15.06 FALSE IMPRISONMENT – PRIVILEGE OF PEACE OFFICER TO DETAIN SHORT OF ARREST

In some circumstances, the law allows the defendant to confine the plaintiff without arresting him or her. In order for the defendant to be allowed to confine without arrest, the plaintiff in this case, you must decide it is more likely true than not true that the following things happened:

(Insert evidence of facts which, if true, would establish reasonable suspicion as a matter of law.)

If you decide it is more likely true than not true that these things happened, you must return a verdict for the defendant.

# Use Note

This instruction should be used where a peace officer temporarily detains a person for investigative purposes but no arrest occurs and therefore, there is no issue of false arrest. If a claim of false arrest is also made, the jury must be instructed that the above defined privilege does not apply to the claim of false arrest. It should be used following Instruction 15.02C.

Comment

The Alaska Supreme Court has authorized detention short of arrest by peace officers on reasonable suspicion. Coleman v. State, 553 P.2d 40 (Alaska 1976) (reasonable suspicion that imminent public danger exists or serious harm to persons or property); Goss v. State, 390 P.2d 220 (Alaska 1964); Maze v. State, 425 P.2d 235 (Alaska 1967). See also, Terry v. Ohio, 392 U.S. 1 (1968). In City of Nome v. Ailak, 570 P.2d 162, 172, such detentions would also serve as a defense to a cause of action for false imprisonment.

It is not clear the extent to which the question of reasonable suspicion is for the jury. Presumable, it would be treated the same as probable cause in arrest cases. See Use Note to Instruction 15.04.