1 misdemeanor.
- C. Laser pointer – means any device that consists of a high- or low-powered visible light beam used for aiming, targeting or pointing out features.

**XV.. 13-1301 – DEFINITIONS (KIDNAPPING RELATED STATUTES) P. O. 2.11.13.1A**

- A. Emphasis, once again, should be placed on the ability to understand, use and apply these definitions to the statutes that utilize them.
  - 1. Relative – means a parent or step-parent, ancestor, descendant, sibling, uncle or aunt, including an adoptive relative of the same degree through marriage or adoption, or a spouse.
  - 2. Restrain – means to restrict a person's movements without consent, without legal authority and in a manner which interferes substantially with such a person's liberty, by either moving such a person from one (1) place to another or by confining such person.
  - 3. Restraint is without consent if it is accomplished by:
    - a. Physical force, intimidation or deception; or
    - b. Any means, including acquiescence (consent) of the victim, if the victim is a child less than 18 years of age or an incompetent person and the victim's lawful custodian has not acquiesced in the movement or confinement.
- B. **Please note:** There is no case law or commentary that can be used to assist in understanding these definitions. We will, therefore, use a common sense approach when dealing with them.

**XVI. 13-1302 – CUSTODIAL INTERFERENCE; CHILD BORN OUT OF WEDLOCK P. O. 2.11.13.1A**

- A. A person commits custodial interference if knowing, or having reason to know, that the person has no legal right to do so, the person does one (1) of the following:
  - 1. Takes, entices or keeps from lawful custody any child or incompetent and is entrusted by authority of law to the custody of another person or institution.
  - 2. Before the entry of a court order determining custodial rights, takes, entices or withholds

- any child from the other parent denying that parent access to any child.
3. If the person is one (1) of two (2) persons who has joint legal custody of a child and takes, entices or withholds from physical custody the child from the other custodian.
  4. At the expiration of access rights outside this state, intentionally fails or refuses to return or impedes the return of a child to the lawful custodian.
- B. If a child is born out of wedlock, the mother is the legal custodian of the child for the purposes of this section until paternity is established and custody or access is determined by a court.
- C. It is a defense to a prosecution pursuant to Subsection A, paragraph 2, if both of the following apply:
1. The defendant has begun the process to obtain an Order of Protection or files a Petition for Custody within a reasonable period of time and the Order of Protection or petition states the defendant's belief that the child was at risk if left with the other parent;
  2. The defendant is the child's parent and has the right of custody and the defendant either:
    - a. Has a good faith and reasonable belief that the taking, enticing or withholding is necessary to protect the child from immediate danger; or
    - b. Is a victim of domestic violence by the other parent and has a good faith and reasonable belief that the child will be in immediate danger if the child is left with the other parent.
- D. It is a defense to a prosecution pursuant to subsection A,
1. The person has filed an emergency petition regarding custodial rights with the superior court and has a hearing date from the court.
  2. The person has a good faith and reasonable belief that the child will be in immediate danger if the child is left with the other parent.
- E. Classification.
1. A violation of this section is:
    - a. A felony if committed by a person other than a parent, or custodian or their agent of the custodian.
    - b. A felony if the person is taken out of this state by their parent or custodian or their agent (notwithstanding paragraph D.3.).

- c. A felony if by a parent or custodian or their agent.
  - d. A misdemeanor if the person is voluntarily returned without physical injury by the parent or defendant within 48 hours.
2. It is very important not to be confused by the term "custodial."
- a. This term would normally lead a person to believe that the suspect would have to be a relative of the victim, but this is not so.
  - b. The suspect could be a total stranger and still commit this crime.
  - c. We do find, however, that this crime does occur in family-related situations such as separations and divorces where one (1) parent does have a court order giving that parent total or partial control over a child.
3. Keep in mind that in order for this crime to occur the VICTIM must be either:
- a. A juvenile; or
  - b. An incompetent person (mentally).

**XVII. 13-1303 – UNLAWFUL IMPRISONMENT**

**P. O. 2.11.13.1A**

- A. A person commits unlawful imprisonment by knowingly restraining another person.
- B. The statute provides defenses for a prosecution for this crime in that:
  - 1. The restraint was accomplished by a peace officer acting in good faith in the lawful performance of his/her duty; or
  - 2. The suspect is a relative of the person restrained (victim) and that the sole intent of the suspect was to assume lawful control or custody of the victim and the restraint was accomplished without physical injury.
- C. The crime is a Class 6 felony unless the victim is released voluntarily by the suspect without physical injury, in a safe place and prior to arrest. If this occurs, then it drops down to a Class 1 misdemeanor.
- D. "Evidence was sufficient to sustain an (unlawful) imprisonment conviction of the defendant who forced the victim to go from the victim's house to the defendant's office where the victim, who testified that he was afraid for his life, was held for a period of two (2) hours." ( Washington v. State (Cr. App. 1974) 509 S.W. 2d 638.)

**XVIII. 13-1304 - KIDNAPPING**

**P. O. 2.11.13.1A**

- A. A person commits kidnapping by knowingly restraining another person with the intent to:
1. Hold the victim for ransom, as a shield or hostage; or
  2. Hold the victim for involuntary servitude; or
  3. Inflict death, physical injury or a sexual offense on a victim, or to otherwise aid in the commission of a felony; or
  4. Place the victim or third person in a reasonable apprehension of imminent physical injury; or
  5. Interfere with the performance of a governmental or political function; or
  6. Seize or exercise control over any plane, train, bus, ship or other vehicle.
- B. Kidnapping is always considered a felony, but it can drop down under some circumstances.
1. It is considered a Class 2 felony unless the victim is released voluntarily without physical injury and prior to arrest or accomplishing any of the enumerated offenses under A. 1-6.
  2. If this occurs, the crime drops to a Class 4 felony.
  3. If the police become involved and the victim is released pursuant to an agreement with the state and without any physical injury, it becomes a Class 3 felony. ( People v. Hamil, 1974, 20 Ill. App 3d 901, 314, N.E. 2d 251 and State v. Morris, 1968, 281 Minn. 119, 160 N.W. 2d 715.)
  4. According to the proposed Delaware Criminal Code, Section 452, the reason for the above-mentioned circumstances that would lead to a drop in the severity of the crime is that it would provide an incentive to the kidnapper to release his/her victim alive, substantially unharmed and in a safe place prior to the arrest. **INSTRUCTOR NOTE:** *The statute was designed with a view to saving the victim's life and assuring his/her safe return to his/her normal abode.*
- C. "The conduct of the defendant in confining the victim in an automobile while he drove through several alleys before finally parking in an alley next to a building where the victim could not open the passenger door constituted secret confinement within the meaning of this section."
- D. "Proof that the defendant confined his victim for a substantial time or moved her a substantial distance is not necessary to establish the crime of kidnapping."

E. "Removal of the complainant a distance of only 100 to 150 feet and a detention of 5 minutes in the process of committing indecent assault constituted "kidnapping" and it was proper to charge on kidnapping as a separate offense."

1. It is a class 2 Felony if the kidnapping victim is under the age of fifteen years.

**XIX. 13-1305 – ACCESS INTERFERENCE**

**P. O. 2.11.13.1A**

A. A person commits access interference if, knowing or having reason to know that the person has no legal right to do so, the person knowingly engages in a pattern of behavior that prevents, obstructs, or frustrates the access rights of a person who is entitled to access to a child pursuant to a court order.

B. If the child is removed from this state, access interference is a Class 5 felony. Otherwise, it is a Class 2 misdemeanor.

C. The enforcement of this statute is not limited to the availability of other remedies for access interference.

D. For the purposes of this section, "access order" means a court order that allows a person to have direct access to a child or incompetent person.

**XX. 13-1307 – SEX TRAFFICKING**

A. It is unlawful for a person to knowingly traffic another person who is eighteen years of age or older with either of the following:

1. The intent to cause the other person to engage in any prostitution or sexually explicit performance by deception, force or coercion; or

2. The knowledge that the other person will engage in any prostitution or sexually explicit performance by deception, coercion or force.

3. Sex Trafficking is a class 2 Felony.

B. For purposes of this section:

1. "Coercion" includes:

a. Abusing or threatening to abuse the law or the legal system; or

b. Knowingly destroying, concealing, removing, confiscating, possessing or withholding another person's actual or purported passport or other immigration

- document, government issued identification document, government record or personal property; or
- c. Extortion; or
- d. Causing or threatening to cause financial harm to any person; or
- e. Facilitating or controlling another person's access to a controlled substance; or
- 2. "Force" includes causing or threatening to cause serious harm to another person or physically restraining or threatening to physically restrain another person; or
- 3. "Sexually explicit performance" means a live or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interest of patrons; or
- 4. "Traffic" means to entice, recruit, harbor, provide, transport or otherwise obtain another person

**XXI. 13-1308 – TRAFFICKING OF PERSONS FOR FORCED LABOR OR SERVICES**

- A. It is unlawful for a person to either:
  - 1. Knowingly traffic another person with the intent to or knowledge that the other person will be subject to forced labor or services.
  - 2. Knowingly benefit, financially or by receiving anything of value, from participation in a venture that has engaged in an act in violation of section 13-1306, section 13-1307, this section or section 13-3212, subsection A, paragraph 9 or 10.
- B. A violation of this section is a class 2 felony.
- C. For the purposes of this section:
  - 1. "Forced labor or services":
    - a. Means labor or services that are performed or provided by another person and that are obtained through a person's either:
      - i. Causing or threatening to cause serious physical injury to any person.
      - ii. Restraining or threatening to physically restrain another person.
      - iii. Knowingly destroying, concealing, removing, confiscating, possessing or withholding another person's actual or purported passport or other

immigration document, government issued identification document, government record or personal property.

- iv. Abusing or threatening to abuse the law or the legal system.
  - v. Extortion.
  - vi. Causing or threatening to cause financial harm to any person.
  - vii. Facilitating or controlling another person's access to a controlled substance.
- b. Does not include ordinary household chores and reasonable disciplinary measures between a parent or legal guardian and the parent's or legal guardian's child.
2. "Traffic" means to entice, recruit, harbor, provide, transport or otherwise obtain another person by deception, coercion or force.

**XXII. 13-1310 ABDUCTION OF A CHILD FROM A STATE AGENCY**

- A. A person commits abduction of a child from a state agency if, knowing or having reason to know that a child is entrusted by authority of law to the custody of a state agency, the person does either of the following:
- 1. Takes, entices or keeps the child from the lawful custody of the state agency.
  - 2. Intentionally fails or refuses to immediately return or impedes the immediate return of a child to the lawful custody of the state agency, including at the expiration of visitation or access.
  - 3. Taking, enticing or keeping a child from the lawful custody of a state agency, or failing or refusing to immediately return or impede the immediate return of a child to the lawful custody of a state agency if all of the following apply;
    - a. The child has voluntarily and without consent left the placement location;
    - b. The person who fails or refuses to return the child is the child's natural or adoptive parent;
    - c. The person's motive for keeping the child is to protect and care for the child.
- B. A violation of subsection A, paragraph 2 of this section is a class 5 felony. A violation of subsection A, paragraph 1 of this section is:

1. A class 3 felony if the child is taken, enticed or kept from the lawful custody of the state agency and is taken outside of this state.
  2. A class 4 felony if the child is taken, enticed or kept from the lawful custody of the state agency but the child remains in this state at all times.
  3. A class 6 felony if the person voluntarily returns the child without physical injury not later than forty-eight hours after the person takes, entices or keeps the child from the lawful custody of the state agency.
  4. A class 1 misdemeanor offense if the person committed the offense under section A 3, subsections a, b, and c.
- C. For the purposes of this section, "state agency" means the department of child safety or the department of juvenile corrections.

### **XXIII. CONCLUSION**

- A. Review of performance objectives.
- B. Final questions and answers.
- C. Instructor closing comment(s).