

210.40 FELONIOUS RESTRAINT. FELONY.

The defendant has been charged with felonious restraint, which is the unlawful restraint of another person without [that person's consent] [the consent of that person's [parent] [legal custodian] if the person has not reached the person's sixteenth birthday],¹ and the movement of that person from the place of the initial restraint by transporting that person in a motor vehicle or other conveyance.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant intentionally² and unlawfully³ restrained a person.

Second, that [the defendant did so without that person's consent] [the person had not reached the person's sixteenth birthday and the defendant did so without the consent of the person's [parent] [legal custodian]].⁴

And Third, that the defendant moved the person from the place of initial restraint by transporting the person in [a motor vehicle] [(*name other conveyance*)].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant unlawfully restrained a person, and [that the person did not consent to such restraint] [the person had not reached the person's sixteenth birthday and the person's [parent] [legal custodian] did not consent to such restraint] and that the defendant moved that person from the place of initial restraint by transporting the person in [a motor vehicle] [(*name other conveyance*)], it would be your duty to return a verdict of guilty. If you do not so find or have a

N.C.P.I.-Crim. 210.40
FELONIOUS RESTRAINT. FELONY
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reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

NOTE WELL: If the defendant contests the fact of transportation, give N.C.P.I.-Crim. 210.15, False Imprisonment, as a lesser included offense instruction.

If the defendant contends that he acted lawfully, give appropriate instructions after the second element and in the mandate. See N.C.P.I.-Crim. 210.15 for examples.

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1. If the evidence conflicts as to the age of the victim, it may be appropriate to use both bracketed phrases.
 2. If a definition of intent is required, see N.C.P.I.-Crim. 120.10.
 3. See "NOTE WELL" at the end of this instruction.
 4. See note 1.