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 Kidnapping. One of two verdicts may be returned by you under this Count of the indictment:

(1) guilty of Kidnapping; or

(2) not guilty.

 Kidnapping occurs when a person unlawfully takes custody of, conceals, confines, or restrains another person against his or her will, by means of force, threat of force, duress, fraud, deceit, inveiglement, misrepresentation, or enticement, with the intent to [hold that person for ransom, reward, or concession] [transport that person with the intent to inflict bodily injury or to terrorize the victim or another person] [use that person as a shield or hostage].

 “To use another as a hostage” means to seize or detain and threaten to kill or injure another in order to compel a third person or a governmental organization to do or abstain from doing any legal act as an explicit or implicit condition for the release of the person detained.

 The burden is on the State to prove the defendant’s guilt beyond a reasonable doubt and the defendant is not required to prove [himself] [herself] innocent. [He] [She] is presumed by the law to be innocent of this charge and this presumption remains with [him] [her] throughout the entire trial.

 Before the defendant can be convicted of Kidnapping, the State must overcome the presumption the defendant is innocent and prove beyond a reasonable doubt that:

1. the defendant,

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

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

4. [took custody of] [concealed] [confined] [restrained]

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

6. with the intent to {hold [insert name(s) of victim(s)] for ransom, reward, or concession} {transport [insert name(s) of victim(s)] with the intent to inflict bodily injury or to terrorize [insert name(s) of victim(s)] or another person} {use [insert name(s) of victim(s)] as a shield or hostage}.

 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 defendant guilty of Kidnapping 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