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 Third Degree Sexual Abuse. Third Degree Sexual Abuse occurs when a person subjects another person who is less than 16 years old to sexual contact.

 “Sexual contact” means any intentional touching, either directly or through clothing, of the breasts, buttocks, anus or any part of the sex organs of the alleged victim, or intentional touching of any part of the complainant's body by the actor’s sex organs, where the alleged victim 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 a reasonable doubt that:

1. the defendant,

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

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

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

5. who was less than sixteen years of age,

6. 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