IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

Defendant.

DEFENDANT’S INSTRUCTION NO. \_\_\_\_

Count \_\_ of the indictment charges the defendant with First Degree Sexual Abuse

First Degree Sexual Abuse occurs when a person, being 14 years old or more, subjects another person to sexual contact and that person is younger than 12 years old.

“Sexual contact” means any intentional touching, either directly or through clothing, of the breasts, buttocks, anus or any part of the sex organs of another person, or intentional touching of any part of another person's body by the actor's sex organs, where that person is not married to the actor and the touching is done for the purpose of gratifying the sexual desire of either party.

Therefore, for you to find the defendant guilty, the State must overcome the presumption of innocence and prove beyond a reasonable doubt that:

1. on or about the \_\_ day of [insert month], [insert year],

2. in [insert county] County, West Virginia,

3. the defendant,

4. being fourteen years of age or more,

5. subjected [insert name(s) of victim(s)],

6. who was twelve years of age or less,

7. to sexual contact.

If, after impartially considering, weighing and comparing all the evidence (that of both the State and the defendant), you are convinced beyond a reasonable doubt of the truth of the charge as to each of these elements, you may find the defendant guilty as charged in Count \_\_ of the indictment. If you have a reasonable doubt of the truth of the charge as to any one or more of these elements, you shall find the defendant not guilty.

GIVEN:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REFUSED:\_\_\_\_\_\_\_\_\_\_\_\_\_

MODIFIED:\_\_\_\_\_\_\_\_\_\_\_\_

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JUDGE