

Kidnapping: s 354

Legislation

354 Kidnapping

- (1) Any person who kidnaps another person is guilty of a crime.
Maximum penalty—7 years imprisonment.
- (2) A person kidnaps another person if the person unlawfully and forcibly takes or detains the other person with intent to gain anything from any person or to procure anything to be done or omitted to be done by any person.
- (3) The *Penalties and Sentences Act 1992*, section 161Q states a circumstance of aggravation for an offence against this section.
- (4) An indictment charging an offence against this section with the circumstance of aggravation stated in the *Penalties and Sentences Act 1992*, section 161Q may not be presented without the consent of a Crown Law Officer.

Commentary

The term ‘detain’ should be given its ordinary and natural meaning. It has a variety of meanings including ‘keep in confinement’ and ‘hold back, delay, stop’. See *R v Awang* [2004] 2 Qd R 672 per Williams JA.

The word ‘procure’ in this section means ‘facilitate’, ‘enable’, ‘bring about’ or ‘cause’. The word is not confined to meaning compel or induce: See *R v F, ex parte Attorney General* [2004] 1 Qd R 162.

The offence is a prescribed offence under s 161Q *Penalties and Sentences Act 1992* so a serious organised crime circumstance of aggravation is applicable.

Suggested Direction

The prosecution must prove that:

- 1. The defendant took or detained another person.**
- 2. The taking or detention was done forcibly.**
- 3. The taking or detention was unlawful. That is, not authorised, justified or excused by law.**
- 4. The defendant intended to gain anything from any person or to procure anything to be done or omitted to be done by any person.**

[Where a circumstance of aggravation is charged under s 161Q of the *Penalties and Sentences Act 1992* (serious organised crime circumstance of aggravation), see Part 9D, Division 1 of the *Penalties and Sentences Act 1992* for relevant definitions.]