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 Sale of a Child. You may return one of two verdicts under this Count of the indictment:

(1) guilty of Sale of a Child; or

(2) not guilty.

Sale of a Child occurs when a person knowingly receives, accepts or offers to accept money, property, service, or other thing of value to locate, provide, or procure a minor child for any purpose which entails a transfer of the legal or physical custody of said child, including but not limited to adoption or placement.

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 Sale of a Child, 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. knowingly [received] [accepted] [offered] to accept [money] [property] [service] [other thing of value], specifically [insert description],

5. to [locate] [provide] [procure] a minor child

6. for a purpose that entailed a transfer of the [legal custody] [physical custody] of said child, including but not limited to adoption or placement.

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 Sale of a Child 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:\_\_\_\_\_\_\_\_\_\_\_\_

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JUDGE