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 Concealment, Taking or Removal of a Minor Child from [a Custodian] [a Person Entitled to Visitation] in Violation of a Court Order with the Intent to Deprive Another Person of Lawful Custody or Visitation Rights. You may return one of two verdicts under this Count of the indictment:

(1) guilty of Concealment, Taking or Removal of a Minor Child from [a Custodian] [a Person Entitled to Visitation] in Violation of a Court Order with the Intent to Deprive Another Person of Lawful Custody or Visitation Rights; or

(2) not guilty.

“Concealment, Taking, or Removal of a Minor Child from [a Custodian] [a Person Entitled to Visitation] in Violation of a Court Order With the Intent to Deprive Another Person of Lawful Custody or Visitation Rights” occurs when a person within this State conceals, takes, or removes a minor child in violation of a court order with the intent to deprive another person of lawful custody or visitation rights as set forth in the court order and without the reasonable belief that such action was necessary to preserve the welfare of the minor child.

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 Concealment, Taking or Removal of a Minor Child from [a Custodian] [a Person Entitled to Visitation] in Violation of a Court Order with the Intent to Deprive Another Person of Lawful Custody or Visitation Rights, the State must overcome the presumption that 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. did (conceal) (take) (remove),

5. [insert name(s) of victim(s)], a minor child,

6. [within the State of West Virginia] [outside the State of West Virginia],

7. in violation of a court order,

8. with the intent to deprive [a custodian] [a person entitled to visitation] of [lawful custody] [visitation rights], and

9. without the reasonable belief that such action was necessary to preserve the welfare of the minor child.

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 as charged. 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:\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

JUDGE