

It is necessary that there be an act of enticing or taking, in addition to establishing the child's minority

IPC , Section 361 - IPC , Section 366 - 'Kidnapping from Lawful Guardianship' - Perusal of Section 361 of IPC shows that it is necessary that there be an act of enticing or taking, in addition to establishing the child's minority (being sixteen for boys and eighteen for girls) and care/keep of a lawful guardian - Such 'enticement' need not be direct or immediate in time and can also be through subtle actions like winning over the affection of a minor girl - However, mere recovery of a missing minor from the custody of a stranger would not ipsofacto establish the offence of kidnapping - Thus, where the prosecution fails to prove that the incident of removal was committed by or at the instigation of the accused, it would be nearly impossible to bring the guilt home.

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