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CHAPTER

Crimes of Abduction · Inducement · Human Trafficking

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This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Abduction/Inducement of a Minor (Criminal Act, Article 287), Abduction or Inducement for the Purpose of Indecent Act, Sexual Intercourse, Marriage, or Profit-making (Criminal Act, Article 288, paragraph 1), Abduction or Inducement for the Purpose of Labor Exploitation, Sex Trafficking, Sexual Exploitation, or Acquisition of Organs (Criminal Act, Article 288, paragraph 2), Abduction or Inducement for the Purpose of Transporting the Person Out of the Republic of Korea or Transporting the Abducted or Induced Victim Out of the Republic of Korea (Criminal Act, Article 288, paragraph 3), Human Trafficking (Criminal Act, Article 289, paragraph 1), Trading another for the Purpose of Engaging in an Indecent Act, Sexual Intercourse, Marriage, or Profit-making (Criminal Act, Article 289, paragraph 2), Trading another for the Purpose of Labor Exploitation, Sex Trafficking, Sexual Exploitation, or the Acquisition of Organs (Criminal Act, Article 289, paragraph 3), Trading Another for the Purpose of Transporting the Person Out of the Republic of Korea or Transporting the Traded Victim Out of the Republic of Korea (Criminal Act, Article 289, paragraph 4), Inflicting or Causing Another's Bodily Injury while in Kidnapping, Abduction, Trafficking in Persons, Transportation (Criminal Act, Article 290), Causing Death of Another while in Kidnapping, Abduction, Trafficking in Persons, Transportation, etc. (Criminal Act,

Article 291, paragraph 2), Accepting, Harboring, etc. of Person Abducted, Induced, Trafficked, or Transported (Criminal Act, Article 292, paragraph 1), Recruits, Transfers or Delivers Another with the Intent of Abducting, Inducing, Trafficking or Transporting Another (Criminal Act, Article 292, paragraph 2), Coercion by Hostage (Criminal Act, Article 324-2), Injury by Hostage (Criminal Act, Article 324-3), Murder of Hostage (Criminal Act, Article 324-4), Robbery by Hostage (Criminal Act, Article 336), Bodily Injury resulting from Robbery by Hostage (Criminal Act, Article 337), Murder by Robbery by Hostage (Criminal Act, Article 338), Abducting or Inducing a Minor Under Thirteen Years of Age for the Purpose of Gaining Any Goods or Interest on Property (Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 1, subparagraph 1), Abducting or Inducing a Minor under Thirteen Years of Age for the Purpose of Killing (Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 1, subparagraph 2), Gaining Any Goods After Abducting or Inducing a Minor under Thirteen Years of Age (Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 2, subparagraph 1), Inflicting Injuries on the Abducted or Induced Minor under Thirteen Years of Age (Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 2, subparagraph 3), and Causing Death to the Abducted or Induced Minor Under thirteen years of Age (Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 2, subparagraph 4), Habitual Child Abuse (Act on Special Cases Concerning the Punishment of Child Abuse Crimes, Article 6, Article 2, subparagraph 4, item 5), Child Abuse Committed by a Mandatory Reporter of Child Abuse Crime (Act on Special Cases Concerning the Punishment of Child Abuse Crimes, Article 7, Article 2, subparagraph 4, item 5.

※ Note that the underlined provisions applied to certain crimes were deleted or amended following the statutory revisions made after the sentencing guidelines were established. The sentencing guidelines on those crimes will be revised later. For this reason, all or part of the current standards of sentencing would not be applied.

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 ABDUCTION · INDUCEMENT · HUMAN TRAFFICKING ONLY

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	General Abduction · Inducement · Human Trafficking, etc.	6 mos. – 1 yr. 6 mos.	1 yr. – 2 yrs. 6 mos.	2 yrs. – 4 yrs.
2	Abduction · Inducement · Human Trafficking for the Purpose of Indecent Act · Sexual Intercourse · Marriage · Profit-making	8 mos. – 2 yrs.	1 yr. – 3 yrs.	2 yrs. 6 mos. – 4 yrs. 6 mos.
3	Abduction · Inducement · Human Trafficking for the Purpose of Labor Exploitation · Sex Trafficking · Sexual Exploitation, Acquisition of Organs · Transporting Abroad	1 yr. – 2 yrs. 6 mos.	1 yr. 6 mos. – 3 yrs. 6 mos.	3 yrs. – 6 yrs.
4	Abduction · Inducement of a Minor Under thirteen years of Age for Acquiring Any Goods	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 6 yrs.	5 yrs. – 8 yrs.
5	Abduction · Inducement of a Minor Under thirteen years of Age for the Purpose of Murder	4 yrs. – 7 yrs.	6 yrs. – 9 yrs.	7 yrs. – 10 yrs.

▷ When the offense falls within a special violent crime under Act on Special Cases Concerning the Punishment of Specific Violent Crimes (within the statutory recidivism period), increase the minimum and maximum sentencing range each by multiplying 1.5.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement • Offender voluntarily released the victim to a safe location • Cases where the offense is related to accepting, concealing, recruiting, transporting, delivering another • Cases where the offender is the victim's non-custodial parent or a relative with extenuating motives for the offense or consent by the victim who has the capacity to consent	• Victim under 13 years of age (excluding Type 4 or Type 5) or has physical or mental impairment • An offense committed through an organized division of roles • Carrying dangerous instrument such as deadly weapons • Offense committed in a specially protected area (in cases of victims under thirteen years of age) • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing • Victim expresses the intent of non-punishment or substantial restitution to the victim	• Same-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes (Repeat offense within the statutory recidivism period of three years) • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offenders (limited to cases of aggravated punishment under the Act on Special Cases Concerning Punishment, etc. of Child Abuse Crimes, Article 6)
General Sentencing Factor	Conduct	• Minor participation	• Offense committed by causing diminished physical or mental capacity of the victim • Two or more co-offenders
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Considerable restitution	• Different-offense recidivism within the statutory recidivism period which does not constitute recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). Prior convictions for same-offense or violence crimes resulting in imprisonment which do not constitute repeat offenses under the Criminal Act (within ten years after the completion of the sentence)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
			• Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

▷ Apply the following classification in cases where the offense of Abduction · Inducement · Human Trafficking was committed while severely intoxicated by alcohol or drugs (including cases of bodily injury are inflicted on the victim following abduction · inducement · human trafficking; where property is demanded or acquired following abduction · inducement; or where death results following abduction · inducement · human trafficking.)

❶ Cases in which the offender voluntarily became intoxicated by alcohol or drugs with the intent to commit a crime, in anticipation of committing a crime, or to use as grounds for exemption after committing a crime, the state of intoxication shall be reflected as a general aggravating factor regardless of whether the defendant was in a state of diminished mental capacity at the time of the offense.

❷ Cases in which offender had no criminal intent and no anticipation of committing a crime, but past experiences, physical condition, or circumstances indicated a propensity to cause harm to others when intoxicated, the state of intoxication shall not be reflected as a mitigating factor regardless of the defendant's mental capacity at the time of the offense.

❸ Even in cases not falling under ❶ or ❷, if the offender did not suffer from diminished mental capacity at the time of the offense, the intoxication shall not be reflected as a mitigating factor.

2 CAUSING BODILY HARM FOLLOWING ABDUCTION · INDUCEMENT · HUMAN TRAFFICKING

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Causing Bodily Injuries on the Abducted Victim, etc.	1 yr. – 3 yrs.	2 yrs. – 4 yrs.	3 yrs. – 6 yrs.
2	Inflicting Bodily Injuries on the Abducted Victim, etc.	1 yr. 6 mos. – 3 yrs. 6 mos.	3 yrs. – 5 yrs.	4 yrs. – 7 yrs.
3	Inflicting Bodily Injuries, etc, on the Abducted · Induced Minor Under thirteen years of Age, etc./ Causing · Inflicting Bodily Injury by Hostage/ Causing · Inflicting Bodily Injury by Robbery by Hostage	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 7 yrs.	5 yrs. – 9 yrs.

▷ When the offense falls within a special violent crime under Act on Special Cases Concerning the Punishment of Specific Violent Crimes (within the statutory recidivism period), increase the minimum and maximum sentencing range each by multiplying 1.5.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement • Offender voluntarily released the victim to a safe location • Minor bodily injuries	• Victim is under 13 years of age (among Type 3, excluding cases causing bodily injuries, etc, on the abducted or induced minor under thirteen years of age), or is physically or mentally disabled • Abduction, inducement, trafficking, or transporting for morally reprehensible purposes • Offense committed with an organized scheme • Cases resulting in serious bodily harm • Carrying dangerous instruments such as deadly weapons • Offense committed in a specially protected area (for victims under thirteen years of age) • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech impairment • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing • Victim expresses the intent of non-punishment or substantial restitution to the victim	• Same-offense recidivism within the statutory recidivism period that does not constitute a Special Violent Crime (repeat offense within the statutory recidivism period) • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offenders (limited to cases of aggravated punishment under the Act on Special Cases Concerning Punishment, etc. of Child Abuse Crimes, Article 6)
General Sentencing Factor	Conduct	• Minor participation	• Offense committed by causing diminished physical or mental capacity of the victim • Two or more co-offenders
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Considerable restitution	• Different-offense recidivism within the statutory recidivism period which does not constitute recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years).

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
			Prior convictions for same-offense or violence crimes resulting in imprisonment which do not constitute repeat offenses under the Criminal Act (within ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

3 DEMANDING · ACQUIRING PROPERTY, ETC. FOLLOWING ABDUCTION · INDUCEMENT

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Coercion by Hostage/ Robbery by Hostage	2 yrs. – 3 yrs. 6 mos.	2 yrs. 6 mos. – 5 yrs.	3 yrs. 6 mos. – 7 yrs.
2	Demanding for Property Against a Minor under thirteen years of Age	4 yrs. – 7 yrs.	5 yrs. – 8 yrs.	7 yrs. – 11 yrs.
3	Acquiring Property from a Minor under thirteen years of Age	6 yrs. – 9 yrs.	8 yrs. – 12 yrs.	10 yrs. – 15 yrs.

▷ When the offense falls within a special violent crime under Act on Special Cases Concerning the Punishment of Specific Violent Crimes (within the statutory recidivism period), increase the minimum and maximum sentencing range each by multiplying 1.5.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement • Offender voluntarily released the victim to a safe location	• Victim under 13 years of age (excluding Type 2 and Type 3 offenses) or is physically or mentally disabled • Offense committed through an organized division of roles • Carrying dangerous instruments such as deadly weapons • Offense committed in a specially protected area (for victims under thirteen years of age)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
			• Demanding or receiving excessive amount of ransom • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech impairment • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or internal whistle-blowing • Victim expresses the intent of non-punishment or substantial restitution to the victim	• Same-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes (Repeat offense within the statutory recidivism period of three years) • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Habitual offenders (limited to cases of aggravated punishment under the Act on Special Cases Concerning Punishment, etc. of Child Abuse Crimes, Article 6)
General Sentencing Factor	Conduct	• Minor participation	• Offense committed by causing diminished physical or mental capacity of the victim • Two or more co-offenders
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Considerable restitution	• Different-offense recidivism within the statutory recidivism period which does not constitute recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). Prior convictions for same-offense or violence crimes resulting in imprisonment which do not constitute repeat offenses under the Criminal Act (within ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

4 ABDUCTION · INDUCEMENT · HUMAN TRAFFICKING RESULTING IN DEATH

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Resulting in Death of the Abducted Victim, etc.	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 7 yrs.	6 yrs. – 9 yrs.
2	Abduction · Inducement Resulting in Death of a Minor Under thirteen years of Age/ Hostage Taking Resulting in Death of a Minor Under thirteen years of Age	6 yrs. – 11 yrs.	9 yrs. – 13 yrs.	More than 11 years imprisonment or life imprisonment

▷ When the offense falls within a special violent crime under Act on Special Cases Concerning the Punishment of Specific Violent Crimes (within the statutory recidivism period), increase the minimum and maximum sentencing range each by multiplying 1.5.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement • Offender's conduct was not a direct cause of death	• Victim under thirteen years of age (This excludes Type 2 offense of death of the minor under thirteen years of age resulting from abduction or inducement) • Abduction, inducement, trade, or transport for the morally condemnable purpose • Instigating the subordinate to commit the offense • Offense committed through an organized division of roles
	Offender /Etc.	• Hearing and/or speech impairment • Diminished mental capacity (without fault) • Voluntary surrender to investigative agencies or internal whistle-blowing • Victim expresses the intent of non-punishment or substantial restitution to the victim	• Absence of remorse (excludes cases where the offender is merely pleading not guilty) • Same-offense recidivism within the statutory recidivism period that does not constitute recidivism offense under the Act on the Aggravated Punishment of Specific Crimes (Repeat offense within the statutory recidivism period of three years)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Minor participation	• Two or more co-offenders
	Offender /Etc.	• Rescuing or transferring the victim to the hospital after committing the offense • Sincere remorse • Considerable restitution	• Different-offense recidivism within the statutory recidivism period which does not constitute recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). Prior convictions for same-offense or violence crimes resulting in imprisonment which do not constitute repeat offenses under the Criminal Act (within ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

DEFINITION OF OFFENSES

1 ABDUCTION · INDUCEMENT · HUMAN TRAFFICKING ONLY

1. TYPE 1— GENERAL ABDUCTION · INDUCEMENT · HUMAN TRAFFICKING, ETC

○ This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law (hereinafter the same).

ELEMENTS OF OFFENSE	APPLICABLE LAW
Abduction or inducement of a minor	Criminal Act, Article 287
Human trafficking	Criminal Act, Article 289, paragraph 1
Accepting or concealing victim of abduction, inducement, trade, or transport under the Criminal Act, Article 287 through 289	Criminal Act, Article 292, paragraph 1
Recruit, transport or deliver another with the intent to commit any of the crimes of Article 287 through 289	Criminal Act, Article 292, paragraph 2

2. TYPE 2 — ABDUCTION · INDUCEMENT · HUMAN TRAFFICKING FOR THE PURPOSE OF INDECENT ACT · SEXUAL INTERCOURSE · MARRIAGE · PROFIT-MAKING

ELEMENTS OF OFFENSE	APPLICABLE LAW
Abduction or inducement for the purpose of indecent act, sexual intercourse, marriage, or profit making	Criminal Act, Article 288, paragraph 1
Human trafficking for the purpose of the indecent act, sexual intercourse, marriage, or profit making	Criminal Act, Article 289, paragraph 2

3. TYPE 3 — ABDUCTION · INDUCEMENT · HUMAN TRAFFICKING FOR THE PURPOSE OF LABOR EXPLOITATION · SEXUAL TRAFFICKING · SEXUAL EXPLOITATION · THE ACQUISITION OF ORGANS · TRANSPORTING ABROAD

ELEMENTS OF OFFENSE	APPLICABLE LAW
Abduction or inducement for the purpose of labor exploitation, sexual trafficking, sexual exploitation, or acquisition of organs	Criminal Act, Article 288, paragraph 2
Abduction or inducement for the purpose of transporting abroad	Criminal Act, Article 288, paragraph 3
Transporting the abducted or induced victim abroad	Criminal Act, Article 288, paragraph 3
Human trafficking for the purpose of labor exploitation, sexual trafficking, sexual exploitation, or acquisition of organs	Criminal Act, Article 289, paragraph 3
Human trafficking for the purpose of transporting the victim abroad	Criminal Act, Article 289, paragraph 4
Transporting purchased person abroad	Criminal Act, Article 289, paragraph 4

4. TYPE 4 — ABDUCTION · INDUCEMENT OF MINOR UNDER 13 YEARS OF AGE FOR THE PURPOSE OF ACQUIRING ANY GOODS

ELEMENTS OF OFFENSE	APPLICABLE LAW
Abduction · inducement of a minor under thirteen years of age for the purpose of gaining wealth · benefits of property	Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 1, subparagraph 1

5. TYPE 5 — ABDUCTION · INDUCEMENT OF MINOR UNDER 13 YEARS OF AGE FOR THE PURPOSE OF MURDER

ELEMENTS OF OFFENSE	APPLICABLE LAW
Abduction · inducement of a minor under thirteen years of age for the purpose of killing	Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 1, subparagraph 1

2 CAUSING BODILY HARM FOLLOWING ABDUCTION · INDUCEMENT · HUMAN TRAFFICKING

1. TYPE 1 — CAUSING BODILY INJURIES ON THE ABDUCTED VICTIM, ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Causing bodily injuries on the victim who was abducted, induced, trafficked, or transported	Criminal Act, Article 290, paragraph 2

2. TYPE 2 — INFLICTING OF BODILY INJURIES ON THE ABDUCTED VICTIM, ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Inflicting bodily injuries on the victim who was abducted, induced, trafficked, or transported	Criminal Act, Article 290, paragraph 1

3. TYPE 3 — INJURY, ETC. TO A KIDNAPPED · INDUCED MINOR UNDER 13 YEARS OF AGE / INFLICTING · CAUSING BODILY INJURY TO A HOSTAGE / INFLICTING · CAUSING BODILY INJURY IN THE COURSE OF ROBBERY BY HOSTAGE-TAKING

ELEMENTS OF OFFENSE	APPLICABLE LAW
Abduction or inducement resulting in a bodily assault, bodily injuries, abandonment, or a cruel act	Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 2, subparagraph 3
Injury caused by hostage	Criminal Act, Article 324-3
Injury caused by committing robbery by hostage	Criminal Act, Article 337

3 DEMANDING · ACQUIRING PROPERTY, ETC. FOLLOWING ABDUCTION · INDUCEMENT

1. TYPE 1 — COERCION BY HOSTAGE/ROBBERY BY HOSTAGE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Coercion by hostage	Criminal Act, Article 324-2
Robbery by hostage	Criminal Act, Article 336

2. TYPE 2 — DEMANDING GOODS, etc. AGAINST A MINOR UNDER 13 YEARS OF AGE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Demanding goods or benefits of property against a minor under thirteen years of age	Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 2, subparagraph 1

3. TYPE 3 — ACQUIRING GOODS, etc. FROM A MINOR UNDER 13 YEARS OF AGE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Acquiring goods or benefits of property from a minor under thirteen years of age	Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 2, subparagraph 1

4 ABDUCTION · INDUCEMENT · HUMAN TRAFFICKING RESULTING IN DEATH

1. TYPE 1 — DEATH OF THE ABDUCTED VICTIM

ELEMENTS OF OFFENSE	APPLICABLE LAW
Causing death of a victim of abduction, inducement, trade, transportation	Criminal Act, Article 291, paragraph 2

2. TYPE 2 — DEATH CAUSED BY ABDUCTION · INDUCEMENT /DEATH BY TAKING HOSTAGE/ DEATH CAUSED BY ROBBERY COMMITTED BY TAKING HOSTAGE OF A MINOR UNDER 13 YEARS OF AGE

ELEMENTS OF OFFENSE	APPLICABLE LAW
Causing death of a minor under thirteen years of age through abduction or inducement	Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 2, subparagraph 4
Death caused by hostage	Criminal Act, Article 324-4
Death caused by robbery by hostage	Criminal Act, Article 338

※ The following applies to Recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). (The same applies to offenses falling within Type 1 through Type 4.)

ELEMENTS OF OFFENSE	APPLICABLE LAW
An offender, being sentenced for the offense of a special violent crime as prescribed under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes, repeats the commission of abduction or inducement crime as prescribed in the Act, Article 2, paragraph 1, subparagraph 2 within three years upon the completion of sentence, or upon the exemption from the sentence.	Act on Special Cases Concerning the Punishment of Specific Violent Crimes, Article 3

※ The following applies to cases where the offender is the person who has the duty to report any child abuse cases or habitual offenders of child abuse (The same applies to offenses falling within Type 1 through Type 3).

ELEMENTS OF OFFENSE	APPLICABLE LAW
The offender habitually commits child abuse as stipulated in Article 2, subparagraph 4, item 5, item 13 (This is limited to habitual offenders falling within item 5 and subject to aggravated punishment under other statutes) of the Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes.	Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 6
An offender is a person who has a duty to report child abuse cases under Article 10, paragraph 2, and commits a crime of child abuse as stipulated in Article 2, subparagraph 4, item 5, item 13 (This is limited to habitual offenders falling within item 5 and subject to aggravated punishment under other statutes) of the same Act against a child under his or her protection.	Act on Special Cases Concerning the Punishment, etc. of Child Abuse Crimes, Article 7

DEFINITION OF SENTENCING FACTORS

1. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES THAT MITIGATE THE OFFENDER'S INVOLVEMENT

- This applies where one or more of the following are present:
  - The offender participated in the crime under coercion or threats by another person (excluding cases that fall under Article 12 of the Criminal Act).
  - The offender merely agreed to participate in the crime and neither directed nor directly took part in carrying out the offense.
  - Other cases with comparable mitigating factors.

2. CASES WHERE THE OFFENDER IS THE VICTIM'S NON-CUSTODIAL PARENT OR RELATIVE WITH EXTENUATING MOTIVES

- This refers to cases where the non-custodial, biological parent takes the child-victim away out of a wish to meet the child.

3. THE VICTIM WITH THE CAPACITY TO CONSENT

- This refers to cases in which the victim, who has the mental capacity to make decisions, consented to the conduct, but the protection or custodial rights of the victim's legal representative were infringed.

4. OFFENSE COMMITTED THROUGH AN ORGANIZED DIVISION OF ROLES

- It refers to cases in which, for the purpose of carrying out the offense of abduction or inducement, an organization (not required to constitute a criminal organization) is formed, the offense is planned in advance, roles are assigned, and the offense is executed in accordance with those roles.

5. OFFENSE COMMITTED IN A SPECIALLY PROTECTED AREA (INVOLVING VICTIM UNDER 13)

- This indicates cases in which the offender induces or attempts to induce a victim from areas specially protected for children under the age of thirteen. Such areas include schools (including school grounds and buildings), nurseries,

orphanages, kindergartens, other educational facilities, nearby areas and access routes to such facilities, stairways, elevators in apartment complexes, and the like.

6. MINOR PARTICIPATION

- This indicates cases in which the nature of participation in the commission of the offense was passive or the offender had a limited role.
- However, this is not applicable in cases in which the offender had an active role in the commission of the offense by causing another person to commit the offense.

7. OFFENSES COMMITTED BY CAUSING DIMINISHED PHYSICAL OR MENTAL CAPACITY TO THE VICTIM

- This refers to cases in which the victim's mental capacity was intentionally diminished through the use of substances, or similar means for the purpose of impairing the victim's perception or control to facilitate the commission of the offense.

8. TWO OR MORE CO-OFFENDERS

- This indicates cases in which two or more offenders were involved in the commission of the offense but did not suffice to fall within '*offenses* committed through an organized division of roles.'

9. VICTIM EXPRESSES THE INTENT OF NON-PUNISHMENT OF THE OFFENDER

- This indicates cases in which the offender shows sincere remorse with genuine efforts to reach a settlement with the victim; the victim or the family of victim (in the case of a deceased victim) fully understands the legal and social implications of opposing punishment and clearly expresses the intent not to seek punishing the offender. However, this should not apply in the following cases:
  - (1) in cases in which the victim or the family of the deceased opposes punishment as a result of *de facto* coercion or deceit by the offender against the victim's will, or

- (2) where there is no reasonable or convincing basis for the victim or their legal representative to express no desire for punishment.

- This applies only to cases in which, upon careful and thorough examination and assessment of the victim's or legal representative's age, intelligence, and ability to fully understand the meaning, content, and legal implications of expressing an intent not to seek punishment, it is determined that such expression is both informed and genuine.

10. SUBSTANTIAL RESTITUTION TO THE VICTIM

- This refers to cases in which the offender, through genuine and sustained efforts, has restored the damage to a degree comparable to a formal settlement, or in which restitution of such degree is reasonably assured.

- In the case of a court deposit, it constitutes substantial recovery of damages only when such a determination is made after carefully examining and assessing the opinions of the victim of the underlying offense or their legal representative (including the spouse, lineal relatives, and siblings if the victim is deceased) regarding the deposit, whether the offender is legally permitted or intends to retrieve the deposited funds, the nature of the infringed legal interests, and the scale and extent of the damage.

- In cases where the victim has received relief money from the State pursuant to the Crime Victim Protection Act in connection with the damage suffered (including cases where the offender subsequently fulfills the obligation to reimburse the State), such cases shall be excluded unless special circumstances exist.

11. MINOR BODILY INJURIES

- Minor bodily injuries mean cases where the inflicted injury requires two weeks or less medical care, affecting relatively limited bodily parts, which does not disrupt the day-to-day activities of the victim, and does not require medical intervention such as surgical stitches and the like.

12. CASES RESULTING IN SERIOUS BODILY HARM

- This applies where one or more of the following are present:
  - Cases involving assault, causing bodily injury, or inflicting of bodily injury: where recovery from the inflicted injury generally requires more than four to five weeks of medical treatment, including cases involving lasting after-effects resulting in impairment, severe disability caused by the offense, injuries inflicted on vulnerable parts of the body or injuries with a high likelihood of further bodily harm, the use of torture, or other comparable circumstances.
  - Cases involving confinement: where the period of confinement exceeds ten days.
  - Cases involving abandonment: where the victim is abandoned in a place with poor or dangerous conditions, or where the offender abandons the victim in a secluded area.
  - Cases involving cruel treatment: where the offender sexually abuses the victim, forces the victim to perform labor, deprives the victim of sleep or food for more than twenty-four hours, or engages in other comparable conduct.

13. OFFENDER'S CONDUCT WAS NOT THE DIRECT CAUSE OF DEATH

- This refers to cases in which unforeseeable intervening causes occurred at the time of the offense, such that the offender cannot be held liable for having directly caused the death.

14. ABDUCTION · INDUCEMENT · TRAFFICKING · TRANSPORTING THE VICTIM FOR MORALLY REPREHENSIBLE PURPOSES

- This indicates cases in which one or more of the following purposes of abduction, inducement, or transportation apply:
  - The offense was committed for the purpose of murder
  - The offense committed for the purpose of obtaining financial benefit by the ransom
  - The offense was committed for the purpose of indecent conduct, sexual intercourse, marriage, or profit-making
  - The offense was committed for the purpose of labor exploitation, sexual trafficking, sexual exploitation, or the acquisition of organs
  - The offense was committed for the purpose of engaging in overseas trafficking

15. CAUSING HARM WHILE ATTEMPTING TO REACH A SETTLEMENT WITH THE VICTIM (EXCLUDING CASES WHERE THE ACT CONSTITUTES ANY OTHER CRIME SUCH AS THE CRIME OF COERCION)

- This indicates cases in which the offender persistently harassed the victim or exerted undue pressure by implying tangible or intangible disadvantages in the course of attempting to reach a settlement, or otherwise caused harm through comparable means in response to the victim's refusal to settle.

16. NO REMORSE (EXCLUDING SIMPLE DENIAL OF OFFENSE)

- This refers to cases in which the offender acknowledges the offense but shows no remorse or sense of guilt, and may even attempt to justify the conduct. Simple denial of the offense is not included.

17. SINCERE REMORSE

- This indicates cases in which the offender is deemed to show genuine remorse for the offense after examining and assessing the specific circumstances surrounding the offender's admission of the offense and any voluntary efforts made toward victim restitution and/or the prevention of re-offending.

18. NO PRIOR CRIMINAL CONVICTIONS

- It refers to cases in which the offender has no prior criminal convictions. However, this does not apply to cases in which the offense was committed against multiple or indiscriminate victims, or repeatedly over an extended period.

PRINCIPLES APPLICABLE TO SENTENCING FACTORS

1 DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, judges must consider only the Special Sentencing Factors.
- However, where multiple Special Sentencing Factors are present, the applicable sentencing range shall be determined after assessing the factors in accordance with the following principles:
  - ❶ Greater weight is accorded to Conduct Factors than to Offender/Etc. Factors of equal number. However, where a victim or bereaved family member has intent of non-punishment, such wishes may be treated on a par with a Conduct Factor.
  - ❷ Conduct Factors *inter se*, and Offender/Etc. Factors *inter se*, shall be treated as equivalent.
  - ❸ If the sentencing range applicable cannot be determined by the aforementioned principles in ❶ and ❷, judges are to decide the sentencing range by a comprehensive comparison and assessment of Special Sentencing Factors based on the principles set forth in ❶ and ❷.
- After the assessment of sentencing factors, where aggravating factors outweigh mitigating factors, the aggravating sentencing range is recommended; where mitigating factors outweigh aggravating factors, the mitigating sentencing range is recommended; and in all other cases, the standard sentencing range is recommended.

2 DETERMINING THE SENTENCE TO BE IMPOSED

- The sentence to be imposed shall be determined within the sentencing range established under paragraph 1 above, by comprehensively taking into account both General Sentencing Factors and Special Sentencing Factors.
- Where the upper limit of the sentencing range under the sentencing guidelines exceeds 25 years, life imprisonment may be imposed.

GENERAL APPLICATION PRINCIPLES

1 SPECIAL ADJUSTMENTS TO THE RECOMMENDED SENTENCING RANGE

❶ After the assessment of Special Sentencing Factors, if a case falls within the Aggravating Sentencing Range and either i) two or more Special Aggravating Factors exist alone, or ii) Special Aggravating Factors outnumber Special Mitigating Factors by two or more, the upper limit of the recommended sentencing range may be increased by up to 1/2. If the resulting upper limit exceeds 25 years, life imprisonment may be imposed.

❷ After the assessment of Special Sentencing Factors, if a case falls within the Mitigating Sentencing Range and either i) two or more Special Mitigating Factors exist alone, or ii) Special Mitigating Factors outnumber Special Aggravating Factors by two or more, the lower limit of the recommended sentencing range may be reduced by up to 1/2.

2 RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE SENTENCING GUIDELINES AND THE APPLICABLE SENTENCING RANGE BY LAW

- Where the sentencing range recommended under this guideline conflicts with the statutory applicable aggravated/mitigated sentencing range, the upper or lower limit of the applicable sentencing range by law shall govern.

3 APPLICATION OF DISCRETIONARY MITIGATING FACTORS BY LAW

- Where a judge declines to apply discretionary statutory mitigating factors listed in the Sentencing Factor Table of this guideline, such factors shall be considered as extenuating circumstances among mitigating factors.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

1 APPLICABLE RANGE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act include both an offense set forth in the sentencing guidelines and an offense not covered by the sentencing guidelines, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

2 DETERMINING THE BASE OFFENSE

- The "base offense" refers to the offense subject to the most severe punishment after selecting the type of punishment and applying any statutory aggravation and/or mitigation thereto. However, where the upper end of the sentencing range under the sentencing guidelines for an offense covered by this chapter is lower than the upper end of the sentencing range under the sentencing guidelines for the other concurrent offense, the other concurrent offense shall become the base offense.

3 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE OFFENSES

- Except for concurrent offenses that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply:
  - ❶ For multiple offenses involving two offenses, the upper end of the sentencing range shall be determined by adding 1/2 of the upper end of the sentencing range of the other offense to the upper end of the sentencing range of the base offense.

❷ For multiple offenses involving three or more offenses, the upper end of the sentencing range shall be determined by adding the following three figures: (1) the upper end of the sentencing range of the base offense, (2) 1/2 of the upper end of the sentencing range of the offense with the highest sentencing range among the other offenses, and (3) 1/3 of the upper end of the sentencing range of the offense with the second highest sentencing range among the other offenses.

❸ For multiple offenses where the lower end of the sentencing range of the other offense is higher than the lower end of the sentencing range of the base offense, the lower end of the sentencing range after applying the method of aggravation for multiple offenses shall be the lower end of the sentencing range of the other offense.

PART B

GUIDELINE ON SUSPENDING A SENTENCE

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstance	• Organized schemes, premeditation, or professional skills employed in the commission of the offense • Repeated crimes • Victim is under 13 years of age or is physically or mentally impaired • Prior convictions for the same-offense (suspended sentence of imprisonment without labor or a more severe punishment imposed within the past ten years) • Carrying dangerous instruments such as deadly weapons • Abduction, inducement, or trafficking abroad for morally reprehensible purposes • Offense committed in a specially protected area (for victims under thirteen years of age) • Caused serious bodily harm • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes	• Cases with special extenuating circumstances that mitigate the offender's involvement • Cases where the offender is the victim's non-custodial parent or relative with extenuation motives • Offender attempted to prevent the co-offender from committing the crime • Offender voluntarily released the victim to a safe location • No prior criminal convictions • Minor bodily injuries • Victim expresses the intent of non-punishment or substantial restitution to the victim
General Circumstance	• Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • Lack of family/social ties • Offense committed by causing diminished physical or mental capacity of the victim • Drug or alcohol addiction • Absence of sincere remorse • Leading role as a co-offender • Post-offense evidence tampering or attempt to conceal or destroy evidence • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)	• No prior criminal convictions of the same-offense, and no prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Stable family/social ties • Offense committed impulsively • Offender engages only in accepting, concealing, recruiting, or delivering • Voluntary surrender to investigative authorities or internal whistle-blowing • Sincere remorse • Offender's minor participation as a co-offender • Post-offense aid/medical transport

CLASSIFICATION	ADVERSE	AFFIRMATIVE
		• The offender's physical condition is severely impaired • Cases where detaining the offender would impose excessive hardship on his/her family members • Considerable restitution

DEFINITIONS OF CIRCUMSTANCES TO CONSIDER WHEN SUSPENDING A SENTENCE

- For identical factors in both Sentencing Factors and the Circumstances for Suspending a Sentence, refer to the definitions set forth in the Definition of Sentencing Factors.
- Calculation of the Period of Prior Criminal Convictions
  - For cases where a suspended sentence of imprisonment was imposed, the period of a prior conviction is calculated from the date on which the judgment became final to the date of the commission of the offense.
  - For cases where a sentence of imprisonment was executed, the period of a prior conviction is calculated from the date on which the sentence was fully served to the date of the commission of the offense.
- Organized Schemes, Planned Crime, or Professional Skills Employed in the Commission of the Offense
  - This applies where one or more of the following are present:
  - Offense was committed with organization formed for the purpose of committing abduction or inducement (this need not to rise to the level of a criminal organization), agreeing to the crime in advance, allocating tasks, and executing the commission accordingly
  - Offender used a professional device or skills
  - Offender used a highly intelligent scheme
  - Offender created and utilized new and unknown skills of crime
  - Other cases of comparable factors
- Repeated Offense
  - This refers to cases where the offender is found to have repeatedly committed similar offenses, upon comprehensive consideration of the nature of the offense, the offender's history of punishment, and concurrent offense, etc.
- Offense committed impulsively
  - This refers to a case where the offender, while contacting the victim for some other purpose without any intent to commit the offense, formed such criminal intent only at that point and committed the offense, and where there was no planning or advance preparation for the offense, such as luring the victim or bringing the victim into a state of diminished physical or mental capacity.

PRINCIPLES APPLICABLE TO CIRCUMSTANCES WHEN SUSPENDING A SENTENCE

- When the recommended sentence is imprisonment with labor and judges decide to suspend execution of the sentence, they must give greater weight to the Primary Circumstances than to the General Circumstances, and the following principles should be considered:
  - ❶ When two or more Primary Affirmative Circumstances exist alone, or when Primary Affirmative Circumstances outnumber Primary Adverse Circumstances by two or more, it is recommended to suspend the sentence.
  - ❷ When two or more Primary Adverse Circumstances exist alone, or when Primary Adverse Circumstances outnumber Primary Affirmative Circumstances by two or more, imprisonment is recommended.
  - ❸ In cases in which ❶ or ❷ apply, but the difference between the number of General Adverse (Affirmative) Circumstances and General Affirmative (Adverse) Circumstances is greater than the difference between the number of Primary Affirmative (Adverse) Circumstances and Primary Adverse (Affirmative) Circumstances, or in cases other than ❶ or ❷, the judges shall decide whether to suspend the sentence after comparing and assessing all the Circumstances comprehensively.