

**14-5014. Failure of the state to call a witness.**

If a witness whose testimony would have been material on an issue in the case was peculiarly available to the state and was not introduced by the state and the absence of that witness has not been sufficiently accounted for or explained, then you may, if you deem it appropriate, infer that the testimony by that witness would have been unfavorable to the state and favorable to the accused.

USE NOTES

No instruction on this subject shall be given.