

## CHAPTER 1 PRELIMINARY INSTRUCTIONS

### SYNOPSIS

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#### Instruction No. 1.0100. Duty of Jurors.

#### Instruction No. 1.0100. Duty of Jurors.

You have been selected as jurors and you are bound by your oath to try this case fairly and honestly.

You are permitted to discuss the evidence among yourselves in the jury room during recesses from trial but only when all jurors and alternates are present. You must not talk or communicate about this case with anyone else. You should keep an open mind. You should not form or express any conclusion or judgment about the outcome of the case until the Court submits the case to you for your deliberations.

You must focus your attention on the court proceedings and reach a verdict solely upon what you see and hear in this court. As jurors, you must not do any independent investigation about the case and you must not be influenced in any way by information, opinions, or publicity outside the courtroom. Until you have returned your verdict in court and I have released you from your service, do not talk to any of the parties, their lawyers, any witnesses, or members of the media. If anyone tries to talk about the case in your presence, you should tell the bailiff immediately and privately. During your attendance in the courtroom, during any discussions about the case in the jury room, or during deliberations in the jury room, you shall not use any computers, laptops, cellular telephones, or other

electronic communication devices unless specifically authorized by the court.

During the trial, there will be periods of time when you will be allowed to separate, such as for recesses, lunch periods, and overnight. At those times, you must not use computers, laptops, cellular telephones, or other electronic communication devices or any other method to:

- investigate, conduct research, or otherwise gather information regarding the case;
- conduct experiments or attempt to gain any specialized knowledge about the case;
- receive assistance in deciding the case from any outside sources;
- read, watch, or listen to anything about the case from any source;
- listen to discussions among or receive information from other people about the case; or
- communicate with any of the parties, their lawyers, any of the witnesses, members of the media, or anyone else about the case, including by posting information, text messaging, e-mailing, or participating in Internet chat rooms, blogs, or social websites which could contain information about the case.

You also must not visit or view the scene of any event involved in this case. If you happen to pass by the scene, do not stop or investigate. You must also not consume any alcohol or drugs that could affect your ability to hear and understand the evidence.

The reason for these restrictions is to ensure that your decision is based only on the evidence presented during this trial and the Court's instructions on the law.

(Short form admonishment at every recess:)

During the recess, you may discuss the case among yourselves only while you are all together in the jury room. Do not discuss the case under any other circumstance. You must not form or express any opinion or conclusion about the outcome of the case until it is finally submitted to you for your deliberations.

(Long form admonishment at the conclusion of each day of trial:)

During the overnight recess, do not discuss the case under any circumstance. You must not form or express any opinion or conclusion about the outcome of the case until it is finally submitted to you for your deliberations. During the recess, you must not use computers, laptops, cellular telephones, or other electronic communication devices or any other method to:

- investigate, conduct research, or otherwise gather information regarding the case;
- conduct experiments or attempt to gain any specialized knowledge about the case;
- receive assistance in deciding the case from any outside sources;
- read, watch, or listen to anything about the case from any source;
- listen to discussions among or receive information from other people about the case; or
- communicate with any of the parties, their lawyers, any of the witnesses,

members of the media, or anyone else about the case, including by posting information, text messaging, e-mailing, or participating in Internet chat rooms, blogs, or social websites which could contain information about the case.

### Instruction No. 1.0300. Law and Facts.

### Instruction No. 1.0300. Law and Facts.

Under the Constitution of Indiana you have the right to determine both the law and the facts. The Court's/my instructions are your best source in determining the law.

### Instruction No. 1.0500. Instructions Considered as a Whole.

### Instruction No. 1.0500. Instructions Considered as a Whole.

You are to consider all the instructions together. Do not single out any certain sentence or any individual point or instruction and ignore the others.

### Instruction No. 1.0700. The Charge.

### Instruction No. 1.0700. The Charge.

In this case, the State of Indiana has charged the Defendant with [Count 1: *(insert Count 1)*, Count 2: *(insert Count 2)*, etc.] The charge(s) read(s) as follows:

\_\_\_\_\_ *[insert the Charge]*.

### Instruction No. 1.0900. The Crime Definition.

### Instruction No. 1.0900. The Crime Definition.

\_\_\_\_\_ *[Name of offense(s)]* charged [in Count I, II, etc.] is defined by law as follows:

\_\_\_\_\_ *[Quote the statute.]*

Before you may convict the Defendant, the State must have proved each of the following:

*[List here elements of the charged crime]*.

If the State fails to prove any of these elements beyond a reasonable doubt, you must find the Defendant not guilty of \_\_\_\_\_,  
a \_\_\_\_\_ *[felony][a misdemeanor]*, charged in Count \_\_\_\_\_.

### Comments

Some editing is necessary in almost every case to exclude statutory provisions that have no application to the facts charged. Be sure to include elements of criminal intent, e.g., “knowingly” or “intentionally,” which are required by caselaw and are omitted in the statute. Particular attention should be paid to those statutes with sentence enhancement built in because of prior convictions. The enhancement portion *must* be bifurcated and not referred to in any way in Phase I of the trial. Refer to Chapter 15 for appropriate language in Phase II of bifurcated trials.

## Instruction No. 1.1100. Charge Not Evidence and Plea.

### Instruction No. 1.1100. Charge Not Evidence and Plea.

The charge which has been filed is the formal method of bringing the Defendant to trial. The filing of a charge or the Defendant’s arrest is not to be considered by you as any evidence of guilt.

A plea of not guilty has been entered on behalf of the Defendant.

## Instruction No. 1.1300. Presumption of Innocence.

### Instruction No. 1.1300. Presumption of Innocence.

Under the law of this State, a person charged with a crime is presumed to be innocent. This presumption of innocence continues in favor of the Defendant throughout each stage of the trial and you should fit the evidence presented to the presumption that the Defendant is innocent, if you can reasonably do so.

If the evidence lends itself to two reasonable interpretations, you must choose the interpretation consistent with the defendant’s innocence. If there is only one reasonable interpretation, you must accept that interpretation and consider the evidence with all the other evidence in the case in making your decision.

To overcome the presumption of innocence, the State must prove the Defendant guilty of each element of the crime charged, beyond a reasonable doubt.

The Defendant is not required to present any evidence to prove his innocence or to prove or explain anything.

## Instruction No. 1.1500. Burden of Proof—Reasonable Doubt.

### Instruction No. 1.1500. Burden of Proof—Reasonable Doubt.

The burden is upon the State to prove beyond a reasonable doubt that the Defendant is guilty of the crime(s) charged. It is a strict and heavy burden. The evidence must overcome any reasonable doubt concerning the Defendant's guilt. But it does not mean that a Defendant's guilt must be proved beyond all possible doubt.

A reasonable doubt is a fair, actual and logical doubt based upon reason and common sense. A reasonable doubt may arise either from the evidence or from a lack of evidence. Reasonable doubt exists when you are not firmly convinced of the Defendant's guilt, after you have weighed and considered all the evidence.

A Defendant must not be convicted on suspicion or speculation. It is not enough for the State to show that the Defendant is probably guilty. On the other hand, there are very few things in this world that we know with absolute certainty. The State does not have to overcome every possible doubt.

The State must prove each element of the crime(s) by evidence that firmly convinces each of you and leaves no reasonable doubt. The proof must be so convincing that you can rely and act upon it in this matter of the highest importance.

If you find that there is a reasonable doubt that the Defendant is guilty of the crime(s), you must give the Defendant the benefit of that doubt and find the Defendant not guilty of the crime under consideration.

## Instruction No. 1.1700. Credibility of Witnesses—Weighing Evidence.

### Instruction No. 1.1700. Credibility of Witnesses—Weighing Evidence.

You are the exclusive judges of the evidence, which may be either witness testimony or exhibits. In considering the evidence, it is your duty to decide the value you give to the exhibits you receive and the testimony you hear.

In determining the value to give to a witness's testimony, some factors you may consider are:

- the witness's ability and opportunity to observe;
- the behavior of the witness while testifying;
- any interest, bias or prejudice the witness may have;
- any relationship with people involved in the case;
- the reasonableness of the testimony considering the other evidence;
- your knowledge, common sense, and life experiences.

You should not disregard the testimony of any witness without a reason and without careful consideration. If you find conflicting testimony, you may have to

decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

The quantity of evidence or the number of witnesses need not control your determination of the truth. You should give the greatest value to the evidence you find most convincing.

### Instruction No. 1.1900. Rulings of Court.

### Instruction No. 1.1900. Rulings of Court.

During the trial, the Court/I may rule that certain questions may not be answered and/or that certain exhibits may not be allowed into evidence. You must not concern yourselves with the reasons for the rulings. The Court's/my rulings are strictly controlled by law.

Occasionally, the Court/I may strike evidence from the record after you have already seen or heard it. You must not consider such evidence in making your decision.

Your verdict should be based only on the evidence admitted and the instructions on the law. Nothing that [the Court says or does] [I say or do] is intended to recommend what facts or what verdict you should find.

### Instruction No. 1.2100. Recalling Evidence.

### Instruction No. 1.2100. Recalling Evidence.

You must decide the facts from your memory of the testimony and exhibits admitted for your consideration. You may take notes during the trial. However, do not become so involved in note taking that you fail to listen carefully and observe the witnesses as they testify.

### Instruction No. 1.2200. Juror Questions and Procedure.

### Instruction No. 1.2200. Juror Questions and Procedure.

During the trial you may have questions you want to ask a witness. Please do not address any questions directly to a witness, the lawyers, or your fellow jurors since there are rules as to what questions may be asked, and the answers that witnesses are allowed to give. Instead, if you have questions, please raise your hand after the attorneys have asked all of their questions, and before the witness has left the witness stand. You must put your questions in writing. I will review them with the attorneys, and I will determine whether your questions are permitted by law. If a question is permitted, I will ask it of the witness. If it is not permitted, you may not speculate why it was not asked, nor what the answer may have been.

## Instruction No. 1.2300. Multiple Defendants—Separate Consideration.

### Instruction No. 1.2300. Multiple Defendants—Separate Consideration.

You should give separate consideration to each Defendant. Each Defendant is entitled to have [his] [her] case decided on the evidence and the law that applies to [him] [her].

If any evidence is limited to [one Defendant] [some Defendants] you must not consider it in deciding the case of any other Defendant[s].

## Instruction No. 1.2500. Conduct of Trial.

### Instruction No. 1.2500. Conduct of Trial.

The trial of this case will proceed as follows:

First, the attorneys will have an opportunity to make opening statements. These statements are not evidence and should be considered only as a preview of what the attorneys expect the evidence will be.

Following the opening statements, witnesses will be called to testify. They will be placed under oath and questioned by the attorneys [and/or the jury/you]. Exhibits may also be received as evidence. If an exhibit is given to you to examine, you should examine it carefully, individually, and without comment.

When the evidence is completed, the attorneys may make final arguments. These final arguments are not evidence. The attorneys are permitted to characterize the evidence, discuss the law and attempt to persuade you to a particular verdict. You may accept or reject those arguments as you see fit.

Finally, just before you begin your deliberations, I will give you further instructions on the law.

## Instruction No. 1.2700. Personal Knowledge of a Juror.

### Instruction No. 1.2700. Personal Knowledge of a Juror.

If, at any time, you realize you know something about the case or know a witness or the Defendant, you must inform the bailiff privately at your earliest opportunity.

## CHAPTER 2 GENERAL OFFENSES

### SYNOPSIS

Instruction No. 2.0100. Attempted [for attempted murder, use Instruction No. 2.0200 instead.]  
Instruction No. 2.0200. Attempted Murder.  
Instruction No. 2.0400. Attempt—Included Offense [for Attempted Murder use Instruction No. 2.0600 instead].  
Instruction No. 2.0600. Attempted Murder—Included Offense.  
Instruction No. 2.0800. Attempted Sex Crime Against a Child—Substantial Step of Travelling.  
Instruction No. 2.1000. Attempt—Misapprehension Is No Defense.  
Instruction No. 2.1200. Conspiracy.  
Instruction No. 2.1400. Conspiracy—No Defense.  
Instruction No. 2.1600. Aiding, Inducing or Causing an Offense.  
Instruction No. 2.1800. Aiding, Inducing or Causing Attempted Murder.

Instruction No. 2.0100. Attempted \_\_\_\_\_ [for attempted murder, use Instruction No. 2.0200 instead.]

Instruction No. 2.0100. Attempted \_\_\_\_\_ [for attempted murder, use Instruction No. 2.0200 instead.]

#### **I.C. 35-41-5-1(a), [Statute for object crime].**

The crime of \_\_\_\_\_ [name object crime] is defined by statute as \_\_\_\_\_ [insert definition of object crime]. A person attempts to commit a \_\_\_\_\_ [name object crime] when, acting with the culpability required for commission of the \_\_\_\_\_ [name object crime], [he] [she] engages in conduct that constitutes a substantial step toward commission of the \_\_\_\_\_ [name object crime]. The crime of attempted \_\_\_\_\_ [name object crime] is a [Level \_\_\_\_\_ (insert grade) felony] [Class \_\_\_\_\_ (insert grade) misdemeanor].

Before you may convict the Defendant of attempted \_\_\_\_\_ [name object crime], the State must have proved each of the following elements beyond a reasonable doubt:

1. The Defendant
2. acting with the culpability required to commit the crime of \_\_\_\_\_ [name object crime], which is defined as:  
[insert elements of object crime: i.e., knowingly or intentionally

element

element

element]



3. did \_\_\_\_\_ [*set out conduct alleged in charge as substantial step*]
4. which was conduct constituting a substantial step toward the commission of the crime of \_\_\_\_\_ [*name object crime*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of attempted \_\_\_\_\_ [*insert crime attempted*], a [Level \_\_\_\_\_ (*insert grade*) felony] [Class \_\_\_\_\_ (*insert grade*) misdemeanor], charged in Count \_\_\_\_\_.

### Instruction No. 2.0200. Attempted Murder.

### Instruction No. 2.0200. Attempted Murder.

I.C. 35-41-5-1(a), I.C. 35-42-1-1.

The crime of attempted murder is defined as follows: A person attempts to commit a murder when, acting with the specific intent to kill another person, he engages in conduct that constitutes a substantial step toward killing that person.

Before you may convict the Defendant of attempted murder, the State must have proved each of the following elements beyond a reasonable doubt:

1. The Defendant
2. acting with the specific intent to kill [*name victim*]
3. did \_\_\_\_\_ [*set out conduct charged as substantial step*]
4. which was conduct constituting a substantial step toward the commission of the intended crime of killing [*name victim*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of attempted murder, a felony, charged in Count \_\_\_\_\_.

Instruction No. 2.0400. Attempt—Included Offense [for Attempted Murder use Instruction No. 2.0600 instead].

Instruction No. 2.0400. Attempt—Included Offense [for Attempted Murder use Instruction No. 2.0600 instead].

I.C. 35-41-5-1(a), [*statute for object crime*].

The crime of \_\_\_\_\_ [*name object crime*] charged in this case includes the crime of attempted \_\_\_\_\_ [*name object crime*]. The crime of attempted

\_\_\_\_\_ [name object crime] is defined by law as follows: The crime of \_\_\_\_\_ [name object crime] is defined as \_\_\_\_\_ [insert definition of object crime]. A person attempts to commit a \_\_\_\_\_ [name object crime] when, acting with the culpability required for commission of the \_\_\_\_\_ [name object crime], [he] [she] engages in conduct that constitutes a substantial step toward commission of the \_\_\_\_\_ [name object crime]. The crime of attempted \_\_\_\_\_ [name object crime] is a [Level \_\_\_\_\_ (insert grade) felony] [Class \_\_\_\_\_ (insert grade) misdemeanor].

To convict the Defendant of attempted \_\_\_\_\_ [name object crime], the State must have proved each of the following elements:

1. The Defendant
2. acting [intentionally] [knowingly] \_\_\_\_\_ [set out conduct elements of object crime as charged]
3. did \_\_\_\_\_ [set out conduct charged as substantial step]
4. which was conduct constituting a substantial step toward the commission of the crime of \_\_\_\_\_ [name object crime].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of attempted \_\_\_\_\_ [insert crime attempted], a [Level \_\_\_\_\_ (insert grade) felony] [Class \_\_\_\_\_ (insert grade) misdemeanor], charged in Count \_\_\_\_\_.

## Instruction No. 2.0600. Attempted Murder—Included Offense.

## Instruction No. 2.0600. Attempted Murder—Included Offense.

I.C. 35-41-5-1(a), I.C. 35-42-1-1.

The crime of murder charged in this case includes the crime of attempted murder. The crime of attempted murder is defined as follows: a person attempts to commit a murder when, acting with the specific intent to kill another person, he engages in conduct that constitutes a substantial step toward killing that person.

To convict the Defendant of attempted murder, the State must have proved each of the following elements:

1. The Defendant
2. acting with the specific intent to kill [name victim]
3. did \_\_\_\_\_ [set out conduct charged as substantial step]
4. which was conduct constituting a substantial step toward the commission of the intended crime of killing [name victim].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of attempted murder, a felon, charged in Count \_\_\_\_\_.

Instruction No. 2.0800 Attempted Sex Crime Against a Child—Substantial  
Step of Travelling.

Instruction No. 2.0800. Attempted Sex Crime Against a Child—Substantial  
Step of Travelling.

I.C. 35-41-5-1(c).

The crime of \_\_\_\_\_ [*name object sex crime*] is defined by statute as  
[*insert definition of object sex crime*]. A person attempts to commit a  
\_\_\_\_\_ [*name object sex crime*] when, acting with the culpability required for  
commission of the \_\_\_\_\_ [*name object sex crime*], [he] [she] engages in  
conduct that constitutes a substantial step toward commission of the  
\_\_\_\_\_ [*name object crime*]. A person engages in conduct that constitutes a  
substantial step toward commission of the crime of \_\_\_\_\_ [*name object sex  
crime*] if the person, with the intent to commit \_\_\_\_\_ [*name object sex  
crime*] [against a child] [an individual the person believes to be a child]:  
(1) communicates with the child or individual the person believes to be a child  
concerning the sex crime; and  
(2) travels to another location to meet the child or individual the person believes to  
be a child].

The crime of attempted \_\_\_\_\_ [*name object crime*] is [Level \_\_\_\_\_  
(*insert grade*) felony] [Class \_\_\_\_\_ (*insert grade*) misdemeanor].

Before you may convict the Defendant of attempted \_\_\_\_\_ [*name object  
sex crime*], the State must have proved each of the following elements beyond a  
reasonable doubt:

1. The Defendant
2. acting with [*the culpability required to commit the crime of* \_\_\_\_\_ [*name  
object sex crime*], which is defined as:  
[*insert elements of object crime: i.e., knowingly or intentionally*

*element*

*element*

*element*

3. did \_\_\_\_\_ [*set out conduct alleged in charge as substantial step*], which  
was conduct constituting a substantial step toward the commission of the crime of  
\_\_\_\_\_ [*name object crime*]  
[or]

(*if alleged*) with the intent to commit \_\_\_\_\_ (*name object sex crime*) against  
[*name child*] [an individual the Defendant believed to be a child], did

communicate with [*name the child*] [the individual the Defendant believed to be a child] concerning the \_\_\_\_\_ (*name object sex crime*)

and

travelled to another location, \_\_\_\_\_ (*name location alleged*), to meet [*name the child*] [an individual the person believes to be a child].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of attempted [*insert sex crime attempted*], a [Level \_\_\_\_\_ (*insert grade*) felony] [Class \_\_\_\_\_ (*insert grade*) misdemeanor], charged in Count \_\_\_\_\_.

Instruction No. 2.1000. Attempt—Misapprehension Is No Defense.

Instruction No. 2.1000. Attempt—Misapprehension Is No Defense.

I.C. 35-41-5-1(b).

It is not a defense that, because the Defendant [did not correctly understand] [misunderstood] [misapprehended] the circumstances, it would have been impossible for the Defendant to commit the crime attempted.

Instruction No. 2.1200. Conspiracy.

Instruction No. 2.1200. Conspiracy.

I.C. 35-41-5-2(a), (b).

The crime of conspiracy is defined by law as follows:

A person conspires to commit a felony when, with intent to commit the felony, he agrees with another person to commit the felony. [A conspiracy to commit a felony is a felony of the same class as the underlying felony.] [A conspiracy to commit murder is a Level 2 felony if the conspiracy does not result in the death of a person.] [A conspiracy to commit murder is a Level 1 felony if the conspiracy results in the death of another person.] The State must allege and prove that either the person or the person with whom [he] [she] agreed performed an overt act in furtherance of the agreement.

Before you may convict the Defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The Defendant
2. agreed with another person [*name*] to commit the crime of \_\_\_\_\_ [*name crime*]
3. with the intent to commit the crime, and
4. [Defendant] [the other person (*name*)] performed an overt act in furtherance of the agreement by \_\_\_\_\_ [*set out the overt act(s) charged in the information*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of conspiracy, a Level \_\_\_\_\_ [*insert the correct level of crime*] felony, charged in Count \_\_\_\_\_.

Instruction No. 2.1400. Conspiracy—No Defense.

Instruction No. 2.1400. Conspiracy—No Defense.

#### I.C. 35-41-5-2(a).

The law provides that it is no defense that the person with whom the accused person is alleged to have conspired:

[has not been prosecuted]

[or]

[has not been convicted]

[or]

[has been acquitted]

[or]

[has been convicted of a different crime]

[or]

[cannot be prosecuted for any reason]

[or]

[lacked the capacity to commit the crime.]

Instruction No. 2.1600. Aiding, Inducing or Causing an Offense.

Instruction No. 2.1600. Aiding, Inducing or Causing an Offense.

I.C. 35-41-2-4.

Aiding, inducing or causing \_\_\_\_\_ [*name offense*] is defined by law as follows:

A person who, knowingly or intentionally [aids] [induces] [causes] another person to commit an offense commits that offense. (A person may be convicted of [aiding] [inducing] [causing] \_\_\_\_\_ [*name offense*] even if the other person has not been prosecuted for the \_\_\_\_\_ [*name offense*], has not been convicted of the \_\_\_\_\_ [*name offense*], or has been acquitted of the \_\_\_\_\_ [*name offense*].)

Before you may convict the Defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [aided]

[or]

[induced]

[or]

[caused]

4. [*name other person*] to commit the offense of \_\_\_\_\_ [*name offense*], defined as \_\_\_\_\_ [*define elements of offense*]
5. by \_\_\_\_\_ [*describe alleged offense and conduct*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of aiding, inducing, or causing [*name offense*], a Level \_\_\_\_\_ [*specify grade of felony*] felony, charged in Count \_\_\_\_\_.

Instruction No. 2.1800. Aiding, Inducing or Causing Attempted Murder.

Instruction No. 2.1800. Aiding, Inducing or Causing Attempted Murder.

I.C. 35-41-2-4.

Aiding, inducing or causing attempted murder is defined by law as follows:

A person who, knowingly or intentionally [aids another person who is engaged] [induces or causes another person to engage] in conduct that constitutes a substantial step toward killing a third person, when both have the specific intent to kill the third person, commits the offense of [aiding] [inducing] [causing] attempted murder. [A person may be convicted under this statute, even if the other person has not been prosecuted for the attempted murder, has not been convicted of the attempted murder, or has been acquitted of the attempted murder.]

Before you may convict the Defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [aided (*name other person*) when (*name other person*) was engaged]
- [or]

[induced or caused (*name other person*) to engage]

4. in conduct that constituted a substantial step toward killing [*name third person*]
5. and both Defendant and [name other person] acted with the specific intent to kill [*name third person*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of aiding, inducing, or causing attempted murder, a Level \_\_\_\_\_ [*specify grade of felony*] felony, charged in Count \_\_\_\_\_.

## CHAPTER 3 OFFENSES AGAINST THE PERSON

### SYNOPSIS

Instruction No. 3.0100. Murder—Killing a Human Being.  
Instruction No. 3.0140. Murder—Felony Murder.  
Instruction No. 3.0180. Murder—Killing a Fetus.  
Instruction No. 3.0300. Causing Suicide.  
Instruction No. 3.0340. Assisting Suicide.  
Instruction No. 3.0500. Murder with Lesser Offense of Voluntary Manslaughter.  
Instruction No. 3.0540. Voluntary Manslaughter as Principal Charge.  
Instruction No. 3.0700. Feticide.  
Instruction No. 3.0800. Involuntary Manslaughter—Death of Human or Fetus While Committing or Attempting Level 5 or 6 felony or A misdemeanor.  
Instruction No. 3.0840. Causation (Involuntary Manslaughter).  
Instruction No. 3.1000. Reckless Homicide.  
Instruction No. 3.1200. Battery (on Another Person--Class B Misdemeanor).  
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Instruction No. 3.1280. Battery on a Person Less than Fourteen (Level 6 Felony).  
Instruction No. 3.1320. Battery (Person with Disability--Level 6 Felony).  
Instruction No. 3.1360. Battery—Endangered Adult (Level 6 Felony).  
Instruction No. 3.1400. Battery (Family Member, Child Present--Level 6 Felony).  
Instruction No. 3.1700. Malicious Mischief—Placing to Have Touched.  
Instruction No. 3.1740. Malicious Mischief with Food.  
Instruction No. 3.1900. Domestic Battery.  
Instruction No. 3.2000. Aggravated Battery.  
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Instruction No. 3.2140. Hazing.  
Instruction No. 3.2180. Strangulation.  
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Instruction No. 3.2500. Kidnapping.  
Instruction No. 3.2540. Criminal Confinement.  
Instruction No. 3.2700. Interference with Custody.  
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Instruction No. 3.3300. Child Molesting—Sexual Intercourse or Other Sexual Conduct.  
Instruction No. 3.3340. Child Molesting--Fondling.  
Instruction No. 3.3380. Child Molesting Defenses—Belief as to Age.  
Instruction No. 3.3500. Sexual Misconduct with a Minor—Intercourse or Sexual Conduct.  
Instruction No. 3.3540. Sexual Misconduct with a Minor—Defenses.  
Instruction No. 3.3700. Sexual Conduct in the Presence of a Minor.  
Instruction No. 3.3900. Vicarious Sexual Gratification—Touching or Fondling.  
Instruction No. 3.3940. Vicarious Sexual Gratification—Intercourse, Animals, Other Sexual Conduct.  
Instruction No. 3.4100. Child Solicitation—Victim Under Fourteen.  
Instruction No. 3.4140. Child Solicitation—Victim Fourteen to Fifteen.  
Instruction No. 3.4180. Child Exploitation—Managing or Producing.  
Instruction No. 3.4220. Child Exploitation—Disseminating.  
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Instruction No. 3.4380. Child Exploitation – By Computer.  
Instruction No. 3.4600. Possession of Child Pornography.  
Instruction No. 3.4700. Sexting Defense to Child Exploitation—Managing or Producing, Child Exploitation—Disseminating, Child Exploitation—Computer , Possession of Child Pornography, Child



Exploitation—Performance or Incident, Child Exploitation—Disseminating or Exhibiting Matter, and Child Exploitation—By Computer.

Instruction No. 3.4900. Unlawful Employment Near Children.

Instruction No. 3.5000. Sex Offender Residency Offense.

Instruction No. 3.5200. Child Seduction—No Professional Relationship.

Instruction No. 3.5240. Child Seduction—Professional Relationship.

Instruction No. 3.5400. Sexual Battery.

Instruction No. 3.5700. Robbery.

Instruction No. 3.6100. Overpass Mischief.

Instruction No. 3.6300. Promotion of Human Trafficking.

Instruction No. 3.6500. Sexual Trafficking of a Minor.

Instruction No. 3.6700. Human Trafficking.

Instruction No. 3.6900. Promotion of Human Trafficking of a Minor.

Instruction No. 3.7100. Sex Offender Internet Offense. Instruction No. 3.7500. Inappropriate Communication With a Child.

Instruction No. 3.0100. Murder—Killing a Human Being.

Instruction No. 3.0100. Murder—Killing a Human Being.

#### I.C. 35-42-1-1.

The crime of murder is defined by law as follows:

A person who knowingly or intentionally kills another human being commits murder, a felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. killed
4. (*name*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of murder, a felony, charged in Count

\_\_\_\_\_.

Instruction No. 3.0140. Murder—Felony Murder.

## Instruction No. 3.0140. Murder—Felony Murder.

### I.C. 35-42-1-1.

The crime of murder is defined by law as follows:

A person who kills another human being while committing or attempting to commit (arson) (burglary) (child molesting) (consumer product tampering) (criminal deviate conduct [under IC 35-42-4-2 before its repeal]) (kidnapping) (rape) (robbery) (human trafficking) (promotion of human trafficking) (sexual trafficking of a minor) (carjacking [before its repeal]) (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine) (dealing in a Schedule I, II, III, IV, or V controlled substance) commits murder, a felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. killed
3. (*name*)
4. while committing or attempting to commit (arson) (burglary) (child molesting) (consumer product tampering) (criminal deviate conduct [under IC 35-42-4-2 before its repeal]) (kidnapping) (rape) (robbery) (human trafficking) (promotion of human trafficking) (sexual trafficking of a minor) (carjacking [before its repeal]) (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine) (dealing in a Schedule I, II, III, IV, or V controlled substance), which is defined as (*set out elements of crime committed or of the attempt to commit the crime*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of murder, a felony, charged in Count \_\_\_\_\_.

## Instruction No. 3.0180. Murder—Killing a Fetus.

## Instruction No. 3.0180. Murder—Killing a Fetus.

### I.C. 35-42-1-1.

The crime of murder is defined by law as follows:

A person who knowingly or intentionally kills a fetus that has attained viability commits murder, a felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. killed
4. a fetus that had attained viability, which is defined as the ability of a fetus to live outside the mother's womb.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the defendant not guilty of murder, a felony, charged in Count \_\_\_\_\_.

### Instruction No. 3.0300. Causing Suicide.

### Instruction No. 3.0300. Causing Suicide.

#### I.C. 35-41-1-2.

The crime of causing suicide is defined by law as follows:

A person who intentionally causes another human being, by force, duress, or deception, to commit suicide commits causing suicide, a Level 3 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. intentionally
3. caused [*name*], a human being,
4. to commit suicide by [force] [duress] [deception].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of causing suicide, a Level 3 felony, charged in Count \_\_\_\_\_.

### Instruction No. 3.0340. Assisting Suicide.

### Instruction No. 3.0340. Assisting Suicide.

#### I.C. 35-42-1-2.5.

The crime of assisting suicide is defined by law as follows:

A person who has knowledge that another person intends to \_\_\_\_\_ [commit] [attempt to commit] suicide and who [intentionally provides the physical means by which the other person (attempts) (commits) suicide]

[participates in a physical act by which the other person (attempts) (commits) suicide] commits assisting suicide, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. had knowledge that \_\_\_\_\_[*name*] intended [to commit] [to attempt to commit] suicide and
3. the Defendant intentionally
4. [provided the physical means (*describe as charged*) by which (*name*) (attempted to commit) (committed) suicide]
- [or]

[participated in a physical act (*describe as charged*) by which (*name*) (attempted to commit) (committed) suicide].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of assisting suicide, a Level 5 felony, charged in Count \_\_\_\_\_.

### Instruction No. 3.0500. Murder with Lesser Offense of Voluntary Manslaughter.

### Instruction No. 3.0500. Murder with Lesser Offense of Voluntary Manslaughter.

#### I.C. 35-42-1-1, I.C. 35-42-1-3.

The crime of murder is defined by law as follows:

A person who knowingly or intentionally kills another human being, commits murder, a felony.

Included in the charge in this case is the crime of voluntary manslaughter, which is defined by law as follows:

A person who knowingly or intentionally kills [another human being] [a fetus that has attained viability] while acting under sudden heat commits voluntary manslaughter, a Level 2 felony.

Sudden heat is a mitigating factor that reduces what otherwise would be murder to voluntary manslaughter. The State has the burden of proving beyond a reasonable doubt that the Defendant was not acting under sudden heat.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. knowingly or intentionally
3. killed
4. [*name human being*] [a fetus that had attained viability, which is defined as the ability of a fetus to live outside the mother's womb.]
5. and the Defendant was not acting under sudden heat.

If the State failed to prove each of elements 1 through 4 beyond a reasonable doubt, you must find the Defendant not guilty of murder as charged in Count \_\_\_\_\_.

If the State did prove each of elements 1 through 4 beyond a reasonable doubt, but the State failed to prove beyond a reasonable doubt element 5, you may find the Defendant guilty of voluntary manslaughter, a Level 2 felony, a lesser included offense of Count \_\_\_\_\_.

If the State did prove each of elements 1 through 5 beyond a reasonable doubt, you may find the Defendant guilty of murder, a felony as charged in Count \_\_\_\_\_.

### Instruction No. 3.0540. Voluntary Manslaughter as Principal Charge.

### Instruction No. 3.0540. Voluntary Manslaughter as Principal Charge.

#### I.C. 35-42-1-3.

The crime of voluntary manslaughter is defined by law as follows:

A person who knowingly or intentionally kills another [human being] [a fetus that has attained viability] while acting under sudden heat commits voluntary manslaughter, a Level 2 felony.

The existence of sudden heat is a mitigating factor that reduces what otherwise would be murder to voluntary manslaughter. The State has conceded the existence of sudden heat by charging voluntary manslaughter instead of murder.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. killed
4. [*name*] [a fetus that had attained viability, which is defined as the ability of a fetus to live outside the mother's womb.]

If the State failed to prove each of elements 1 through 4 beyond a reasonable doubt, you must find the Defendant not guilty of voluntary manslaughter, a Level 2 felony, charged in Count \_\_\_\_\_.

Instruction No. 3.0700. Feticide.

Instruction No. 3.0700. Feticide.

I.C. 35-42-1-6.

The crime of feticide is defined as follows:

A person who knowingly or intentionally terminates a human pregnancy with an intention other than to [produce a live birth] [remove a dead fetus] commits feticide, a Level 3 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. terminated the pregnancy of \_\_\_\_\_[*name*]
4. with an intention other than  
[to produce a live birth]

[or]

[to remove a dead fetus.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of feticide, a Level 3 felony, as charged in Count \_\_\_\_\_.

Instruction No. 3.0800. Involuntary Manslaughter—Death of Human or Fetus While Committing or Attempting 5 or 6 felony or A Misdemeanor

Instruction No. 3.0800. Involuntary Manslaughter—Death of Human or Fetus While Committing or Attempting 5 or 6 felony or A Misdemeanor

I.C. 35-42-1-4.

The crime of involuntary manslaughter is defined by statute as follows:

A person who kills [another human being] [a fetus which has attained the ability to live outside the mother's womb] while committing or attempting to commit [a (Level 5 ) (Level 6) felony that inherently poses a risk of serious bodily injury] [a Class A misdemeanor that inherently poses a risk of serious bodily injury] [battery] [(for fetus only) a violation of IC 9-30-5-1 through IC 9-30-5-5 (operating a vehicle while intoxicated)] commits involuntary manslaughter, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following elements:

1. The Defendant
2. killed  
[ (name), a human being]

[or]

- [a fetus which had attained the ability to live outside the mother's womb]
3. while [committing] [attempting to commit]
  4. [(set out elements of the Level 5 felony, Level 6 felony, or Class A misdemeanor), a (Level 5 felony) (Level 6 felony) (Class A misdemeanor) which inherently poses a risk of serious bodily injury]

[or]

[(set out elements of battery), a battery]

[or]

[(for fetus only) a violation of IC 9-30-5-1 through IC 9-30-5-5 (operating a vehicle while intoxicated)].

If the State failed to prove each of these elements beyond a reasonable doubt, you should find the Defendant not guilty of involuntary manslaughter, a Level 5 felony.

### Instruction No. 3.0840. Causation (Involuntary Manslaughter).

### Instruction No. 3.0840. Causation (Involuntary Manslaughter).

In a prosecution of involuntary manslaughter, the State must prove beyond a reasonable doubt that the defendant committed an act, or failed to do an act where the law imposes a duty to act, which was the proximate cause of the death of [name].

Instruction No. 3.1000. Reckless Homicide.

Instruction No. 3.1000. Reckless Homicide.

I.C. 35-42-1-5.

The crime of reckless homicide is defined by law as follows:

A person who recklessly kills another human being commits reckless homicide, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. recklessly
3. killed
4. [name].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the defendant not guilty of reckless homicide, a Level 5 felony, charged in count \_\_\_\_\_.

**Instruction No. 3.1200. Battery (on Another Person – Class B Misdemeanor).**

**Instruction No. 3.1200. Battery (on Another Person – Class B Misdemeanor).**

**I.C. 35-42-2-1.**

The crime of battery is defined by law as follows:

A person who knowingly or intentionally [touches another person in a rude, insolent, or angry manner] [in a rude, insolent, or angry manner places any bodily fluid or waste on another person] commits battery, a Class B misdemeanor. [The offense is a Class A misdemeanor if it results in bodily injury.] [The offense is a Level 6 felony if (it results in moderate bodily injury) (the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with {hepatitis} {tuberculosis} {human immunodeficiency virus}.] [The offense is a Level 5 felony if (it is



committed with a deadly weapon) (it results in bodily injury to a pregnant woman if the person knew of the pregnancy).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. [touched (*name*), another person]

[or]

[placed bodily fluid or waste on (*name*), another person]

4. in a rude, insolent, or angry manner
- [5. (*for Class A misdemeanor*) which resulted in bodily injury to  
(*name*), another person.]

- [6. (*for Level 6 felony*) (which resulted in moderate bodily injury)

(or)

(and the Defendant [knew] [recklessly failed to know] that the bodily fluid or waste placed on [name], another person, was infected with [hepatitis] [tuberculosis] [human immunodeficiency virus].)]

[7. (for Level 5 felony) (and the offense was committed with a deadly weapon)

(or)

(which resulted in bodily injury to [name], a woman who was then pregnant and the Defendant knew of the pregnancy).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of battery, a (Class B/A misdemeanor) (Level 6/5 felony), charged in Count \_\_\_\_\_.

**Instruction No. 3.1240 Battery (on a Public Safety Official – Level 6 Felony).**

**Instruction No. 3.1240 Battery (on a Public Safety Official – Level 6 Felony).**

**I.C. 35-42-2-1.**

The crime of battery on a public safety official is defined by law as follows:

A person who knowingly or intentionally [touches a public safety official in a rude,

insolent, or angry manner] [in a rude, insolent, or angry manner places any bodily fluid or waste on public safety official] while the official is engaged in the official's official duty commits battery, a Level 6 felony. [The offense is a Level 5 felony if it results in bodily injury.] [The offense is a Level 5 felony if the person knew or recklessly failed to know that the bodily fluid or waste placed on the public official was infected with {hepatitis} {tuberculosis} {human immunodeficiency virus}.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. [touched (*name*), another person]

[or]

[placed bodily fluid or waste on (*name*), another person]

4. in a rude, insolent, or angry manner
5. when (*name*) was (*insert pertinent public safety official definition from Comments below*) engaged in (his) (her) official duty
- [6. (*for Level 5 felony*) (and the {touching} {placing of bodily fluid or waste} resulted in bodily injury)

(or)

(and the Defendant [knew] [recklessly failed to know] that the bodily fluid or waste placed on [*name public safety official*] was infected with [hepatitis] [tuberculosis] [human immunodeficiency virus].)]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of battery on a public safety official, a (Level 6/5 felony), charged in Count \_\_\_\_\_.

**Instruction No. 3.1280. Battery (Person Less Than Fourteen Years of Age – Level 6 Felony).**

**Instruction No. 3.1280. Battery (Person Less Than Fourteen Years of Age – Level 6 Felony).**

**I.C. 35-42-2-1.**

The crime of battery on a person under fourteen is defined by law as follows:

A person at least eighteen (18) years of age who knowingly or intentionally [touches a person less than fourteen (14) years of age in a rude, insolent, or angry manner] [in a rude, insolent, or angry manner places any bodily fluid or waste on a person less than fourteen (14) years of age] commits battery on a person under fourteen, a Level 6 felony. [The offense is a Level 5 felony if it results in bodily injury to the person who is less than fourteen (14) years of age .] [The offense is a Level 3 felony if it results in serious bodily injury to the person who is less than fourteen (14) years of age.] [The offense is a Level 2 felony if it results in death to the person who is less than fourteen (14) years of age.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. [touched (*name*), a person who was then less than fourteen (14) years of age]

[or]

[placed bodily fluid or waste on (*name*), a person who was then less than fourteen (14) years of age]

4. in a rude, insolent, or angry manner
- [5. (*for Level 5 felony*) which resulted in bodily injury to (*name, the person who was then less than fourteen (14) years of age*).]
- [6. (*for Level 3 felony*) (which resulted in serious bodily injury) to (*name, the person who was then less than fourteen (14) years of age*).]
- [7. (*for Level 2 felony*) which resulted in the death of ((*name, the person who was then less than fourteen (14) years of age*)).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of battery, a Level 6/5/3/2 felony, charged in Count \_\_\_\_\_.

**Instruction No. 3.1320. Battery (Person with Disability – Level 6 Felony).**

**Instruction No. 3.1320. Battery (Person with Disability – Level 6 Felony).**

**I.C. 35-42-2-1.**

The crime of battery on a person with a mental or physical disability is defined by law as follows:

A person who knowingly or intentionally [touches a person who has a mental or physical disability in a rude, insolent, or angry manner] [in a rude, insolent, or angry manner places any bodily fluid or waste on a person who has a mental or physical disability] and has the care of the person with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation, commits battery on a person with a disability, a Level 6 felony. [The offense is a Level 5 felony if it results in bodily injury to the disabled person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally

3. [touched (*name*), a person who then had a (mental)  
(physical) disability]

[or]

[placed bodily fluid or waste on (*name*), a person who then had a (mental)  
(physical) disability]

4. in a rude, insolent, or angry manner
5. when the Defendant (voluntarily) (because of a legal obligation)  
had the care of (*name person with disability*)
- [6. (*for Level 5 felony*) which resulted in bodily injury to (*name  
person with disability*).]

If the State failed to prove each of these elements beyond a reasonable doubt,  
you must find the Defendant not guilty of battery on a person with a disability, a Level  
6/5 felony, charged in Count \_\_\_\_\_.

**Instruction No. 3.1360. Battery (Endangered Adult).**

## **Instruction No. 3.1360. Battery (Endangered Adult).**

### **I.C. 35-42-2-1.**

The crime of battery on an endangered adult is defined by law as follows:

A person who knowingly or intentionally [touches a person who is an endangered adult in a rude, insolent, or angry manner] [in a rude, insolent, or angry manner places any bodily fluid or waste on a person who is an endangered adult] commits battery on an endangered adult, a Level 6 felony. [The offense is a Level 5 felony if it results in bodily injury to the person who is an endangered adult .] [The offense is a Level 3 felony if it results in serious bodily injury to the person who is an endangered adult.] [The offense is a Level 2 felony if it results in death to the person who is who is an endangered adult.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. [touched (*name*), a person who was then an endangered adult]

[or]

[placed bodily fluid or waste on (*name*), a person who was then an endangered adult]

4. in a rude, insolent, or angry manner



[5. (for Level 5 felony) which resulted in bodily injury to (name, the person who was then an endangered adult).]

[6. (for Level 3 felony) (which resulted in serious bodily injury) to (name, the person who was then an endangered adult).]

[7. (for Level 2 felony) which resulted in the death of (name, the person who was then an endangered adult).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of battery on an endangered adult, a Level 6/5/3/2 felony, charged in Count \_\_\_\_\_.

**Instruction No. 3.1400. Battery (Family Member, Child Present – Level 6 Felony).**

**Instruction No. 3.1400. Battery (Family Member, Child Present – Level 6 Felony).**

**I.C. 35-42-2-1.**

The crime of battery on a family member when a child is present is defined by law as follows:

A person who knowingly or intentionally [touches a family or household member in a rude, insolent, or angry manner] [in a rude, insolent, or angry manner places any bodily fluid or waste on a family or household member] when the person is at least eighteen (18) years of age and committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense commits battery on a family member with a child present, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. [touched (*name*), a person who was then a family or household member of the Defendant]

[or]

[placed bodily fluid or waste on (*name*), a person who was then a family or household member of the Defendant]

4. in a rude, insolent, or angry manner
5. when (*name child*), who was then a child less than sixteen (16) years of age, was physically present

6. and when Defendant knew that (*name child*) was present  
and might be able to see or hear the offense.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of battery on a family member when a child is present, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 3.1700. Malicious Mischief—Placing to Have Touched.

Instruction No. 3.1700. Malicious Mischief—Placing to Have Touched.

**I.C. 35-45-16-2.**

A person who recklessly, knowingly, or intentionally places (body fluid) (fecal waste) in a location with the intent that another person will involuntarily touch the (body fluid) (fecal waste) commits malicious mischief, a Class B misdemeanor.

[The offense is is a Level 6 felony if the person knew or recklessly failed to know that the (body fluid) (fecal waste) was infected with infectious hepatitis, HIV, or tuberculosis.]

[The offense is a Level 5 felony if:  
(the person knew or recklessly failed to know that the (body fluid) (fecal waste) was infected with infectious hepatitis and the offense results in the transmission of infectious hepatitis to the other person)

(the person knew or recklessly failed to know that the (body fluid) (fecal waste) was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person).]

[The offense is a Level 4 felony if the person knew or recklessly failed to know that the (body fluid) (fecal waste) was infected with HIV and the offense results in the transmission of HIV to the other person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. recklessly, knowingly, or intentionally
3. placed (body fluid) (fecal waste) in (*specify location*)
4. with the intent that another person would involuntarily touch the (body fluid) (fecal waste)  
[5. (*for Level 6 felony*) and the Defendant (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with (infectious hepatitis) (HIV) (tuberculosis)]  
[6. (*for Level 5 felony*) and the Defendant (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with (infectious hepatitis) (tuberculosis) and the offense resulted in the transmission of (infectious hepatitis) (tuberculosis) to the other person]  
[7. (*for Level 4 felony*) and the Defendant (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with HIV and the offense resulted in the transmission of HIV to the other person].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of malicious mischief, a Class B misdemeanor/Level 6/5/4 felony, charged in Count \_\_\_\_\_.

### Instruction No. 3.1740. Malicious Mischief with Food.

### Instruction No. 3.1740. Malicious Mischief with Food.

#### I.C. 35-45-16-2.

A person who recklessly, knowingly, or intentionally places (body fluid) (fecal waste) in a location with the intent that another person will ingest the (body fluid) (fecal waste), commits malicious mischief with food, a Class A misdemeanor.

[The offense is a Level 6 felony if the person knew or recklessly failed to know that the (body fluid) (fecal waste) was infected with (infectious hepatitis) (HIV) (tuberculosis).]

[The offense is a Level 5 felony if:  
(the person knew or recklessly failed to know that the (body fluid) (fecal waste) was infected with (infectious hepatitis) and the offense results in the transmission of (infectious hepatitis) to the other person)

(the person knew or recklessly failed to know that the (body fluid) (fecal waste) was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person).]

[The offense is a Level 4 felony if the person knew or recklessly failed to know that the (body fluid) (fecal waste) was infected with HIV and the offense results in the transmission of HIV to the other person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. recklessly, knowingly, or intentionally
3. placed ((body fluid) (fecal waste) in (*specify location*)
4. with the intent that another person would ingest the (body fluid) (fecal waste)  
[5. (*for Level 6 felony*) and the Defendant (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with (infectious hepatitis) (HIV) (tuberculosis)]  
[6. (*for Level 5 felony*) and the Defendant (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with (infectious hepatitis) (tuberculosis) and the offense resulted in the transmission of (infectious hepatitis) (tuberculosis) to the other person]  
[7. (*for Level 4 felony*) and the Defendant (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with HIV and the offense resulted in the transmission of HIV to the other person].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of malicious mischief, a Class B misdemeanor/Level 6/5/4 felony, charged in Count \_\_\_\_\_.

### Instruction No. 3.1900. Domestic Battery.

### Instruction No. 3.1900. Domestic Battery.

### I.C. 35-42-2-1.3.

The crime of domestic battery is defined by law as follows:

A person who knowingly or intentionally touches a person who (is or was a spouse of the other person) (is or was living as if a spouse of the other person\*) (has a child in common with the other person) in a rude, insolent, or angry manner that results in bodily injury to the person touched commits domestic battery, a Class A misdemeanor. [If the person committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense, the offense is a Level 6 felony.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. touched (*name person allegedly touched*)
4. in a rude, insolent, or angry manner
5. which resulted in bodily injury to (*name person allegedly touched*)

6. when (*name person allegedly touched*):  
(was Defendant's spouse);

(or)

(had been Defendant's spouse);

(or)

(was living as if Defendant's spouse\* based on the following factors:

the duration of the relationship;

the frequency of contact;

the financial interdependence;

whether the two (2) individuals were raising children together;

whether the two (2) individuals had engaged in tasks directed toward  
maintaining a common household; and

other factors which you consider relevant)

(had once lived as if Defendant's spouse\* based on the following factors:

the duration of the relationship;

the frequency of contact;

the financial interdependence;

whether the two (2) individuals were raising children together;

whether the two (2) individuals had engaged in tasks directed toward  
maintaining a common household; and

other factors which you consider relevant)

(had a child in common with Defendant).

[7. (*For Level 6 felony*) Defendant committed the offense  
in the physical presence of (*name child*), who was at the time less than sixteen  
(16) years of age,

and when Defendant knew that (*name child*) was present and might be able to  
hear or see the offense].

If the State failed to prove each of these elements beyond a reasonable doubt,  
you must find the Defendant not guilty of domestic battery, a Class A  
misdemeanor/Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 3.2000. Aggravated Battery.

## Instruction No. 3.2000. Aggravated Battery.

### I.C. 35-42-2-1.5.

The crime of aggravated battery is defined by law as follows:

A person who knowingly or intentionally inflicts injury on a person that creates a substantial risk of death or causes (serious permanent disfigurement) (protracted loss or impairment of the function of a bodily member or organ) (the loss of a fetus) commits aggravated battery, a Level 3 felony. [The offense is a Level 1 felony if it results in the death of a child less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. inflicted injury on (*name person*)
4. and the injury  
(created a substantial risk of death)  
(caused:  
[serious permanent disfigurement]  
[protracted loss or impairment of the function of (*specify alleged bodily member or organ*)]  
[the loss of a fetus].)  
[5. (*For Level 1 felony*) and the offense resulted in the death of (*name child*),  
a child who was at the time less than fourteen (14) years of age and the Defendant was at the time at least eighteen (18) years of age.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of aggravated battery, a Level 3/1 felony.

Instruction No. 3.2100. Criminal Recklessness.

Instruction No. 3.2100. Criminal Recklessness.

I.C. 35-42-2-2.

I.C. 9-13-2-1.7.

I.C. 9-21-8-55.

The crime of criminal recklessness is defined by law as follows:

A person who recklessly, knowingly, or intentionally performs an act that creates a substantial risk of bodily injury to another commits criminal recklessness, a Class B misdemeanor.

[The offense is a Level 6 felony if it is committed while armed with a deadly weapon.]

[The offense is a Level 6 felony if the person commits aggressive driving that results in serious bodily injury to another person.]

[The offense is a Level 5 felony if it is committed by shooting a firearm from a vehicle into an inhabited dwelling or other building or place where people are likely to gather.]

[The offense is a Level 5 felony if the the person commits aggressive driving that results in the death of another person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. recklessly, knowingly, or intentionally
3. performed an act that created a substantial risk of bodily injury

- [4. (*for Level 6 felony*) (and the Defendant performed the act while armed with a deadly weapon)

(or)

(*for Level 5 felony*) (and the act was committed by shooting a firearm into an inhabited dwelling or other building or place where people were likely to gather)]

[or]



- [4. and the Defendant committed aggressive driving by
- (a) (knowingly) (intentionally) committing at least three of the following:
    - (1) Following a vehicle too closely in violation of [I.C. 9-21-8-14](#);
    - (2) Unsafe operation of a vehicle in violation of [I.C. 9-21-8-24](#);
    - (3) Overtaking another vehicle on the right by driving off the roadway in violation of [I.C. 9-21-8-6](#);
    - (4) Unsafe stopping or slowing a vehicle in violation of [I.C. 9-21-8-26](#);
    - (5) Unnecessary sounding of the horn in violation of [I.C. 9-19-5-2](#);
    - (6) Failure to yield in violation of [I.C. 9-21-8-29](#) through [I.C. 9-21-8-34](#);
    - (7) Failure to obey a traffic control device in violation of [I.C. 9-21-8-41](#);
    - (8) Driving at an unsafe speed in violation of [I.C. 9-21-5](#);
    - (9) Repeatedly flashing the vehicle's headlights;
  - (b) during one (1) episode of continuous driving of a vehicle
  - (c) with the intent to harass or intimidate (*name person*), a person in another vehicle

and

(*for Level 6 felony*) (the aggressive driving resulted in serious bodily injury to (*name person*), another person)

(*for Level 5 felony*) ) (the aggressive driving resulted in the death of (*name person*), another person.)

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the defendant not guilty of criminal recklessness, a (Class B misdemeanor) (Level 6/5 felony) charged in Count \_\_\_\_\_.

## **Instruction No. 3.2140. Hazing.**

## **Instruction No. 3.2140. Hazing.**

### **I.C. 35-42-2-2.5.**

The crime of hazing is defined by law as follows:

A person who knowingly or intentionally (forces) (requires) another person, with or without the other person's consent and as a condition of association with a group or organization, to perform an act that creates a substantial risk of bodily injury commits hazing, a Class B misdemeanor. [The offense is a Level 6 felony if it results in serious bodily injury to another person.] [The offense is a Level 5 felony if it is committed by means of a deadly weapon.]

Before you may convict the Defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The Defendant
2. (knowingly) (intentionally)
3. (forced) (required)
4. (*name other person*), another person
5. with or without (*name other person*)'s consent
6. and as a condition of association with (*name group*), a group  
or organization
7. to perform an act which created a substantial risk of bodily injury
- [8. (*for Level 6 felony*) and the offense resulted in serious bodily injury  
to (*name other person*), another person.

(or)

(*for Level 5 felony*) and the offense was committed by means of

a deadly weapon.]

**Instruction No. 3.2180. Strangulation.**

**Instruction No. 3.2180. Strangulation.**

**I.C. 35-42-2-9.**

The crime of strangulation is defined by law as follows:

A person who, in a rude, angry or insolent manner, (knowingly) (intentionally) [applies pressure to the throat or neck of another person] [obstructs the nose or mouth of another person] in a manner that impedes the normal breathing or the blood circulation of the other person commits strangulation, a Level 6 felony.

Before you may convict the Defendant, the State must have proved the following elements beyond a reasonable doubt:

1. The Defendant
2. in a rude, angry or insolent manner
3. (knowingly) (intentionally)
4. [applied pressure to the throat or neck of (*name other person*),  
another person]

[or]

[obstructed the nose or mouth of (*name other person*),  
another person]

5. in a manner that impeded the normal breathing or the blood  
circulation of (*name other person*), another person.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of strangulation, a Level 6 felony, charged in Count \_\_\_\_\_.

### **Instruction No.3.2500. Kidnapping.**

### **Instruction No.3.2500. Kidnapping.**

#### **I.C. 35-42-3-2.**

The crime of kidnapping is defined by law as follows:

A person who knowingly or intentionally removes another person by force or threat of force from one place to another commits kidnapping, a Level 6 felony. [The offense is a Level 5 felony if (the other person is less than fourteen (14) years of age and not the person's child) (it is committed by using a motor vehicle) (it results in bodily injury to another person).] [The offense is a Level 3 felony if (it is committed while armed with a deadly weapon) (it results in serious bodily injury to another person) (it is committed on an aircraft).] [The offense is a Level 2 felony if it is committed (with intent to obtain ransom) (while hijacking a vehicle) (with intent to obtain the release, or intent to aid in the escape, of any person from lawful detention) (with intent to use the person confined as a shield or hostage)].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. knowingly or intentionally

3. removed [*name*]

4. by force or threat of force

5. from one place to another

[6. (*for Level 5 felony*) and

(the other person was less than fourteen years of age and

not the Defendant's child)

(or)

(the Defendant used a motor vehicle for the removal)

(or)

(the Defendant's actions resulted in bodily injury to [*name other person*], another person)

[7. (*for Level 3 felony*) and

(the Defendant committed the offense while armed with a deadly weapon)

(or)

(the Defendant's actions resulted in serious bodily injury to [*name other person*], another person)

(or)

(the removal was committed on an aircraft)

[8. (*for Level 2 felony*) and

(the Defendant acted with the intent to obtain ransom)

(or)

(the Defendant committed elements 1. through 5. while hijacking a vehicle)

(or)

(the Defendant committed elements 1. through 5. with intent to obtain the release or to

aid in the escape of (*name*) from lawful detention)

(or)

(the Defendant committed elements 1. through 5. with intent to use (*name*) as a shield or hostage.)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of kidnapping, a Level 6/5/3/2 felony, charged in Count \_\_\_\_\_.

### **Instruction No.3.2540. Criminal Confinement.**

### **Instruction No.3.2540. Criminal Confinement.**

#### **I.C. 35-42-3-2.**

The crime of criminal confinement is defined by law as follows:

A person who (knowingly) (intentionally) confines another person without the other person's consent commits criminal confinement, a Level 6 felony. [The offense is a Level 5 felony if (the other person is less than fourteen (14) years of age and not the confining person's child) (it is committed by using a vehicle) (it results in bodily injury to a person other than the confining person).] [The offense is a Level 3 felony if (it is committed while armed with a deadly weapon) (it results in serious bodily injury to a person other than the confining person) (it is committed on an aircraft).] [The offense is a Level 2 felony if it is committed (with intent to obtain ransom) (while hijacking a vehicle) (with intent to obtain the release, or intent to aid in the escape, of any person from lawful detention) (with intent to use the person confined as a shield or hostage)].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. confined [*name*]

4. without (*name*)'s consent

[6. (*for Level 5 felony*) and

(the other person was less than fourteen years of age and  
not the Defendant's child)

(or)

(the Defendant used a vehicle for the confinement)

(or)

(the Defendant's actions resulted in bodily injury to [*name other person*], another  
person)]

[7. (*for Level 3 felony*) and

(the Defendant committed the offense while armed with a deadly weapon)

(or)

(the Defendant's actions resulted in serious bodily injury to [*name other person*],  
another person)

(or)

(the confinement was committed on an aircraft)

[8. (*for Level 2 felony*) and

(the Defendant acted with the intent to obtain ransom)

(or)

(the Defendant committed elements 1. through 5. while hijacking a vehicle)

(or)

(the Defendant committed elements 1. through 5. with intent to obtain the release or to  
aid in the escape of (*name*) from lawful detention)

(or)

(the Defendant committed elements 1. through 5. with intent to use (*name*) as a shield or hostage.)).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of criminal confinement, a Level 6/5/3/2 felony, charged in Count \_\_\_\_\_.

### Instruction No. 3.2700. Interference with Custody.

### Instruction No. 3.2700. Interference with Custody.

#### I.C. 35-42-3-4(a).

The crime of interference with custody is defined by law as follows:

A person who, with the intent to deprive another person of child custody rights, knowingly or intentionally (removes another person who is less than eighteen (18) years of age to a place outside Indiana when the removal violates a child custody order of a court) (violates a child custody order of a court by failing to return a person who is less than eighteen (18) years of age to Indiana) commits interference with custody, a Level 6 felony. [The offense is a Level 5 felony if the other person is less than fourteen (14) years of age and is not the person's child.]

[The offense is a Level 4 felony if it (is committed while armed with a deadly weapon) (results in serious bodily injury to another person).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. Defendant
2. acting with the intent to deprive (*name person*), another person of



child custody rights

3. (knowingly) (intentionally)

4. [removed (*name*), another person who was then less than eighteen  
years of age, from Indiana]

[or]

[failed to return (*name*)], another person who was then less than  
eighteen years of age, to Indiana after removing (*name*) from Indiana]

5. and [the removal of *name*] [the failure to  
return *name*] violated an order of a court

[6. (*for Level 5 felony*) (and when the offense was committed [*name*]  
was less than fourteen [14] years of age and was not Defendant's child)  
(or)

(*for Level 4 felony*) (and the offense was committed with a deadly weapon)

(or)

(*for Level 4 felony*) (and the offense resulted in serious bodily injury).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must  
find the Defendant not guilty of interference with custody, a Class D/C/B felony, charged in  
Count \_\_\_\_\_.

**Instruction No. 3.2900. Rape.**

**Instruction No. 3.2900. Rape.**

I.C. 35-42-4-1.

The crime of rape is defined by law as follows:

A person who knowingly or intentionally (has sexual intercourse with another person) (causes another person to perform or submit to other sexual conduct) when [the other person is compelled by force, or imminent threat of force] [the other person is unaware that the sexual intercourse is occurring] [the other person is so mentally disabled or deficient that consent to sexual intercourse cannot be given] commits rape, a Level 3 felony.

[The offense is a Level 1 felony if

(it is committed by using or threatening the use of deadly force)

(it is committed while armed with a deadly weapon)

(it results in serious bodily injury to any person other than the defendant)

(its commission is facilitated by furnishing the other person, without the other person's knowledge, a drug or controlled substance).

(its commission is facilitated by knowing that the other person had been furnished, without the other person's knowledge, a drug or controlled substance).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. [had sexual intercourse with (*name*)]

[or]

[caused (*name*), another person, to (perform) (submit to) other sexual conduct]

4. when

[(*name*) was compelled by force or imminent threat of force]

[or]

[(*name*) was unaware that the sexual intercourse was occurring]

[or]

(*name*) was so mentally disabled or deficient that consent to sexual intercourse could not be given]

[5. (*for Level 1 felony*) (and Defendant committed the offense by [using]

[threatening the use of] deadly force)

(or)

(and Defendant committed the offense while armed with a [*name weapon*], a deadly weapon)

(or)

(and the Defendant's conduct resulted in serious bodily injury to [*name person other than the Defendant*])

(or)

(and the offense was facilitated by furnishing [*name*], without [*name*]'s knowledge, [*name drug or controlled substance alleged*], a [drug] [controlled substance])

(or)

(and the offense was facilitated by knowing that [name] had been furnished, without [name]'s knowledge, [name drug or controlled substance alleged], a [drug] [controlled substance]).

If the State failed to prove each of these elements beyond a reasonable doubt, you should find Defendant not guilty of rape, a Level 3/1 felony, charged in Count \_\_\_\_\_.

**Instruction No. 3.3300. Child Molesting -- Sexual Intercourse or Other Sexual Conduct.**

**Instruction No. 3.3300. Child Molesting -- Sexual Intercourse or Other Sexual Conduct.**

I.C. 35-42-4-3(a).

The crime of child molesting is defined by law as follows:

A person who, with a child under fourteen (14) years of age, performs or submits to sexual intercourse or other sexual conduct, commits child molesting, a Level 3 felony.

[The offense is a Level 1 felony if:

(it is committed by a person at least twenty-one years of age)

(it is committed by using or threatening the use of deadly force)

(it is committed while armed with a deadly weapon)

(it results in serious bodily injury)

(it is facilitated by furnishing the child, without the child's knowledge, a drug or a controlled substance)

(it is facilitated by knowing that the child was furnished with a drug or a controlled substance without the child's knowledge).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. when [*name child*] was a child under fourteen (14) years of age
3. knowingly
4. [performed ] [submitted to]
5. [sexual intercourse] [other sexual conduct]
6. with [*name child*]
- [7. (*for Level 1 felony*)

and when elements 1 through 6 took place the Defendant was at least twenty-one years of age)

(or)

(and elements 1 through 6 were committed by using or threatening the use of deadly force)

(or)

(and when committing elements 1 through 6 Defendant was armed with a deadly weapon)

(or)

(and commission of elements 1 through 6 resulted in serious bodily injury)

(or)

(and the Defendant's commission of elements 1 through 6 was facilitated by furnishing [*name*] [*name drug or controlled substance alleged*], a [drug]

[controlled substance]), without [name]'s knowledge.)

(or)

(and the Defendant's commission of elements 1 through 6 was facilitated by knowing that [name] had been furnished [*name drug or controlled substance alleged*], a [drug] [controlled substance]), without [name]'s knowledge.)]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child molesting, a Level 3/1 felony, charged in Count \_\_\_\_\_.

### **Instruction No. 3.3340. Child Molesting -- Fondling.**

### **Instruction No. 3.3340. Child Molesting -- Fondling.**

I.C. 35-42-4-3(b).

The crime of child molesting is defined by law as follows:

A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a Level 4 felony.

[The offense is a Level 2 felony if:

(it is committed by using or threatening the use of deadly force)

(it is committed while armed with a deadly weapon)

(it is facilitated by furnishing the child, without the child's knowledge, a drug or a controlled substance)

(it is facilitated by knowing that the child was furnished with a drug or a controlled substance without the child's knowledge).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. with the intent to arouse or satisfy the sexual desires of [*name child*] or [*name Defendant*]

3. when [*name child*] was a child under fourteen (14) years of age

4. knowingly

5. [performed] [submitted to] fondling or touching [of] [by] [*name child*]

[6. (*for Level 2 felony*) (and elements 1 through 5 were committed by Defendant's using or threatening the use of deadly force)

(or)

(and when committing elements 1 through 5 Defendant was armed with a deadly weapon)

(or)

(and the Defendant's commission of elements 1 through 5 was facilitated by Defendant's furnishing [*name child*] with [*name drug or controlled substance alleged*], a [drug] [controlled substance]), without [*name child*]'s knowledge.)

(or)

(and the Defendant's commission of elements 1 through 5 was facilitated by Defendant's knowing that [*name child*] had been furnished [*name drug or controlled substance alleged*], a [drug] [controlled substance]), without [*name child*]'s knowledge.)

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child molesting, a Level 4/2felony, charged in Count

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**Instruction No. 3.3380. Child Molesting Defenses—Belief as to Age.**

**Instruction No. 3.3380. Child Molesting Defenses—Belief as to Age.**

I.C. 35-42-4-3.

[It is a defense that the Defendant reasonably believed that *[name child]* was fourteen (14) years of age or older when the (sexual intercourse) (deviate sexual conduct) took place.

This defense does not apply, however, if

(the offense was committed by using or threatening the use of deadly force)

(or)

(the offense was committed while armed with a deadly weapon)

(or)

(the offense resulted in serious bodily injury)

(the commission of the offense was facilitated by furnishing *[name child]* without *[name child's]* knowledge with a drug or a controlled substance)

(or)

(the commission of the offense was facilitated knowing that *[name child]* had been furnished with a drug or a controlled substance without *[name child's]* knowledge).

If the Defendant proved by the greater weight of the evidence that he/she reasonably believed *[name child]* was fourteen (14) years of age or older and if the State failed to prove beyond a reasonable doubt that (insert exception from above), then you must find the Defendant not guilty of child molesting, a Class B/A felony, charged in Count \_\_\_\_\_. ]

**Instruction No. 3.3500. Sexual Misconduct with a Minor—Intercourse or Sexual Conduct.**

**Instruction No. 3.3500. Sexual Misconduct with a Minor—Intercourse or Sexual Conduct.**

I.C. 35-42-4-9(a).



The crime of sexual misconduct with a minor is defined by law as follows:

A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to [sexual intercourse] [other sexual conduct] commits sexual misconduct with a minor, a Level 5 felony.

[The offense is a Level 4 felony if it is committed by a person at least twenty-one (21) years of age.]

[The offense is a Level 1 felony if:

(it is committed by using or threatening the use of deadly force)

(it is committed while armed with a deadly weapon)

(it results in serious bodily injury)

(it is facilitated by furnishing the child, without the child's knowledge, a drug or a controlled substance)

(it is facilitated by knowing that the child was furnished with a drug or a controlled substance without the child's knowledge).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. knowingly

(a) [performed] [submitted to]

(b) [sexual intercourse] [other sexual conduct]

(c) with [name] and

3. the Defendant was at the time of the occurrence at least eighteen (18) years of age and

4. [name] was at the time of the occurrence a child, at least fourteen (14) years of age but less than sixteen (16) years of age

[5. (for Level 4 felony) and at the time of the occurrence Defendant was at least twenty-one (21) years of age]

(or)

(for Level 1 felony) (and the offense was committed by using or threatening the use of deadly force)

(or)

(and when the offense was committed Defendant was armed with a deadly weapon)

(or)

(and the offense resulted in serious bodily injury)

(or)

(and the Defendant's commission of the offense was facilitated by furnishing [name] [name drug or controlled substance alleged], a [drug] [controlled substance]), without [name]'s knowledge.)

(or)

(and the Defendant's commission of the offense was facilitated by knowing that [name] had been furnished [name drug or controlled substance alleged], a [drug] [controlled substance]), without [name]'s knowledge.)]

.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of sexual misconduct with a minor, a Level 5/4/1 felony, charged in Count \_\_\_\_\_.

## Instruction No. 3.3540. Sexual Misconduct with a Minor—Defenses.

## Instruction No. 3.3540. Sexual Misconduct with a Minor—Defenses.

### I.C. 35-42-4-9(c), (d), and (e).

[It is a defense that the Defendant reasonably believed that [name child] was sixteen years of age or older. If the Defendant proved this by a preponderance of the evidence, you must find the Defendant not guilty of sexual misconduct with a minor, a Level 6/5/4 felony, charged in Count \_\_\_\_\_.]

[It is a defense that [name child] either was married or had been married at the time of the occurrence. If the Defendant proved this by a preponderance of the evidence, you must find the Defendant not guilty of sexual misconduct with a minor, a Level 6/5/4 felony, charged in Count \_\_\_\_\_.]

[It is a defense that:

- the Defendant was not more than four years older than the child
- and
- the relationship between the Defendant and the child was (a dating relationship) (an ongoing personal relationship, but not including a family relationship)
- and
- the Defendant was under twenty-one (21 years of age at the time of the sexual conduct
- and
- the sexual conduct
  - was not committed by using or threatening the use of deadly force
  - and
  - was not committed while armed with a deadly weapon
  - and
  - did not result in serious bodily injury
  - and
  - was not facilitated by furnishing [name child] without [name child's] knowledge with a drug or a controlled substance)
  - and
  - the commission of the offense was facilitated knowing that [name child] had been furnished with a drug or a controlled substance without [name child's] knowledge
- and
- the Defendant did not have a position of authority or substantial influence over the child.

If the Defendant proved these elements of the defense by a preponderance of the evidence, you must find the Defendant not guilty of sexual misconduct with a minor, a Class 6/5/4 felony, charged in Count \_\_\_\_\_.]

### **Instruction No. 3.3700. Sexual Conduct in the Presence of a Minor.**

### **Instruction No. 3.3700. Sexual Conduct in the Presence of a Minor.**

### **I.C. 35-44-4-5.**

The crime of sexual conduct in the presence of a minor is defined by law as follows:

A person eighteen (18) years of age or older who knowingly or intentionally (engages in sexual intercourse) (engages in other sexual conduct) (touches or fondles the person's own body) in the presence of a child less than fourteen (14) years of age with the intent to arouse or satisfy the sexual desires of the child or the older person commits performing sexual conduct in the presence of a minor, a Level 6 felony.

Before you may convict the Defendant the State must have proved the following:

1. The Defendant
2. (knowingly) (intentionally)
3. (engaged in sexual intercourse)  
(or)  
(engaged in other sexual conduct)  
(or)  
(touched or fondled the Defendant's own body)
4. in the presence of (*name child*), who was at the time less than fourteen  
(14) years of age
5. with the intent to arouse or satisfy the sexual desires of (*name child*)  
or the Defendant).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of sexual conduct in the presence of a minor, a Level 6 felony charged in Count \_\_\_\_\_.

Instruction No. 3.3900. Vicarious Sexual Gratification—Touching or Fondling.

Instruction No. 3.3900. Vicarious Sexual Gratification—Touching or Fondling.

I.C. 35-42-4-5.

The crime of vicarious sexual gratification is defined by law as follows:

A person eighteen (18) years of age or older who knowingly or intentionally [directs] [aids] [induces] [causes] a child under the age of sixteen (16) to touch or fondle himself or another child under the age of sixteen (16) with the intent to arouse or satisfy the sexual desires of a child or of the older person commits vicarious sexual gratification, a Level 5 felony.

[The offense is a Level 4 felony if a child involved in the offense is under the age of fourteen (14).]

[The offense is a Level 3 felony if:

(it is committed by using or threatening the use of deadly force)

(it is committed while armed with a deadly weapon)

(it is facilitated by furnishing the child, without the child's knowledge, a drug or a controlled substance)

(it is facilitated by knowing that the child was furnished with a drug or a controlled substance without the child's knowledge).(if it results in serious bodily injury).]

Before you may convict the Defendant the State must have proved the following:

1. The Defendant
2. with the intent to arouse or satisfy [Defendant's] [(*name child*)'s] sexual desires
3. knowingly or intentionally
4. [directed] [aided] [induced] [caused]
5. (*name child*) to touch or fondle [himself/herself] [(*name*), another child]
6. [when (*name child directed, aided, induced, or caused*) was under the age of sixteen (16)]

[or]

[when (*name child directed, aided, induced, or caused*) and (*name child touched or fondled by first child*) both were under the age of sixteen (16)]

7. and when Defendant was eighteen (18) years of age or older

[8.(*for Level 4 felony*) and when [*name child*], a child involved in the offense, was under the age of fourteen (14)]

[9. (*for Level 3 felony*)

(and the offense was committed by using or threatening the use of deadly force)

(or)

(and when the offense was committed while armed with a deadly weapon)

(or)

(and the commission of the offense was facilitated by furnishing [name] [name drug or controlled substance alleged], a [drug] [controlled substance]), without [name]'s knowledge.)

(or)

(and the commission of the offense was facilitated by knowing that [name] had been furnished [name drug or controlled substance alleged], a [drug] [controlled substance]), without [name]'s knowledge.)

(and the commission of the offense resulted in serious bodily injury).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of vicarious sexual gratification, a Level 5/4/3 felony, charged in Count \_\_\_\_\_.

### **Instruction No. 3.3940. Vicarious Sexual Gratification—Intercourse, Animals, Other Sexual Conduct.**

### **Instruction No. 3.3940. Vicarious Sexual Gratification—Intercourse, Animals, Other Sexual Conduct.**

#### **I.C. 35-42-4-5.**

The crime of vicarious sexual gratification is defined by law as follows:

A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to [engage in sexual intercourse with another child under sixteen (16) years of age] [engage in sexual conduct with an animal other than a human being] [engage in other sexual conduct with another person] with intent to arouse or satisfy the sexual desires of a child or of the older person commits vicarious sexual gratification, a Level 4 felony.

[The offense is a Level 3 felony if any child involved in the offense is less than fourteen (14) years of age.]

[The offense is a Level 2 felony if:

(it is committed by using or threatening the use of deadly force)

(it is committed while armed with a deadly weapon)

(it results in serious bodily injury)

(it is facilitated by furnishing the child, without the child's knowledge, a drug or a controlled substance)

(it is facilitated by knowing that the child was furnished with a drug or a controlled substance without the child's knowledge).]

Before you may convict the Defendant the State must have proved the following:

1. The Defendant

2. with the intent to arouse or satisfy [Defendant's] [(*name child*)'s] sexual desires

3. knowingly or intentionally

4. [directed] [aided] [induced] [caused]

5. [*name child*] to

[engage in sexual intercourse with (*name other child*)]

[or]

[engage in sexual conduct with a (*name animal*), an animal other than a human being]

[or]

[engage in other sexual conduct with (*name other person*)]

6. [when (*name child directed, aided, induced, or caused*) was under the age of sixteen (16)

[or]

[when (*name child directed, aided, induced, or caused*) and (*name child with whom first child engaged in sexual intercourse*) both were under the age of sixteen (16)]

7. and when Defendant was eighteen (18) years of age or older

[8. (*for Level 3 felony*) and when [*name child*], a child involved in the offense, was under the age of fourteen (14)]

[9. (*for Level 2 felony*)

(and the offense was committed by using or threatening the use of deadly force)

(or)

(and when the offense was committed while Defendant was armed with a deadly weapon)

(or)

(and the offense resulted in serious bodily injury)

(or)

(and the offense was facilitated by furnishing [name] [name drug or controlled substance alleged], a [drug] [controlled substance]), without [name]'s knowledge.)

(or)

(and the offense was facilitated by knowing that [name] had been furnished [name drug or controlled substance alleged], a [drug] [controlled substance]), without [name]'s knowledge.)]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of vicarious sexual gratification, a Level 4/3/2 felony charged in Count \_\_\_\_\_.

#### **Instruction No. 3.4100. Child Solicitation--Victim Under Fourteen.**

#### **Instruction No. 3.4100. Child Solicitation--Victim Under Fourteen.**

#### **I.C. 35-42-4-6.**

The crime of child solicitation is defined by law as follows:

A person eighteen (18) years of age or older who knowingly or intentionally solicits [a child under fourteen (14) years of age] [an individual the person believes to be a child under fourteen (14) years of age] to engage in [sexual intercourse] [other sexual conduct] [any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person] commits child solicitation, a Level 5 felony.

[The offense is a Level 4 felony if the person solicits [the child] [the individual the person believes to be a child] under fourteen (14) years of age to engage in [sexual intercourse] [other sexual conduct] and commits the offense by using a computer network and travels to meet the child or individual the person believes to be a child.]



Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. when eighteen (18) years of age or older
3. knowingly or intentionally
4. solicited [*name child*] [*name individual Defendant is alleged to have believed to be a child under 14*] to engage in
  - [sexual intercourse]
  - [other sexual conduct]
  - [or]
  - [fondling or touching intended to arouse or satisfy the sexual desires of (*name child*) (or) (individual) (or) (Defendant)]
5. when [*name child*] was under fourteen (14) years of age
  - [or]
  - when Defendant believed [*name individual*] was a child under fourteen (14) years of age
- [6. (*for Level 4 felony; applies only to soliciting for sexual intercourse or other sexual conduct*)  
and Defendant
  - committed the offense by using a computer network
  - and
  - travelled to meet [*name child*] [*name individual Defendant is alleged to have believed to be a child under 14*]].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find

the Defendant not guilty of child solicitation, a Level 5/4 felony charged in Count \_\_\_\_\_.

## **Instruction No. 3.4140. Child Solicitation--Victim Fourteen to Fifteen.**

## **Instruction No. 3.4140. Child Solicitation--Victim Fourteen to Fifteen.**

### **I.C. 35-42-4-6.**

The crime of child solicitation is defined by law as follows:

A person at least twenty-one (21) years of age who knowingly or intentionally solicits [a child at least fourteen (14) years of age but less than sixteen (16) years of age] [an individual the person believes to be a child at least fourteen (14) years of age but less than sixteen (16) years of age] to engage in [sexual intercourse] [other sexual conduct] [any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person] commits child solicitation, a Level 5 felony.

[The offense is a Level 4 felony if the person solicits [the child] [the individual the person believes to be a child at least fourteen (14) but less than sixteen (16) years of age] to engage in [sexual intercourse] [other sexual conduct] and commits the offense by using a computer network and travels to meet [the child] [the individual].]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. when twenty-one (21) years of age or older
3. (knowingly) (intentionally)
4. solicited [*name alleged solicitee*] to engage in

[sexual intercourse]

[other sexual conduct]

[or]

[fondling or touching intended to arouse or satisfy the sexual desires of (*name alleged solicitee*) (or) (Defendant)]

5. when [*name alleged solicitee*] was

[a child fourteen (14) or fifteen (15) years of age]

[an individual whom Defendant believed was a child fourteen (14) or fifteen (15) years of age]

[6. (*For Level 4 felony; only when Defendant solicited engagement in sexual intercourse or other sexual conduct*) and the Defendant committed the offense by using a computer network and travelled to meet [the child] [the individual].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child solicitation, a Level 5/4 felony charged in Count

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## **Instruction No. 3.4180. Child Exploitation—Managing or Producing.**

## **Instruction No. 3.4180. Child Exploitation—Managing or Producing.**

### **I.C. 35-42-4-4.**

The crime of child exploitation is defined by law as follows:

A person who knowingly or intentionally [manages] [produces] [sponsors] [presents] [exhibits] [photographs] [films] [videotapes] [creates a digitized image of] any performance or incident that includes sexual conduct by a child under eighteen (18) years of age commits child exploitation, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally

3. [managed] [produced] [sponsored] [presented] [exhibited] [photographed] [filmed] [videotaped] [created a digitized image of]
4. a performance or incident that included sexual conduct by [name] when [name] was a child under eighteen (18) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child exploitation, a Level 5 felony, charged in Count \_\_\_\_\_.

### Instruction No. 3.4220. Child Exploitation—Disseminating.

### Instruction No. 3.4220. Child Exploitation—Disseminating.

#### I.C. 35-42-4-4.

The crime of child exploitation is defined by law as follows:

A person who knowingly or intentionally [disseminates] [exhibits to another person] [offers to disseminate or exhibit to another person][sends or brings into Indiana for dissemination or exhibition] matter that depicts or describes sexual conduct by a child under eighteen (18) years of age commits child exploitation, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. [disseminated] [exhibited to another person] [offered to disseminate or exhibit to another person] [sent or brought into Indiana for dissemination or exhibition]
4. matter that depicted or described sexual conduct by [name] when [name] was a child under eighteen (18) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child exploitation, a Level 5 felony, charged in Count \_\_\_\_\_.

### Instruction No. 3.4260. Child Exploitation—Computer.

### Instruction No. 3.4260. Child Exploitation--Computer.

#### I.C. 35-42-4-4.

The crime of child exploitation is defined by law as follows:

A person who knowingly or intentionally makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts or describes sexual conduct by a child less than eighteen (18) years of age commits child exploitation, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. made available to [name], another person
4. a computer
5. when Defendant knew that the computer's fixed drive or peripheral device contained matter depicting or describing sexual conduct by a child less than eighteen (18) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child exploitation, a Level 5 felony, charged in Count

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### **Instruction No. 3.4300. Child Exploitation – Performance or Incident.**

### **Instruction No. 3.4300. Child Exploitation – Performance or Incident.**

#### **I.C. 35-42-4-4.**

The crime of child exploitation is defined by law as follows:

A person who, with the intent to satisfy or arouse the sexual desires of any person, knowingly or intentionally (manages) (produces) (sponsors) (presents) (exhibits) (photographs) (films) (videotapes) (creates a digitized image of) any performance or incident that includes (the

uncovered genitals of a child less than eighteen (18) years of age) (the exhibition of the female breast with less than a fully opaque covering of any part of the nipple) by a child less than eighteen (18) years of age commits child exploitation, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. with the intent to satisfy or arouse the sexual desires of any person
3. knowingly or intentionally
4. (managed)  
(or)  
(produced)  
(or)  
(sponsored)  
(or)  
(presented)  
(or)  
(exhibited)  
(or)  
(photographed)  
(or)  
(filmed)  
(or)  
(videotaped)  
(or)  
(created a digitized image of )

5. a performance or incident by a child less than  
eighteen (18) years of age that included  
(the uncovered genitals of a child less than eighteen (18) years of age)  
( or)  
(the exhibition of the female breast with less than a fully opaque covering  
of any part of the nipple).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child exploitation, a Level 5 felony, charged in  
Count \_\_\_\_\_.

**Instruction No. 3.4340. Child Exploitation – Disseminating or  
Exhibiting Matter.**

**Instruction No. 3.4340. Child Exploitation – Disseminating or  
Exhibiting Matter.**

**I.C. 35-42-4-4.**

The crime of child exploitation is defined by law as follows:

A person who, with the intent to satisfy or arouse the sexual desires of any person, knowingly or intentionally (disseminates to another person) (exhibits to another person) (offers to [disseminate] [exhibit] to another person) ([sends][brings] into Indiana for [dissemination] [exhibition]) matter that depicts (the uncovered genitals of a child less than eighteen (18) years of age) (the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age) commits child exploitation, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. with the intent to satisfy or arouse the sexual desires of any person
3. knowingly or intentionally
4. (disseminated to another person)  
  
(or)  
  
(exhibited to another person)  
  
(or)  
  
(offered to [disseminate] [exhibit] to another person)  
  
(or)  
  
([sent] [brought] into Indiana for [dissemination] [exhibition])
5. matter that depicted  
  
(the uncovered genitals of a child less than eighteen (18)  
years of age)  
  
(or)  
  
(the exhibition of the female breast with less than a fully opaque covering  
of any part of the nipple by a child less than eighteen (18) years of age).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child exploitation, a Level 5 felony, charged in Count \_\_\_\_\_.

### **Instruction No. 3.4380. Child Exploitation – By Computer.**



## Instruction No. 3.4380. Child Exploitation – By Computer.

### I.C. 35-42-4-4.

The crime of child exploitation is defined by law as follows:

A person who, with intent to satisfy or arouse the sexual desires of any person, makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts (the uncovered genitals of a child less than eighteen (18) years of age) (the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age) commits child exploitation, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. with the intent to satisfy or arouse the sexual desires of any person
3. made available to (*name*), another person,
4. a computer
5. with knowledge that the computer's fixed drive or peripheral device contained
6. matter that depicted
  - (the uncovered genitals of a child less than eighteen (18) years of age)
  - (or)
  - (the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than eighteen (18) years of age).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child exploitation, a Level 5 felony, charged in Count \_\_\_\_\_.

## Instruction No. 3.4600. Possession of Child Pornography.

## Instruction No. 3.4600. Possession of Child Pornography.

### I.C. 35-42-4-4.

The crime of possession of child pornography is defined by law as follows:

A person who knowingly or intentionally possesses [a picture] [a drawing] [a photograph] [a negative image] [undeveloped film] [a motion picture] [a videotape] [a digitized image] [any pictorial representation] that depicts or describes sexual conduct by a child who the person knows is less than eighteen (18) years of age or appears to be less than eighteen (18) years of age, and that lacks serious literary, artistic, political, or scientific value commits possession of child pornography, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. knowingly or intentionally
  3. possessed
  4. [a picture] [a drawing] [a photograph] [a negative image] [undeveloped film] [a motion picture] [a videotape] [a digitized image] [a pictorial representation]
  5. which depicted or described sexual conduct
  6. by a person who
- [the Defendant knew was less than eighteen (18) years of age]
- [or]
- [appeared to be less than eighteen (18) years of age]

7. and which lacked serious literary, artistic, political, or scientific value.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of child pornography, a Level 6 felony, charged in Count \_\_\_\_\_ .

**Instruction No. 3.4700. Sexting Defense to Child Exploitation-- Managing or Producing, Child Exploitation--Disseminating, Child Exploitation – Computer, Possession of Child Pornography, Child Exploitation – Performance or Incident, Child Exploitation – Disseminating or Exhibiting Matter, and Child Exploitation – By Computer.**

**Instruction No. 3.4700. Sexting Defense to Child Exploitation-- Managing or Producing, Child Exploitation—Disseminating, Child Exploitation – Computer, Possession of Child Pornography, Child Exploitation – Performance or Incident, Child Exploitation – Disseminating or Exhibiting Matter, and Child Exploitation – By Computer.**

**I.C. 35-42-4-4(f).**

It is a defense to Child Exploitation if all the following apply:

(1) a cellular telephone, another wireless or cellular communications device, or a social networking web site was used to possess, produce, or disseminate the image

and

(2) the defendant was not more than four (4) years older or younger than the person who was depicted in the image or who received the image

and

(3) the relationship between the defendant and the person who received the image or who is depicted in the image was (a dating relationship) (an ongoing personal relationship other than a family relationship)

and

(4) the Defendant was less than twenty-two (22) years of age at the time of the offense

and

(5) the person who received the image or who was depicted in the image acquiesced in the Defendant's conduct.

The Defendant has the burden to prove this defense by the greater weight of the evidence.

The defense above does not apply if the State proves beyond a reasonable doubt that:

(1) the person who received the image disseminated it to a person other than the person (who sent the image) (who was depicted in the image)

(or)

(2) the image was of a person other than the person who sent the image or received the image

(or)

(3) the dissemination of the image violated:

(A) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal)

(or)

(B) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal)

(or)

(C) a workplace violence restraining order issued under IC 34-26-6

(or)

(D) a no contact order in a dispositional decree issued under [IC 31-34-20-1](#), [IC 31-37-19-1](#), or [IC 31-37-5-6](#) (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued

under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child

(or)

(E) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under [IC 35-33-8-3.6](#)

(or)

(F) a no contact order issued as a condition of probation

(or)

(G) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal)

(or)

(H) a protective order to prevent domestic or family violence issued under [IC 31-14-16-1](#) in a paternity action

(or)

(I) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding

(or)

(J) an order issued in another state that is substantially similar to an order described in clauses (A) through (I)

(or)

(K) an order that is substantially similar to an order described in clauses (A) through (I) and is issued by an Indian:

(i) tribe;

(ii) band;

(iii) pueblo;

(iv) nation; or

(v) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act ([43 U.S.C. 1601 et seq.](#))

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians

(or)

(L) an order issued under [IC 35-33-8-3.2](#)

(or)

(M) an order issued under [IC 35-38-1-30](#).

### **Instruction No. 3.4900. Unlawful Employment Near Children.**

### **Instruction No. 3.4900. Unlawful Employment Near Children.**

#### [I.C. 35-42-4-10.](#)

The crime of unlawful employment near children by a sexual predator is defined by law as follows:

A person who is  
[an offender under [I.C. 35-38-1-7.5](#)]  
[an offender under [I.C. 35-42-4-11](#)]

and knowingly or intentionally works for compensation or as a volunteer [on school property] [at a youth program center] [at a public park] commits unlawful employment near children, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
2. [was (an offender under [I.C. 35-38-1-7.5](#)) (an offender under [I.C. 35-42-4-11](#))  
because (*insert factual aspects of alleged sexually violent predator status—e.g., the combination of prior convictions on which status is based*)]  
  
[or]  
  
[had been convicted once or more of  
[committing]  
[or]

[attempting to commit]

[or]

[conspiring to commit]

(child molesting {IC 35-42-4-3\*})

(or)

(child exploitation {IC 35-42-4-4(b)\*})

(or)

(child solicitation {IC 35-42-4-6\*})

(or)

(child seduction {IC 35-42-4-7\*})

(or)

(kidnapping {IC 35-42-3-2}\* , if the victim is less than eighteen {18} years of age)

(or)

(an offense in another jurisdiction that is substantially similar to  
{child molesting} {child exploitation} {child solicitation} {child seduction}  
{kidnapping, if the victim is less than eighteen (18) years of age})

3. when the Defendant
  4. [knowingly] [intentionally]
  5. worked for compensation or as a volunteer;
  6. [on school property]
- [or]
- [at a youth program center]
- [or]
- [at a public park].

If the State failed to prove each of these elements beyond a reasonable doubt, you should find the Defendant not guilty of unlawful employment near children, a Level 6 felony.

## **Instruction No. 3.5000. Sex Offender Residency Offense.**

## **Instruction No. 3.5000. Sex Offender Residency Offense.**

## I.C. 35-42-4-11.

The sex offender residency offense is defined by law as follows:

A person required to register as an offender under I.C. 11-8-8 who has been found to be an offender under I.C. 35-42-4-11 and who knowingly or intentionally  
[spends more than three (3) nights in any thirty (30) day period  
(in a residence)  
(in a particular location, if the person does not reside in a residence)  
within one thousand (1,000) feet of  
(school property, not including property of an institution providing post-secondary education)  
(a youth program center)  
(a public park)]  
[or]  
[establishes a residence within one (1) mile of the residence of the victim of the person's sex offense]

commits the sex offender residency offense, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was required to register as an offender under Indiana Code Chapter 11-8-8
3. and had been found to be an offender under I.C. 35-42-4-11
4. when the Defendant [knowingly] [intentionally]
5. [spent more than three (3) nights in any thirty (30) day period

(in a residence)  
(in a particular location, if the Defendant did not reside in a residence) within one thousand (1,000) feet of  
(school property, not including property of an institution providing post-secondary education)  
(a youth program center)  
(a public park)]

[or]

[established a residence within one (1) mile of the residence of (name victim), who was the victim of Defendant's (describe alleged sex offense against victim) sex offense].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the sex offender residency offense, a Level 6 felony.



**Instruction No. 3.5200. Child Seduction – No Professional Relationship.**  
**I.C. 35-42-4-7.**

**Instruction No. 3.5200. Child Seduction – No Professional Relationship.**  
**I.C. 35-42-4-7.**

The crime of child seduction is defined by law as follows:

If a person who is at least eighteen (18) years of age and is [the guardian of] [the adoptive parent of] [the adoptive grandparent of] [the custodian of] [the stepparent of] [the child care worker for] a child at least sixteen (16) years of age but less than eighteen (18) years of age engages in

[any fondling or touching, with the intent to arouse or satisfy the sexual desires of either the child or the adult, with the child, the person commits child seduction, a Level 6 felony.]

[(sexual intercourse) (deviate sexual conduct) with the child, the person commits child seduction, a Level 5 felony.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. When the Defendant was eighteen (18) or more years of age
2. and when (*name*) was a child at least sixteen (16) years of age but less than eighteen (18) years of age
3. and when the Defendant was (the guardian of) (the adoptive parent of) (the adoptive grandparent of) (the custodian of) (the stepparent of) (the child care worker for) (*name*)
4. the Defendant
5. [*use only when Level 6 felony fondling or touching version of crime is charged*] with the intent to gratify the sexual desires of either (*name*) or Defendant]
6. knowingly\*
7. (*for Level 6 felony*) engaged in (fondling or touching) with (*name*)

[8. (for Level 5 felony) engaged in (sexual intercourse) (other sexual conduct) with (name).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child seduction, a Level 6/5 felony, charged in Count

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**Instruction No. 3.5240. Child Seduction – No Professional Relationship.**  
**I.C. 35-42-4-7.**

**Instruction No. 3.5240. Child Seduction – Professional Relationship.**  
**I.C. 35-42-4-7.**

The crime of child seduction is defined by law as follows:

A person who:

(1) has or had a professional relationship with a child at least sixteen (16) years of age but less than eighteen (18) years of age whom the person knows to be at least sixteen (16) years of age but less than eighteen (18) years of age;

(2) may exert undue influence on the child because of the person's current or previous professional relationship with the child; and

(3) uses or exerts the person's professional relationship to engage in

[any fondling or touching with the child with the intent to arouse or satisfy the sexual desires of the child or the person commits child seduction, a Level 6 felony]

[(sexual intercourse) (other sexual conduct) commits child seduction, a Level 5 felony]..

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant (had) (formerly had) a professional relationship with  
(*name*), and
2. during or after the professional relationship
3. at a time when (*name*) was at least sixteen (16) years of age but was less than eighteen (18) years of age, and
4. when the Defendant knew that (*name*) was at least sixteen (16) years of age but was less than eighteen (18) years of age, and
5. when the Defendant could exert undue influence on (*name*) because of Defendant's (current)(previous) professional relationship with (*name*),
- [6. (*for Level 6 felony*) the Defendant knowingly\* used or exerted the  
Defendant's professional relationship to engage with (*name*) in fondling or touching with the intent to arouse or satisfy the sexual desires of either (*name*) or Defendant.]
- [6. (*for Level 5 felony*) the Defendant knowingly\* used or exerted the  
Defendant's professional relationship to engage with (*name*) in (sexual intercourse) (other sexual conduct).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child seduction, a Level 6/5 felony, charged in Count

\_\_\_\_\_ .

## Instruction No. 3.5400. Sexual Battery.

## Instruction No. 3.5400. Sexual Battery.

### I.C. 35-42-4-8.

The crime of sexual battery is defined by law as follows:

A person who, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person,

- touches another person when that person is [compelled to submit to the touching by force or the imminent threat of force] [so mentally disabled or deficient that consent to the touching cannot be given]
- or
- touches another person's genitals, pubic area, buttocks, or female breast when that person is unaware that the touching is occurring

commits sexual battery, a Level 6 felony.

[However, the offense is a Level 4 felony if (it is committed by using or threatening the use of deadly force) (it is committed while armed with a deadly weapon) (the commission of the offense is facilitated by furnishing the other person, without the other person's knowledge, a drug or a controlled substance) (the commission of the offense is facilitated by knowing that the other person was furnished the drug or controlled substance without the other person's knowledge).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. with the intent to arouse or satisfy [his] [her] own sexual desires or the sexual desires of [name]

3. knowingly\*

{4. touched [name] when [name] was  
[compelled to submit to the touching by force or the imminent threat of force]  
[or]  
[so mentally disabled or deficient that consent to the touching could not be given]}

{or}

{4. touched [name's]

[genitals]  
[or]  
[pubic area]  
[or]  
[buttocks]  
[or]  
[female breast]

when [name] was unaware that the touching was occurring}

[5. (for Level 4 felony) and elements 1 through 4 were committed by using or threatening the use of deadly force)

(or)

(and when committing the offense Defendant was armed with a deadly weapon)

(or)

(and the Defendant's commission of elements 1 through 5 was facilitated by furnishing [name] [name drug or controlled substance alleged], a [drug] [controlled substance]), without [name]'s knowledge.)

(or)

(and the Defendant's commission of elements 1 through 5 was facilitated by knowing that [name] had been furnished [name drug or controlled substance alleged], a [drug] [controlled substance]), without [name]'s knowledge.))

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the defendant not guilty of sexual battery, a Level 6/4 felony, charged in Count \_\_\_\_\_.

## **Instruction No. 3.5700. Robbery.**

## **Instruction No. 3.5700. Robbery.**

### **I.C. 35-42-5-1.**

The crime of robbery is defined by law as follows:

A person who knowingly or intentionally takes property from another person or from the presence of another person [by using or threatening the use of force on any person] [by putting any person in fear] commits robbery, a Level 5 felony.

[The offense is a Level 3 felony if it (is committed while armed with a deadly

weapon) (results in bodily injury to any person other than a defendant).] [The offense is a Level 2 felony if it results in serious bodily injury to any person other than a defendant.]

Before you may convict the Defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The Defendant

2. knowingly or intentionally

3. took property from \_\_\_\_\_[*name*]

[or]

took property from the presence of \_\_\_\_\_[*name*]

4. [by using or threatening the use of force on (*name*)]

[or]

[by putting (*name*) in fear]

[5. and

(*for Level 3 felony*) (when committing the offense Defendant was armed with a deadly weapon)

(or)

(*for Level 3 felony*) (the commission of the offense resulted in bodily injury to \_\_\_\_\_[*name person other than Defendant*])

(or)

(*for Level 2 felony*) (the commission of the offense resulted in serious bodily injury to [ *name person other than Defendant* ].)

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of robbery, a Level 5/3/2 felony, charged in Count \_\_\_\_\_.

**Instruction No. 3.6100. Overpass Mischief.**

**Instruction No. 3.6100. Overpass Mischief.**

### **I.C. 35-42-2-5.**

The crime of overpass mischief is defined by law as follows:

A person who knowingly, intentionally or recklessly [drops, causes to drop, or throws an object from an overpass] [with intent that the object fall, places on an overpass an object that falls off the overpass] causing bodily injury to another person commits overpass mischief, a Level 5 felony. [The offense is a Level 4 felony if it results in serious bodily injury to another person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally] [recklessly]
3. [dropped] [caused to drop] [threw] an object  
[or]  
[acting with intent that it fall placed an object that did fall]
4. from an overpass
5. causing bodily injury to [name]
- [6. (*for Level 4 felony*) and the offense resulted in serious bodily injury to (*name*).]

If the State failed to prove each of these elements beyond a reasonable doubt, you should find the Defendant not guilty of overpass mischief, a Level 5/4 felony, charged in Count \_\_\_\_\_.

### **Instruction No. 3.6300. Promotion of Human Trafficking.**

### **Instruction No. 3.6300. Promotion of Human Trafficking.**

### **I.C. 35-42-3.5-1.**

The crime of promotion of human trafficking is defined by law as follows:

A person who by [force] [threat of force] [fraud] knowingly or intentionally

[recruits] [harbors] [transports] another person [to engage the other person in (forced labor) (involuntary servitude)] [to force the other person into (marriage) (prostitution) (participating in sexual conduct)] commits promotion of human trafficking, a Level 4 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. by [force] [threat of force] [fraud]
3. [knowingly] [intentionally]
4. [recruited]  
  
[or]  
  
[harbored]  
  
[or]  
  
[transported]
5. (*name other person*)
6. [to engage (*name other person*) in  
  
(forced labor)  
  
(or)  
  
(involuntary servitude)]  
  
[or]  
  
[to force (*name other person*) into  
  
(marriage)  
  
(or)  
  
(prostitution)  
  
(or)  
  
(participating in sexual conduct)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of promotion of human trafficking, a Level 4 felony, as charged in Count \_\_\_\_\_.



## **Instruction No. 3.6500. Sexual Trafficking of a Minor.**

## **Instruction No. 3.6500. Sexual Trafficking of a Minor.**

### **I.C. 35-42-3.5-1.**

The crime of sexual trafficking of a minor is defined by law as follows:

A person who is at least eighteen (18) years of age who knowingly or intentionally sells or transfers custody of a child less than eighteen (18) years of age for the purpose of prostitution or participating in sexual conduct commits sexual trafficking of a minor, a Level 2 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. who was at the time at least eighteen (18) years of age
3. [knowingly] [intentionally]
4. sold or transferred custody of (*name child*)
5. when (*name child*) was less than eighteen (18) years of age
6. for the purpose of [prostitution] [participating in sexual conduct].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of sexual trafficking of a minor, a Level 2 felony, as charged in Count \_\_\_\_\_.

## **Instruction No. 3.6700. Human Trafficking.**

## Instruction No. 3.6700. Human Trafficking.

### I.C. 35-42-3.5-1.

The crime of human trafficking is defined by law as follows:

A person who knowingly or intentionally [pays] [offers to pay] [agrees to pay] money or other property to another person for an individual who the person knows has been forced into [forced labor], [involuntary servitude] [prostitution] commits human trafficking, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] or [intentionally]
3. [paid]  
[or]  
[offered to pay]  
[or]  
[agreed to pay]
4. money or other property
5. to (*name other person*)
6. for (*name individual*) who the Defendant knew had been forced into  
[forced labor]  
[or]  
[involuntary servitude]  
[or]  
[prostitution].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of human trafficking, a Level 5 felony, as charged in Count \_\_\_\_\_.

## **Instruction No. 3.6900. Promotion of Human Trafficking of a Minor.**

## **Instruction No. 3.6900. Promotion of Human Trafficking of a Minor.**

### **I.C. 35-42-3.5-1.**

The crime of promotion of human trafficking of a minor is defined by law as follows:

A person who knowingly or intentionally [recruits] [harbors] [transports] a child less than eighteen (18) years of age with the intent of [engaging the child in (forced labor) (involuntary servitude)] [inducing or causing the child to (engage in prostitution) (engage in a performance or incident that includes sexual conduct in violation of IC 35-42-4-4(b) (child exploitation)) (participate in sexual conduct)] commits promotion of human trafficking of a minor, a Level 3 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. [knowingly] [intentionally]

3. [recruited]

[or]

[harbored]

[or]

[transported]

4. (*name child*), who was at the time less than eighteen (18) years of age

5. with the intent of

[engaging (*name child*) in

(forced labor)

(or)

(involuntary servitude)]

[or]

[inducing or causing (*name child*) to

(engage in prostitution)

(or)

(engage in a performance or incident that includes sexual conduct in violation of IC 35-42-4-4(b)  
(child exploitation)

(or)

(participate in sexual conduct)]. If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of promotion of human trafficking of a minor, a Level 3 felony, as charged in Count \_\_\_\_\_.

**Instruction No. 3.7100. Sex Offender Internet Offense.**

**Instruction No. 3.7100. Sex Offender Internet Offense.**

**I.C. 35-42-4-12.**

The crime of sex offender Internet offense is defined by law as follows:

A sex offender who knowingly or intentionally violates a [condition of probation] [condition of parole] [rule of a community transition program] that prohibits the offender from using [a social networking web site] [an instant messaging or chat room program] to communicate, directly or through an intermediary, with a child less than sixteen (16) years of age commits a sex offender Internet offense, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was a sex offender [(use if defense does not stipulate sex offender status) because he had been convicted of (*list the I.C. 11-8-8-5 offense on which sex offender status is based*)]
3. and was subject to a  
[condition of probation]  
[condition of parole]  
[rule of a community transition program]  
that prohibited Defendant from using  
[a social net working web site]  
[an instant messaging or chat room program]  
to communicate, directly or through an intermediary, with a child less than sixteen (16) years of age
4. and the Defendant
5. [knowingly] [intentionally]
6. violated the [condition of probation] [condition of parole]

[rule of a community transition program] 7. by using [a social net working web site] [an instant messaging

or chat room program]

8. to communicate [directly] [through (*name intermediary*), an intermediary]

9. with (*name child*), a child who was at the time less than sixteen

(16) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child solicitation, a Class A misdemeanor charged in Count

\_\_\_\_\_.

### **Instruction No. 3.7500. Inappropriate Communication With a Child.**

### **Instruction No. 3.7500. Inappropriate Communication With a Child.**

#### **I.C. 35-42-4-12.**

The crime of inappropriate communication with a child is defined by law as follows:

A person at least eighteen (18) years of age who knowingly or intentionally communicates with an individual whom the person believes to be a child less than fourteen (14) years of age concerning (sexual intercourse) (other sexual conduct) (the fondling or touching of the buttocks, genitals, or female breasts) with the intent to gratify the sexual desires of the person or the individual commits inappropriate communication with a child, a Class B misdemeanor. [The offense is a Class A misdemeanor if the person commits the offense by using a computer network.]

Before you may convict the Defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The Defendant

2. who was then at least eighteen (18) years of age
3. communicated with an individual whom the Defendant believed to be a child less than fourteen (14) years of age
4. and the communication was with the intent to gratify the sexual desires of the Defendant or the individual and concerned:  
  
(sexual intercourse)  
  
(or)  
  
(other sexual conduct)  
  
(or)  
  
(the fondling or touching of the buttocks, genitals, or female breasts)
- [5. (*for Class A misdemeanor*) and the offense was committed by using a computer network].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the defendant not guilty of inappropriate communication with a child, a Class B/A misdemeanor.

## CHAPTER 4 OFFENSES AGAINST PROPERTY

### SYNOPSIS

- Instruction No. 4.0020. Arson (Damaging dwelling).
- Instruction No. 4.0040. Arson (Endangering human life).
- Instruction No. 4.0060. Arson (Loss at least \$5,000).
- Instruction No. 4.0080. Arson (Structure Used for Religious Worship).
- Instruction No. 4.0100. Arson (For Hire).
- Instruction No. 4.0120. Arson (Intent to Defraud).
- Instruction No. 4.0140. Arson (Property Damage \$250 to \$5,000).
- Instruction No. 4.0400. Criminal Mischief — Damaging Property (B misdemeanor).
- Instruction No. 4.0420. Criminal Mischief — Damaging Property (A Misdemeanor).
- Instruction No. 4.0440. Criminal Mischief — Damaging Property (Level 6 felony).
- Instruction No. 4.0460. Institutional Criminal Mischief
- Instruction No. 4.0480. Cemetery Mischief.
- Instruction No. 4.0500. Damage to Cemetery Monuments or Grave Markers.
- Instruction No. 4.0520. Railroad Mischief — Locomotive and Cars.
- Instruction No. 4.0540. Railroad Mischief — Signal Systems.
- Instruction No. 4.0560. Railroad Mischief — Rail Systems.
- Instruction No. 4.0660. Cave Mischief.
  - Instruction No. 4.0680. Tampering with Water Supply.
  - Instruction No. 4.0900. Altering Historic Property.
  - Instruction No. 4.0920. Offense Against Intellectual Property.
  - Instruction No. 4.0940. Offense Against Computer Users.
- Instruction No. 4.1100. Burglary.
- Instruction No. 4.1120. Residential Entry.
- Instruction No. 4.1140. Criminal Trespass (Entering Real Property).
- Instruction No. 4.1160. Criminal Trespass (Refusing to Leave Real Property).
- Instruction No. 4.1180. Criminal Trespass (Vehicles).
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- Instruction No. 4.1600. Theft.
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- Instruction No. 4.1920. Criminal Conversion — Motor Vehicle for Crime.
- Instruction No. 4.1940. Conversion by Borrower.
- Instruction No. 4.2200. Vending Machine Vandalism (Damaging).
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- Instruction No. 4.2400. Counterfeiting — Making or Uttering.
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- Instruction No. 4.2480. Possession of a Fraudulent Sales Document.
- Instruction No. 4.2600. Forgery.
- Instruction No. 4.2620. Application Fraud.
  - Instruction No. 4.2640. Counterfeit Government Issued Identification.
- Instruction No. 4.2660. Deception (Permitting Deposit in Insolvent Institution).
- Instruction No. 4.2680. Deception (False Statements).
- Instruction No. 4.2700. Deception (Misapplication of Property).



Instruction No. 4.2720. Deception (False Weights or Measures).  
Instruction No. 4.2740. Deception (Fraudulently Obtaining Utilities).  
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Instruction No. 4.9740. Timber Spiking.  
Instruction No. 4.9800. Conversion or Misappropriation of Title Insurance Escrow Funds.  
Instruction No. 4.9820. Theft of Title Insurance Funds.

Instruction No. 4.0020. Arson (Damaging dwelling).

Instruction No. 4.0020. Arson (Damaging dwelling).

### I.C. 35-43-1-1(a)(1).

The crime of arson is defined by law as follows:

A person who, by means of [fire] [explosive] [destructive device], [knowingly] [intentionally] damages a dwelling of another person without his consent commits arson, a Level 4 felony.

[The offense is a Level 3 felony if it results in bodily injury to any other person.]

[The offense is a Level 2 felony if it results in serious bodily injury to any other person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. damaged
4. a dwelling of another person, (*name*)
5. by means of [fire] [explosive] [destructive device]
6. without (*name*)'s consent
7. [(*for Level 3 felony*) and it resulted in bodily injury to (*name person alleged to have been injured*)].
8. [(*for Level 2 felony*) and it resulted in serious bodily injury to (*name person alleged to have been injured*)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of arson, a Level 4/3/2 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.0040. Arson (Endangering human life).

Instruction No.0040. Arson (Endangering human life).

I.C. 35-43-1-1(a)(2).

The crime of arson is defined by law as follows:

A person who, by means of [fire] [explosive] [destructive device], [knowingly] [intentionally] damages property of any person under circumstances that endanger human life commits arson, a Level 4 felony. [The offense is a Level 3 felony if it results in bodily injury to any other person.] [The offense is a Level 2 felony if it results in serious bodily injury to any other person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. damaged
4. property of any person, (name)
5. by means of [fire] [explosive] [destructive device]
6. under circumstances that endangered human life
- [7. (*for Level 3 felony*) and it resulted in bodily injury to (*name person alleged to have been injured*)].
- [8 (*for Level 2 felony*) and it resulted in serious bodily injury to (*name person alleged to have been injured*)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of arson, a Level 4/3/2 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.0060. Arson (Loss at least \$5,000).

Instruction No. 4.0060. Arson (Loss at least \$5,000).

I.C. 35-43-1-1(a)(3).

The crime of arson is defined by law as follows:

A person who, by means of [fire] [explosive] [destructive device], [knowingly] [intentionally] damages property of another person without the other person's consent if the pecuniary loss is at least \$5,000 commits arson, a Level 4 felony. [The offense is a Level 3 felony if it results in bodily injury to any other person.] [The offense is a Level 2 felony if it results in serious bodily injury to any other person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. damaged
4. property of another person, (*name*)
5. by means of [fire] [explosive] [destructive device]
6. without his/her consent and
7. the pecuniary loss was at least \$5,000
8. (*for Level 3 felony*) and it resulted in bodily injury to (*name person alleged to have been injured*).
9. (*for Level 2 felony*) and it resulted in serious bodily injury to (*name person alleged to have been injured*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of arson, a Level 4/3/2/ felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.0080. Arson (Structure Used for Religious Worship).

Instruction No. 4.0080. Arson (Structure Used for Religious Worship).

I.C. 35-43-1-1(a)(4).

The crime of arson is defined by law as follows:

A person who, by means of [fire] [explosive] [destructive device], [knowingly] [intentionally] damages a structure used for religious worship without the consent of the owner of the structure commits arson, a Level 4 felony. [The offense is a Level 3 felony if it results in bodily injury to any other person.] [The offense is a Level 2 felony if it results in serious bodily injury to any other person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. damaged
4. a structure used for religious worship
5. by means of [fire] [explosive] [destructive device]
6. without the consent of the owner of the structure
- [7. (*for Level 3 felony*) and it resulted in bodily injury to (*name person alleged to have been injured*)].
- [8. (*for Level 2 felony*) and it resulted in serious bodily injury to (*name person alleged to have been injured*)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of arson, a Level 4/3/2 felony, as charged in Count \_\_\_\_\_.

### Instruction No. 4.0100. Arson (For Hire).

### Instruction No.0100. Arson (For Hire).

#### I.C. 35-43-1-1(b).

The crime of arson is defined by law as follows:

A person who, by means of [fire] [explosive] [destructive device], [knowingly] [intentionally] damages property of any person for hire commits arson for hire, a Level 4 felony.  
[The offense is a Level 3 felony if it results in bodily injury to any other person.]  
[The offense is a Level 2 felony if it results in serious bodily injury to any other person.]

Before you may convict the Defendant, the State must have proved each of the following elements:

1. The Defendant
2. [knowingly] [intentionally]
3. damaged property of (*name*)
4. by means of [fire] [explosive] [destructive device]
5. for hire
- [6. (*for Level 3 felony*) and it resulted in bodily injury to (*name person alleged to have been injured*)].
- [7. (*for Level 2 felony*) and it resulted in serious bodily injury to (*name person alleged to have been injured*)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of arson, a Level 4/3/2 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.0120. Arson (Intent to Defraud).

Instruction No. 4.0120. Arson (Intent to Defraud).

I.C. 35-43-1-1(c).

The crime of arson is defined by law as follows:

A person who, by means of [fire] [explosive] [destructive device], [knowingly] [intentionally] damages property of any person with intent to defraud, commits arson, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly][intentionally]
3. by means of [fire] [explosive] [destructive device]
4. damaged property of (*name*)
5. with intent to defraud (*name person alleged as fraud target*).

If the State failed to prove each of these elements beyond a reasonable doubt, then you must find the Defendant not guilty of arson, a Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.0140. Arson (Property Damage \$250 to \$5,000).

Instruction No. 4.0140. Arson (Property Damage \$250 to \$5,000).

I.C. 35-43-1-1(d).

The crime of arson is defined by law as follows:

A person who, by means of [fire] [explosive] [destructive device], [knowingly] [intentionally] damages property of any person without his consent so that the resulting pecuniary loss is at least \$250 but less than \$5,000 commits arson, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. by means of [fire] [explosive] [destructive device]

4. damaged property of (name)
5. without his/her consent
6. resulting in pecuniary loss of at least \$250 but less than \$5,000.

If the State failed to prove each of these elements beyond a reasonable doubt, then you must find the Defendant not guilty of arson, a Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.0400. Criminal Mischief — Damaging Property (B misdemeanor).

Instruction No. 4.0400. Criminal Mischief — Damaging Property (B misdemeanor).

I.C. 35-43-1-2(a).

The crime of criminal mischief, a Class B misdemeanor, is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] damages property of another person without the other person's consent commits criminal mischief, a Class B misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. damaged the property of (*name*)
4. without the consent of (*name*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of criminal mischief, a Class B misdemeanor, as charged in Count \_\_\_\_\_.

Instruction No. 4.0420. Criminal Mischief — Damaging Property (Class A Misdemeanor).

Instruction No. 4.0420. Criminal Mischief — Damaging Property (Class A Misdemeanor).

I.C. 35-43-1-2(a)(1).

The crime of criminal mischief, a Class A misdemeanor, is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] [damages] [defaces] property of another person without the other person's commits criminal mischief, a Class B misdemeanor. [The offense is a Class A misdemeanor if the pecuniary loss is at least seven hundred fifty dollars (\$250) but less than fifty thousand dollars (\$2,500).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly], [knowingly] [intentionally]
3. [damaged] [defaced] the property of (*name*)
4. without the consent of (*name*)
5. and (*for Class A misdemeanor*) the pecuniary loss was at least seven hundred fifty (\$750) but less than fifty thousand dollars (\$50,000)

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of criminal mischief, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

Instruction No. 4.0440. Criminal Mischief — Damaging Property (Level 6 felony).

Instruction No. 4.0440. Criminal Mischief — Damaging Property (Level 6 felony).

I.C. 35-43-1-2(a)(2)

The crime of criminal mischief, a Level 6 felony, is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] [damages] [defaces] property of another person without the other person's consent commits criminal mischief, a Class B misdemeanor. (The offense is a Level 6 felony if [the pecuniary loss is at least fifty thousand dollars (\$50,000)] [the damage causes substantial



interruption or impairment of utility service rendered to the public] [the damage is to a public record] [the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5)].)

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [recklessly] [knowingly] [intentionally]
  3. [damaged] [defaced] the property of (*name*)
  4. without the consent of (*name*) and
  5. [the pecuniary loss was at least fifty thousand dollars (\$50,000)]
- [or]

[the damage caused substantial (interruption) (impairment) of utility service rendered to the public (*describe service*)]

[or]

[the damage was to a public record (*describe record*)]

[or]

[the damage was to a law enforcement animal (as defined in IC 35-46-3-4.5)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of criminal mischief, a Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.0460. Institutional Criminal Mischief.

Instruction No. 4.0460. Institutional Criminal Mischief.

I.C. 35-43-1-2(b).

The crime of institutional criminal mischief is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] damages [a structure used for religious worship] [a (school) (community center)] [the property of an agricultural operation (as defined in IC 32-30-6-1)] [the grounds adjacent to and (owned) (rented) in common with a structure used for religious worship] (a {school} {community center}) (the property of an agricultural operation [as defined in IC 32-

30-6-1)] [personal property contained in (a structure used for religious worship (a {school} {community center}) or located at (the property of an agricultural operation (as defined in IC 32-30-6-1))] [the personal property contained in an agricultural operation (as defined in IC 32-30-6-1)] without the consent of the [owner] [possessor] [occupant] of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. [The offense is a Level 6 felony if the pecuniary loss (or property damage, in the case of the agricultural operation) is at least seven hundred fifty dollars (\$750) but less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the pecuniary loss (or property damage, in the case of the agricultural operation) is at least fifty thousand dollars (\$50,000).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [recklessly] [knowingly] [intentionally]
  3. damaged
  4. [a structure used for religious worship]
- [or]

[the grounds adjacent to and owned or rented in common with a structure used for religious worship]

[or]

[personal property contained in a structure used for religious worship]

[or]

[a (school) (community center)]

[or]

[the grounds adjacent to and owned or rented in common with a (school) (community center)]

[or]

[personal property contained in a (school) (community center)]

[or]

[the property of an agricultural operation (as defined in IC 32-30-6-1)]

[or]

[the grounds adjacent to and owned or rented in common with the property of an agricultural operation]

[or]

[personal property contained in the property of an agricultural operation]  
5. without the consent of (*name*), the [owner] [possessor] [occupant] of the property  
[6. (*for Level 6 felony*) and the pecuniary loss was at least seven hundred fifty dollars (\$750) but less than fifty thousand dollars (\$50,000)]  
[7. (*for Level 5 felony*) and the pecuniary loss was at least fifty thousand dollars (\$50,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of institutional criminal mischief, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

### Instruction No. 4.0480. Cemetery Mischief.

### Instruction No. 4.0480. Cemetery Mischief.

#### I.C. 35-43-1-2.1.

The crime of cemetery mischief is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] [damages a cemetery, a burial ground (as defined in IC 14-21-1-3), or a facility used for memorializing the dead] [damages the grounds owned or rented by a cemetery or facility used for memorializing the dead] commits cemetery mischief, a Class A misdemeanor. [The offense is a Level 6 felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. damaged
4. [a cemetery, burial ground, or facility used for memorializing the dead]  
[the grounds (owned) (rented) by a cemetery, burial ground, or facility used for memorializing the dead]
- [5. (*for Level 6 felony*) and the pecuniary loss was at least two thousand five hundred dollars (\$2500)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of cemetery mischief, a Class A misdemeanor/Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.0500. Damage to Cemetery Monuments or Grave Markers.

Instruction No. 4.0500. Damage to Cemetery Monuments or Grave Markers.

I.C. 35-43-1-2.1(b)(3).

The crime of damage to grave markers is defined by law as follows:

A person who [recklessly] [knowingly][intentionally] [disturbs] defaces] damages] a [cemetery monument] [grave marker] [grave artifact] [grave ornamentation][cemetery enclosure] commits cemetery mischief, a Class A misdemeanor. [The offense is a Level 6 felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [recklessly] [knowingly] [intentionally]
  3. [disturbed] [defaced] [damaged] a
  4. [cemetery monument]
- [or]

[grave marker]

[or]

[grave artifact]

[or]

[grave ornamentation]

[or]

[cemetery enclosure]

[5. (*for Level 6 felony*) and the pecuniary loss was at least two thousand five hundred dollars (\$2500)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of damage to cemetery markers or monuments, a Class A misdemeanor/Level 6 felony, as charged in Count

\_\_\_\_\_.

## Instruction No. 4.0520. Railroad Mischief — Locomotive and Cars

## Instruction No. 4.0520. Railroad Mischief — Locomotive and Cars

I.C. 35-43-1-2.3(1).

The crime of railroad mischief is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] [(damages) (defaces)] [(a locomotive) (a railroad car) (a train) (equipment of a railroad company)] being operated on railroad right-of-way, without consent of the owner of the property, commits railroad mischief, a Level 6 felony. [The offense is a Level 5 felony if it results in serious bodily injury to another person.] [The offense is a Level 2 felony if it results in the death of another person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [recklessly] [knowingly] [intentionally]
  3. [damaged] [defaced]
  4. [a locomotive]
- [or]

[a railroad car]

[or]

[a train]

[or]

[equipment of a railroad company]

5. being operated on railroad right-of-way

6. without the consent of the railroad carrier

[7. (*for Level 5 felony*) and the offense resulted in serious bodily injury to another person]

[9. (*for Level 2 felony*) and the offense resulted in the death of another person].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of railroad mischief, a Level 6/5/2 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.0540. Railroad Mischief — Signal Systems.

Instruction No. 4.0540. Railroad Mischief — Signal Systems.

I.C. 35-43-1-2.3(2).

The crime of railroad mischief is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] [(damages) (defaces)] [(a part of any railroad signal system) (train control system) (centralized dispatching system) (highway railroad grade crossing warning signal)] on a railroad right-of-way [(owned) (leased) (operated) by a railroad company] without consent of the owner of the property commits railroad mischief, a Level 6 felony. [The offense is a Level 5 felony if it results in serious bodily injury to another person.] [The offense is a Level 2 felony if it results in the death of another person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. [(damaged) (defaced) [(a part of a railroad signal system) (a train control system) (a centralized dispatching system) (highway-railroad grade crossing warning signal)]
5. on a railroad right-of-way (owned) (leased) (operated) by [name], a railroad carrier
6. without the consent of [name], the railroad carrier involved]
- [7. (for Level 5 felony) and the offense resulted in serious bodily injury to [name], another person]
- [8. (for Level 2 felony) and the offense resulted in the death of [name], another person].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of railroad mischief, a Class 6/5/2 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.0560. Railroad Mischief — Rail Systems

## Instruction No. 4.0560. Railroad Mischief — Rail Systems

I.C. 35-43-1-2.3(3).

The crime of railroad mischief is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] [(damages) (defaces)] [(a rail) (a switch) (a roadbed) (a viaduct) (a bridge) (a trestle) (a culvert) (an embankment)] [(owned) (leased) (operated) by a railroad company] without consent of the owner of the property involved commits railroad mischief, a Level 6 felony. [The offense is a Level 5 felony if it results in serious bodily injury to another person.] [The offense is a Level 2 felony if it results in the death of another person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. [damaged] [defaced]
4. [a rail]

[or]

[a switch]

[or]

[a roadbed]

[or]

[a viaduct]

[or]

[a bridge]

[or]

[a trestle]

[or]

[a culvert]

[or]

[an embankment]

- 5. on a right-of-way [owned] [leased] [operated] by a railroad company
- 6. without the consent of the railroad company involved
- [7. (*for Level 5 felony*) and the offense resulted in serious bodily injury to another person]
- [8. (*for Level 2 felony*) and the offense resulted in the death of another person].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of railroad mischief, a Level 6/5/2 felony, as charged in Count \_\_\_\_\_.

### Instruction No. 4.0660. Cave Mischief.

### Instruction No. 4.0660. Cave Mischief.

#### I.C. 35-43-1-3.

The crime of cave mischief is defined by law as follows:

A person who knowingly and without the express consent of the cave owner:

[(disfigures) (destroys) (removes) any (stalagmite) (stalactite) (other naturally occurring mineral deposit or formation) (archeological) (paleontological) artifact in a cave for other than scientific purposes] [breaks any (lock) (gate) (fence) (other structure) designed to control or prevent access to a cave] [deposits (trash) (rubbish) (chemicals) (other litter) in a cave] [(destroys) (injures) (removes) (harasses) any cave-dwelling animal for other than a scientific purposes] commits cave mischief, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

- 1. The Defendant
- 2. knowingly
- 3. without the express consent of (*name*), the cave owner
- 4. [(disfigured)
- (or)

(destroyed)

(or)

(removed)

a

(stalagmite)



(or)

(stalactite)

(or)

(*[describe other naturally occurring mineral deposit or formation]*), which was a naturally occurring mineral deposit or formation)

(or)

(*[describe artifact alleged]*), which was an [archeological] [paleontological] artifact in a cave for other than scientific purposes]

[or]

[broke a (lock) (gate) (fence) (structure designed to control or prevent access to a cave)]

[or]

[deposited (trash) (rubbish) (chemicals) (other litter) in a cave]

[or]

[(destroyed) (injured) (removed) (harassed) a (*describe animal alleged*), which was a cave-dwelling animal, for other than scientific purposes].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of cave mischief, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

### **Instruction No. 4.0680. Tampering with Water Supply**

### **Instruction No. 4.0680. Tampering with Water Supply**

I.C. 35-43-1-5.

The crime of tampering with water supply is defined by law as follows:

A person who [tamper with a (water supply) (water treatment plant (as defined in IC 13-11-2-264)) (water distribution system (as defined in IC 13-11-2-259))] with the intent to cause serious bodily injury, commits tampering with water supply, a Level 4 felony.[The offense is a Level 2

felony if it results in the death of a person.] [The offense is a Level 3 felony if a person [recklessly] [knowingly] [intentionally] poisons a public water supply with the intent to cause serious bodily injury.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. tampered with a [water supply] [water treatment plant] [water distribution system]
3. with the intent to cause serious bodily injury
- [4. (*for Level 2 felony*) and the offense resulted in death of (*name*).]
- [2. (*for Level 3 felony*) (recklessly) (knowingly) (intentionally) poisoned a public water supply
3. with the intent to cause serious bodily injury.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of tampering with a water supply, a Level 2/3 felony, as charged in Count \_\_\_\_\_.

### **Instruction No. 4.0900 Altering Historical Property**

### **Instruction No. 4.0900 Altering Historical Property**

I.C. 35-43-1-6

The crime of altering historical property is defined as follows:

A person who [knowingly] [intentionally] alters without a permit, historic property located on property [owned] [leased] by the state commits altering historical property, a Class B misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. alters without a permit
4. historic property [owned] [leased] by the state.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of altering historical property, a Class B misdemeanor, as charged in Count \_\_\_\_\_.

**Instruction No. 4.0920 Offense Against Intellectual Property**

**Instruction No. 4.0920 Offense Against Intellectual Property**

I.C. 35-43-1-7

The offense against intellectual property is defined as follows:

A person who [knowingly] [intentionally] without authorization, [modifies (data) (a computer program) (supporting documentation)] [destroys (data) (a computer program) (supporting documentation)] [(discloses) (takes) (data) (a computer program) (supporting documentation) that is {a trade secret (as defined in IC 24-2-3-2)} {otherwise confidential as provided by law}}] and that (resides) (exists) (internally) (externally) on a (computer) (computer system) (computer network) commits the offense against intellectual property, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. without authorization
4. [modified (data) (a computer program) (supporting documentation)]

[or]

[destroyed (data) (a computer program) (supporting documentation)]

[or]

[(disclosed) (took) (data) (a computer program) (supporting documentation) that was {a trade secret (as defined in IC 24-2-3-2)} {otherwise confidential as provided by law}}]

5. and that (resided) (existed) (internally) (externally) on a (computer) (computer system)

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of offense against intellectual property, a Level 6 felony, as charged in Count \_\_\_\_\_.

## **Instruction No. 4.0940 Offense Against Computer Users**

## **Instruction No. 4.0940 Offense Against Computer Users**

I.C. 35-43-1-8

The offense against computer users is defined as follows:

A person who [knowingly] [intentionally] without authorization, [(disrupts) (denies) (causes the disruption or denial of) computer system services to an authorized user of the computer system services that are (owned by) (under contract to) ({operated for} {on behalf of} {in conjunction with}) another person in whole or part] [(destroys) (takes) (damages) (equipment) (supplies) used or intended to be used in a (computer) (computer system) (computer network)] [(destroys) (damages) a (computer) (computer system) (computer network)] [introduces a computer contaminant into a (computer) (computer system) (computer network)] commits the offense against computer users, a Level 6 felony. [The offense is a Level 5 felony if (the pecuniary loss caused by the offense is at least five thousand dollars (\$5,000)) (the offense was committed for the purpose of devising or executing any scheme or artifice to defraud or obtain property) (the offense interrupts or impairs {a governmental operation} {the public communication, transportation, or supply of water, gas, or another public service}).] [The offense is a Level 4 felony if the offense endangers human life.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. without authorization [(disrupted) (denied) (caused the disruption or denial of) computer system services) to an authorized user of the computer system services that were (owned by) (under contract to) ({operated for} {on behalf of} {in conjunction with}) another person in whole or part]

[or]

[(destroyed) (took) (damaged) (equipment) (supplies) used or intended to be used in a (computer) (computer system) (computer network)]

[or]

[(destroyed) (damaged) a (computer) (computer system) (computer network)

[or]

[introduced a computer contaminant into a (computer) (computer system) (computer network]

4. (*for Level 5 felony*) [and (the (pecuniary loss caused by the offense was at least five thousand dollars (\$5,000) (the offense was committed for the purpose of devising or executing a scheme or artifice to defraud or obtain property) (the offense interrupted or impaired {a governmental operation} {the public communication, transportation, or supply of water, gas, or another public service})).]
5. (*for Level 4 felony*) [and the offense endangered human life.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of offense against computer users, a Level 6/5/4 felony, as charged in Count \_\_\_\_\_.

### Instruction No. 4.1100. Burglary.

### Instruction No. 4.1100. Burglary.

#### I.C. 35-43-2-1.

The crime of burglary is defined by law as follows:

A person who breaks and enters the building or structure of another person, with intent to commit a felony or theft in it, commits burglary, a Level 5 felony. [The offense is a Level 4 felony if the building or structure is a dwelling.] [The offense a Level 3 felony if it results in bodily injury to any person other than a defendant.] [The offense is a Level 2 felony if it (is committed while armed with a deadly weapon) (results in serious bodily injury to any person other than a defendant).] [The offense is a Level 1 felony if the building or structure is a dwelling and it results in serious bodily injury to any person other than a defendant.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. broke and entered
4. the building or structure of (*name*)

5. with the intent to commit a (felony, *name felony*) (theft) in it, by [*set out elements of object felony*] (*theft*)
- [6. (*for Level 4 felony*) and [the offense was committed in a building or structure that was a dwelling]
- [7. (*for Level 3 felony*) and the offense resulted in bodily injury to (name), who was a person other than a defendant.]
- [8. (*for Level 2 felony*) and the offense
- [was committed while Defendant was armed with (*specify weapon*), a deadly weapon]
- [or]
- [resulted in serious bodily injury to (name), who was a person other than a defendant.]
- [9. (*for Level 1 felony*) and the offense was committed in a building or structure that was a dwelling and the offense resulted in serious bodily injury to (*name*), who was a person other than a defendant.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of burglary, a Level 5/4/3/2/1 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 4.1120. Residential Entry.

## Instruction No. 4.1120. Residential Entry.

### I.C. 35-43-2-1.5.

The crime of residential entry is defined by law as follows:

A person who [knowingly] [intentionally] breaks and enters the dwelling of another person commits residential entry, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. broke and entered
4. the dwelling of [*name*], another person.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of residential entry, a Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.1140. Criminal Trespass (Entering Real Property).

Instruction No. 4.1140. Criminal Trespass (Entering Real Property).

I.C. 35-43-2-2(b)(1).

The crime of criminal trespass is defined by law as follows:

A person who, not having a contractual interest in the property, [knowingly] [intentionally] enters the real property of another person after having been denied entry by the [other person] [that person's agent] commits criminal trespass, a Class A misdemeanor. [The offense is a Level 6 felony if [it is committed (on a scientific research facility) (on a key facility) (on a facility belonging to a public utility as defined in [IC 32-24-1-5.9\(a\)](#)) (on school property) (on a school bus)].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. when he/she did not have a contractual interest in the real property of [name]
  3. [knowingly] [intentionally]
  4. entered the real property of [name]
  5. [after having been denied entry by (name)]
- [or]

[after having been denied entry by the agent of (name)]  
[6. (*for Level 6 felony*) and the offense was committed  
(on a scientific research facility)

(or)

(on a key facility)

(or)

(on a facility belonging to a public utility (as defined in [IC 32-24-1-5.9\(a\)](#))).

(or)

(on school property)

(or)

(on a school bus).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of criminal trespass (entering real property), a Class A misdemeanor/Level 6 felony, as charged in Count \_\_\_\_\_

### Instruction No. 4.1160. Criminal Trespass (Refusing to Leave Real Property).

### Instruction No. 4.1160. Criminal Trespass (Refusing to Leave Real Property).

I.C. 35-43-2-2(b)(2).

The crime of criminal trespass is defined by law as follows:

A person who, not having a contractual interest in the property, [knowingly] [intentionally] refuses to leave the real property of another person after having been asked to leave by [the other person] [the other person's agent] commits criminal trespass, a Class A misdemeanor. [The offense is a Level 6 felony if it is committed (on a scientific research facility) (on a key facility) (on a facility belonging to a public utility (as defined in [IC 32-24-1-5.9\(a\)](#))) (on school property) (on a school bus.)]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. when he/she did not have a contractual interest in the real property of [name]
3. [knowingly] [intentionally]
4. refused to leave the real property of [name]
5. after having been asked to leave by [name] [by the agent of (name)]
6. (for Level 6 felony) and the offense was committed  
(on a scientific research facility)

(or)

(on a key facility)



(or)

(on a facility belonging to a public utility (as defined in [IC 32-24-1-5.9\(a\)](#)))

(or)

(on school property)

(or)

(on a school bus).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of criminal trespass, a Class A misdemeanor/Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.1180. Criminal Trespass (Vehicles).

Instruction No. 4.1180. Criminal Trespass (Vehicles).

I.C. 35-43-2-2(b)(3).

The crime of criminal trespass is defined by law as follows:

A person who accompanies another person in a vehicle, with knowledge that the other person [knowingly] [intentionally] is exerting unauthorized control over the vehicle, commits criminal trespass, a Class A misdemeanor. [The offense is a Level 6 felony if it is committed (on a scientific research facility) (on a key facility) (on a facility belonging to a public utility (as defined in [IC 32-24-1-5.9\(a\)](#))) (on school property) (on a school bus).]

Before you may convict the Defendant, the State must have proved each of the following elements:

1. The Defendant
2. accompanied [*name other person*] in a vehicle
3. when Defendant knew that [*name other person*] was knowingly or intentionally exerting unauthorized control over the vehicle
- [4. (*for Level 6 felony*) and the offense was committed  
(on a scientific research facility)]

(or)

(on a key facility)

(or)

(on a facility belonging to a public utility (as defined in [IC 32-24-1-5.9\(a\)](#))

(or)

(on school property)

(or)

(on a school bus).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of criminal trespass, a Class A misdemeanor/Level 6 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 4.1300. Criminal Trespass (Interfering with Possession of Property.

## Instruction No. 4.1300. Criminal Trespass (Interfering with Possession of Property.

### I.C. 35-43-2-2(b)(4).

The crime of criminal trespass is defined by law as follows:

A person who [knowingly] [intentionally] interferes with the [possession] [use] of the property of another person without his consent, commits criminal trespass, a Class A misdemeanor. [The offense is a Level 6 felony if it is committed (on a scientific research facility) (on a key facility) (on a facility belonging to a public utility (as defined in IC 32-24-1-5.9(a)) (on school property) (on a school bus).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. interfered with the [possession] [use] of the property of [name]
4. without the consent of [name]

[5. (*for Level 6 felony*) and the offense was committed  
(on a scientific research facility)

(or)

(on a key facility)

(or)

(on a facility belonging to a public utility (as defined in [IC 32-24-1-5.9\(a\)](#))

(or)

(on school property)

(or)

(on a school bus).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Criminal Trespass, a Class A misdemeanor/Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.1320. Criminal Trespass (Entering a Dwelling Without Consent).

Instruction No. 4.1320. Criminal Trespass (Entering a Dwelling Without Consent).

I.C. 35-43-2-2(b)(5)(A), (B).

The crime of criminal trespass is defined by law as follows:

A person who, not having a contractual interest in the property, [knowingly] [intentionally] enters the dwelling of another person without the other person's consent], commits criminal trespass, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. [knowingly] [intentionally]
3. entered the dwelling of [name]
4. without the consent of [name]
5. when Defendant had no contractual interest in the property.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Criminal Trespass, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

Instruction No. 4.1340. Criminal Trespass (Train Travel Without Consent).

Instruction No. 4.1340. Criminal Trespass (Train Travel Without Consent).

I.C. 35-43-2-2(b)(6).

The crime of criminal trespass is defined by law as follows:

A person who [knowingly] [intentionally] travels by train without lawful authority or the railroad carrier's consent, and rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent commits criminal trespass, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. travelled by train  
[without the consent of [name railroad carrier]
- [or]
- [without lawful authority]
4. and rode  
[on the outside of the train]
- [or]

[inside a (passenger car) (locomotive)

(freight car, including a {box car} {flatbed} {container})

5. [without lawful authority]

[ or]

[without the carrier's consent].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Criminal Trespass, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

## Instruction No. 4.1360. Computer Trespass.

## Instruction No. 4.1360. Computer Trespass.

I.C. 35-43-2-3(b).

The crime of computer trespass is defined by law as follows:

A person who knowingly] [intentionally] accesses a [computer system] [a computer network] [any part of a computer (system) (network)] without the consent of [the owner of the (computer system) (computer network)] [the owner's licensee] commits computer trespass, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [knowingly] [intentionally]
  3. accessed
  4. [a computer system]
- [or]

[a computer network]

[or]

[any part of (a computer system) (a computer network)]

6. without the consent of [(name), its owner] [(name), the licensee of (name), its

owner].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of computer trespass, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

## Instruction No. 4.1600. Theft.

## Instruction No. 4.1600. Theft.

### I.C. 35-43-4-2.

The crime of theft is defined by law as follows:

A person who [knowingly] [intentionally] exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Class A misdemeanor. [The offense is a Level 6 felony if (the value of the property is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000)) (the property is a firearm)].

[The offense is a Level 5 felony if

the value of the property is at least fifty thousand dollars (\$50,000)

or

the property that is the subject of the theft is a valuable metal (as defined in IC 25-37.55-1-1))

and

(relates to transportation safety)

(relates to public safety)

(is taken from a

{hospital or other health care facility}

{telecommunications provider}

{public utility (as defined in IC 32-24-1-5.9(a))}

{key facility})

and the absence of the property creates a substantial risk of bodily injury to a person).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. [knowingly] [intentionally]

3. exerted unauthorized control

4. over the property of (*name*)

5. with intent to deprive (*name*) of any part of its value or use.

[6. (*for Class 6 felony*) and the value of the property was at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000)]

[or]

[the property was a firearm].

[7. (for Class 5 felony) and (the value of the property was at least fifty thousand dollars (\$50,000)

[or]

[the subject of the theft was a valuable metal (as defined in IC 25-37.5-1-1) which  
(related to transportation safety)

(or)

(related to public safety)

(or)

(was taken from:

{a hospital or other health care facility}

{or}

{telecommunications provider}

{or}

{a public utility (as defined in IC 32-24-1-5.9(a))}

{or}

{a key facility}

and the absence of the property created a substantial risk of bodily injury to a person.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of theft, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 4.1620. Dealing in Altered Property.

## Instruction No. 4.1620. Dealing in Altered Property.

I.C. 35-43-4-2.3.

The crime of dealing in altered property is defined by law as follows:

A dealer, defined as a person who buys or sells, or offers to buy or sell, personal property, who [recklessly] [knowingly] [intentionally] [(buys) (sells) (offers to buy or sell) personal property in which (the identification number) (manufacturer's serial number)] has been [(removed) (altered) (obliterated) (defaced)] commits dealing in altered property, a Class A misdemeanor. [The offense is a Level 6 felony if the fair market value of the property is at least \$1,000.].

Before you may convict the Defendant, the State must have proved each of the

following beyond a reasonable doubt:

1. The Defendant

2. was a dealer who bought or sold, or offered to buy or sell, personal property and

3. [recklessly] [knowingly] [intentionally]

4. [bought] [sold]

[or]

[offered to buy]

[or]

[offered to sell]

4. the personal property of [name] in which the (identification number) (manufacturer's serial number) had been (removed) (altered) (obliterated) (defaced)].

[5. [(for Level 6 felony) and the fair market value of the property was at least one thousand dollars (\$1,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dealing in altered property, a Class A misdemeanor/Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.1640. Auto Theft.

Instruction No. 4.1640. Auto Theft.

I.C. 35-43-4-2.5(b).

The crime of auto theft is defined by law as follows:

A person who [knowingly] [intentionally] exerts unauthorized control over the motor vehicle of another person, with intent to deprive the owner of [any part of the vehicle's value or use] [a component part of the vehicle] commits auto theft, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the



following elements:

1. The Defendant
2. [knowingly] [intentionally]
3. exerted unauthorized control over the motor vehicle of [*name*]
4. with the intent to deprive (*name*), the owner of [any part of the vehicle's value or use] [a component part of the vehicle.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of auto theft, a Level 6 felony, as charged in Count \_\_\_\_\_.

### Instruction No. 4.1660. Receiving Stolen Auto Parts.

### Instruction No. 4.1660. Receiving Stolen Auto Parts.

I.C. 35-43-4-2.5(c).

The crime of receiving stolen auto parts is defined by law as follows:

A person who [knowingly] [intentionally] [receives] [retains] [disposes of] a motor vehicle or any part of a motor vehicle of another person that has been the subject of theft commits receiving stolen auto parts, a Level 6 felony.

Before you may convict the Defendant the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [received] [retained] [disposed of]
4. [a motor vehicle] [any part of a motor vehicle] of (*name*)
5. when [the motor vehicle] [the part of the motor vehicle] had been the subject of theft
6. and when Defendant knew [the motor vehicle] [the part of the motor vehicle] had been the subject of a theft.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of receiving stolen auto parts, a Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.1680. Unauthorized Entry of Motor Vehicle.

Instruction No. 4.1680. Unauthorized Entry of Motor Vehicle.

I.C. 35-43-4-2.7.

The crime of unauthorized entry of a motor vehicle is defined by law as follows:

A person who [enters a motor vehicle knowing that the person does not have permission of (an owner) (a lessee) (a person who is authorized to operate the motor vehicle by an owner or lessee) of the motor vehicle] [does not have a contractual interest in the motor vehicle] commits unauthorized entry of a motor vehicle, a Class B misdemeanor. [The offense is a Class A misdemeanor if the motor vehicle has (visible steering column damage) (ignition switch alteration) as a result of the entry without permission.] [The offense is a Level 6 felony if the person occupies the motor vehicle while the motor vehicle is used to further the commission of a crime if the person knew or should have known that a person intended to use the motor vehicle in the commission of a crime.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. entered a motor vehicle
3. when the Defendant knew that [he] [she] did not have permission to enter the motor vehicle from  
(an owner of the motor vehicle)

(or)

(a lessee of the motor vehicle)

(or)

(a person who was authorized to operate the motor vehicle by an owner or lessee of the motor vehicle) and

4. when the Defendant did not have a contractual interest in the motor vehicle.]
5. (for Class A misdemeanor) and the motor vehicle had  
(visible steering column damage)

(or)

(ignition switch alteration)

as a result of the Defendant's entry of the motor vehicle.]

[6. (for Level 6 felony) and the Defendant occupied the motor vehicle while the motor vehicle was used to further the commission of the crime of (*name alleged crime*), which is defined as (*recite elements of alleged crime*)

and

when Defendant (knew) (should have known) that (*name person alleged*) intended to use the motor vehicle in the commission of a crime.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unauthorized entry of a motor vehicle, a Class B/A misdemeanor/Level 6 felony, charged in Count \_\_\_\_\_.

#### Instruction No. 4.1900. Criminal Conversion.

#### Instruction No. 4.1900. Criminal Conversion.

I.C. 35-43-4-3(a).

The crime of criminal conversion is defined by law as follows:

A person who [knowingly] [intentionally] exerts unauthorized control over property of another person commits criminal conversion, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. exerted unauthorized control
4. over property of [*name*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of criminal conversion, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

#### Instruction No. 4.1920 Criminal Conversion — Motor Vehicle for Crime.

## Instruction No. 4.1920 Criminal Conversion — Motor Vehicle for Crime.

I.C. 35-43-4-3(b).

The crime of criminal conversion is defined by law as follows:

A person who [knowingly] [intentionally] exerts unauthorized control over the motor vehicle of another person with the intent to use the motor vehicle to assist the person in the commission of a crime commits criminal conversion, a Level 6 felony. [The offense is a Level 5 felony if committed by a person who exerts unauthorized control over the motor vehicle of another person and the person uses the motor vehicle to assist the person in the commission of a felony.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. exerted unauthorized control
4. over the motor vehicle of [name]
5. [with the intent to use the motor vehicle to assist the Defendant in committing the crime of (*name alleged crime*), which is defined as (*provide a definition of the alleged crime*)]
6. [(*for Level 5 felony*) and the Defendant used the motor vehicle to assist the Defendant in committing the felony of (*name alleged felony*), which is defined as (*provide a definition of the alleged felony*)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of criminal conversion, a Level 6/5 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 4.1940 Conversion by Borrower.

## Instruction No. 4.1940 Conversion by Borrower.

I.C. 35-43-4-3.5.

The crime of criminal conversion by borrower is defined by law as follows:

A person who borrows any article which [belongs to] [is in the care of (a library) (a gallery) (a museum) (a collection) (an exhibition)] under an agreement to return the article within a specified period of time and fails to return the article within that

specified period of time and [willingly] [ knowingly] fails [to return the article] [reimburse the lender for the value of the article] within 30 days of receipt of the notice of the violation of the borrower agreement required in IC 35-43-4-3.5(b), commits criminal conversion by borrower, a Class C misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. borrowed an article
3. which [belonged to] [was under the care of]

4. (a library) (a gallery) (a museum) (a collection) (an exhibition)

5. under an agreement to return the article within a specified period of time and failed to return the article within that specified time and

6. [knowingly] [intentionally] failed to [return the article] [reimburse the lender for the value of the article] within 30 days of receipt of the notice of violation of the borrower agreement.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of criminal conversion by borrower, a Class C misdemeanor, as charged in Count \_\_\_\_\_.

## Instruction No. 4.2200. Vending Machine Vandalism (Damaging)

## Instruction No. 4.2200. Vending Machine Vandalism (Damaging)

### I.C. 35-43-4-7(b)(1).

The crime of vending machine vandalism is defined by law as follows:

A person who [knowingly] [intentionally] damages a vending machine, commits vending machine vandalism, a class B misdemeanor. [The offense is a class A misdemeanor if the amount of damage is at least two hundred fifty dollars (\$250).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. damaged a vending machine

[4. (for Class A misdemeanor) and the amount of damage was at least two hundred fifty dollars (\$250)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of vending machine vandalism, a Class A/B

misdemeanor, as charged in Count \_\_\_\_\_.

Instruction No. 4.2240. Vending Machine Vandalism (Removing Contents).

Instruction No. 4.2240. Vending Machine Vandalism (Removing Contents).

I.C. 35-43-4-7(b)(2).

The crime of vending machine vandalism is defined by law as follows:

A person who [knowingly] [intentionally] removes [goods] [wares] [merchandise] [other property] from a vending machine without [inserting a coin, bill, or token made for that purpose] [the consent of the owner or operator of the vending machine], commits vending machine vandalism, a class B misdemeanor. [The offense is a class A misdemeanor if the amount of the (goods) (wares) (merchandise) (other property) removed from the vending machine is at least two hundred fifty dollars (\$250).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. removed [goods] [wares] [merchandise] [other property]
4. without  
[inserting a coin, bill, or token made for that purpose]

[or]

[the consent of the owner or operator of the vending machine]

[5. (*for Class A misdemeanor*) and the amount of the (goods) (wares) (merchandise) (other property) removed from the vending machine was at least two hundred fifty dollars (\$250)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of vending machine vandalism, a Class B/A misdemeanor, as charged in Count \_\_\_\_\_.

Instruction No. 4.2400. Counterfeiting — Making or Uttering.

Instruction No. 4.2400. Counterfeiting — Making or Uttering.

I.C. 35-43-5-2.

The crime of counterfeiting is defined by law as follows:

A person who [knowingly] [intentionally] [makes] [utters] a written instrument in such a manner that it purports to have been made [by another person] [at another time] [with different provisions] [by authority of one who did not give authority], commits counterfeiting, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [made] [uttered] a written instrument
4. in such a manner that it purported to have been made  
[by (*name*), another person]

[or]

[on (*give purported date*), when the written instrument was actually made on (*give alleged actual date*)]

[or]

[with different provisions]

[or]

[by authority of (*name*) when (*name*) had not given authority].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of counterfeiting, a Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.2420. Counterfeiting — Possessing.

Instruction No. 4.2420. Counterfeiting — Possessing.

I.C. 35-43-5-2.

The crime of counterfeiting is defined by law as follows:

A person who [knowingly] [intentionally] possessed more than one (1) written instrument knowing that the written instruments were made in a manner that they purport to have been made [by another person] [at another time] [with different provisions] [by authority of one who did not give authority], commits counterfeiting, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. possessed more than one (1) written instrument
4. knowing that the written instruments had been made in a such a manner that they purported to have been made  
[by (*name*), another person]

[or]

[on (*give purported date*), when the written instrument was actually made on (*give alleged actual date*)]

[or]

[with different provisions]

[or]

[by authority of (*name*) when (*name*) had not given authority].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of counterfeiting, a Level 6 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 4.2460. Making or Delivering a False Sales Document.

## Instruction No. 4.2460. Making or Delivering a False Sales Document.

### I.C. 35-43-5-2(b).

The crime of making or delivering a false sales document is defined by law as follows: a person who, with intent to defraud, [makes] [delivers] a [false sales receipt] [duplicate of a sales receipt] [(label) (other item) with a false (universal product code (UPC)) (other product identification code)] [puts a false (universal product code (UPC)) (other product identification code) on the property (displayed) (offered) for sale] to another person commits [making] [delivering] of a false sales document, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant



2. [made]

[or]

[delivered to (*name*)]

3. [a false sales receipt]

[or]

[a duplicate of a sales receipt]

[or]

[(label) (other item) with a false (universal product code(UPC)) (other product identification code)]

[or]

[put a false (universal product code (UPC)) (other product identification code) on property (displayed) (offered for sale)]

4. with the intent to defraud (*name*)

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [making] [delivering] of a false sales document, a Level 6 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 4.2480. Possession of a Fraudulent Sales Document.

## Instruction No. 4.2480. Possession of a Fraudulent Sales Document.

### I.C. 35-43-5-2(b).

The crime of possession of a fraudulent sales document is defined by law as follows: a person who, with intent to defraud, possesses a [retail sales receipt] [(label) (other item) with a (universal product code (UPC)) (other product identification code)] that applies to an item other than the item to which the [label] [other item] applies commits possession of a fraudulent sales document, a Class A misdemeanor. [The offense is a Level 6 felony if the person [possesses (at least 15 retail sales receipts) (at least 15 labels containing a universal product code (UPC)) (at least 15 labels containing another product identification code) (at least 15 of any combination of retail sales receipts, labels with universal product code (UPC), and labels with another product identification code)].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. possessed
3. [at least 15 retail sales receipts]

[or]

[at least 15 labels containing a universal product code(UPC))]

[or]

[at least 15 labels containing other product identification code]

4. with the intent to defraud (*name*)

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of a fraudulent sales document, a Level 6 felony, as charged in Count \_\_\_\_\_.

### Instruction No. 4.2600. Forgery.

### Instruction No. 4.2600. Forgery.

#### I.C. 35-43-5-2.

The crime of forgery is defined by law as follows:

A person who, with intent to defraud, [makes] [utters] [possesses] a written instrument in such a manner that it purports to have been made [by another person] [at another time] [with different provisions] [by authority of one who did not give authority], commits forgery, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. with intent to defraud
3. [made] [uttered] [possessed] a written instrument
4. purporting to have been made

[by (*name*), another person]

[or]

[on (*give purported date*), when the written instrument was actually made on (*give alleged actual date*)]

[or]

[with different provisions]

[or]

[by authority of (*name*) when (*name*) had not given authority].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of forgery, a Level 6 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 4.2620. Application Fraud.

## Instruction No. 4.2620. Application Fraud.

### I.C. 35-43-5-2(e).

The crime of application fraud applies to a person who applies for a [driver's license (as defined in IC 9-13-2-48)] [a state identification card (as described in IC 9-24-15)] and is defined by law as follows:

A person who, [knowingly] [intentionally] [uses a (false) (fictitious) name] [gives a (false) (fictitious) address] in [(an application) (a renewal) (duplicate) for a (driver's license) (state identification card)] [(makes a false statement) (conceals a material fact) in an application for (a driver's license) (a state identification card)], commits application fraud, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. [knowingly] [intentionally]

3. [used a (false) (fictitious) name] [gave a (false) (fictitious) address] in [(an application) (a renewal) (a duplicate) for a (driver's license) (state identification card)]

[or]

[(made a false statement) (concealed a material fact) in an application for (a driver's license) (a state identification card)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of application fraud, a Level 6 felony, as charged in Count \_\_\_\_\_.

#### Instruction No. 4.2640. Counterfeit Government Issued Identification.

#### Instruction No. 4.2640. Counterfeit Government Issued Identification.

#### I.C. 35-43-5-2.5.

The crime of counterfeit government issued identification is defined by law as follows: a person who [knowingly] [intentionally] [possesses] [produces] [distributes] a document not issued by a government entity that purports to be a government issued identification commits a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [possessed] [produced] [distributed]

4. a document not issued by a government entity that purported to be a government issued identification.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of a fraudulent sales document, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

#### Instruction No. 4.2660. Deception (Permitting Deposit in Insolvent Institution).

#### Instruction No. 4.2660. Deception (Permitting Deposit in Insolvent Institution).

### I.C. 35-43-5-3(a)(1).

The crime of deception is defined by law as follows:

A person who, being an [officer] [office manager] [other person participating in the direction of a credit institution], [receives] [permits the receipt] of [a deposit] [other investment] knowing that the institution is insolvent, commits Deception, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. when Defendant was an [officer] [office manager] [a person participating in the direction] of (*name*), a credit institution
3. [knowingly] [intentionally]
4. [received] [permitted receipt] of [a deposit] [other investment]
5. when the Defendant knew that (*name*), a credit institution, was insolvent.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of deception, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

### Instruction No. 4.2680. Deception (False Statements).

### Instruction No. 4.2680. Deception (False Statements).

### I.C. 35-43-5-3(a)(2).

The crime of deception is defined by law as follows:

A person who [knowingly] [intentionally] makes a [false] [misleading] written statement with intent to obtain [property] [employment] [educational opportunity] commits deception, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. made a [false] [misleading] statement, (*describe statement*)
4. with the intent to obtain [property] [employment] [educational opportunity].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of deception, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

Instruction No. 4.2700. Deception (Misapplication of Property).

Instruction No. 4.2700. Deception (Misapplication of Property).

I.C. 35-43-5-3(a)(3).

The crime of deception is defined by law as follows:

A person who misapplies [entrusted property] [property of a governmental entity] [property of a credit institution] in a manner that [the person knows is unlawful] [the person knows involves a substantial risk of (loss) (detriment)] to (the owner of the property) (a person for whose benefit the property was entrusted)] commits Deception, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. misapplied
  3. [entrusted property to (*name*)]
- [or]

[property of (*name*), a governmental entity]

[or]

[property of (*name*), credit institution]

4. in a manner
- [the Defendant knew was unlawful]

[or]

[the Defendant knew involved a substantial risk of (loss) (detriment) to (*name*), (the owner of the property) (the person for whom the property was entrusted)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of deception, a Class A misdemeanor as charged in Count \_\_\_\_\_.

Instruction No. 4.2720. Deception (False Weights or Measures)

Instruction No. 4.2720. Deception (False Weights or Measures)

I.C. 35-43-5-3(a)(4).

The crime of deception is defined by law as follows:

A person who [knowingly] [intentionally] in the regular course of business [(uses) (possesses for use) a false (weight) (measure) (other device for falsely determining or recording the quality or quantity of any commodity)] [(sells) (offers for sale) (displays for sale) (delivers) less than the represented quality or quantity of any commodity] commits Deception, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. in the regular course of business
4. [(used) (possessed for use) a false (weight)

(or)

(measure)

(or)

(other device for falsely determining or recording the quality or quantity of a commodity)]

[or]

[(sold) (offered for sale) (displayed for sale) (delivered) less than the represented quality or quantity of (*name commodity*), a commodity].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of deception, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

Instruction No. 4.2740. Deception (Fraudulently Obtaining Utilities).

Instruction No. 4.2740. Deception (Fraudulently Obtaining Utilities).

I.C. 35-43-5-3(a)(5).

The crime of deception is defined by law as follows:

A person who, with intent to defraud another person furnishing [electricity] [gas] [water] [telecommunications] [other utility service], avoids a lawful charge for that service by [a scheme] [a device] [tampering with (facilities) (equipment) of the person furnishing service] commits deception, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. with the intent to defraud (*name*), a person who was furnishing  
[electricity]

[or]

[gas]

[or]

[water]

[or]

[telecommunications]

[or]

[other utility service]

3. avoided a lawful charge for that service

4. by

[(*describe scheme or device*)]

[or]

[tampering with the (facilities) (equipment) of (*name*), the person  
furnishing service].

If the State failed to prove each of these elements beyond a reasonable doubt,  
you must find the Defendant not guilty of Deception, a Class A misdemeanor, as  
charged in Count \_\_\_\_\_.

Instruction No. 2760. Deception (Misrepresentation of Identity, Quality of  
Property).

Instruction No. 2760. Deception (Misrepresentation of Identity, Quality of  
Property).

I.C. 35-43-5-3(a)(6).

The crime of deception is defined by law as follows:

A person who, with intent to defraud, misrepresents [his/her identity] [the identity  
of another person] [the identity or quality of property] commits Deception, a Class  
A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the  
following beyond a reasonable doubt:

1. The Defendant
2. with the intent to defraud
3. misrepresented



[Defendant's identity]

[or]

[the identity of (*name the other person*)]

[or]

[the (identity) (quality) of (*describe the property alleged*)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of deception, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

Instruction No. 4.2780. Deception (Depositing Slugs).

Instruction No. 4.2780. Deception (Depositing Slugs).

I.C. 35-43-5-3(a)(7).

The crime of deception is defined by law as follows:

A person who with intent to defraud an owner of a coin machine, deposits a slug in that machine commits Deception, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. with the intent to defraud (*name*), the owner of a coin machine
3. deposited a slug into that machine.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Deception, a Class A misdemeanor as charged in Count \_\_\_\_\_.

Instruction No. 4.2800. Deception (Possessing Slugs).

Instruction No. 4.2800. Deception (Possessing Slugs).

I.C. 35-43-5-3(a)(8).

The crime of deception is defined by law as follows:

A person who, with intent to enable the [person] [another person] to deposit a slug in a coin machine, [makes] [possesses] [disposes of] a slug, commits deception, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. with the intent to enable [Defendant] [another person] to deposit a slug in a coin machine
3. [made] [possessed] [disposed of] a slug.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of deception, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

#### Instruction No. 4.2820. Deception (False Advertising).

#### Instruction No. 4.2820. Deception (False Advertising).

##### I.C. 35-43-5-3(a)(9).

The crime of deception is defined by law as follows:

A person who disseminates to the public an advertisement that the person knows is [false] [misleading] [deceptive], with intent to promote [the (purchase) (sale) of property] [the acceptance of employment], commits deception, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. with the intent to promote  
[the (purchase) (sale) of property]

[or]

[the acceptance of employment]

3. disseminated to the public an advertisement
4. that the Defendant knew was [false] [misleading] [deceptive].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of deception, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

Instruction No. 4.2840. Deception (Misrepresentation as a Physician).

Instruction No. 4.2840. Deception (Misrepresentation as a Physician).

**I.C. 35-43-5-3(a)(10).**

The crime of deception is defined by law as follows:

A person who, with intent to defraud, misrepresents a person as being a physician licensed under [I.C. 25-22.5](#) commits deception, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. with the intent to defraud
3. misrepresented (*name the person*) as being a physician licensed under Indiana law.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of deception, a Class A misdemeanor as charged in Count \_\_\_\_\_.

Instruction No. 4.2860. Deception (Defrauding Cable TV Provider).

Instruction No. 4.2860. Deception (Defrauding Cable TV Provider).

**[I.C. 35-43-5-3\(a\)\(11\).](#)**

The crime of deception is defined by law as follows:

A person who [knowingly] [intentionally] defrauds another person furnishing cable TV service by avoiding paying compensation for that service [by any (scheme) (device)] [by tampering with (facilities) (equipment) of the person furnishing the service] commits deception, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. defrauded (*name*), a furnisher of cable TV service

4. by avoiding paying compensation for that service  
[by a (scheme to) (device which) (*describe alleged scheme or device*)

[or]

[by tampering with (facilities) (equipment) of (*name*), who was furnishing the cable TV service].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of deception, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

### Instruction No. 4.2880. Deception (Unlawful Procurement of Government Contract).

### Instruction No. 4.2880. Deception (Unlawful Procurement of Government Contract).

#### I.C. 35-43-5-3(a)(12).

The crime of unlawful procurement of government contract is defined by law as follows:

A person who [knowingly] [intentionally] provides false information to a governmental entity to obtain a contract from the governmental entity commits unlawful procurement of government contract, a Class A misdemeanor. [The offense is a Level 6 felony if the provision of false information results in financial loss to the governmental entity.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. for the purpose of obtaining a contract from (*name the governmental entity*), which was a governmental entity
4. provided to (*name the governmental entity*)
5. information that (*state the information*)
6. and the information Defendant provided was false
7. (*for Level 6 felony*) and provision of the false information resulted in a financial loss to (*name the governmental entity*).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful procurement of government contract, a Class A misdemeanor/Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.2900. False Representation — Disadvantaged or Women-Owned Business.

Instruction No. 4.2900. False Representation — Disadvantaged or Women-Owned Business.

I.C. 35-43-5-3(c).

The crime of false representation as a disadvantaged or women-owned business is defined by law as follows:

A person who [knowingly] [intentionally] falsely represents any entity as a [disadvantaged business enterprise (as defined in IC 5-16-6-5-1)] [a women-owned business enterprise (as defined in IC 5-16-6.5-3)] in order to qualify for certification as such an enterprise under a program conducted by a public agency (as defined in IC 5-16-6.5-2) designed to assist [disadvantaged business enterprises] [women-owned business enterprises] in obtaining contracts with public agencies for the provision of goods and services commits a Level 6 felony.

To convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. falsely represented (*name entity*) as  
[a disadvantaged business enterprise]

[or]

- [a women-owned business enterprise]
3. in order to qualify for certification as such an enterprise under a program conducted by [name], a public agency, designed to assist [disadvantaged business enterprises] [women-owned business enterprises] in obtaining contracts with public agencies for the provision of goods and services.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of false representation, a Level 6 felony as charged in Count \_\_\_\_\_.

Instruction No. 4.2920. Identity Deception.

Instruction No. 4.2920. Identity Deception.

I.C. 35-43-5-3.5.

The crime of identity deception is defined by law as follows:

A person who [knowingly] [intentionally] [obtains] [possesses] [transfers] [uses] the identifying information of another person, including the identifying information of a person who is deceased, without the other person's consent and with intent to ([harm] [defraud] another person) (assume the identity of another person) (profess to be another person) commits identity deception, a Level 6 felony.

[The offense is a Level 5 felony if the person (obtains) (possesses) (transfers) (uses) the identifying information of more than one hundred (100) persons.]

[The offense is a Level 5 felony if the fair market value of the fraud or harm caused by the offense is at least fifty thousand dollars (\$50,000).]

[The offense is a Level 5 felony if the identifying information (obtained) (possessed) (transferred) (used) is that of a person under eighteen (18) years of age who is (the person's son or daughter) (a dependent of the person) (a ward of the person) (an individual for whom the person is a guardian).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt

1. The Defendant
2. [knowingly] [intentionally]
3. [obtained] [possessed] [transferred] [used] the identifying information of (*name*)
4. without (*name*)'s consent
5. with intent to  
[harm or defraud (*name person intended to be harmed*)]

[or]

[assume the identity of \_\_\_\_\_(*name*), another person]

[or]

[profess to be (*name*), another person].

- [6. (*for Level 5 felony*) and the Defendant  
(obtained) (possessed) (transferred) (used) the identifying information of more than on hundred (100) persons)

(or)

the fair market value of the fraud or harm caused by the offense was at least fifty thousand dollars (\$50,000)

(or)

(the identifying information the Defendant {obtained} {possessed})

{transferred} {used} was that of a person under eighteen (18) years of age who was

{{(name), the Defendant's (son) (daughter)}}

{or}

{{(name), who was a dependent of the Defendant}

{or}

{{(name), who was a ward of the Defendant}

{or}

{{(name), an individual for whom the Defendant was a guardian}.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Identity deception, a Level 6/5 felony as charged in Count \_\_\_\_\_.

#### Instruction No. 4.2940. Terroristic Deception.

#### Instruction No. 4.2940. Terroristic Deception.

#### I.C. 35-43-5-3.6.

The crime of terroristic deception is defined by law as follows:

A person who [knowingly] [intentionally] [obtains] [possesses] [transfers] [uses] the identifying information of another person with intent to [commit terrorism] [(obtain) (transport) a weapon of mass destruction] commits terroristic deception, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [obtained] [possessed] [transferred] [used] the identifying information of another person
4. with intent to [commit terrorism] [(obtain) (transport) a weapon of mass destruction].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of terroristic deception, a Level 5 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 4.2960. Synthetic Identity Deception.

## Instruction No. 4.2960. Synthetic Identity Deception.

I.C. 35-43-5-3.8.

The crime of synthetic identity deception is defined by law as follows:

A person who [knowingly] [intentionally] [obtains] [possesses] [transfers] [uses] synthetic identifying information with intent to [(harm)(defraud) another person] [assume the identity of another person] [profess to be another person] commits synthetic identity deception, a Level 6 felony.

[The offense is a Level 5 felony if the person (obtains) (possesses) (transfers) (uses) the synthetic identifying information of more than one hundred (100) persons.]

[The offense is a Level 5 felony if the fair market value of the fraud or harm caused by the offense is at least fifty thousand dollars (\$50,000).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [obtained] [possessed] [transferred] [used] synthetic identifying information
4. with intent to  
[harm or defraud (*name person intended to be harmed*)]

[or]

[assume the identity of (*name*), another person]

[or]

[profess to be (*name*), another person].

- [5. (*for Level 5 felony*) the Defendant (obtained) (possessed) (transferred) (used)



the

identifying information of more than one hundred (100) persons}

{or}

{the fair market value of the fraud or harm caused by the offense was at least fifty thousand dollars (\$50,000)}].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Identity deception, a Level [6] [5] felony as charged in Count \_\_\_\_\_.

### Instruction No. 4.3100. Fraud (Use of Credit Card).

### Instruction No. 4.3100. Fraud (Use of Credit Card).

#### I.C. 35-43-5-4(1).

The crime of fraud is defined by law as follows:

A person who, with intent to defraud, obtains property by [using a credit card, knowing that the credit card was unlawfully (obtained) (retained)] [using a credit card, knowing that the credit card is (forged) (revoked) (expired)] [using, without consent, a credit card that was issued to another person] [representing, without the consent of the credit card holder, that the person is the authorized holder of the credit card] [representing that the person is the authorized holder of a credit card when the card has not in fact been issued] commits fraud, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. with intent to defraud
  3. obtained (*describe property*)
  4. [by using a credit card when Defendant knew that the credit card was unlawfully (obtained) (retained)]
- [or]

[by using a credit card when Defendant knew that the credit card was (forged) (revoked) (expired)]

[or]

[by using a credit card issued to (*name cardholder*), the cardholder, without (*name cardholder*)'s consent]

[or]

[while representing, without the consent of (*name cardholder*), the cardholder, that Defendant was the authorized holder of the credit card]

[or]

[by representing that Defendant was the authorized holder of a credit card when the card in fact had not been issued].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of fraud, a Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.3120. Fraud (Failing to Furnish Property on Credit Card).

Instruction No. 4.3120. Fraud (Failing to Furnish Property on Credit Card).

I.C. 35-43-5-4(2).

The crime of fraud is defined by law as follows:

A person who, being authorized by an issuer to furnish property upon presentation of a credit card, fails to furnish the property and, with intent to defraud the issuer or the credit card holder, represents in writing to the issuer that the person has furnished the property commits fraud, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was authorized by (*name issuer of card*), the issuer of a credit card, to furnish property upon the presentation of that card
3. and Defendant
4. acting with intent to defraud [(*name issuer of card*), the issuer of the card] [(*name the credit card holder*), the credit card holder]
5. represented to (*name issuer of card*), the issuer of the card, in writing, that the Defendant had furnished (*name property alleged*)
6. when in fact Defendant had failed to furnish (*name property*) property.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of fraud, a Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.3140. Fraud (Furnish Property with Intent to Defraud — Credit Card).

Instruction No. 4.3140. Fraud (Furnish Property with Intent to Defraud — Credit Card).

I.C. 35-43-5-4(3).

The crime of Fraud is defined by law as follows:

A person who, being authorized by an issuer to furnish property upon presentation of a credit card, furnishes, with intent to defraud [the issuer] [the credit card holder], property upon presentation of a credit card, knowing that [the credit card was unlawfully (obtained) (retained)] [the credit card is (forged) (revoked) (expired)], commits fraud, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was authorized by (*name issuer of card*), the issuer of a credit card, to furnish property upon the presentation of the card
3. and Defendant
4. acting with the intent to defraud  
[(*name issuer of card*), the issuer of the card]

[or]

- [(*name the credit card holder*), the credit card holder]
5. furnished (*describe property alleged*) upon presentation of the credit card
  6. when Defendant knew that the card had  
[been unlawfully (obtained) (retained)]

[or]

[(been forged) (been revoked) (expired)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of fraud, a Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.3160. Fraud (Selling or Receiving Credit Card).

Instruction No. 4.3160. Fraud (Selling or Receiving Credit Card).

I.C. 35-43-5-4(4), (5).

The crime of fraud is defined by law as follows:

A person who, not being the issuer, [(knowingly) (intentionally) sells a credit card] [receives a credit card knowing that the credit card was {unlawfully (obtained) (retained)} {(forged) (revoked) (expired)}] commits fraud, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [(knowingly) (intentionally) sold a credit card]

[or]

[received a credit card when the Defendant was not the issuer of the credit card and when Defendant knew that the credit card had

{been unlawfully (obtained) (retained)}

{or}

{(been forged) (been revoked) (expired)}.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of fraud, a Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.3180. Fraud (Unlawful Security for Debt — Credit Card).

Instruction No. 4.3180. Fraud (Unlawful Security for Debt — Credit Card).

I.C. 35-43-5-4(6).

The crime of fraud is defined by law as follows:

A person who, with intent to defraud, receives a credit card as security for debt, commits fraud, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. received a credit card as security for a debt
3. with intent to defraud (*name*).

If the State failed to prove each of these elements beyond a reasonable doubt,

you must find the Defendant not guilty of fraud, a Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.3300. Fraud (Property).

Instruction No. 4.3300. Fraud (Property).

I.C. 35-43-5-4(8) & (9).

The crime of fraud is defined by law as follows:

A person who, [with intent to defraud (his creditor) (his purchaser), (conceals) (encumbers) (transfers) property] [with intent to defraud, damages property], commits fraud, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

[2. with the intent to defraud (*name*), who was his (creditor) (purchaser)

3. (concealed) (encumbered) (transferred) (*describe property*)]

[or]

[2. with the intent to defraud

3. damaged (*describe property*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of fraud, a Level 6 felony as charged in Count \_\_\_\_\_.

Instruction No. 4.3320. Fraud (Receiving Unlawfully Obtained Property —  
I.C. 35-43-5-4(7). Credit Card).

Instruction No. 4.3320. Fraud (Receiving Unlawfully Obtained Property —  
Credit Card).

I.C. 35-43-5-4(7).

The crime of fraud is defined by law as follows:

A person who receives property, knowing that the property was obtained by a person who, with intent to defraud, obtained the property by [using a credit card,

knowing that the credit card was unlawfully (obtained) (retained)) [using a credit card, knowing that the credit card is (forged) (revoked) (expired)] [using, without consent, a credit card that was issued to another person] [representing, without the consent of the credit card holder, that the person is the authorized holder of the credit card] [representing that the person is the authorized holder of a credit card when the card has not in fact been issued] commits fraud, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. received (*describe property*)
3. when Defendant knew that the property was obtained by a person, (*name*), who, with intent to defraud, had obtained the property
4. [by using a credit card when (*name*) knew that the credit card was unlawfully (obtained) (retained)]  
[or]

[by using a credit card when (*name*) knew that the credit card was (forged) (revoked) (expired)]

[or]

[by using a credit card issued to (*name cardholder*), the cardholder, without (*name cardholder*)'s consent]

[or]

[while representing, without the consent of (*name cardholder*), the cardholder, that (*name*) was the authorized holder of the credit card]

[or]

[by representing that (*name*) was the authorized holder of a credit card when the card in fact had not been issued].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of fraud, a Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.3322. Fraud (Conceals, Encumbers, or  
Transfers Property).

Instruction No. 4.3322. Fraud (Conceals, Encumbers, or  
Transfers Property).

I.C. 35-43-5-4(8).

The crime of fraud is defined by law as follows:

A person who, with intent to defraud the person's creditor, [conceals]  
[encumbers] [transfers] property commits fraud, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the  
following beyond a reasonable doubt:

1. The Defendant
2. with intent to defraud [*name creditor*], who was Defendant's creditor
3. [concealed] [encumbered] [transferred]
4. property.

If the State failed to prove each of these elements beyond a reasonable doubt,  
you must find the Defendant not guilty of fraud, a Level 6 felony, as charged in  
Count \_\_\_\_\_.

Instruction No. 4.3324. Fraud (Damages Property).

Instruction No. 4.3340. Fraud (Damages Property).

I.C. 35-43-5-4(9).

The crime of fraud is defined by law as follows:

A person who, with intent to defraud, damages property commits fraud, a Level  
6 felony.

Before you may convict the Defendant, the State must have proved each of the  
following beyond a reasonable doubt:

1. The Defendant
2. with the intent to defraud
3. damaged property.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of fraud, a Level 6 felony, as charged in Count \_\_\_\_\_.

### Instruction No. 4.3340. Fraud (Recordings).

### Instruction No. 4.3340. Fraud (Recordings).

#### I.C. 35-43-5-4(10).

The crime of fraud is defined by law as follows:

A person who, [knowingly] [intentionally] [sells] [rents] [transports] [possesses] a recording [for commercial gain] [for personal gain] that does not conspicuously display the true name and address of the manufacturer of the recording commits fraud, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [sold] [rented] [transported] [possessed] a recording
4. for [commercial gain] [personal gain]
5. when the recording did not conspicuously display the true name and address of (*name of manufacturer*), the manufacturer of the recording.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of fraud, a Level 6 felony, as charged in Count \_\_\_\_\_.

### Instruction No. 4.3360. Possession of Card Skimming Device.

### Instruction No. 4.336. Possession of Card Skimming Device.



I.C. 35-43-5-4.3.

The crime of possession of a card skimming device is defined by law as follows:

A person who possesses a card skimming device with intent to commit [(identity deception, [IC 35-43-5-3.5](#)) (synthetic identity deception, [IC 35-43-5-3.8](#)) (fraud, [IC 35-43-5-4](#)) commits possession of a card skimming device, a Level 6 felony] [terroristic deception ([IC 35-43-5-3.6](#)) commits possession of a card skimming device, a Level 5 felony].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. possessed
3. a card skimming device
4. with the intent to commit  
[(for Level 6 felony) identity deception, by [obtain elements from Instruction No. 4.2920]

[or]

[(for Level 6 felony) synthetic identity deception, by [obtain elements from Instruction No. 4.2960]

[or]

[(for Level 6 felony) fraud, by (*obtain elements of particular type of fraud alleged from [Instruction Nos. 4.3100 to 4.3340](#)*)]

[or]

[(for Level 5 felony) terroristic deception, by [obtain elements from Instruction No. 4.2940].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of a card skimming device, a Level 6/5 felony as charged in Count \_\_\_\_\_.

Instruction No. 4.3800. Insurance Fraud — False Claim Statement.

Instruction No. 4.3800. Insurance Fraud — False Claim Statement.

I.C. 35-43-5-4.5(1).

The crime of insurance fraud is defined by law as follows:

A person who knowingly and with intent to defraud [makes] [utters] [presents] [causes to be presented to (an insurer) (an insurance claimant)] a claim statement that contains [false] [incomplete] [misleading] information concerning the claim, commits insurance fraud, a Level 6 felony. [The offense is a Level 5 felony if the (value of property, services, or other benefits obtained or attempted to be obtained by the person as a result of the offense) (economic loss suffered by another person as a result of the offense) is at least two thousand five hundred dollars (\$2,500).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly
3. and with intent to defraud
4. [made] [uttered] [presented] [caused to be presented]
5. to [*name entity or individual*], who was at the time [an insurer] [an insurance claimant],
6. a claim statement that contained [false] [incomplete] [misleading] information concerning the claim
- [7. (*for Level 5 felony*) and

(the value of property, services, or other benefits obtained or sought to be obtained)

(or)

(the economic loss suffered by [*name other person*], another person)

was at least two thousand five hundred dollars (\$2,500).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of insurance fraud, a Level 6/5 felony, charged in Count \_\_\_\_\_.

Instruction No. 4.3820. Insurance Fraud — False Statement.

Instruction No. 4.3820. Insurance Fraud — False Statement.

I.C. 35-43-5-4.5(2).

The crime of insurance fraud is defined by law as follows:

A person who knowingly and with intent to defraud [presents] [causes to be presented] [prepares with knowledge or belief that it will be presented to or by an insurer] an [oral] [a written] [an electronic] statement that the person knows

to contain materially false information [as part of] [in support of] [concerning a fact that is material to]

[the rating of an insurance policy]

[a claim for payment or benefit under an insurance policy]

[premiums paid on an insurance policy]

[payments made in accordance with the terms of an insurance policy]

[an application for a certificate of authority]

[the financial condition of an insurer]

[the acquisition of an insurer]

or

conceals any information concerning

[the rating of an insurance policy]

[a claim for payment or benefit under an insurance policy]

[premiums paid on an insurance policy]

[payments made in accordance with the terms of an insurance policy]

[an application for a certificate of authority]

[the financial condition of an insurer]

[the acquisition of an insurer]

commits insurance fraud, a Level 6 felony. [The offense is a Level 5 felony if the (value of property, services, or other benefits obtained or attempted to be obtained by the person as a result of the offense) (economic loss suffered by another person as a result of the offense) is at least two thousand five hundred dollars (\$2,500).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. knowingly
  3. and with intent to defraud [*name*]
  4. [presented]
- [or]

[caused to be presented]

[or]

[prepared with knowledge or belief that it would be presented]

5. [to] [by] (*name individual or entity*, who was at the time an insurer]

6. [an oral] [a written] [an electronic] statement

7. [that contained (*specify information*) which the Defendant knew was materially false information (as part of) (in support of) (concerning)]

[or]

[that concealed (*specify what was concealed*), which was information concerning]

8. [the rating of an insurance policy]

[or]

[a claim for payment or benefit under an insurance policy]

[or]

[premiums paid on an insurance policy]

[or]

[payments made in accordance with the terms of an insurance policy]

[or]

[an application for a certificate of authority]

[or]

[the financial condition of an insurer]

[or]

[the acquisition of an insurer]

9. [(*for Level 5 felony*) and

(the value of property, services, or other benefits obtained or sought to be obtained)

(or)

(the economic loss suffered by [*name other person*], another person)

was at least two thousand five hundred dollars (\$2,500).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of insurance fraud, a Level 6/5 felony, charged in Count \_\_\_\_\_.

Instruction No. 4.3840. Insurance Fraud — Risks for Insolvent Insurer.

Instruction No. 4.3840. Insurance Fraud — Risks for Insolvent Insurer.

I.C. 35-43-5-4.5(3).

The crime of insurance fraud is defined by law as follows:

A person who knowingly and with intent to defraud [solicits] [accepts] [(new) (renewal) insurance risks] [(by) (for) (an insolvent insurer) (other entity regulated under IC 27)] commits insurance fraud, a Level 6 felony. [The offense is a Level 5 felony if the (value of property, services, or other benefits obtained or attempted to be obtained by the person as a result of the offense) (economic loss suffered by another person as a result of the offense) is at least two thousand five hundred dollars (\$2,500).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly
3. and with intent to defraud
4. [solicited] [accepted]
5. [*describe alleged risks*], which were [new] [renewal] insurance risks
6. [by] [for] (*name entity or individual*), [which] [who] was at the time [an insolvent insurer] [an insolvent entity regulated under Title 27 of the Indiana Code] [7. (*for Level 5 felony*) and (the value of property, services, or other benefits obtained or sought to be obtained)]

(or)

(the economic loss suffered by [*name other person*], another person)

was at least two thousand five hundred dollars (\$2,500).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of insurance fraud, a Level 6/5 felony, charged in Count \_\_\_\_\_.

Instruction No. 4.3860. Insurance Fraud — Removal of Insurer's Assets.

Instruction No. 4.3860. Insurance Fraud — Removal of Insurer's Assets.

I.C. 35-43-5-4.5(4).

The crime of insurance fraud is defined by law as follows:

A person who knowingly and with intent to defraud removes [the assets] [the record of assets, transactions, and affairs] [a material part of the (assets) (the record of assets, transactions, and affairs)] of [an insurer] [another entity regulated under IC 27] from [the home office] [other place of business] [place of safekeeping] of the [insurer] [other regulated entity], commits insurance fraud, a Level 6 felony. [The offense is a Level 5 felony if the (value of property, services, or other benefits obtained or attempted to be obtained by the person as a result of the offense) (economic loss suffered by another person as a result of the offense) is at least two thousand five hundred dollars (\$2,500).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly
3. and with intent to defraud
4. removed  
[the assets]

[or]

[the record of assets, transactions, and affairs]

[or]

[a material part of the (assets) (the record of assets, transactions, and affairs)]  
5. of (*name entity*), which was at the time [an insurer] [an entity regulated under Title 27 of the Indiana Code]

6. from  
[the home office] of (*name entity*)

[or]

[other place of business] of (*name entity*)

[or]

[(*name*), a place of safekeeping] for (*name entity*).

7. [(*for Level 5 felony*) and  
(the value of property, services, or other benefits obtained or sought to be obtained)

(or)

(the economic loss suffered by [*name other person*], another person)

was at least two thousand five hundred dollars (\$2,500).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of insurance fraud, a Level 6/5 felony, charged in Count \_\_\_\_\_.

Instruction No. 4.3880. Insurance Fraud — Concealment of Insurer's Assets.

Instruction No. 4.3880. Insurance Fraud — Concealment of Insurer's Assets.

I.C. 35-43-5-4.5(4).

The crime of insurance fraud is defined by law as follows:

A person who knowingly and with intent to defraud [conceals] [attempts to conceal] from the department of insurance [the assets] [the record of assets, transactions, and affairs] of [an insurer] [another entity regulated under IC 27] commits insurance fraud, a Level 6 felony. [The offense is a Level 5 felony if the (value of property, services, or other benefits obtained or attempted to be obtained by the person as a result of the offense) (economic loss suffered by another person as a result of the offense) is at least two thousand five hundred dollars (\$2,500).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. knowingly
  3. and with intent to defraud
  4. [concealed]
- [or]

- [attempted to conceal]
5. from the Indiana Department of Insurance
  6. [the assets]
- [or]

- [the record of assets, transactions, and affairs]
7. of (*name entity*), which was at the time [an insurer] [an entity regulated under Title 27 of the Indiana Code]
  8. (*for Level 5 felony*) and

(the value of property, services, or other benefits obtained or sought to be obtained)

(or)

(the economic loss suffered by [*name other person*], another person)

was at least two thousand five hundred dollars (\$2,500).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of insurance fraud, a Level 6/5 felony, charged in Count \_\_\_\_\_.

## Instruction No. 4.4000. Insurance Fraud — Diversion of Funds.

## Instruction No. 4.4000. Insurance Fraud — Diversion of Funds.

### I.C. 35-43-5-4.5(5).

The crime of insurance fraud is defined by law as follows:

A person who knowingly and with intent to defraud diverts funds of [an insurer] [another person] in connection with [the transaction of insurance or reinsurance] [the conduct of business activities by (an insurer) (another entity regulated under IC 27)] [the (formation) (acquisition) (dissolution) of (an insurer) (another entity regulated under IC 27)] commits insurance fraud, a Level 6 felony. [The offense is a Level 5 felony if the (value of property, services, or other benefits obtained or attempted to be obtained by the person as a result of the offense) (economic loss suffered by another person as a result of the offense) is at least two thousand five hundred dollars (\$2,500).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly
3. and with intent to defraud
4. diverted funds of (*name entity*), [an insurer] [another person]
5. and the diversion of funds was in connection with [the transaction of insurance or reinsurance]

[or]

[the conduct of business activities by (*name entity*), (an insurer) (an entity regulated under Title 27 of the Indiana Code)]

[or]



[the (formation) (acquisition) (dissolution) of (*name entity*), (an insurer) (an entity regulated under Title 27 of the Indiana Code)]  
[6. (*for Level 5 felony*) and  
(the value of property, services, or other benefits obtained or sought to be obtained)

(or)

(the economic loss suffered by [*name other person*], another person)

was at least two thousand five hundred dollars (\$2,500).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of insurance fraud, a Level 6/5 felony, charged in Count \_\_\_\_\_.

Instruction No. 4.4020. Insurance Fraud — Insurance Application Fraud.

Instruction No. 4.4020. Insurance Fraud — Insurance Application Fraud.

I.C. 35-43-5-4.5(c).

The crime of insurance application fraud is defined by law as follows:

A person who knowingly and with intent to defraud makes a material misstatement in support of an application for an insurance policy commits insurance application fraud, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly
3. and with intent to defraud
4. made a material misstatement in support of an application for an insurance policy.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of insurance application fraud, a Class A misdemeanor, charged in Count \_\_\_\_\_.

Instruction No. 4.4200. Manipulation Device.

Instruction No. 4.4200. Manipulation Device.

I.C. 35-43-4-4.6.

The crime of unlawful sale or possession of a transaction manipulation device is defined by law as follows:

A person who [knowingly] [intentionally] [sells] [purchases] [installs] [transfers] [possesses] [(an automated sales suppression device) (zapper) (phantom-ware)] commits unlawful sale or possession of a transaction manipulation device, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [sold] [purchased] [installed] [transferred] [possessed]
4. [(an automated sales suppression device) (zapper) (phantom-ware).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful sale or possession of a transaction manipulation device, a Level 5 felony, charged in Count

\_\_\_\_\_.

Instruction No. 4.4400. Check Deception.

Instruction No. 4.4400. Check Deception.

I.C. 35-43-5-5.

The crime of check deception is defined by law as follows:

A person who [knowingly] [intentionally] [issues] [delivers] [a check] [a draft] [an order on a credit institution] [for the payment of] [to acquire] [money] [property], knowing that it will not be [paid] [honored] by the credit institution upon presentment in the usual course of business, commits check deception, a Class A misdemeanor. [The offense is a Level 6 felony if (the amount of the [check] [draft] [order] is at least seven hundred fifty dollars (\$750) and less than fifty thousand

dollars (\$50,000).] [The offense is a Level 5 felony if the amount of the (check) (draft) (order) is at least fifty thousand dollars (\$50,000).]

[It is a defense:

- that [the Defendant had an account with the credit institution which did not have sufficient funds in that account] and [the Defendant (issued) (delivered) a (check) (draft) (order for payment) on that credit institution] and that [the Defendant paid the payee or holder the amount due, together with protest fees and any lawful service fee or charge within ten (10) days after the (payee) (holder) had mailed notice to the Defendant by regular U.S. mail addressed to (the address printed on the check) (the address given by the Defendant in writing to the payee or holder at the time the check was (issued) (delivered)) that the (check) (draft) (order) had not been paid by the credit institution

or

- that the (payee) (holder) knew that the Defendant had insufficient funds to ensure payment of the (check) (draft) (order)

or

- that the (check) (draft) (order) was postdated

or

- that the (insufficient funds) (credit) resulted from an adjustment to the Defendant's account by the credit institution without notice to the Defendant.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. [knowingly] [intentionally]

3. [issued] [delivered]

4. [a check]

[or]

[a draft]

[or]

[an order on (*name*), a credit institution]

4. [for the payment of money]

[or]

[to acquire (money) (or) (*describe property*)]

5. knowing that the [check] [draft] [order] would not be [paid] [honored] by \_\_\_\_\_ [*name credit institution*] upon presentment in the usual course of business

[6. and the Defendant had an account with the credit institution that did not have sufficient funds in that account when he (issued) (delivered) the (check) (draft) (order for payment) on the credit institution, and the Defendant did not pay (*name*), the (payee) (holder), the amount due, together with protest fees and any lawful service fee or charge within ten (10) days after (*name payee or holder*) had mailed notice to the Defendant by regular U.S. mail addressed to (the address printed on the check) (the address given by the Defendant in writing to (*name payee or holder*) at the time the check was [issued] [delivered]) that the (check) (draft) (order) had not been paid by the credit institution]

[7. and (*name payee or holder*), the (payee) (holder), did not know that the Defendant had insufficient funds to ensure payment of the (check) (draft) (order)]

[8. the (check) (draft) (order) was not postdated]

[9. the (insufficient funds) (credit) did not result from an adjustment to the Defendant's account by the credit institution without notice to the Defendant]

[10. (*for Level 6 felony*) and the (check) (draft) (order) was at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000)].

[11. (*for Level 5 felony*) and the (check) (draft) (order) was at least fifty thousand dollars (\$50,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Check Deception, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

#### Instruction No. 4.4520. Sale or Distribution of Cable TV Devices.

#### Instruction No. 4.4520. Sale or Distribution of Cable TV Devices.

##### I.C. 35-43-5-6.5.

The crime of sale or distribution of cable TV devices is defined by law as follows:

A person who [knowingly] [intentionally] [manufactures] [distributes] [sells] [leases] [offers for (sale) (lease)] [(a device) (kit of parts to construct a device)] designed in whole or in part to (intercept) (unscramble) (decode) a transmission by a cable television system with the intent that the (device) (kit) be used to obtain cable television system services without full payment to the cable television system commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [sold] [leased]
4. [a device] [kit of parts to construct a device]
5. designed in whole or in part to (intercept) (unscramble) (decode) a transmission by a cable television system
6. with the intent that the (device) (kit) be used to obtain cable television system services without full payment to the cable television system.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of sale or distribution of cable TV devices, a

Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.4800. Welfare Fraud (Unlawfully Obtaining).

Instruction No. 4.4800. Welfare Fraud (Unlawfully Obtaining).

I.C. 35-43-5-7(a)(1).

The crime of welfare fraud is defined by law as follows:

A person who [knowingly] [intentionally] obtains public [relief] [assistance] by means of [impersonation] [fictitious transfer] [(false) (misleading) (oral) (written) statement] [fraudulent conveyance] [other fraudulent means] commits welfare fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the amount of public (relief) (assistance) involved is more than seven hundred fifty dollars (\$750) but less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the amount of public relief or assistance involved is at least fifty thousand dollars (\$50,000).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. obtained public [relief] [assistance]
4. by means of  
[impersonation]

[or]

[fictitious transfer]

[or]

[(false) (misleading) oral statement]

[or]

[(false) (misleading) written statement]

[or]

[fraudulent conveyance]

[or]

[the fraudulent means of (*here specify means alleged*)]

[5. (*for Level 6 felony*) and the amount of public (relief) (assistance) was more than

seven hundred and fifty dollars (\$750) but less than fifty thousand dollars (\$50,000)]

[6. (*for Level 5 felony*) and the amount of public (relief) (assistance) was at least fifty thousand dollars (\$50,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Welfare Fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

The following term is defined by law: “public relief or assistance” (I.C. 35-31.5-2-259; Instruction No. 14.3300).

Instruction No. 4.4820. Welfare Fraud (Unlawful Use).

Instruction No. 4.4820. Welfare Fraud (Unlawful Use).

I.C. 35-43-5-7(a)(2).

The crime of welfare fraud is defined by law as follows:

A person who [knowingly] [intentionally] [acquires] [possesses] [uses] [transfers] [sells] [trades] [issues] [disposes of] [an authorization document to obtain public (relief) (assistance)] [(public (relief) (assistance))], except as authorized by law, commits welfare fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the amount of public relief or assistance involved is more than seven hundred fifty dollars (\$750) but less fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the amount of public relief or assistance involved is at least fifty thousand dollars (\$50,000).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. not being authorized by law
  3. [knowingly] [intentionally]
  4. [acquired]
- [or]

[possessed]

[or]

[used]

[or]

[transferred]

[or]

[sold]

[or]

[traded]

[or]

[issued]

[or]

[disposed of]

5. [an authorization document to obtain public (relief) (assistance)]

[or]

[public (relief) (assistance)]

[6. (*for Level 6 felony*) and the amount of public [relief] [assistance] was more than seven hundred and fifty dollars (\$750) but less than fifty thousand dollars (\$50,000)]

[7. (*for Level 5 felony*) the amount of public [relief] [assistance] was at least fifty thousand dollars (\$50,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of welfare fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.4840. Welfare Fraud (Unlawful Use of Incomplete Documents).

Instruction No. 4.4840. Welfare Fraud (Unlawful Use of Incomplete Documents).

**I.C. 35-43-5-7(a)(3).**

The crime of welfare fraud is defined by law as follows:

A person who [knowingly] [intentionally] [uses] [transfers] [acquires] [issues] [possesses] a [blank] [incomplete] authorization document to participate in public [relief] [assistance] programs in a manner not authorized by law, commits welfare

fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the amount of public relief or assistance involved is more than seven hundred fifty dollars (\$750) but less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the amount of public relief or assistance involved is at least fifty thousand dollars (\$50,000) or more.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. in a manner not authorized by law
3. [knowingly] [intentionally]
4. [used]  
[transferred]

[or]

[acquired]

[or]

[issued]

[or]

[possessed]

5. a [blank] [incomplete] authorization document to participate in a public [relief]  
[assistance] program

6. [(for Level 6 felony) and the amount of public (relief) (assistance) involved was more than seven hundred and fifty dollars (\$750) but less than fifty thousand dollars (\$50,000)]

7. [(for Level 5 felony) and the amount of public (relief) (assistance) involved was at least \$50,000 dollars (\$50,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of welfare fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.4860. Welfare Fraud (Counterfeit Documents).

Instruction No. 4.4860. Welfare Fraud (Counterfeit Documents).

I.C. 35-43-5-7(a)(4).

The crime of welfare fraud is defined by law as follows:



A person who [knowingly] [intentionally] [(counterfeits) (alters) an authorization document to receive public (relief) (assistance)] [knowingly (uses) (transfers) (acquires) (possesses) a (counterfeit) (altered) authorization document to receive public (relief) (assistance)], commits welfare fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the amount of public relief or assistance involved is more than seven hundred fifty dollars (\$750) but less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the amount of public relief or assistance involved is at least fifty thousand dollars (\$50,000).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [knowingly] [intentionally]
  3. [(counterfeited) (altered) an authorization document]
- [or]

[knowingly (used)

(or)

(transferred)

(or)

(acquired)

(or)

(possessed)

a (counterfeit) (altered) authorization document]

4. to receive public (relief) (assistance)

[5. (*for Level 6 felony*) and the amount of public [relief] [assistance] involved was more than seven hundred and fifty dollars (\$750) but less than fifty thousand dollars (\$50,000)

[6. (*for Level 5 felony*) and the amount of public [relief] [assistance] involved was fifty thousand dollars (\$50,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of welfare fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.4880. Welfare Fraud (Concealing Information).

Instruction No. 4.4880. Welfare Fraud (Concealing Information).

I.C. 35-43-5-7(a)(5).

The crime of welfare fraud is defined by law as follows:

A person who [knowingly] [intentionally] conceals information for the purpose of receiving public relief or assistance to which he is not entitled, commits welfare fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the amount of public relief or assistance involved is more than seven hundred fifty dollars (\$750) but less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the amount of public relief or assistance involved is fifty thousand dollars (\$50,000).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. concealed information that(*describe information*)
4. for the purpose of obtaining public (relief) (assistance) to which Defendant was not entitled
5. (*for Level 6 felony*) and the amount of public [relief] [assistance] was more than seven hundred and fifty dollars (\$750) but less than fifty thousand dollars (\$50,000)
6. (*for Level 5 felony*) and the amount of public [relief] [assistance] was fifty thousand dollars (\$50,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of welfare fraud, a Class A misdemeanor/Level 6/5 felony as charged in Count \_\_\_\_\_.

Instruction No. 4.5200. Medicaid Fraud (Claim Violating I.C. 12-15).

Instruction No. 4.5200. Medicaid Fraud (Claim Violating I.C. 12-15).

I.C. 35-43-5-7.1(a)(1).

This instruction has been removed, due to a holding that the statute is unconstitutionally vague. See Comment following.

Instruction No. 4.5220. Medicaid Fraud (Payment by False Statement).

## Instruction No. 4.5220. Medicaid Fraud (Payment by False Statement).

### I.C. 35-43-5-7.1(a)(2).

The crime of medicaid fraud is defined by law as follows:

A person who [knowingly] [intentionally] obtains payment from the Medicaid program under [I.C. 12-15](#) by means of [a false or misleading (oral) (written) statement] [fraudulent means other than a false or misleading statement], commits Medicaid fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the fair market value of the payment is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the fair market value of the payment is at least fifty thousand dollars (\$50,000)].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. obtained payment from the Medicaid program under [I.C. 12-15](#) [by means of a false or misleading (oral) (written) statement]

[or]

[by fraudulent means other than a false or misleading statement, by (*specify the alleged fraudulent means other than a false or misleading statement.*)]

[4. (*for Level 6 felony*) and the fair market value of the [claim] [payment] was at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).

[5. (*for Level 5*) and the fair market value of the [claim] [payment] was at least fifty thousand dollars (\$50,000).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Medicaid fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 4.5400. Medicaid Fraud (Provider Number).

## Instruction No. 4.5400. Medicaid Fraud (Provider Number).

### I.C. 35-43-5-7.1(a)(3).

The crime of Medicaid fraud is defined by law as follows:

A person who [knowingly] [intentionally] acquires a provider number under the Medicaid program except as authorized by law commits Medicaid fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the fair market value of the payment is at least seven hundred fifty dollars (\$750) and less than fifty thousand

dollars (\$50,000).] [The offense is a Level 5 felony if the fair market value of the payment is at least fifty thousand dollars (\$50,000)].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. acquired a provider number under the Medicaid program
4. and the acquisition was not authorized by law.

[5. (*for Level 6 felony*) and the fair market value of the offense was at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).]

[6. (*for Level 6*) and the fair market value of the offense was at least fifty thousand dollars (\$50,000).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Medicaid fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

#### Instruction No. 4.5420. Medicaid Fraud (Provider Documents).

#### Instruction No. 4.5420. Medicaid Fraud (Provider Documents).

##### I.C. 35-43-5-7.1(a)(4).

The crime of Medicaid Fraud is defined by law as follows:

A person who [knowingly] [intentionally] [alters with the intent to defraud] [falsifies] [documents] [records] of a provider (as defined in [42 CFR 1002.30](#)) that are required to be kept under the Medicaid program commits Medicaid fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the fair market value of the offense is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the fair market value of the offense is at least fifty thousand dollars (\$50,000).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [altered with intent to defraud]
- [or]

[falsified]

4. [documents] [records] of (*name provider*), a provider (as defined in [42 CFR 1002.30](#)), that were required to be kept under the Medicaid program.

[5. (*for Level 6 felony*) and the fair market value of the offense was at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).]

[6. (*for Level 6*) and the fair market value of the offense was at least fifty thousand dollars (\$50,000).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Medicaid fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

#### Instruction No. 4.5600. Medicaid Fraud (Concealing Information)

#### Instruction No. 4.5600. Medicaid Fraud (Concealing Information)

##### I.C. 35-43-5-7.1(a)(5).

The crime of Medicaid fraud is defined by law as follows:

A person who [knowingly] [intentionally] conceals information for the purpose of [applying for] [receiving] unauthorized payments from the Medicaid program commits Medicaid fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the fair market value of the offense is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the fair market value of the offense is at least fifty thousand dollars (\$50,000)].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. concealed (*specify information allegedly concealed*)
4. for the purpose of [applying for] [receiving] unauthorized payments from the Medicaid program.
5. (*for Level 6 felony*) and if the fair market value of the offense is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).]
6. (*for Level 5 felony*) if the fair market value of the offense is at least fifty thousand dollars (\$50,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Medicaid fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

#### Instruction No. 4.5900. Children's Health Insurance Program Fraud.

#### Instruction No. 4.5900. Children's Health Insurance Program Fraud.

##### I.C. 35-43-5-7.2(a)(1).

The crime of children's health insurance fraud is defined by law as follows:

A person who [knowingly] [intentionally] files a children's health insurance program claim, including an electronic claim, in violation of [I.C. 12-17.6](#) commits children's health insurance fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the fair market value of the offense is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the fair market value of the offense is at least fifty thousand dollars (\$50,000).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. filed a children's health insurance program claim
4. and the claim was in violation of [I.C. 12-17.6](#) in that (*specify violation alleged*)
- [5. (*for Level 6 felony*) and the fair market value of the offense was at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).]
- [6. (*for Level 5 felony*) and the fair market value of the offense was at least fifty thousand dollars (\$50,000).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of children's health insurance program fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count

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## Instruction No. 4.5920. Children's Health Insurance Program Fraud (Payment By False Statement).

## Instruction No. 4.5920. Children's Health Insurance Program Fraud (Payment By False Statement).

### [I.C. 35-43-5-7.2\(a\)\(2\).](#)

The crime of children's health insurance fraud is defined by law as follows:

A person who [knowingly] [intentionally] obtains payments from the children's health insurance program under [I.C. 12-17.6](#) by means of a [(false) (misleading) (oral) (written) statement] [other fraudulent means] commits children's health insurance fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the fair market value of the offense is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the fair market value of the offense is at least fifty thousand dollars (\$50,000).]

Before you may convict the Defendant, the State must have proved each of the

following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. obtained payments from the children's health insurance program under **I.C. 12-17.6**
4. [by means of a (written) (oral) statement (*describe statement*) which was a (false) (misleading) statement in that (*describe allegations*)]
- [or]

[by the following fraudulent means (*describe allegations*)]

[5. (*for Level 6 felony*) and the fair market value of the offense was at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).]

[6. (*for Level 5 felony*) and the fair market value of the offense was at least fifty thousand dollars (\$50,000).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of children's health insurance program fraud, a Class A misdemeanor/ Level 6/5 felony, as charged in Count

\_\_\_\_\_.

#### Instruction No. 4.5940 Children's Health Insurance Program Fraud (Provider Number).

#### Instruction No. 4.5940 Children's Health Insurance Program Fraud (Provider Number).

#### **I.C. 35-43-5-7.2(a)(3).**

The crime of children's health insurance fraud is defined by law as follows:

A person who [knowingly] [intentionally] acquires a provider number under the children's health insurance program except as provided by law commits children's health insurance fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the fair market value of the offense is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the fair market value of the offense is at least fifty thousand dollars (\$50,000).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. acquired a provider number under the children's health insurance program
4. illegally
5. by (*describe alleged way in which number acquired*)
- [6. (*for Level 6 felony*) and the fair market value of the offense was at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).]
- [7. (*for Level 5 felony*) and the fair market value of the offense was at least fifty thousand dollars (\$50,000).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of children's health insurance program fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.5960. Children's Health Insurance Program Fraud  
(Provider Documents).

Instruction No. 4.5960. Children's Health Insurance Program Fraud  
(Provider Documents).

I.C. 35-43-5-7.2(a)(4).

The crime of children's health insurance fraud is defined by law as follows:

A person who [knowingly] [intentionally] [(alters with intent to defraud) (falsifies) documents or records of a provider (as defined in [42 CFR 1002.301](#))] that are required to be kept under the children's health insurance program commits children's health insurance fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the fair market value of the offense is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the fair market value of the offense is at least fifty thousand dollars (\$50,000).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [knowingly] [intentionally]
  3. [altered with intent to defraud]
- [or]

[falsified]

4. *(describe alleged documents or records falsified)*

5. which were documents or records of *(name individual or entity)*, an (individual) (entity) furnishing Medicaid services under a provider agreement with *(name agency)*, a Medicaid agency.

[6. *(for Level 6 felony)* and the fair market value of the offense was at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).]

[7. *(for Level 5 felony)* and the fair market value of the offense was at least fifty thousand dollars (\$50,000).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of children's health insurance program fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count

\_\_\_\_\_.



Instruction No. 4.5980. Children's Health Insurance Program Fraud  
(Concealing Information).

Instruction No. 4.5980. Children's Health Insurance Program Fraud  
(Concealing Information).

I.C. 35-43-5-7.2(a)(5).

The crime of children's health insurance fraud is defined by law as follows:

A person who [knowingly] [intentionally] conceals information for the purpose of (applying for) (receiving) unauthorized payments from the children's health insurance program commits children's health insurance fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the fair market value of the offense is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the fair market value of the offense is at least fifty thousand dollars (\$50,000).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. concealed (*describe alleged information concealed*)
4. for the purpose of (applying for) (receiving)  
unauthorized payments from the children's health insurance program
5. (*for Level 6 felony*) and the fair market value of the offense was at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).]
6. (*for Level 5 felony*) and the fair market value of the offense was at least fifty thousand dollars (\$50,000).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of children's health insurance program fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count

\_\_\_\_\_.

Instruction No. 4.8000). Fraud on a Financial Institution (Scheme to  
Defraud).

Instruction No. 4.8000. Fraud on a Financial Institution (Scheme to

Defraud).

I.C. 35-43-5-8(a)(1).

The crime of fraud on a financial institution is defined by law as follows:

A person who knowingly [executes] [attempts to execute] a [scheme] [artifice] [to defraud a ({state} {federally} chartered) (federally insured) financial institution] [to obtain any of the (money) (funds) (credits) (assets) (securities) (other property) (owned by) (under the {custody} {control} of a {state} {federally chartered} {federally insured) financial institution] by means of ({false} {fraudulent} pretenses) (representations) (promises)] commits a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly [executed] [attempted to execute]
3. a [scheme] [artifice]  
[to defraud (*name institution*), a [state chartered] [federally chartered] [federally insured] financial institution] [The offense is a Level 6 felony if the fair market value of the payment is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).] [The offense is a Level 5 felony if the fair market value of the payment is at least fifty thousand dollars (\$50,000)].

[or]

[to obtain any of the (money) (funds) (credits) (assets) (securities) (other property {owned by} {under the (custody) (control) of a (state) (federally chartered) (federally insured) financial institution by means of ({false} {fraudulent} pretenses) (representations) (promises)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of fraud on a financial institution, a Level 5 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.8020. Check Fraud (Use of NSF Check, False Information).

Instruction No. 4.8020. Check Fraud (Use of NSF Check, False Information).

I.C. 35-43-5-12(b)(1).

The crime of check fraud is defined by law as follows:

A person who [knowingly] [intentionally] obtains property, through a [scheme]

[artifice], with intent to defraud by [issuing] [delivering] a [check] [draft] [an electronic debit] [an order] on a financial institution

(A) knowing that the [check] [draft] [order] [electronic debit] will not be paid or honored by the financial institution upon presentment in the usual course of business

(B) using [false] [altered] evidence of [identity] [residence]

(C) using [a false] [an altered] account number

(D) using [a false] [an altered] [check] [draft] [order] [electronic instrument] commits Check Fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the aggregate amount of property obtained is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000). [The offense is a Level 5 felony if the aggregate amount of the property obtained is at least fifty thousand dollars (\$50,000)].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. obtained property [*describe property*] through a [scheme] [artifice]
4. with intent to defraud (*name*)
5. by [issuing] [delivering]
6. [a check]

[or]

[a draft]

[or]

[an order]

[or]

[an electronic debit]

7. on (*name financial institution*), a financial institution

[8. [knowing that the (check) (draft) (order) (electronic debit) would not be paid or honored by the financial institution upon presentment in the normal course of business]

[or]

[using (false) (altered) evidence of (identity) (residence)]

[or]

[using (a false) (an altered) account number]

[or]

[using (a false) (an altered) (check) (draft) (order) (electronic instrument)]

[8. (*for Level 6 felony*) and the aggregate amount of property obtained by the Defendant was at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000)].

[9. (*for Level 5 felony*) and the aggregate amount of property obtained is at least fifty thousand dollars (\$50,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of check fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

#### Instruction No. 4.8040. Check Fraud (Insufficient Deposits).

#### Instruction No. 4.8040. Check Fraud (Insufficient Deposits).

##### I.C. 35-43-5-12(b)(2).

The crime of check fraud is defined by law as follows:

A person who [knowingly] [intentionally] obtains property, through a [scheme] [artifice], with intent to defraud, by depositing the minimum initial deposit required to open an account and [making no additional deposits] [making insufficient additional deposits] to insure debits to the account commits check fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the aggregate amount of property obtained is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000). [The offense is a Level 5 felony if the aggregate amount of the property obtained is at least fifty thousand dollars (\$50,000)].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. obtained (*describe property*) through a [scheme] [artifice]
4. with intent to defraud (*name*)
5. by depositing with (*name financial institution*) the minimum initial deposit required to open an account
6. and making [no] [insufficient] additional deposits to insure debits to the account
7. (*for Level 6 felony*) and the aggregate amount of property obtained by the Defendant was at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).

[8. (*for Level 5 felony*) and the aggregate amount of property obtained is at least fifty

thousand dollars (\$50,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Check Fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 4.8060. Check Fraud (Multiple Accounts).

## Instruction No. 4.8060. Check Fraud (Multiple Accounts).

### I.C. 35-43-5-12(b)(3).

The crime of check fraud is defined by law as follows:

A person who [knowingly] [intentionally] obtains property, through a [scheme] [artifice], with intent to defraud by opening accounts with more than one financial institution in either a consecutive or concurrent time period commits check fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the aggregate amount of property obtained is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000). [The offense is a Level 5 felony if the aggregate amount of the property obtained is at least fifty thousand dollars (\$50,000)].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. obtained (*describe property*) through a [scheme] [artifice]
4. with intent to defraud (*name*)
5. by opening an account with (*name of financial institution*) and with (*name second financial institution*) during the period of (*state time frame*)
- [6. (*for Level 6 felony*) and the aggregate amount of property obtained by the Defendant was at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000)].

[7. (*for Level 5 felony*) and the aggregate amount of property obtained is at least fifty thousand dollars (\$50,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of check fraud, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.9000. Possession of a Fraudulent Sales Document  
Manufacturing Device.

Instruction No. 4.9000 . Possession of a Fraudulent Sales Document  
Manufacturing Device.

I.C. 35-43-5-15.

The crime of possession of a fraudulent sales document manufacturing device is defined by law as follows:

A person who, with intent to defraud, possesses a device to make [retail sales receipts] [universal product codes (UPC)] [other product identification codes] commits possession of a fraudulent sales document manufacturing device, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. possessed a device to make  
[retail sales receipts]

[or]

[universal product codes (UPC)]

[or]

[product identification codes]

3. with the intent to defraud (*name*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of a fraudulent sales document manufacturing device, a Class A misdemeanor, as charged in Count

\_\_\_\_\_.

Instruction No. 4.9020. Making a False Sales Document.

Instruction No. 4.9020. Making a False Sales Document.

### I.C. 35-43-5-16.

The crime of making a false sales document is defined by law as follows:

A person who, with intent to defraud, [makes a false (universal product code (UPC) (another product identification number)) [puts a false (universal product code (UPC)) (another product identification number)] on property (displayed) (offered) for sale] [makes a false sales receipt] commits making a false sales document, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [made a false (universal product code (UPC)) (another product identification number)]  
[or]

[put a false (universal product code (UPC)) (another product identification number) on property (displayed) (offered) for sale]

[or]

[made a false sales receipt]

3. with the intent to defraud (*name*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of making a false sales document, a Level 6 felony, as charged in Count \_\_\_\_\_.

### Instruction No. 4.9040. Possession of Device or Substance Used to Interfere with Screening Test.

### Instruction No. 4.9040. Possession of Device or Substance Used to Interfere with Screening Test.

### I.C. 35-43-5-18

The crime of possession of a device or substance used to interfere with screening test is defined by law as follows:

A person who [knowingly] [intentionally] possesses a [device] [substance] designed or intended to be used with a drug or alcohol screening test, commits possession of a device or substance used to interfere with a screening test, a Class B misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. possessed
4. a [device] [substance] designed or intended to be used to interfere with a drug or alcohol screening test

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of a device or substance used to interfere with screening test, a Class B misdemeanor, as charged in Count \_\_\_\_\_.

#### Instruction No. 4.9060. Interfering with Screening Test.

#### Instruction No. 4.9060. Interfering with Screening Test.

##### I.C. 35-43-5-19

The crime of interfering with a screening test is defined by law as follows:

A person who [interferes] [attempts to interfere] with a drug or alcohol screening test by [using a (device) (substance)] [substituting a human bodily substance that is tested in a drug or alcohol screening test] [adulterating a substance used in a drug or alcohol screening test], commits interfering with a drug or alcohol screening test, a Class B misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [interferes] [attempts to interfere] with a drug or alcohol screening test by
3. [using a (device) (substance)]

[or]

[substituting a human bodily substance that is tested in a drug or alcohol screening test]

[or]

adulterating a substance used in a drug or alcohol screening test]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find



the Defendant not guilty of interfering with a screening test, a Class B misdemeanor, as charged in Count \_\_\_\_\_.

## Instruction No. 4.9080. Inmate Fraud.

## Instruction No. 4.9080. Inmate Fraud

### I.C. 35-43-5-20

The crime of inmate fraud is defined by law as follows:

A person who is a pretrial detainee, and, with the intent of obtaining [money] [other property] from a person who is not an inmate, [knowingly] [intentionally] [makes a misrepresentation to a person who is not an inmate and (obtains) (attempts to obtain) (money) (other property) from the person who is not an inmate] [(obtains) (attempts to obtain) (money) (other property) from a person who is not an inmate through a misrepresentation made by another person)] commits inmate fraud, a Level 6 felony. [The offense is a Level 5 felony if the person is an inmate who is incarcerated because the inmate was (convicted of an offense) (adjudicated a delinquent) and who, with the intent of obtaining (money) (other property) from a person who is not an inmate, (knowingly) (intentionally) (makes a misrepresentation to a person who is not an inmate and {obtains} {attempts to obtain} {money} {other property} from the person who is not an inmate) ({obtains} {attempts to obtain} {money} {other property} from the person who is not an inmate through a misrepresentation made by another person))].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. while he

[(for Level 6 felony) was a pretrial detainee]

[or]

[(for Level 5 felony) was an inmate incarcerated because he had been (convicted of an offense) (adjudicated a delinquent)]

3. and with the intent of obtaining [money] [other property] from (name), who was not an inmate

4. [knowingly] [intentionally]

5. [made a representation to (name), a person who was not an inmate and (obtained) (attempted to obtain) (money) (other property) from (name), the person who was not an inmate]

[or]

[(obtained) (attempted to obtain) (money) (other property) from (*name*) a person who was not an inmate, through a misrepresentation made by (*name*), another person].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of inmate fraud, a Level 6/5 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.9300. Home Improvement Fraud  
(Misrepresentation).

Instruction No. 4.9300. Home Improvement Fraud  
(Misrepresentation).

I.C. 35-43-6-12(a)(1).

I.C. 35-43-6-13(a)(1), (a)(2), and (a)(3).

I.C. 35-43-6-13(b)(2) and (b)(4).

I.C. 35-43-6-13(c)(1) and (c)(2).

The crime of home improvement fraud is defined by law as follows:

A home improvement supplier who enters into a home improvement contract and knowingly misrepresents a material fact relating to [the terms of the home improvement contract] [the (pre-existing) (existing) condition of any part of the property involved, including a misrepresentation concerning the threat of (fire) (structural damage) if the property is not repaired] commits home improvement fraud, a Class B misdemeanor.

[The offense is a Class A misdemeanor:

- when the home improvement contract price is one thousand dollars (\$1,000) or more; or
- if two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent

scheme, design, or intention.]

[The offense is a Level 6 felony

- if the consumer is at least sixty (60) years of age and the home improvement contract price is ten thousand dollars (\$10,000) or less; or
- if the home improvement contract violates [set out here the alleged ways in which the contract violates more than one (1) subdivision of section 35-43-6-12(a) .]

\*[The offense is a Level 5 felony:

- if the consumer is at least sixty (60) years of age and the home improvement contract price is more than ten thousand dollars (\$10,000); or
- if the consumer is at least sixty (60) years of age, and two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
2. was a home improvement supplier and
3. entered into a home improvement contract with (*name consumer*) and
4. knowingly
5. misrepresented a material fact relating to  
[the terms of the home improvement contract]

[or]

[the pre-existing or existing condition of any part of the property involved (by misrepresenting a threat of {fire} {structural damage} if the property was not repaired)];

[6. (*for Class A misdemeanor*) and

(the home improvement contract price was one thousand dollars [\$1,000] or more)

(or)

(the Defendant by himself, or with at least one other home improvement supplier, entered into two [2] or more home improvement contracts with [*name consumer*], [as part of] [in furtherance of] a common fraudulent [scheme] [design] [intention] and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000]));

[7. (*for Level 6 felony*) and

[(*name consumer*), the consumer, was at least 60 years of age, and the home improvement contract price was ten thousand dollars (\$10,000) or less]

[or]

[the home improvement contract violated (*here set out ways in which the contract was alleged to have violated more than one (1) subdivision of IC 35-43-6-12(a)*).]

[8. (*for Level 5 felony*) and

[(*name consumer*), the consumer, was at least 60 years of age; and the home improvement contract price was more than ten thousand dollars [\$10,000]]

(or)

(the Defendant by himself, or with at least one other home improvement supplier  
☐ entered into two [2] or more home improvement contracts with [*name consumer*]

☐ [as part of] [in furtherance of] a common fraudulent [scheme] [design] [intention]

☐ and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000]

☐ and [*name consumer*], the consumer, was at least 60 years of age).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of home improvement fraud, a Class B/A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.9320. Home Improvement Fraud (False Impression).

Instruction No. 4.9320. Home Improvement Fraud (False Impression).

I.C. 35-43-6-12(a)(2).

I.C. 35-43-6-13(a)(1), (a)(2), and (a)(3).

I.C. 35-43-6-13(b)(2) and (b)(4)..

I.C. 35-43-6-13(c)(1) and (c)(2).

The crime of home improvement fraud is defined by law as follows:

A home improvement supplier who enters into a home improvement contract and knowingly [creates] [confirms] a consumer's impression that is false and that the home improvement supplier does not believe to be true commits home improvement fraud, a Class B misdemeanor.

[The offense is a Class A misdemeanor:

- when the home improvement contract price is one thousand dollars (\$1,000) or more; or
- if two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.]

[The offense is a Level 6 felony

- if the consumer is at least sixty (60) years of age and the home improvement contract price is ten thousand dollars (\$10,000) or less; or
- if the home improvement contract violates (set out here the alleged ways in which the contract violates more than one (1) subdivision of section 35-43-6-12(a).)]

[The offense is a Level 5 felony

- if the consumer is at least sixty (60) years of age and the home improvement contract price is more than ten thousand dollars (\$10,000); or
- if the consumer is at least sixty (60) years of age, and two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. was a home improvement supplier and
  3. entered into a home improvement contract with (*name consumer*) and
  4. knowingly
  5. [created] [confirmed] (*name consumer*)'s impression that (*state impression*)
  6. and such impression was false
  7. and the Defendant did not believe it to be true
  8. (*for Class A misdemeanor*)
- and

(the home improvement contract price was one thousand dollars [\$1,000] or more)  
(or)

(the Defendant by himself, or with at least one other home improvement supplier, entered into two [2] or more home improvement contracts with [*name consumer*] [as part of] [in furtherance of] a common fraudulent [scheme] [design] [intention] and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000]))

[9. (*for Level 6 felony*) and

([*name consumer*], the consumer, was at least 60 years of age, and the home improvement contract price was ten thousand dollars [\$10,000] or less)

(or)

(the home improvement contract violated (*here set out ways in which the contract was alleged to have violated more than one (1) subdivision of IC 35-43-6-12(a)*).)]

[10. (*for Level 5 felony*) and

([*name consumer*], the consumer, was at least 60 years of age; and the home improvement contract price was more than ten thousand dollars [\$10,000])

(or)

(the Defendant by himself, or with at least one other home improvement supplier

- ☐ entered into two [2] or more home improvement contracts with [*name consumer*]
- ☐ [as part of] [in furtherance of] a common fraudulent [scheme] [design] [intention]
- ☐ and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000]
- ☐ and [*name consumer*], the consumer, was at least 60 years of age).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of home improvement fraud, a Class B/A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.9340. Home Improvement Fraud (False Promise).

Instruction No. 4.9340. Home Improvement Fraud (False Promise).

I.C. 35-43-6-12(a)(3).

I.C. 35-43-6-13(a)(1), (a)(2), and (a)(3).

I.C. 35-43-6-13(b)(2) and (b)(4).

I.C. 35-43-6-13(c)(1) and (c)(2).

The crime of home improvement fraud is defined by law as follows:

A home improvement supplier who enters into a home improvement contract and knowingly promises performance that the home improvement supplier [does not intend to perform] [knows will not be performed] commits home improvement fraud, a Class B misdemeanor.

[The offense is a Class A misdemeanor:

- when the home improvement contract price is one thousand dollars (\$1,000) or more; or
- if two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.]

[The offense is a Level 6 felony

- if the consumer is at least sixty (60) years of age and the home improvement

- contract price is ten thousand dollars (\$10,000) or less; or
- if the home improvement contract violates (set out here the alleged ways in which the contract violates more than one (1) subdivision of section 35-43-6-12(a) .).]

[The offense is a Level 5 felony

- if the consumer is at least sixty (60) years of age and the home improvement contract price is more than ten thousand dollars (\$10,000); or
- if the consumer is at least sixty (60) years of age, and two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. was a home improvement supplier and
  3. entered into a home improvement contract with (*name consumer*) and
  4. knowingly
  5. promised (*name promised performance*)
  6. and
- [did not intend to perform as promised]

[or]

[knew said promise would not be performed];  
[7. (*for Class A misdemeanor*)  
and

(the home improvement contract price was one thousand dollars [\$1,000] or more)

(or)

(the Defendant by himself, or with at least one other home improvement supplier, entered into two [2] or more home improvement contracts with [*name consumer*] [as part of] [in furtherance of] a common fraudulent [scheme] [design] [intention] and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000]))

[8. (*for Level 6 felony*)  
and

([*name consumer*], the consumer, was at least 60 years of age, and the home improvement contract price was ten thousand dollars [\$10,000] or less)

(or)

(the home improvement contract the home improvement contract violated (*here set out ways in which the contract was alleged to have violated more than one (1) subdivision of IC 35-43-6-12(a)*).];

[9. (*for Level 5 felony*)  
and

([*name consumer*], the consumer, was at least 60 years of age; and the home

improvement contract price was *more than* ten thousand dollars [\$10,000])

(or)

(the Defendant by himself, or with at least one other home improvement supplier

☐ entered into two [2] or more home improvement contracts with [*name consumer*]

☐ [as part of] [in furtherance of] a common fraudulent [scheme] [design] [intention]

☐ and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000]

☐ and [*name consumer*], the consumer, was at least 60 years of age).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of home improvement fraud, a Class B/A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.9360. Home Improvement Fraud (Deception).

Instruction No. 4.9360. Home Improvement Fraud (Deception).

I.C. 35-43-6-12(a)(4).

I.C. 35-43-6-13(a)(1), (a)(2), and (a)(3).

I.C. 35-43-6-13(b)(2) and (b)(4).

I.C. 35-43-6-13(c)(1) and (c)(2).

The crime of home improvement fraud is defined by law as follows:

A home improvement supplier who enters into a home improvement contract and knowingly [uses] [employs] any [deception] [false pretense] [false promise] to cause a consumer to enter into a home improvement contract commits home improvement fraud, a Class B misdemeanor.

[The offense is a Class A misdemeanor:

- when the home improvement contract price is one thousand dollars (\$1,000) or more; or
- if two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by



one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.]

[The offense is a Level 6 felony

- if the consumer is at least sixty (60) years of age and the home improvement contract price is ten thousand dollars (\$10,000) or less; or
- if the home improvement contract violates (set out here the alleged ways in which the contract violates more than one (1) subdivision of section 35-43-6-12(a) .)]

[The offense is a Level 5 felony

- if the consumer is at least sixty (60) years of age and the home improvement contract price is more than ten thousand dollars (\$10,000); or
- if the consumer is at least sixty (60) years of age, and two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was a home improvement supplier and

3. entered into a home improvement contract with (*name consumer*) and

4. knowingly

5. [used] [employed] a  
[deception]

[or]

[false pretense]

[or]

[false promise]

(*describe alleged deception, pretense, or promise*) to cause

(*name consumer*) to enter into a home improvement contract;

[6. (*for Class A misdemeanor*) and

(the home improvement contract price was one thousand dollars [\$1,000] or more)

(or)

(the Defendant by himself, or with at least one other home improvement supplier, entered into two [2] or more home improvement contracts with [*name consumer*], [as part of] [in furtherance of] a common fraudulent [scheme] [design] [intention] and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000])

[7. (*for Level 6 felony*) and ([*name consumer*], the consumer, was at least 60 years of age, and the home improvement contract price was ten thousand dollars

[\$10,000] or less)

(or)

(the home improvement contract violated (*here set out ways in which the contract was alleged to have violated more than one (1) subdivision of IC 35-43-6-12(a)*).]

[8. (*for Level 5 felony*) and

(*[name consumer]*, the consumer, was at least 60 years of age; and the home improvement contract price was more than ten thousand dollars [\$10,000])

(or)

(the Defendant by himself, or with at least one other home improvement supplier

☐ entered into two [2] or more home improvement contracts with [*name consumer*]

☐ [as part of] [in furtherance of] a common fraudulent [scheme] [design] [intention]

☐ and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000]

☐ and [*name consumer*], the consumer, was at least 60 years of age).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of home improvement fraud, a Class B/A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

### Instruction No. 4.9380. Home Improvement Fraud (Unconscionable Contract).

### Instruction No. 4.9380. Home Improvement Fraud (Unconscionable Contract).

I.C. 35-43-6-12(a)(5).

I.C. 35-43-6-13(a)(4).

I.C. 35-43-6-13(b)(1), (b)(2), and (b)(4)..

I.C. 35-43-6-13(c)(1).

The crime of home improvement fraud is defined by law as follows:

A home improvement supplier who enters into a home improvement contract and knowingly enters into an unconscionable home improvement contract with a

home improvement contract price of four thousand dollars (\$4,000) or more but less than seven thousand (\$7,000) commits home improvement fraud, a Class B misdemeanor.

[The offense is a Class A misdemeanor if the home improvement contract price is at least seven thousand (\$7,000) dollars but less than ten thousand dollars (\$10,000).]

[The offense is a Level 6 felony if:

- the home improvement contract price is more than ten thousand dollars (\$10,000); or
- the consumer is at least sixty (60) years of age and the home improvement contract price is ten thousand dollars (\$10,000) or less; or
- if the home improvement contract violates more than one (1) subdivision of section 12(a) of this chapter.]

[The offense is a Level 5 felony if the consumer is at least sixty (60) years of age and the home improvement contract price is more than ten thousand dollars (\$10,000).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was a home improvement supplier and
3. knowingly
4. entered into a home improvement contract with (*name consumer*)
5. and the home improvement contract was unconscionable
6. and the home improvement contract price was four thousand dollars (\$4,000) or more but less than seven thousand (\$7,000)
- [7. (*for Class A misdemeanor*) and the home improvement contract price was at least seven thousand (\$7,000) dollars but less than ten thousand dollars (\$10,000)]
- [8. (*for Level 6 felony*) and (the home improvement contract price was more than ten thousand dollars [\$10,000])

(or)

[*name consumer*] the consumer was at least sixty [60] years of age

and the home improvement contract price was ten thousand dollars [\$10,000] or less]

[9. (*for Level 5 felony*) and (*name of consumer*), the consumer, was at least 60 years of age and the home improvement contract price was more than ten thousand dollars (\$10,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of home improvement fraud, a Class B/A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.9400. Home Improvement Fraud (Assumed Name)

Instruction No. 4.9400. Home Improvement Fraud (Assumed Name)

I.C. 35-43-6-12(a)(6).

I.C. 35-43-6-13(a)(1), (a)(2), and (a)(3).

The crime of home improvement fraud is defined by law as follows:

A home improvement supplier who enters into a home improvement contract and knowingly [misrepresents] [conceals] the home improvement supplier's [real name] [business name] [physical or mailing business address] [telephone number] commits home improvement fraud, a Class B misdemeanor.

[The offense is a Class A misdemeanor

- when the home improvement contract price is one thousand dollars (\$1,000) or more; or
- when two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was a home improvement supplier
3. who entered into a home improvement contract with [name], and
4. knowingly
5. [misrepresented] [concealed] the home improvement supplier's [real name] [business name] [(physical) (mailing) business address] [telephone number]
6. (for Class A misdemeanor) and  
(the home improvement contract price was one thousand dollars [\$1,000] or more)

(or)

(the Defendant by himself, or with at least one other home improvement supplier, entered into two [2] or more home improvement contracts with [name consumer], [as part of] [in furtherance of] a common fraudulent [scheme] [design] [intention], and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000]).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of home improvement fraud, a Class B/A misdemeanor, as charged in Count \_\_\_\_\_.

Instruction No. 4.9420. Home Improvement Fraud (Failure to Provide Warranty)

Instruction No. 4.9420. Home Improvement Fraud (Failure to Provide Warranty)

I.C. 35-43-6-12(a)(7).

I.C. 35-43-6-13(a)(1), (a)(2), and (a)(3).

I.C. 35-43-6-13(b)(2) and (b)(4).

I.C. 35-43-6-13(c)(1) and (c)(2).

The crime of home improvement fraud is defined by law as follows:

A home improvement supplier who enters into a home improvement contract and knowingly upon request by the consumer, fails to provide the consumer with any copy of a written warranty or guarantee that states [the length of the warranty or guarantee] [the home improvement that is covered by the warranty or guarantee] [how the consumer could make a claim for a repair under the warranty or guarantee] commits home improvement fraud, a Class B misdemeanor.

[The offense is a Class A misdemeanor:

- when the home improvement contract price is one thousand dollars (\$1,000) or more; or
- if two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.]

[The offense is a Level 6 felony

- if the consumer is at least sixty (60) years of age and the home improvement contract price is ten thousand dollars (\$10,000) or less; or if the home improvement contract violates (set out here the alleged ways in which the contract violates more than one (1) subdivision of section 35-43-6-12(a).]

[The offense is a Level 5 felony

- if the consumer is at least sixty (60) years of age and the home improvement contract price is more than ten thousand dollars (\$10,000); or
- if the consumer is at least sixty (60) years of age, and two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
2. was a home improvement supplier; and
3. entered into a home improvement contract with (*name consumer*), a consumer; and
4. knowingly;
5. upon a request by (*name consumer*);
6. failed to provide the consumer with any copy of a written warranty or guarantee that stated:  
[the length of the warranty or guarantee]

[or]

[the home improvement that was covered by the warranty or guarantee]

[or]

[how the consumer could make a claim for a repair under the warranty or guarantee];

- [7. (*for Class A misdemeanor*) and  
(the home improvement contract price was one thousand dollars [\$1,000] or more)

(or)

(the Defendant by himself, or with at least one other home improvement supplier, entered into two [2] or more home improvement contracts with [*name consumer*], [as part of] or [in furtherance of] a common fraudulent [scheme], [design], or [intention] and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000]);

- [8. (*for Level 6 felony*) and

([*name consumer*], the consumer, was at least 60 years of age, and the home improvement contract price was ten thousand dollars [\$10,000] or less.)

(or)

(the home improvement contract violated (*here set out ways in which the contract was alleged to have violated more than one (1) subdivision of IC 35-43-6-12(a).*)

- [9. (*for Level 5 felony*) and

([*name consumer*], the consumer, was at least 60 years of age; and the home improvement contract price was more than ten thousand dollars [\$10,000])

(or)

(the Defendant by himself, or with at least one other home improvement supplier  
☐ entered into two [2] or more home improvement contracts with [*name consumer*]

☐ [as part of] [in furtherance of] a common fraudulent [scheme] [design] [intention]

☐ and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000]

☐ and [*name consumer*], the consumer, was at least 60 years of age).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of home improvement fraud, a Class B/A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

#### Instruction No. 4.9440. Home Improvement Fraud (Use of Diluted, Modified, or Altered Materials)

#### Instruction No. 4.9440. Home Improvement Fraud (Use of Diluted, Modified, or Altered Materials)

I.C. 35-43-6-12(a)(8).

I.C. 35-43-6-13(a)(1), (a)(2), and (a)(3).

I.C. 35-43-6-13(b)(2) and (b)(4).

I.C. 35-43-6-13(c)(1) and (c)(2).

The crime of home improvement fraud is defined by law as follows:

A home improvement supplier who enters into a home improvement contract and knowingly uses a product in a home improvement that has been [diluted] [modified] [altered] in a manner that would void the manufacturer's warranty of the product without disclosing to the consumer the reasons for the [dilution] [modification] [alteration] and that the manufacturer's warranty may be compromised commits home improvement fraud, a Class B misdemeanor.

[The offense is a Class A misdemeanor:

- when the home improvement contract price is one thousand dollars (\$1,000) or more; or
- if two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common

fraudulent scheme, design, or intention.]

[The offense is a Level 6 felony

- if the consumer is at least sixty (60) years of age and the home improvement contract price is ten thousand dollars (\$10,000) or less; or
- if the home improvement contract violates (set out here the alleged ways in which the contract violates more than one (1) subdivision of section 35-43-6-12(a).]

[The offense is a Level 5 felony

- if the consumer is at least sixty (60) years of age and the home improvement contract price is more than ten thousand dollars (\$10,000); or
- if the consumer is at least sixty (60) years of age, and two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
  2. was a home improvement supplier and;
  3. entered into a home improvement contract with (*name consumer*), a consumer and;
  4. knowingly;
  5. [diluted] [modified] [altered] a product in the home improvement in a manner that would void the product manufacturer's warranty of the product;
  6. without disclosing to (*name consumer*)
    - the reasons for the [dilution] [modification] [alteration] and
    - that the manufacturer's warranty may have been compromised;
  7. (*for Class A misdemeanor*) and;
- (the home improvement contract price was one thousand dollars [\$1,000] or more)  
(or)

(the Defendant by himself, or with at least one other home improvement supplier, entered into two [2] or more home improvement contracts with [*name consumer*], [as part of] or [in furtherance of] a common fraudulent [scheme], [design], or [intention] and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000]);

[8. (*for Level 6 felony*) and ([*name consumer*], the consumer, was at least 60 years of age, and the home improvement contract price was ten thousand dollars [\$10,000] or less)

(or)

(the home improvement contract violated (*here set out ways in which the contract was alleged to have violated more than one (1) subdivision of IC 35-43-6-12(a)*).]

[9. (*for Level 5 felony*) and

([*name consumer*], the consumer, was at least 60 years of age; and the home improvement contract price was more than ten thousand dollars [\$10,000]

(or)



- (the Defendant by himself, or with at least one other home improvement supplier
- ☐ entered into two [2] or more home improvement contracts with [*name consumer*]
  - ☐ [as part of] or [in furtherance of] a common fraudulent [scheme], [design], or [intention]
  - ☐ and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000]
  - ☐ and [*name consumer*], the consumer, was at least 60 years of age).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of home improvement fraud, a Class B/A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

#### Instruction No. 4.9460. Home Improvement Fraud (False Claim of Referral, Licensure, or Permit))

#### Instruction No. 4.9460. Home Improvement Fraud (False Claim of Referral, Licensure, or Permit))

I.C. 35-43-6-12(a)(9).

I.C. 35-43-6-13(a)(1), (a)(2), and (a)(3).

I.C. 35-43-6-13(b)(2) and (b)(4).

I.C. 35-43-6-13(c)(1) and (c)(2).

The crime of home improvement fraud is defined by law as follows:

A home improvement supplier who enters into a home improvement contract and knowingly falsely claims to a consumer that the home improvement supplier [was referred to the consumer by a contractor who previously worked for the consumer] [is (licensed) (certified) (insured)] [has obtained all necessary permits or licenses before starting a home improvement], commits home improvement fraud, a Class B misdemeanor.

[The offense is a Class A misdemeanor:

- when the home improvement contract price is one thousand dollars (\$1,000) or more
- if two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by

one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.]

[The offense is a Level 6 felony if the consumer is at least sixty (60) years of age and the home improvement contract price is ten thousand dollars (\$10,000) or less; or  
if the home improvement contract violates (*set out here the alleged ways in which the contract violates more than one (1) subdivision of section 35-43-6-12(a).*)]

[The offense is a Level 5 felony

- if the consumer is at least sixty (60) years of age and the home improvement contract price is more than ten thousand dollars (\$10,000); or
- if the consumer is at least sixty (60) years of age, and two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
2. was a home improvement supplier and;
3. entered into a home improvement contract with (*name consumer*), a consumer and;
4. knowingly;
5. falsely claimed to (*name consumer*), a consumer, that Defendant [was referred to (*name consumer*) by a contractor who had previously worked for (*name consumer*)]

[or]

[was (licensed) (certified) (insured)]

[or]

[had obtained all necessary permits or licenses before starting the home improvement];

[6. (*for Class A misdemeanor*) and  
(the home improvement contract price was one thousand dollars [\$1,000] or more)

(or)

(the Defendant by himself, or with at least one other home improvement supplier, entered into two [2] or more home improvement contracts with [*name consumer*], [as part of] or [in furtherance of] a common fraudulent [scheme] [design] [intention] and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000])

[7. (*for Level 6 felony*) and

([*name consumer*], the consumer, was at least 60 years of age, and the home improvement contract price was ten thousand dollars [\$10,000] or less)

(or)

(the home improvement contract violated (*here set out ways in which the contract was alleged to have violated more than one (1) subdivision of IC 35-43-6-12(a).*)

[8. (*for Level 5 felony*) and

(*[name consumer]*, the consumer, was at least 60 years of age; and the home improvement contract price was more than ten thousand dollars [\$10,000])

(or)

(the Defendant by himself, or with at least one other home improvement supplier

☐ entered into two [2] or more home improvement contracts with [*name consumer*]

☐ [as part of] or [in furtherance of] a common fraudulent [scheme], [design], or [intention]

☐ and the aggregate amount of the contracts exceeded one thousand dollars [\$1,000]

☐ and [*name consumer*], the consumer, was at least 60 years of age).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of home improvement fraud, a Class B/A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

#### Instruction No. 4.9480. Home Improvement Fraud (Illegal Practices to Obtain Home Improvement Contract)

#### Instruction No. 4.9480. Home Improvement Fraud (Illegal Practices to Obtain Home Improvement Contract)

I.C. 35-43-6-12(b)(1)–(4).

I.C. 35-43-6-13(b)(3) and (b)(4).

The crime of home improvement fraud is defined by law as follows:

A home improvement supplier who, with the intent to enter into a home improvement contract, knowingly [damages the property of a consumer] [does work on the property of a consumer without the consumer's prior authorization] [misrepresents that (the supplier) (another person) is an (employee) (agent) of (the federal government) (the state) (a political subdivision of the state) (any other governmental agency or entity)] [misrepresents that (the supplier) (another person) is an (employee) (agent) of any (private) (public) utility] commits home

improvement fraud, a Class A misdemeanor. [The offense is a Level 6 felony if the consumer is (at least sixty (60) years of age) (if the home improvement contract violates (set out here the alleged ways in which the contract violates more than one (1) subdivision of section 35-43-6-12(a)).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. was a home improvement supplier, and
  3. with the intent to enter into a home improvement contract with [*name*], a consumer
  4. knowingly
  5. [damaged the property of (*name of consumer*)]
- [or]

[did work on the property of (*name of consumer*) without (*name's*) prior authorization]

[or]

[misrepresented that (*he, the Defendant, or name of other person alleged*) was an employee or agent of (the federal government) (of the state) (of a political subdivision of the state) (*name alleged agency or entity*, a governmental (agency) (entity))]

[or]

[misrepresented that (*he, the Defendant*) (*name of other person alleged*) was an employee or agent of (*name*) which was a private or public utility.]

[6. (*for Level 6 felony*) and

((*name of consumer*) was at least sixty years of age)

(or)

(the home improvement contract violated (*here set out ways in which the contract was alleged to have violated more than one (1) subdivision of IC 35-43-6-12(a)*)).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of home improvement fraud, a Class A misdemeanor/Level 6 felony, as charged in Count \_\_\_\_\_.

Instruction No. 4.9700. Altering Identification Number.

## Instruction No. 4.9700. Altering Identification Number.

### I.C. 35-43-7-4.

The crime of impairment of identification is defined by law as follows:

A person who [intentionally] [knowingly] [conceals] [alters] [damages] [removes] an identification number of a product with the intent to conceal the identity of the product and without the consent of the original manufacturer of the product commits impairment of identification, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [intentionally] [knowingly]
3. [concealed]

[or]

[altered]

[or]

[damaged]

[or]

[removed]

4. an identification number of (*name the product*)
5. with the intent to conceal the identity of that product
6. and without the consent of (*name the manufacturer*), the original manufacturer of (*name the product*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of impairment of identification, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

## Instruction No. 4.9720. Possession of Product With Altered Identification Number.

## Instruction No. 4.9720. Possession of Product With Altered Identification Number.

### I.C. 35-43-7-5.

The crime of receiving unidentified property is defined by law as follows:

A person who [intentionally] [knowingly] [receives] [possesses] a product on which the identification number of the product has been [concealed] [altered] [damaged] [removed] with the intent to conceal the identity of the product and without the consent of the original manufacturer of the product commits receiving unidentified property, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [intentionally] [knowingly]
3. [received] [possessed] (*name the product*)
4. when the identification number on the product had been [concealed]

[or]

[altered]

[or]

[damaged]

[or]

[removed]

with the intent to conceal the identity of the product

and

without the consent of (*name*), the original manufacturer.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of receiving unidentified property, a Class A misdemeanor as charged in Count \_\_\_\_\_.

Instruction No. 4.9740. Timber Spiking.

Instruction No. 4.9740. Timber Spiking.

I.C. 35-43-8-2, I.C. 35-43-8-3

The crime of timber spiking is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] without [claim] [right] [consent of the owner] [drives] [places] [fastens] in timber a device of [metal]

[ceramic] [other substance] sufficiently hard to damage equipment used in the processing of timber into wood products, with the intent to hinder the [felling] [logging] [processing] of timber, commits timber spiking, a Level 6 felony. [The offense is a Level 5 felony if it causes bodily injury to another person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. without [claim] [right] [consent of (*name owner*)]
4. [drove] [placed] [fastened] in timber
5. a device of [metal] [ceramic] [*name other substance*] sufficiently hard to damage equipment used in the processing of timber into wood products
6. with the intent to hinder the [felling] [logging] [processing] of timber
7. (*for Level 5 felony*) and the offense caused bodily injury to (*name*), as follows: (*describe injury*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of timber spiking, a Level 6/5 felony as charged in Count \_\_\_\_\_.

## Instruction No. 4.9800. Conversion or Misappropriation of Title Insurance Escrow Funds.

## Instruction No. 4.9800. Conversion or Misappropriation of Title Insurance Escrow Funds.

### I.C. 35-43-9-7.

The crime of conversion or misappropriation of title insurance escrow is defined by law as follows:

[An (officer) (director) (employee) of a title insurer] [An individual associated with the title insurer as (an independent contractor) (a title insurance agent)] who [knowingly] [intentionally] [(converts) (misappropriates) money (received) (held) in a title insurance escrow account] [(receives) (conspires to receive) money (converted) (misappropriated) from a title insurance escrow account] commits a Level 6 felony. [The offense is a Level 5 felony if the amount of money (converted, misappropriated or received) (for which there is a conspiracy) is more than ten thousand dollars (\$10,000) but less than one hundred thousand dollars (\$100,000).] [The offense is a Level 4 felony if the amount of money (converted, misappropriated or received) (for which there is a conspiracy) is at least one hundred thousand dollars (\$100,000)].

Before you may convict the Defendant, the State must have proved each of the

following:

1. The Defendant
  2. [knowingly] [intentionally]
  3. [while an (officer) (director) (employee) of [*name insurer*], a title insurer]
- [or]

[while associated with [*name insurer*], a title insurer, as an [independent contractor] [title insurance agent]

4. [(converted) (misappropriated) money received or held in a title insurance escrow account]

[or]

[(received) (conspired to receive) money which was (converted) (misappropriated) from a title insurance escrow account]

[5. (*for Level 5 felony*) and the amount of money (converted) (misappropriated) (received) (for which there was a conspiracy to receive) was more than \$10,000, but less than \$100,000]

[6. (*for Level 4 felony*) and the amount of money (converted) (misappropriated) (received) (for which there was a conspiracy to receive) was at least \$100,000].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of conversion or misappropriation of title insurance escrow funds, a Level 6/5/4 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 4.9820. Theft of Title Insurance Funds.

## Instruction No. 4.9820. Theft of Title Insurance Funds.

### I.C. 35-43-9-7.

The crime of theft of title insurance funds is defined by law as follows:

[(An officer) (a director) (an employee) of a title insurer] [an individual associated with the title insurer as an independent contractor] [a title insurance agent] who [knowingly] [intentionally] [(converts) (misappropriates) money (received) (held) in a title insurance escrow account] [(receives) (conspires to receive) money (received) (held) in a title insurance escrow account] commits a Level 6 felony.

[The offense is a Level 5 felony if the amount of money (converted) (misappropriated) (received) (for which there is a conspiracy) is more than ten thousand dollars (\$10,000) but less than one hundred thousand dollars (\$100,000).]

[The offense is a Level 4 felony if the amount of money (converted) (misappropriated) (received) (for which there is a conspiracy) is at least one hundred thousand dollars (\$100,000).]



Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. when Defendant was

[(an officer) (a director) (an employee) of a title insurer]

[or]

[an individual associated with the title insurer as an independent contractor]

[or]

[a title insurance agent]

3. [knowingly] [intentionally]

4. [(converted) (misappropriated) money (received) (held) in a title insurance escrow account]

[(received) (conspired to receive) money (received) (held) in a title insurance escrow account]

[5. (*for Level 5 felony*) and the money [(converted) (misappropriated) (received) (for which there was a conspiracy to receive) was more than ten thousand dollars (\$10,000) but less than one hundred thousand dollars (\$100,000)]

[6. (*for Level 4 felony*) and the money (converted) (misappropriated) (received) (for which there was a conspiracy to receive) was at least one hundred thousand dollars (\$100,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of theft of title insurance funds, a Level 6/5/4 felony, as charged in Count \_\_\_\_\_.

## CHAPTER 5 OFFENSES AGAINST PUBLIC ADMINISTRATION

- Instruction No. 5.0020. Official Misconduct.
- Instruction No. 5.0100. Bribery (Person Bribing Public Servant).
- Instruction No. 5.0120. Bribery (Public Servant Taking Bribe).
- Instruction No. 5.0140. Bribery (Bribe to Third Person to Control a Public Servant).
- Instruction No. 5.0160. Bribery (Person With Intent to Control Public Servant).
- Instruction No. 5.0300. Bribery (Bribing Participant in Athletic Contest).
- Instruction No. 5.0320. Bribery (Participant in Athletic Contest Taking Bribe).
- Instruction No. 5.0500. Bribery (Witness or Informant Taking Bribe).
- Instruction No. 5.0520. Bribery (Bribing a Witness or Informant).
- .
- Instruction No. 5.0800. Ghost Employment (Employer Who Hired and Assigned No Duties).
- Instruction No. 5.0820. Ghost Employment (Employer Who Assigned Nongovernmental Duties).
- Instruction No. 5.0840. Ghost Employment (Employee With No Duties).
- Instruction No. 5.0860. Ghost Employment (Employee With Nongovernmental Duties).
- Instruction No. 5.1000. Conflict of Interest.
- Instruction No. 5.1200. Profiteering from Public Service.
- Instruction No. 5.1400. Perjury.
- Instruction No. 5.1600. Obstruction of Justice (Coercion).
- Instruction No. 5.1620. Obstruction of Justice (Avoiding or Disobeying Process).
- Instruction No. 5.1640. Obstruction of Justice (Destroying Evidence).
- Instruction No. 5.1660. Obstruction of Justice (Falsifying Evidence).
- Instruction No. 5.1680. Obstruction of Justice (Influencing Juror).
- Instruction No. 5.1900. False Reporting.
- Instruction No. 5.2100. Assisting a Criminal.
- Instruction No. 5.2300. Impersonating a Public Servant.
- Instruction No. 5.2320. Impersonating a Police Officer or State Revenue Department Employee.
- Instruction No. 5.2400. Unlawful Manufacture or Sale of Police or Fire Insignia.
- Instruction No. 5.2600. Failure to Appear.
- Instruction No. 5.2800. Obstruction of Traffic.
- Instruction No. 5.3000. Resisting Law Enforcement (Use of Force).
- Instruction No. 5.3040. Resisting Law Enforcement (Fleeing).
- Instruction No. 5.3200. Disarming a Law Enforcement Officer.
- Instruction No. 5.3400. Escape—Flight.
- Instruction No. 5.3500. Escape—Home Detention.
- Instruction No. 5.3600. Escape—Failure to Return.
- Instruction No. 5.3900. Trafficking with an Inmate.
- Instruction No. 5.4200. Possessing Deadly Weapon in Penal or Juvenile Facility.
- Instruction No. 5.4300. Trafficking with an Inmate Outside a Facility.
- Instruction No. 5.4400. Possession of Dangerous Material by Incarcerated Person.
- Instruction No. 5.4800. Failure of Offender to Register—Living in Indiana.
- Instruction No. 5.4900. Failure of Offender to Register—Property in Indiana.
- Instruction No. 5.5000. Failure of Offender to Register—Work in Indiana.
- Instruction No. 5.5100. Failure of Offender to Register—School in Indiana.
- Instruction No. 5.5400. Registration Misstatement or Omission.
- Instruction No. 5.5500. Failure to Register In Person.
- Instruction No. 5.5600. Failure to Reside at Registered Address or Location.
- Instruction No. 5.5900. Lifetime Parole Violation—Contact with Child or Victim.
- Instruction No. 5.6200. Sexual Misconduct by Service Provider.
- Instruction No. 5.6400. Failure of an Offender to Possess Identification.
- Instruction No. 5.6600. False Verification of Citizenship or Immigration Status.
- Instruction No. 5.6800. Transporting an Illegal Alien.

Instruction No. 5.6900. Harboring an Illegal Alien.  
Instruction No. 5.7400. Violation of the Depository Rule.

## Instruction No. 5.0020. Official Misconduct.

## Instruction No. 5.0020. Official Misconduct.

### I.C. 35-44.1-1-1:

The crime of official misconduct is defined by law as follows:

A public servant who [knowingly] [intentionally] [commits an offense in the performance of the public servant's official duties] [(solicits) (accepts) (agrees to accept) from an (appointee) (employee) any property other than what the public servant is authorized by law to accept as a condition of continued employment] [(acquires) (divests {himself} {herself} of) a pecuniary interest in any (property) (transaction) (enterprise) or aids another person to do so based on information obtained by virtue of the public servant's office that official action that has not been made public is contemplated] [fails to deliver public records and property in the public servant's custody to the public servant's successor in office when that successor qualifies] commits official misconduct, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. while a public servant
3. [knowingly] [intentionally]
4. [committed the crime of insert name of offense] while in the performance of Defendant's official duties as a public servant]

[or]

[(solicited) (accepted) (agreed to accept) from (name), a public (appointee) (employee), as a condition of continued employment, (describe alleged property), which was property the Defendant was not authorized by law to accept as a public servant]

[or]

[(acquired) (divested {himself} {herself}) (aided {name alleged other person) in {acquiring} {divesting} {himself} {herself}) of (describe alleged interest), which was a pecuniary interest in (property) (a transaction) (an enterprise) based on information, which defendant obtained by virtue of (his) (her) public office, that (describe alleged official action), which was official action that was contemplated

but had not been made public]

[or]

[failed to deliver (describe alleged public records and/or property, which (were) (was) (public records) (property) in Defendant's custody, to (name alleged successor), who was Defendant's successor in office, when (name alleged successor) had qualified for the office).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of official misconduct, a Level 6 felony.

Instruction No. 5.0100. Bribery (Person Bribing Public Servant).

Instruction No. 5.0100. Bribery (Person Bribing Public Servant).

I.C. 35-44.1-1-2(a)(1) and (b).

The crime of bribery is defined by law as follows:

A person who [confers] [offers] [agrees to confer] on a public servant, either before or after the public servant becomes [appointed] [elected] [qualified], any property except property the public servant is authorized by law to accept, with intent to control the performance of an act related to the [employment] [function] of the public servant, commits bribery a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [conferred] [offered] [agreed to confer]
3. on (*name*), a public servant, either before or after (*name*) became appointed, elected, or qualified
4. any property except property (*name*) was authorized by law to accept
5. with intent to control the performance of an act related to the [employment] [function] of (*name*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of bribery, a Level 5 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.0120. Bribery (Public Servant Taking Bribe).

Instruction No. 0120. Bribery (Public Servant Taking Bribe).

I.C. 35-44.1-1-2(a)(2) and (b).

The crime of bribery is defined by law as follows:

A person who, being a public servant, [solicits] [accepts] [agrees to accept], either before or after he becomes [appointed] [elected] [qualified], any property, except property the person is authorized by law to accept, with intent to control the performance of an act related to the person's [employment] [function] as a public servant commits bribery, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. when a public servant, as defined in these instructions,
3. [solicited] [accepted] [agreed to accept], either before or after the Defendant was [appointed] [elected] [qualified] as a public servant
4. any property, except property the Defendant was authorized by law to accept
5. with intent to control the performance of an act related to Defendant's [employment] [function] as a public servant.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of bribery, a Level 5 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.0140. Bribery (Bribe to Third Person to Control a Public Servant).

Instruction No. 5.0140. Bribery (Bribe to Third Person to Control a Public Servant).

I.C. 35-44.1-1-2(a)(3) and (b).

The crime of bribery is defined by law as follows:

A person who [confers] [offers] [agrees to confer] on a person any property, except property the person is authorized by law to accept, with intent to cause that person to control the performance of an act related to the [employment] [function] of a public servant commits bribery, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [conferred] [offered] [agreed to confer]
3. on (*name*)

4. any property, except property (*name*) was authorized by law to accept
5. with intent to cause (*name*) to control the performance of an act related to the [performance] [function] of (*name public servant*), a public servant.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of bribery, a Level 5 felony, charged in Count \_\_\_\_\_.

### Instruction No. 5.0160. Bribery (Person With Intent to Control Public Servant).

### Instruction No. 5.0160. Bribery (Person With Intent to Control Public Servant).

#### I.C. 35-44.1-1-2(a)(4) and (b).

The crime of bribery is defined by law as follows:

A person who [solicits] [accepts] [agrees] to accept any property, except property he is authorized by law to accept, with intent to control the performance of an act related to the [employment] [function] of a public servant; commits bribery, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [solicited] [accepted] [agreed to accept]
3. any property, except property the person was authorized by law to accept
4. with intent to control the performance of an act related to the [employment] [function] of a public servant.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of bribery, a Level 5 felony, charged in Count \_\_\_\_\_.

### Instruction No. 5.0300. Bribery (Bribing Participant in Athletic Contest).

### Instruction No. 5.0300. Bribery (Bribing Participant in Athletic Contest).

#### I.C. 35-44.1-1-2(a)(5) and (b).

The crime of bribery is defined by law as follows:

A person who [confers] [offers] [agrees to confer] any property on a person [(participating) (officiating) in] [connected with], an athletic contest, sporting event, or exhibition, with intent that the person will fail to use his best efforts in connection with that contest, event, or exhibition commits bribery, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [conferred] [offered] [agreed to confer] property
3. on (*name*), who was a person [participating in] [officiating in] [connected with] an athletic contest, sporting event or exhibition
4. with intent that (*name*) would fail to use the person's best efforts in connection with the contest, event or exhibition.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of bribery, a Level 5 felony, charged in Count \_\_\_\_\_.

### Instruction No. 5.0320. Bribery (Participant in Athletic Contest Taking Bribe).

### Instruction No. 5.0320. Bribery (Participant in Athletic Contest Taking Bribe).

#### 35-44.1-1-2(a)(6) and (b).

The crime of bribery is defined by law as follows:

A person who, being a person [participating in] [officiating in] [connected with] an athletic contest, sporting event, or exhibition, [solicits] [accepts] [agrees to accept] any property with intent that he will fail to use his best efforts in connection with that contest, event, or exhibition, commits bribery, a Level 5 felony).

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. (while participating in) (officiating in) (was connected with) an athletic contest, sporting event or exhibition, and
3. [solicited] [accepted] [agreed to accept] any property
4. with intent that Defendant would fail to use his or her best efforts in connection with the contest, event or exhibition.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of bribery, a Level 5 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.0500. Bribery (Witness or Informant Taking Bribe).

Instruction No. 5.0500. Bribery (Witness or Informant Taking Bribe).

I.C. 35-44.1-1-2(a)(7) and (b).

The crime of bribery is defined by law as follows:

A person who, being a witness or informant in an official proceeding or investigation, [solicits] [accepts] [agrees to accept] any property [with intent to withhold any testimony, information, document, or thing] [to avoid legal process summoning him to testify or supply evidence] [to absent himself from the proceeding or investigation to which he has been legally summoned] commits bribery, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. being a [witness] [informant] in an [official proceeding] [investigation]
3. [solicited] [accepted] [agreed to accept] any property
4. [with intent to withhold any testimony, information, document, or thing]

[or]

[with intent to avoid legal process summoning him to testify or supply evidence]

[or]

[with intent to absent himself from the proceeding or investigation to which he had been legally summoned]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of bribery, a Level 5 felony, charged in Count \_\_\_\_\_.  
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Instruction No. 5.0520. Bribery (Bribing a Witness or Informant).

Instruction No. 5.0520. Bribery (Bribing a Witness or Informant).

I.C. 35-44.1-1-2(a)(8) and (b).

The crime of bribery is defined by law as follows:

A person who [confers] [offers] [agrees to confer] any property on a witness or



informant in an official proceeding or investigation, with intent that the witness or informant [withhold any testimony, information, document, or thing] [avoid legal process summoning the witness or informant to testify or supply evidence] [absent himself/herself from any proceeding or investigation to which the witness or informant has been legally summoned] commits bribery, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [conferred] [offered] [agreed to confer] property on (*name*), a witness or informant, in an official proceeding or investigation
3. when Defendant intended that [name]:  
[withhold any testimony, information, document or thing]

[or]

[avoid legal process summoning him/her to testify or supply evidence]

[or]

[absent himself/herself from any proceeding or investigation to which he had been legally summoned.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of bribery, a Level 5 felony, charged in Count \_\_\_\_\_.

## Instruction No. 5.0800. Ghost Employment (Employer Who Hired and Assigned No Duties).

## Instruction No. 5.0800. Ghost Employment (Employer Who Hired and Assigned No Duties).

### I.C. 35–44.1–1–3(a).

The crime of ghost employment is defined by law as follows:

A public servant who [knowingly] [intentionally] hires an employee for the governmental entity that he/she serves and [fails to assign to the employee any duties] [assigns to the employee any duties not related to the operation of the governmental entity] commits ghost employment, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. while a public servant

3. [knowingly] [intentionally]
4. hired (*name*) as an employee for (*name governmental entity*), a governmental entity that the Defendant served, and
5. [failed to assign (*name*) any duties]

[or]  
[assigned (*name*) duties not related to the operation of the governmental entity].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of ghost employment, a Level 6 felony, charged in Count \_\_\_\_\_.

### Instruction No. 5.0820. Ghost Employment (Employer Who Assigned Nongovernmental Duties).

### Instruction No. 5.0820. Ghost Employment (Employer Who Assigned Nongovernmental Duties).

#### I.C. 35–44.1–1–3(b).

The crime of ghost employment is defined by law as follows:

A public servant who [knowingly] [intentionally] assigns to an employee under his supervision any duties not related to the operation of the governmental entity that Defendant serves commits ghost employment, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. while a public servant
3. [knowingly] [intentionally]
4. assigned (*name*), an employee under Defendant's supervision, duties not related to the operations of the governmental unit that Defendant served.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of ghost employment, a Level 6 felony, charged in Count \_\_\_\_\_.

### Instruction No. 5.0840. Ghost Employment (Employee With No Duties).

### Instruction No. 5.0840. Ghost Employment (Employee With No Duties).

I.C. 35–44.1–1–3(c).

The crime of ghost employment is defined by law as follows:

A person employed by a governmental entity, who knowing that Defendant has not been assigned any duties to perform for the entity, accepts property from the entity, commits ghost employment, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. while employed by (*name*), a governmental entity,
3. accepted property from (*name*)
4. when Defendant knew he/she had not been assigned any duties to perform for (*name*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of ghost employment, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.0860. Ghost Employment (Employee With Nongovernmental Duties).

Instruction No. 5.0860. Ghost Employment (Employee With Nongovernmental Duties).

I.C. 35–44.1–1–3(d)

The crime of ghost employment is defined by law as follows:

A person employed by a governmental entity who [knowingly] [intentionally] accepts property from the entity for the performance of duties not related to the operation of the entity, commits ghost employment, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. while employed by (*name*), a governmental entity
3. [knowingly] [intentionally]
4. accepted property (*specify alleged property*) from (*name*)
5. for the performance of duties not related to the operation of (*name*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of ghost employment, a Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 5.0900. Official Misconduct.

### I.C. 35-44.1-1-1:

The crime of official misconduct is defined by law as follows:

A public servant who knowingly or intentionally [commits an offense in the performance of the public servant's official duties] [solicits, accepts, or agrees to accept from an appointee or employee any property other than what the public servant is authorized by law to accept as a condition of continued employment] [acquires or divests himself or herself of a pecuniary interest in any property, transaction, or enterprise or aids another person to do so based on information obtained by virtue of the public servant's office that official action that has not been made public is contemplated] [fails to deliver public records and property in the public servant's custody to the public servant's successor in office when that successor qualifies] commits official misconduct, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. while a public servant
3. knowingly or intentionally
4. [committed the crime of *[insert name of offense]* while in the performance of Defendant's official duties as a public servant]

[or]

[(solicited) (accepted) (agreed to accept) from (*name*), a public (appointee) (employee), as a condition of continued employment, (*describe alleged property*), which was property the Defendant was not authorized by law to accept as a public servant]

[or]

[(acquired) (divested {himself} {herself}) (aided *name alleged other person*) in {acquiring} {divesting} {himself} {herself}) of (*describe alleged interest*), which was a pecuniary interest in (property) (a transaction) (an enterprise) based on information, which defendant obtained by virtue of (his) (her) public office, that (*describe alleged official action*), which was official action that was contemplated but had not been made public]

[or]

[failed to deliver (*describe alleged public records and/or property*, which (were) (was) (public records) (property) in Defendant's custody, to (*name alleged*)]

successor), who was Defendant's successor in office, when (name alleged successor) had qualified for the office).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of official misconduct, a Level 6 felony.

### Instruction No. 5.07. Conflict of Interest.

### Instruction No. 5.1000. Conflict of Interest.

I.C. 35-44.1-1-4(b).

The crime of conflict of interest is defined by law as follows:

A public servant who [knowingly] [intentionally] [has a pecuniary interest in] [derives a profit from] a contract or purchase connected with an action by the governmental entity served by the public servant, commits conflict of interest, a Level 6 felony.

Before you may convict the Defendant, the State must prove the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [had a pecuniary interest in]

[or]

[derived a profit from]

4. a contract or purchase connected with an action by the governmental entity the Defendant served.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of conflict of interest, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.1200. Profiteering from Public Service.

Instruction No. 5.1200. Profiteering from Public Service.

I.C. 35–44.1–1–5.

The crime of profiteering from public service is defined by law as follows:

A person who [knowingly] [intentionally] [obtains a pecuniary interest in a (contract) (purchase) with an agency within one (1) year after separation from employment or other service with the agency] and [is not a public servant for the agency but who as a public servant (approved) (negotiated) (prepared) on behalf of the agency the terms or specifications of (the contract) (the purchase)], commits profiteering from public service, a Level 6 felony.

Before you may convict the Defendant, the State must prove the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. obtained a pecuniary interest in a [contract] [purchase] with (*name of agency*), an agency, within one (1) year after separation from employment or other service with the agency] and
4. a [contract] [purchase] connected with an action by the governmental entity the Defendant served.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of of conflict of interest, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.1400. Perjury.

Instruction No. 5.1400. Perjury.

I.C. 35-44.1-2-1.

The crime of perjury is defined by law as follows:

A person who [makes a false, material statement under oath or affirmation knowing the statement (to be false) (not believing it to be true)] [has knowingly made two (2) or more material statements in a proceeding before a (court) (grand jury), which are inconsistent to the degree that one (1) of them is necessarily false] commits perjury, a Level 6 felony.

Before you may convict the Defendant, the State must prove the following beyond a reasonable doubt:

1. The Defendant
2. made a false, material statement
3. under oath or affirmation
4. [when the Defendant knew the statement was false] [when the Defendant did not believe the statement was true]

[or]

1. The Defendant
2. knowingly made two (2) or more material statements
3. in a proceeding before a (court) (grand jury)
4. which were so inconsistent that one (1) of the statements was necessarily false.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of perjury, a Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 5.1600. Obstruction of Justice (Coercion).

## Instruction No. 5.1600. Obstruction of Justice (Coercion).

### I.C. 35–44.1–2–2(a)(1).

The crime of obstruction of justice is defined by law as follows:

A person who [knowingly] [intentionally] induces, by threat, coercion, or false statement, a witness or informant in an official proceeding or investigation to [withhold or unreasonably delay in producing any testimony, information, document, or thing] [avoid legal process summoning the witness or informant to testify or supply evidence] [absent the witness or informant from a proceeding or investigation to which the witness or informant has been legally summoned] commits obstruction of justice, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [knowingly] [intentionally]
3. induced by threat, coercion or false statement

4. [name], a witness or an informant in an official proceeding or investigation, to [withhold or unreasonably delay in producing any information, document or thing]

[or]

[avoid legal process summoning him/her to testify or supply evidence]

[or]

[absent himself/herself from a proceeding or investigation to which he/she had been legally summoned.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of obstruction of justice, a Level 6 felony, charged in Count \_\_\_\_\_.

### Instruction No. 5.1620. Obstruction of Justice (Avoiding or Disobeying Process).

### Instruction No. 5.1620. Obstruction of Justice (Avoiding or Disobeying Process).

#### I.C. 35–44.1–2–2(a)(2).

The crime of obstruction of justice is defined by law as follows:

A person who [knowingly] [intentionally] in an official criminal proceeding or investigation [withholds or unreasonably delays in producing any testimony, information, document, or thing after a court orders him/her to produce the testimony, information, document, or thing] [avoids legal process summoning the person to testify or supply evidence] [absents himself/herself from a proceeding or investigation to which he/she has been legally summoned] commits obstruction of justice, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant

2. [knowingly] [intentionally]

3. in an official criminal proceeding or investigation

[withheld or unreasonably delayed in producing testimony, information, a document, or a thing after being ordered by a court to produce the testimony, information, document, or thing]

[or]

[avoided legal process summoning the person to testify or supply evidence]



[or]

[absented himself/herself from a proceeding or investigation to which he/she had been legally summoned].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of obstruction of justice, a Level 6 felony, charged in Count \_\_\_\_\_.

#### Instruction No. 5.1640. Obstruction of Justice (Destroying Evidence).

#### Instruction No. 5.1640. Obstruction of Justice (Destroying Evidence).

##### I.C. 35–44.1–2–2(a)(3).

The crime of obstruction of justice is defined by law as follows:

A person who [alters] [damages] [removes] any record, document, or thing with intent to prevent it from being produced or used as evidence in any official proceeding or investigation commits obstruction of justice, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [altered] [damaged] [removed]
3. a record, document, or thing
4. with intent to prevent it from being produced or used as evidence in an official proceeding or investigation.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of obstruction of justice, a Level 6 felony, charged in Count \_\_\_\_\_.

#### Instruction No. 5.1660. Obstruction of Justice (Falsifying Evidence).

#### Instruction No. 5.1660. Obstruction of Justice (Falsifying Evidence).

##### I.C. 35–44.1–2–2(a)(4).

The crime of obstruction of justice is defined by law as follows:

A person who [makes] [presents] [uses] a false record, document, or thing, with intent that the record, document, or thing, material to the point in question, would appear in evidence in an official proceeding or investigation to mislead a public servant commits obstruction of justice, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [made] [presented] [used]
3. a false record, document, or thing
4. with intent that the record, document, or thing, which was material to the point in question, appear in evidence
5. in an official proceeding or investigation
6. for the purpose of misleading a public servant.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of obstruction of justice, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.1680. Obstruction of Justice (Influencing Juror).

Instruction No. 5.1680. Obstruction of Justice (Influencing Juror).

I.C. 35–44.1–2–2(a)(5).

The crime of obstruction of justice is defined by law as follows:

A person who communicates, directly or indirectly, with a juror otherwise than as authorized by law, with intent to influence the juror regarding any matter that is or may be brought before the juror, commits obstruction of justice, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. communicated, directly or indirectly,
3. with (*name of juror*), a juror
4. otherwise than as authorized by law,
5. with intent to influence the juror regarding any matter which was or might have been brought before the juror.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of obstruction of justice, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.1900. False Reporting.

Instruction No. 5.1900. False Reporting.

I.C. 35–44.1–2–3(c).

The crime of false reporting is defined by law as follows:

A person who reports by [telephone] [telegraph] [mail] [other written or oral communication], [that Defendant or another person (has placed) (intends to place) an explosive, a destructive device, or other destructive substance in a building or transportation facility] [that there has been or there will be tampering with a consumer product introduced into commerce] [that there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly] knowing the report to be false, commits false reporting, a Level 6 felony.

Before you may convict the Defendant, the State must prove the following beyond a reasonable doubt:

1. The Defendant
2. communicated by [telephone] [telegraph] [mail] [other written or oral communication]
3. [that Defendant or another person had placed or intended to place an explosive or destructive substance in a building or transportation facility]

[or]

[that there had been or would be tampering with a consumer product introduced into commerce]

[or]

[that there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly]

4. when the Defendant knew the report was false.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of false reporting, a Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 5.2100. Assisting a Criminal.

## Instruction No. 5.2100. Assisting a Criminal.

### I.C. 35-44.1-2-5.

The crime of assisting a criminal is defined by law as follows:

A person not standing in the relation of parent, child, or spouse to another person when the other person [has committed a crime] [is a fugitive from justice], who with intent to hinder the apprehension or punishment of the other person, [harbors] [conceals] [otherwise assists the other person] commits assisting a criminal, a Class A misdemeanor. [The offense is a Level 6 felony if (the person assisted has committed a Class B, Class C or Class D felony before July 1, 2014) (a Level 3, Level 4, Level 5, or Level 6 felony after June 30, 2014).] [The offense is a Level 5 felony if the person assisted has committed (murder or a Class A felony before July 1, 2014) (a Level 1 or Level 2 felony after June 30, 2014) (the assistance was providing a deadly weapon).]

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. who was not the parent, child or spouse of (*name of person assisted*)
3. [harbored] [concealed] [assisted] (*name*)
4. with the intent to hinder the apprehension or punishment of (*name*)
5. [after (*name*) had committed the crime of (*specify crime alleged*) by (*set out elements of crime alleged*)]

[or]

[when (*name*) was a fugitive from justice]

[6. (*for Level 6 felony*) and the crime (*name*) committed was a (Class {B} {C} {D}) felony committed before July 1, 2014) (Level {3} {4} {5} {6} felony committed after June 30, 2014)]

[7. (*for Level 5 felony*) and the crime (*name*) committed was a Class [A] felony committed before July 1, 2014)

(or)

(a Level 1 or 2 felony committed after June 30, 2014)

(or)

(and the assistance Defendant gave (*name*) was providing a deadly weapon)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of assisting a criminal, a Class A misdemeanor/ Level 6/5 felony, charged in Count \_\_\_\_\_.

### Instruction No. 5.2300. Impersonating a Public Servant.

### Instruction No. 5.2300. Impersonating a Public Servant.

#### I.C. 35-44.1-2-6.

The crime of impersonating a public servant is defined by law as follows:

A person who falsely represents that the person is a public servant, with intent to mislead and induce another person [to submit to false official authority] [otherwise to act to the other person's detriment in reliance on the false representation], commits impersonation of a public servant, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. falsely represented [himself] [herself]
3. to be a public servant, (*here specify alleged representation*),
4. with the intent to mislead and induce (*name subject of misrepresentation*)
5. [to submit to false official authority]

[or]

[to act to (*name subject of misrepresentation*)'s detriment in reliance on the false representation].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of impersonating a public servant, a Class A misdemeanor, charged in Count \_\_\_\_\_.

### Instruction No. 5.2320. Impersonating a Police Officer or State Revenue Department Employee.

### Instruction No. 5.2320. Impersonating a Police Officer or State Revenue Department Employee.

### I.C. 35-44.1-2-6

The crime of impersonating [a police officer] [a revenue service employee] is defined by law as follows:

A person who falsely represents that the person is [a law enforcement officer] [an agent or employee of the department of state revenue, and collects any property from another person] commits impersonation of [a law enforcement officer] [a state revenue department employee], a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. falsely represented to [*name person alleged*]
3. that Defendant was
4. [a law enforcement officer]

[or]

[an agent or employee of the Indiana Department of State Revenue and Defendant collected property, [*specify property alleged*], from (*name subject of misrepresentation*)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of impersonating a law enforcement officer or a state revenue department employee], a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.2400. Unlawful Manufacture or Sale of Police or Fire Insignia.

Instruction No. 5.2400. Unlawful Manufacture or Sale of Police or Fire Insignia.

### I.C. 35-44.1-2-8.

The crime of manufacturing and selling an official badge is defined by law as

follows:

A person who [knowingly] [intentionally] [manufactures and sells] [manufactures and offers for sale] [an official badge or a replica of an official badge that is currently used by a law enforcement agency or fire department of the state or of a political subdivision of the state] [a document that purports to be an official employment identification that is used by a law enforcement agency or fire department of the state or a political subdivision of the state] without the written permission of the chief executive officer of the law enforcement agency commits unlawful manufacture or sale of a police or fire insignia, a Class A misdemeanor. [The offense is a Level 6 felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to further the commission of an offense under IC 35-44.1-2-6.] The offense is a Level 4 felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to further the commission of an offense under IC 35-47-12.]

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [knowingly] [intentionally]
3. [manufactured and sold] [manufactured and offered for sale]
4. [an official badge or a replica of an official badge that is currently used by (*name of law enforcement agency or fire department*), a law enforcement agency or fire department of the state or of a political subdivision of the state]

[or]

[a document that purports to be an official employment identification that is used by (*name of law enforcement agency or fire department*), a law enforcement agency or fire department of the state or a political subdivision of the state]

without the written permission of the chief executive officer of the law enforcement agency

[5. (*for Level 6 felony*) and the Defendant committed the offense with the knowledge or intent that the (badge) (employment identification) would be used to further the commission of impersonating a public servant].

[6. (*for Level 4 felony*) and the Defendant committed the offense with the knowledge or intent that the (badge) (employment identification) would be used to further the commission of an offense under IC 35-47-12].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of failure to appear, a Class A misdemeanor/Level 6/4 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.2600. Failure to Appear.

## Instruction No. 5.2600. Failure to Appear.

I.C. 35–44.1–2–9.

The crime of failure to appear is defined by law as follows:

A person who, having been released from lawful detention on condition that the person appear at a specified time and place in connection with a charge of a crime, intentionally fails to appear at that time and place commits failure to appear, a Class A misdemeanor. [The offense is a Level 6 felony if the charge was a felony charge.]

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. after being released from lawful detention on the condition Defendant appear at a specified time and place in connection with a charge of crime
3. intentionally failed to appear at that specified time and place
4. (*for Level 6 felony*) and the charge of crime for which Defendant was to appear was a felony charge].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of failure to appear, a Class A misdemeanor/Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 5.2800. Obstruction of Traffic.

## Instruction No. 5.2800. Obstruction of Traffic.

I.C. 35–44.1–2–13.

The crime of obstruction of traffic is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] obstructs [vehicular] [pedestrian] traffic commits obstruction of traffic, a Class B misdemeanor. [The offense is a Class A misdemeanor if the offense includes the use of a motor vehicle.] [The offense is a Level 6 felony if the offense results in serious bodily



injury.]

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. obstructed [vehicular] [pedestrian] traffic
4. (*for Class A misdemeanor*) and the offense included the use of a motor vehicle].
5. (*for Level 6 felony*) and the offense resulted in serious bodily injury]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of obstruction of traffic, a Class B/A misdemeanor/Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 5.3000. Resisting Law Enforcement (Use of Force).

## Instruction No. 5.3000. Resisting Law Enforcement (Use of Force).

I.C. 35-44.1-3-1(a) and (b).

The crime of resisting law enforcement is defined by law as follows:

A person who [knowingly] [intentionally] [forcibly (resists) (obstructs) (interferes with) a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of his duties as an officer] [forcibly (resists) (obstructs) (interferes with) the authorized service or execution of a civil or criminal process or order of a court] commits resisting law enforcement, a Class A misdemeanor. [The offense is a Level 6 felony if, while committing it, the person (draws or uses a deadly weapon) (inflicts bodily injury on or otherwise causes bodily injury to another person) (operates a vehicle in a manner that creates a substantial risk of bodily injury to another person).] [The offense is a Level 5 felony if the person operates a vehicle in a manner that causes serious bodily injury to another person.] [The offense is a Level 3 felony if the person operates a vehicle in a manner that causes the death of another person.] [The offense is a Level 2 felony if the person operates a vehicle in a manner that causes the death of a law enforcement officer while the law enforcement officer is engaged in the officer's official duties.]

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant

2. [knowingly] [intentionally]
3. forcibly
4. [(resisted) (obstructed) (interfered with) (*name*), [a law enforcement officer] [a person assisting (*name*), a law enforcement officer] while the officer was lawfully engaged in the execution of his/her duties as an officer)]

[or]

[(resisted) (obstructed) (interfered) with the authorized service or execution of a civil or criminal process or order of a court][5. (*for Level 6 felony*) and, while committing the offense, Defendant  
(drew or used a deadly weapon)

(or)

(inflicted bodily injury on [*name person injured*])

(or)

(operated a vehicle in a manner that created a

substantial risk of bodily injury to another person)]

[6. (*for Level 5 felony*) and, while committing the offense, Defendant operated a vehicle in a manner that caused serious bodily injury to (*name*), another person]

[7. (*for Level 3 felony*) and, while committing the offense, Defendant operated a vehicle in a manner that caused the death of (*name*), another person]

[8. (*for Level 2 felony*) and, while committing the offense, Defendant operated a vehicle in a manner that caused the death of (*name*), a law enforcement officer while the law enforcement officer was engaged in his/her official duties].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of resisting law enforcement, a Class A misdemeanor/Level 6/5/3/2 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.3040. Resisting Law Enforcement (Fleeing).

Instruction No. 5.3040. Resisting Law Enforcement (Fleeing).

I.C. 35-44.13-1(a) and (b).

The crime of resisting law enforcement is defined by law as follows:

A person who [knowingly] [intentionally] flees from a law enforcement officer after the officer has, by visible or audible means, including the operation of the law enforcement officer's siren or emergency lights, identified himself and ordered the

person to stop commits resisting law enforcement, a Class A misdemeanor. [The offense is a Level 6 felony if (the person uses a vehicle to commit it) (while committing it, the person draws or uses a deadly weapon) (while committing it, the person inflicts bodily injury on another person) (while committing it, the person operates a vehicle in a manner that creates a substantial risk of bodily injury to another person).] [The offense is a Level 5 felony if, while committing it, the person operates a vehicle in a manner that causes serious bodily injury to another person.] [The offense is a Level 3 felony if, while committing it, the person operates a vehicle in a manner that causes the death of another person.] [The offense is a Level 2 felony if, while committing it, the person operates a vehicle in a manner that causes the death of a law enforcement officer while he/she is engaged in the officer's official duties.]

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [knowingly] [intentionally]
3. fled from [name], a law enforcement officer
4. after [name] had, by visible or audible means, [including the operation of the law enforcement officer's (siren) (emergency lights), identified himself and ordered the Defendant to stop
5. (*for Level 6 felony*) and Defendant

(used a vehicle to commit the offense)

(or)

(drew or used a deadly weapon while committing the offense)

(or)

(inflicted bodily injury on [name] while committing the offense)

(or)

(operated a vehicle in a manner that created a substantial risk of bodily injury to [name] while committing the offense)]

[6. (*for Level 5 felony*) and Defendant operated a vehicle in a manner that caused serious bodily injury to (name) while committing the offense]

[7. (*for Level 3 felony*) and Defendant operated a vehicle in a manner that caused the death of (name) while committing the offense]

[8. (*for Level 2 felony*) and Defendant operated a vehicle in a manner that caused the death of (name), a law enforcement officer who was engaged in his/her official duties, while committing the offense].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of resisting law enforcement, a Class A misdemeanor/ Level 6/5/3/2 felony, charged in Count \_\_\_\_\_.

## Instruction No. 5.3200. Disarming a Law Enforcement Officer.

## Instruction No. 5.3200. Disarming a Law Enforcement Officer.

### I.C. 35-44.1-3-2.

The crime of disarming a law enforcement officer is defined by law as follows:

A person who knows that another person is an officer, and [knowingly] [intentionally] [takes] [attempts to take] [a firearm] [a weapon] that the officer is authorized to carry from the officer or from the immediate proximity of the officer, without the consent of the officer and while the officer is engaged in the performance of his or her official duties, commits disarming a law enforcement officer, a Level 5 felony. [The offense is a Level 3 felony if it results in serious bodily injury to the law enforcement officer.] [The offense is a Level 1 felony if it results in death to the law enforcement officer.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knew that (*name officer*) was an officer, and
3. [knowingly] [intentionally]
4. [took] [attempted to take]
5. from [(*name officer*)] [the immediate proximity of (*name officer*)]
6. [a firearm] [a weapon] which (*name officer*) was authorized to carry
7. without the consent of [*name officer*]
8. while [*name officer*] was engaged in the performance of [his] [her] official duties
9. (*for Level 3 felony*) and Defendant's conduct resulted in serious bodily injury to (*name law enforcement officer*)
10. (*for Level 1 felony*) and Defendant's conduct resulted in the death of (*name officer*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of disarming a law enforcement officer, a Level 5/3/1 felony, charged in Count \_\_\_\_\_.

## Instruction No. 5.3400. Escape—Flight.

## Instruction No. 5.3400. Escape—Flight.

I.C. 35-44.1-3-4(a).

The crime of escape is defined by law as follows:

A person who intentionally flees from lawful detention commits escape, a Level 5 felony. [The offense is a Level 4 felony if, while committing it the person (draws or uses a deadly weapon) (inflicts bodily injury on another person).]

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. intentionally
3. fled from lawful detention
4. (*for Level 4 felony*) and while committing the offense the Defendant  
(drew or used a deadly weapon)

(or)

(inflicted bodily injury on (*name of injured person*)).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of escape, a Level 5/4 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.3500. Escape—Home Detention.

Instruction No. 5.3500. Escape—Home Detention.

I.C. 35-44.1-3-4(b).

The crime of escape is defined by law as follows:

A person who [knowinglyintentionally violates a home detention order]  
[intentionally removes an electronic monitoring device or GPS tracking device]  
commits escape, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following:

1. The defendant
2. (knowingly) (intentionally) violated a home detention order.]

[or]

[2. intentionally removed an electronic monitoring device or GPS tracking device].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of escape, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.3600. Escape—Failure to Return.

Instruction No. 5.3600. Escape—Failure to Return.

I.C. 35-44.1-3-4(c).

The crime of escape is defined by law as follows:

A person who [knowingly] [intentionally] fails to return to lawful detention following temporary leave granted for a specified purpose or limited period commits failure to return to lawful detention, a Level 6 felony. [The offense is a Level 5 felony if, while committing it, the person (draws or uses a deadly weapon) (inflicts bodily injury on another person).]

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [knowingly] [intentionally]
3. failed to return to lawful detention following temporary leave granted for a specified purpose or limited period
4. (*for Level 5 felony*) and while committing the offense the Defendant (drew or used a deadly weapon)

(or)

(inflicted bodily injury on [*name*], another person)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of escape, a Level 6/5 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.3900. Trafficking with an Inmate.

## Instruction No. 5.3900. Trafficking with an Inmate.

### I.C. 35-44.1-3-5.

The crime of trafficking with an inmate is defined by law as follows:

A person who, without the prior authorization of the person in charge of a penal or juvenile facility, [knowingly] [intentionally] [delivers or carries into the penal facility or juvenile facility with intent to deliver, an article to an inmate or child of the facility] [carries or receives with intent to carry out of the penal facility or juvenile facility, an article from an inmate or child of the facility] [(delivers) (carries) to a worksite with the intent to deliver, alcoholic beverages to an inmate or child of a jail work crew or community work crew] commits trafficking with an inmate, a Class A misdemeanor. [The offense is a Level 5 felony if the article is a (controlled substance) (deadly weapon) (cellular telephone or other wireless or cellular communication device).]

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [knowingly] [intentionally]
3. without prior authorization of the person in charge of (*name of penal or juvenile facility*)
4. [delivered an article to (*name*), an inmate or child of (*name of penal or juvenile facility*)]

[or]

[carried an article into (*name of penal or juvenile facility*) with the intent to deliver the article to (*name*), an inmate or child of (*name of penal or juvenile facility*)]

[or]

[carried an article from (*name*), an inmate or child of (*name of penal facility or juvenile facility*) out of (*name of penal or juvenile facility*)]

[or]

[received an article from (*name*), an inmate or child of (*name of penal or juvenile facility*), with the intent to carry such article out of (*name of penal or juvenile facility*)]

[or]

[delivered to a worksite alcoholic beverages to (*name*), an inmate or child of a jail work crew or community work crew]

[or]

[carried to a worksite with the intent to deliver, alcoholic beverages to (*name*), an inmate or child of a jail work crew or community work crew]

[5. (*for Level 5 felony*) and the article was (*name article*), which was a (controlled substance) (deadly weapon) (a cellular telephone or other wireless or cellular communication device)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of trafficking with an inmate, a Class A misdemeanor/Level 5 felony, charged in Count \_\_\_\_\_.

## Instruction No. 5.4200. Possessing Deadly Weapon in Penal or Juvenile Facility.

## Instruction No. 5.4200. Possessing Deadly Weapon in Penal or Juvenile Facility.

### I.C. 35-44.1-3-5(d).

The crime of possessing a deadly weapon in a [penal] [juvenile] facility is defined by law as follows:

A person who is not an [inmate of a penal facility] [a child of a juvenile facility] and [knowingly] [intentionally] [possesses a deadly weapon in] [carries a deadly weapon into] [causes a deadly weapon to be brought into] the [penal] [juvenile] facility without the prior authorization of the person in charge of the [penal] [juvenile] facility commits possessing a deadly weapon in a [penal] [juvenile] facility, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. who was not [an inmate of (*name facility*), a penal facility] [a child of (*name facility*), a juvenile facility]
3. [knowingly] [intentionally]
4. [possessed in] [carried into] [caused to be brought into] [*describe alleged facility*], which was a [penal] [juvenile] facility
5. [*describe alleged weapon*], which was a deadly weapon
6. without the prior authorization of the person in charge of the [penal] [juvenile] facility.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possessing a deadly weapon in a [penal]



[juvenile] facility, a Level 5 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.4300. Trafficking with an Inmate Outside a Facility.

Instruction No. 5.4300. Trafficking with an Inmate Outside a Facility.

I.C. 35-44.1-3-6.

The crime of trafficking with an inmate outside a facility is defined by law as follows:

A person who, with the intent of providing contraband to an inmate outside a facility, [delivers contraband to an inmate outside a facility] [places contraband in a location where an inmate outside a facility could obtain the contraband] commits providing contraband to an inmate outside a facility, a Class A misdemeanor. [The offense is a Level 6 felony if the contraband is a controlled substance.] [The offense is a Level 5 felony if the contraband is a weapon.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
2. with the intent of providing contraband to (*name inmate*), an inmate outside a facility,
3. [delivered (*describe contraband*), a contraband, to (*name*), an inmate outside a facility]

[or]

[placed (*describe contraband*), a contraband, in (*describe location*), a location where (*name*), an inmate outside a facility, could obtain the contraband].

[4. (*for Level 6 felony*) and the contraband was (*describe contraband*), a controlled substance.]

[5. (*for Level 5 felony*) and the contraband was (*describe contraband*), an item that may be used as a weapon.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of trafficking with an inmate outside a facility, a Class A misdemeanor/Level 6/5 felony, as charged in Count \_\_\_\_\_.

Instruction No. 5.4400. Possession of Dangerous Material by Incarcerated Person.

Instruction No. 5.4400. Possession of Dangerous Material by Incarcerated Person.

I.C. 35-44.1-3-7.

The crime of possession of dangerous material by an incarcerated person is defined by law as follows:

A person who [knowingly] [intentionally] while incarcerated in a penal facility possesses [a device] [equipment] [a chemical substance] [other material] that is used or is intended to be used in a manner that is readily capable of causing bodily injury commits a Level 5 felony. [The offense is a Level 4 felony if the (device) (equipment) (chemical substance) (other material) is a deadly weapon.]

Before you may convict the Defendant, the State must have proved each of the following:

1. The Defendant
2. [knowingly] [intentionally]
3. while incarcerated in a penal facility
4. possessed [*name alleged device, equipment, chemical substance, or other material*]
5. when [*name alleged device, equipment, chemical substance, or other material*] was ordinarily used or ordinarily intended to be used in a manner readily capable of causing bodily injury
- [6. (*for Level 4 felony*) and (*name alleged device, equipment, chemical substance, or other material*) was a deadly weapon].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of dangerous material by an incarcerated person, a Level 5/4 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.4800. Failure of Offender to Register—Living in Indiana.

Instruction No. 5.4800. Failure of Offender to Register—Living in Indiana.

I.C. 11-8-8-17.

The crime of failure of an offender to register is defined by law as follows:

A person who is an offender, as defined by IC 11-8-8-5, and resides in Indiana by [spending] [intending to spend] at least seven (7) days, including part of a day, in Indiana during a one hundred eighty (180) day period and [knowingly] [intentionally] fails to register as an offender with [the sheriff of a county in which the offender resides] [the police chief of the consolidated city in which the offender resides] commits failure to register, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was an offender with a duty to register because [he] [she] had been convicted of (*insert IC 11-8-8-5 offense or delinquency status alleged*) and
3. resided in Indiana by [having spent] [having intended to spend] at least seven (7) days, including any part of a day, in Indiana during the one hundred eighty (180) day period beginning on [*insert beginning date*] and ending on [*insert ending date*] and
4. [knowingly] [intentionally]
5. failed to register as an offender with [the sheriff of the county where the offender resided]

[or]

[the police chief of the consolidated city in which the offender resided].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of failure of offender to register, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.4900. Failure of Offender to Register—Property in Indiana.

Instruction No. 5.4900. Failure of Offender to Register—Property in Indiana.

I.C. 11-8-8-17.

The crime of failure of an offender to register is defined by law as follows:

A person who is an offender, as defined by IC 11-8-8-5, and by statutory definition resides in Indiana because [he] [she] owns real property in Indiana and returns to Indiana at any time and [knowingly] [intentionally] fails to register as an offender with [the sheriff of a county where the real property is located] [the police chief of the consolidated city in which the real property is located] commits failure to register, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was an offender with a duty to register because [he] [she] had been convicted of *(insert IC 5-2-12-4 offense or delinquency status alleged)* and
3. returned to Indiana at a time when [he] [she] owned real property in [(name county) County, Indiana] [(name consolidated city), Indiana], and
4. [knowingly] [intentionally]
5. failed to register as an offender with  
[the sheriff of (name county in which the real property was located) County, Indiana]

[or]

[the police chief of (name consolidated city in which the real property was located), Indiana].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of failure of offender to register, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.5000. Failure of Offender to Register—Work in Indiana.

Instruction No. 5.5000 Failure of Offender to Register—Work in Indiana.

#### I.C. 11-8-8-17.

The crime of failure of an offender to register is defined by law as follows:

A person who is an offender, as defined by IC 11-8-8-5, and [works or carries on a vocation in Indiana] [intends to work or carry on a vocation in Indiana] full-time or part-time [for a period of time exceeding seven (7) consecutive days] [for an aggregate period of time exceeding fourteen (14) days] during any calendar year

in Indiana, whether the offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit, and [knowingly] [intentionally] fails to register as an offender with [the sheriff of the county] [the police chief of the consolidated city] where the person [is employed or carries on a vocation] [intends to be employed or carry on a vocation] commits failure to register, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was an offender with a duty to register because [he] [she] had been convicted of (*insert IC 11-8-8-5 offense or delinquency status alleged*) and
3. [worked or carried on a vocation in Indiana]

[or]

[intended to work or carry on a vocation in Indiana]

4. [full-time] [part-time]
- [for a period of time exceeding seven (7) consecutive days]

[or]

[for an aggregate period of time exceeding fourteen (14) days during a calendar year]

5. and [knowingly] [intentionally]
  6. failed to register as an offender with
- [the sheriff of (*name County*), (the) (a) county where the Defendant (was) (intended to be) employed or (was carrying) (intended to carry) on a vocation]

[or]

[the police chief of (*name city*), the consolidated city where the Defendant (was) (intended to be) employed or (was carrying) (intended to carry) on a vocation].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of failure of offender to register, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.5100. Failure of Offender to Register—School in Indiana.

Instruction No. 5.5100 Failure of Offender to Register—School in Indiana.

I.C. 11-8-8-17.

The crime of failure of an offender to register is defined by law as follows:

A person who is an offender, as defined by IC 11-8-8-5, and [is enrolled] [intends to enroll] on a full-time or part-time basis in any public or private educational institution, including any [secondary school] [trade institution] [professional institution] [postsecondary educational institution] in Indiana and [knowingly] [intentionally] fails to register as an offender with [the sheriff of the county] [the police chief of the consolidated city] where the Defendant [is] [intends to be] enrolled as a student commits failure to register, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was an offender with a duty to register because [he] [she] had been convicted of (*insert IC 11-8-8-5 offense or delinquency status alleged*) and
3. [was enrolled] [intended to be enrolled]
4. on a [full-time] [part-time] basis
5. in (*name institution*), which was a public or private educational institution in (*name county*), Indiana,
6. and [knowingly] [intentionally]
7. failed to register as an offender with  
[the sheriff of (*name county*), Indiana, where the Defendant (was) (intended to be) enrolled as a student]  
[or]  
[the police chief of (*name city*), the consolidated city where the Defendant (was) (intended to be) enrolled as a student].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of failure of offender to register, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.5400. Registration Misstatement or Omission.

Instruction No. 5.5400. Registration Misstatement or Omission.

I.C. 11-8-8-17.

The crime of offender misstatement or omission is defined by law as follows:

A person who is an offender, as defined by IC 11-8-8-5, and [knowingly] [intentionally] makes a material misstatement or omission while registering as an offender commits registration [misstatement] [omission], a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was an offender with a duty to register because [he] [she] had been convicted of *(insert IC 11-8-8-5 offense or delinquency status alleged)* and
3. was required by law to provide *(describe here the particular registration information in IC 11-8-8-8 which should have been provided)* and
4. [knowingly] [intentionally]
5. *(describe alleged misstatement or omission)*
6. which was a material registration [misstatement] [omission].

If the State failed to prove each of these elements beyond a reasonable doubt, you should find the Defendant not guilty of registration misstatement or omission, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.5500. Failure to Register In Person.

Instruction No. 5.5500. Failure to Register In Person.

#### I.C. 11-8-8-17.

The crime of failure of an offender to register in person is defined by law as follows:

A person who is an offender, as defined by IC 11-8-8-5, and [knowingly] [intentionally] fails to register in person as required under IC 11-8-8 commits failure to register in person, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was an offender with a duty to register because [he] [she] had been convicted of *(insert IC 11-8-8-5 offense or delinquency status alleged)* and
3. was required by law to register in person with *(describe location at which alleged in-person registration was required)* and

4. [knowingly] [intentionally]
5. failed to register in person.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the defendant not guilty of failure of offender to register in person, a Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 5.5600. Failure to Reside at Registered Address or Location.

## Instruction No. 5.5600. Failure to Reside at Registered Address or Location.

### I.C. 11-8-8-17.

The crime of failure of an offender to reside at registered address is defined by law as follows:

A person who is an offender, as defined by IC 11-8-8-5, and [knowingly] [intentionally] does not reside at the offender's registered address or location commits failure to register, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was an offender with a duty to register because [he] [she] had been convicted of (*insert IC 11-8-8-5 offense or delinquency status alleged*) and
3. had registered as an offender with (*name local law enforcement agency*) and
4. had provided as [his] [her] registered address or location (*insert registered address provided by Defendant*) and
5. [knowingly] [intentionally]
6. did not reside at that registered address or location.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of failure of an offender to reside at registered address, a Level 6 felony charged in Count \_\_\_\_\_.



Instruction No. 5.5900. Lifetime Parole Violation—Contact with Child or Victim.

Instruction No. 5.5900. Lifetime Parole Violation—Contact with Child or Victim.

I.C. 35-44.1-3-9.

The crime of violation of lifetime parole condition involving child or victim is defined by law as follows:

A person who is being supervised on lifetime parole (as described in I.C. 35-50-6-1) and who [knowingly] [intentionally] violates a condition of lifetime parole that involves direct or indirect contact [with a child less than sixteen (16) years of age] [with the victim of a sex crime described in I.C. 11-8-8-5 that was committed by the person] and at the time of the violation, [the person's lifetime parole has been revoked two (2) or more times] [the person has completed the person's sentence, including any credit time the person may have earned] commits violation of lifetime parole condition involving child or victim, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. while being supervised on lifetime parole
3. and  
[after the Defendant's lifetime parole had been revoked two times]

[or]

[after the Defendant had completed [his] [her] sentence, including any credit time Defendant had earned]

4. [knowingly] [intentionally]
5. violated a condition of the lifetime parole that [prohibited] [restricted] [involved] direct or indirect contact  
[with a child less than sixteen (16) years of age]

[or]

[with (*name alleged crime victim*), who was the victim of a (*name alleged, I.C. 11-8-8-5 crime*) which had been committed by the Defendant]

6. by (*describe alleged parole condition violation*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of violation of lifetime parole condition involving child or victim, a Level 6 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 5.6200. Sexual Misconduct by Service Provider.

## Instruction No. 5.6200. Sexual Misconduct by Service Provider.

### I.C. 35–44.1–3–10.

The crime of sexual misconduct by a service provider is defined by law as follows:

A service provider who [knowingly] [intentionally] engages in [sexual intercourse] [other sexual conduct (as defined in IC 35-31.5-2-221.5)] with a person who is subject to lawful [detention] [supervision] commits sexual misconduct, a Level 5 felony. [The offense is a Level 4 felony if the service provider is at least eighteen (18) years of age and (knowingly) (intentionally) engages in (sexual intercourse) (other sexual conduct (as defined in IC 35-31.5-2-221.5)) with a person who is (less than eighteen (18) years of age) and subject to lawful (detention) (supervision).]

Before you may convict the Defendant, the State must prove the following beyond a reasonable doubt:

1. The Defendant
2. while in the capacity of service provider
3. [knowingly] [intentionally]
4. engaged in [sexual intercourse] [other sexual conduct] with (*name*)
5. when [name] was subject to lawful detention or lawful supervision.
  - [6. (*for Level 4 felony*) and the Defendant is at least eighteen (18) years of age and
  7. (knowingly) (intentionally)
  8. engaged in (sexual intercourse) (other sexual conduct)
  9. with (*name*), a person who is less than eighteen (18) years of age and is subject to lawful (detention) (supervision).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of sexual misconduct, a Level 5/4 felony, charged in Count \_\_\_\_\_.

Instruction No. 5.6400. Failure of an Offender to Possess Identification.

Instruction No. 5.6400. Failure of an Offender to Possess Identification.

I.C. 11-8-8-15.

The crime of failure of an offender to possess valid identification is defined by law as follows:

A person who is an offender (as defined by IC 11-8-8-5) and [is a resident of Indiana who (knowingly) (intentionally) fails to obtain and keep in the offender's possession (a valid Indiana driver's license) (a valid Indiana identification card (as described in IC 9-24-16))] [is not a resident of Indiana who (knowingly) (intentionally) fails to obtain and keep in the offender's possession (a valid driver's license issued by the state in which the offender resides) (a valid state issued identification card issued by the state in which the offender resides)] commits failure of an offender to possess identification, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was an offender with a duty to register because [he] [she] had been convicted of (*insert IC 11-8-8-5 offense or delinquency status alleged*) and
3. [was a resident of Indiana] [was not a resident of Indiana but was required to register in Indiana] and
4. [knowingly] [intentionally]
5. [(*for Indiana resident*) failed to obtain and keep in (his) (her) possession (a valid Indiana driver's license)

(or)

(a valid Indiana identification card)]

[or]

[(*for non-resident*) failed to obtain keep in (his) (her) possession  
(a valid driver's license issued by the state in which the Defendant resided)  
or  
(a valid state-issued identification card issued by the state in which the Defendant resided)].

If the State failed to prove each of these elements beyond a reasonable doubt,

you must find the Defendant not guilty of failure of an offender to possess identification, a Class A misdemeanor, charged in Count \_\_\_\_\_.

Instruction No. 5.6600. False Verification of Citizenship or Immigration Status.

Instruction No. 5.6600. False Verification of Citizenship or Immigration Status.

I.C. 12-32-1-7.

The crime of false verification of citizenship or immigration status is defined by law as follows:

A person who [knowingly] [intentionally] makes a false, fictitious, or fraudulent statement or representation in a verification to determine eligibility for [a federal] [a state or local] public benefit required by an [agency] [political subdivision] pursuant to IC 12-32-1 commits false statement or representation in verification of citizenship or immigration status, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. stated or represented [*recite alleged statement or representation*] on a verification form to determine eligibility for [a federal] [a state or local] public benefit as required by [*name alleged agency or political subdivision*], which was an [agency] [political subdivision]
4. and the Defendant's statement or representation was [knowingly] [intentionally] false, fictitious, or fraudulent.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of false verification of citizenship or immigration status, a Level 6 felony charged in Count \_\_\_\_\_.

## Instruction No. 5.6800. Transporting an Illegal Alien.

## Instruction No. 5.6800. Transporting an Illegal Alien.

### I.C. 35-44.1-5-3

The crime of transporting an illegal alien is defined by law as follows:

A person who [knowingly] [intentionally] [transports] [moves] an alien, for the purpose of commercial advantage or private financial gain, [knowing] [in reckless disregard of the fact that] the alien has [come to] [entered] [remained in] the United States in violation of the law commits transporting an illegal alien, a Class A misdemeanor. [The offense is a Level 6 felony if it involves more than nine (9) aliens.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [transported] [moved]
4. [an alien] [aliens]
5. for the purpose of commercial or private financial gain
6. when the Defendant [knew] [acted in reckless disregard of the fact that] the alien[s] had  
[come to]

[or]

[entered]

[or]

[remained in]

the United States in violation of the law

[7. (for *Level 6 felony*) and the offense involved ten (10) or more aliens].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of transporting an illegal alien, a Class A misdemeanor/Level 6 felony charged in Count \_\_\_\_\_.

Instruction No. 5.6900. Harboring an Illegal Alien.

Instruction No. 5.6900. Harboring an Illegal Alien.

I.C. 35-44.1-5-4.

The crime of harboring an illegal alien is defined by law as follows:

A person who [knowingly] [intentionally] [conceals] [harbors] [shields from detection] an alien in any place, including a [building] [means of transportation], for the purpose of commercial advantage or private financial gain, [knowing] [in reckless disregard of the fact that] the alien has [come to] [entered] [remained in] the United States in violation of law commits harboring an illegal alien, a Class A misdemeanor. [The offense is a Level 6 felony if it involves more than nine (9) aliens.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [concealed] [harbored] [shielded from detection]
4. [an alien] [aliens]
5. in [*name alleged place*] a [place] [building] [means of transportation]
6. for the purpose of commercial or private financial gain
7. when the Defendant [knew] [acted in reckless disregard of the fact that] the alien[s] had  
[come to]

[or]

[entered]

[or]

[remained in]

the United States in violation of law

[8. (*for Level 6 felony*) and the offense involved ten (10) or more aliens].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of harboring an illegal alien, a Class A misdemeanor/Level 6 felony charged in Count \_\_\_\_\_.

Instruction No. 5.7400. Violation of the Depository Rule.

Instruction No. 5.7400. Violation of the Depository Rule.

I.C. 35-44.2-2-1.

The crime of violation of the depository rule is defined by law as follows:

A public servant who [knowingly] [intentionally] fails to deposit public funds (as defined in IC 5-13-4-20) not later than one (1) business day following the receipt of the funds, in a depository in the name of the [state] [political subdivision] by the public servant having control of the funds, commits a violation of the depository rule, a Class A misdemeanor. [The offense is a Level 6 felony if the amount involved is at least seven hundred fifty dollars (\$750). ][The offense is a Level 5 felony if the amount involved is at least fifty thousand dollars (\$50,000).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was (*name of employment*), a public servant, who
3. [knowingly] [intentionally]
4. failed to deposit public funds
5. more than one (1) business day following the receipt of the funds on (*date funds received*)
6. in a depository in the name of the [state] [political subdivision] by
7. the Defendant, who was a public servant who had control of the funds
- [8. (*for Level 6 felony*) and the amount involved was at least seven hundred fifty dollars (\$750)
- [9. (*for Level 5 felony*) and the amount involved was at least fifty thousand dollars (\$50,000)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of violation of the depository rule, a Class A misdemeanor/Level 6/5 felony charged in Count \_\_\_\_\_.

## CHAPTER 6 OFFENSES AGAINST PUBLIC HEALTH, ORDER AND DECENCY

### SYNOPSIS

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## Instruction No. 6.0020. Rioting.

## Instruction No. 6.0020. Rioting.

### I.C. 35-45-1-2.

The crime of rioting is defined by law as follows:

A person who, being a member of an unlawful assembly, [recklessly] [knowingly] [intentionally] engages in tumultuous conduct commits rioting, a Class A misdemeanor. [The offense is a Level 6 felony if it is committed while armed with a deadly weapon.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. while he/she was a member of an unlawful assembly
3. [recklessly] [knowingly] [intentionally]
4. engaged in tumultuous conduct
5. (*for Level 6 felony*) and Defendant committed the offense while armed with a deadly weapon.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of rioting, a Class A misdemeanor/Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 6.0060. Disorderly Conduct.

## Instruction No. 6.0060. Disorderly Conduct.

### I.C. 35-45-1-3.

A person who [recklessly] [knowingly] [intentionally] [engages in fighting or in tumultuous conduct] [makes unreasonable noise and continues to do so after being asked to stop] [disrupts a lawful assembly of persons], commits disorderly conduct, a Class B misdemeanor. [The offense is a Level 6 felony if it (adversely affects airport security and is committed in an airport (as defined in [I.C. 8-21-1-1](#)) or on the premises of an airport, including in a parking area, a maintenance bay, or an aircraft hangar) (is committed within five-hundred (500) feet of {the location where a burial is being performed} {a funeral procession, if the person knows that the funeral procession is taking place} {a building in which [a funeral or memorial

service] [the viewing of a deceased person] is being conducted)) and (it adversely affects the [funeral] [burial] [viewing] [funeral procession] [memorial service]).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
  2. [recklessly] [knowingly] [intentionally]
  3. [engaged in (fighting) or (tumultuous conduct)]
- [or]

[made unreasonable noise and continued to do so after having been asked to stop]

[or]

[disrupted a lawful assembly of persons]  
[4. (*for Level 6 felony*) (in an airport) or (on the premises of an airport) and thereby adversely affected airport security];

[or]

[ (*for Level 6 felony*) within five-hundred (500) feet of  
(the location where a burial was being performed)

(or)

(a funeral procession, when the Defendant knew the funeral procession was taking place)

(or)

(a building in which {a funeral} {a memorial service} {the viewing of a deceased person} was being conducted)

and

the Defendant's conduct adversely affected the (funeral) (burial) (viewing) (funeral procession) (memorial service)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of disorderly conduct, a Class B misdemeanor/Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 6.0200. Intimidation.

Instruction No. 6.0200. Intimidation.

The crime of intimidation is defined by statute as follows:

A person who communicates a threat to another person, with the intent [that the other person engage in conduct against the other person's will] [that the other person be placed in fear of retaliation for a prior lawful act] [of causing (a dwelling) (a building) (other structure) (a vehicle) to be evacuated] [of interfering with the occupancy of (a dwelling) (building) (other structure) (a vehicle)] commits intimidation, a Class A misdemeanor. [The offense is a Level 6 felony if [the threat is to commit a forcible felony] [the person to whom the threat is communicated is (a law enforcement officer) (a witness or the spouse or child of a witness in any pending criminal proceeding against the person making the threat) (an employee of a school or a school corporation) (a community policing volunteer) (an employee of a court) (an employee of a probation department) (an employee of a community corrections program) (an employee of a hospital, church, or religious organization) (a person that owns a building or structure that is open to the public or is an employee of the person) and, except as provided for a witness or the spouse or child of a witness in any pending criminal proceeding against the person making the threat, the threat is communicated to the person (because of the occupation, profession, employment status, or ownership status of the person) (based on an act taken by the person within the scope of the occupation, profession, employment status, or ownership status of the person)] [the threat is communicated using property, including electronic equipment or systems, of a school corporation, or other governmental entity.] [The offense is a Level 5 felony if (while committing it, the person draws or uses a deadly weapon) (the person to whom the threat is communicated {is a judge or bailiff of any court} {is a prosecuting attorney or a deputy prosecuting attorney}).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
  2. communicated a threat to [name];
  3. [with the intent that (name) engage in conduct against (name's) will]
- [or]

[with the intent that (name) be placed in fear of retaliation for a prior lawful act]

[or]

[with the intent of causing (a dwelling) (a building or other structure) (a vehicle) to be evacuated]

[or]

[with the intent of interfering with the occupancy of (a dwelling) (a building or other structure) (a vehicle)]

4. (for Level 6 felony) and
- [the threat was to commit a forcible felony]

[or]

[(name person threatened) was (a law enforcement officer), (a witness or the

spouse or child of a witness in any pending criminal proceeding against the person making the threat) (an employee of a school or a school corporation) (a community policing volunteer), (an employee of a court), (an employee of a probation department) (an employee of a community corrections program) (an employee of a {hospital} {church} {religious organization})

*(do not use following language if threatened person was a witness or the spouse or child of a witness in any pending criminal proceeding against the person making the threat)* and the threat is communicated to the person (because of the occupation, profession, employment status, or ownership status of the person) (based on an act taken by the person within the scope of the occupation, profession, employment status, or ownership status of the person)]

[or]

[the threat was communicated using property, including electronic equipment or systems, of a school corporation or other government entity].

[5. (for Level 5 felony) and (while committing the offense, the Defendant drew or used a deadly weapon)

(or)

(*{name person threatened}* was {a judge of a court} {a bailiff of a court} {a prosecuting attorney} {a deputy prosecuting attorney}).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the defendant not guilty of intimidation, a Class A misdemeanor/Level 6/5 felony charged in Count \_\_\_\_\_.

Instruction No. 6.0400. Public Indecency.

Instruction No. 6.0400. Public Indecency.

I.C. 35-45-4-1.

The crime of public indecency is defined by law as follows:

A person who [knowingly] [intentionally] in a public place [engages in sexual intercourse] [engages in other sexual conduct (as defined in IC 35-31.5-2-221.5)] [appears in a state of nudity with the intent to arouse the sexual desires of the person or another person] [fondles the person's genitals or the genitals of another person] [appears in a state of nudity with the intent to be seen by a child less than sixteen (16) years of age and the person is at least eighteen (18) years of age]

commits public indecency, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [knowingly] [intentionally]
  3. in (*describe public place alleged*)
  4. which was a public place
  5. [engaged in sexual intercourse]
- [or]

[engaged in other sexual conduct]

[or]

[appeared in a state of nudity with the intent to arouse the sexual desires of [the Defendant] [(*name of person*)]

[or]

[fondled (the Defendant's) (*specify other person's*) genitals]

[or]

[appeared in a state of nudity with the intent to be seen by (*name*), a child less than sixteen (16) years of age and the Defendant was at least eighteen (18) years of age]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of public indecency, a Class A misdemeanor charged in Count \_\_\_\_\_.

Instruction No. 6.0440. Public Nudity.

Instruction No. 6.0440. Public Nudity.

I.C. 35–45–4–1.5.

The crime of public nudity is defined by law as follows:

A person who [knowingly] [intentionally] appears in a public place in a state of nudity commits public nudity, a Class C misdemeanor. [The offense is a Class B misdemeanor if the person (knowingly) (intentionally) appears in a public place in a

state of nudity with the intent to be seen by another person.) [The offense is a Class A misdemeanor if the person (knowingly) (intentionally) appears in a state of nudity {in or on school grounds} {in a public park} {with the intent to arouse the sexual desires of the person or another person, in a department of natural resources owned or managed property}.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. appeared in (*describe public place alleged*)
4. which was a public place
5. in a state of nudity
- [6. (*for Class B misdemeanor*) and had the intent to be seen by another person]
- [3. (*for Class A misdemeanor*) appeared (in or on school grounds)]

([or)

(in a public park)

(or)

(with the intent to arouse the sexual desires of {the Defendant} {(name of another person)}, in a department of natural resources owned or managed property.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of public indecency, a Class C/B/A misdemeanor charged in Count \_\_\_\_\_.

## Instruction No. 6.0600. Prostitution.

## Instruction No. 6.0600. Prostitution.

### I.C. 35–45–4–2.

The crime of prostitution is defined by law as follows:

A person who [knowingly] [intentionally] [(performs) (offers or agrees to perform), sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5)] [(fondles) (offers or agrees to fondle), the genitals of another person]for money or other property commits prostitution, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [(performed) (offered to perform) (agreed to perform) sexual intercourse or other sexual conduct]
- [or]

[(fondled) (offered to fondle) (agreed to fondle) the genitals of (*name*)]

4. for money or other property.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of prostitution, a Class A misdemeanor, charged in Count \_\_\_\_\_.

## Instruction No. 6.0640. Patronizing a Prostitute.

## Instruction No. 6.0640. Patronizing a Prostitute.

### I.C. 35-45-4-3.

The crime of patronizing a prostitute is defined as follows:

A person who [knowingly] [intentionally] [pays] [offers or agrees to pay], money or other property to another person [for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the person or with any other person] [for having fondled, or on the understanding that the other person will fondle, the genitals of the person or any other person], commits patronizing a prostitute, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [paid] [offered to pay] [agreed to pay] [money or other property] to [*name*]
4. [for engaging in (sexual intercourse) (other sexual conduct) with the Defendant or any other person]

[or]

[on the understanding that (*name*) would engage in (sexual intercourse) (other sexual conduct) with the Defendant or any other person]

[or]

[on the understanding that (*name*) would fondle the genitals of the Defendant].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of patronizing a prostitute, a Class A misdemeanor, charged in Count \_\_\_\_\_.

## Instruction No. 6.0680. Promoting Prostitution.

## Instruction No. 6.0680. Promoting Prostitution.

### I.C. 35-45-4-4.

The crime of promoting prostitution is defined by law as follows:

A person who [(knowingly) (intentionally) (entices) (compels) another person to become a prostitute] [(knowingly) (intentionally) (procures) (offers) (agrees to procure), a person for another person for the purpose of prostitution] [having control over the use of a place, (knowingly) (intentionally) permits another person to use the place for prostitution] [receives money or other property from a prostitute, without lawful consideration, knowing it was earned in whole or in part from prostitution] [(knowingly) (intentionally) conducts or directs another person to a place for the purpose of prostitution], commits promoting prostitution, a Level 5 felony. [The offense is a Level 4 felony if the person enticed or compelled is under eighteen (18) years of age.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. (knowingly) (intentionally)
3. [enticed or compelled (*name*) to become a prostitute]

[or]

[(procured) (offered to procure) (agreed to procure) (*name*) for (*name*) for the purpose of prostitution]

[or]

[having control over the use of (*describe place*) permitted another person to use (*describe place*) for prostitution]

[or]

[received money or other property from (*name*), a prostitute, without lawful consideration knowing that such money or other property was earned in whole or



in part from prostitution]

[or]

[conducted or directed (*name*) to (*describe place*) for the purpose of prostitution.]

4. [(*for Level 4 felony*) and at the time Defendant enticed or compelled (*name*) to become a prostitute, (*name*) was under eighteen (18) years of age.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of promoting prostitution, a Level 5/4 felony, charged in Count \_\_\_\_\_.

### Instruction No. 6.0800. Voyeurism.

### Instruction No. 6.0800. Voyeurism.

#### I.C. 35-45-4-5(b) and (c).

The crime of voyeurism is defined by law as follows:

A person who [knowingly] [intentionally] [peeps into an occupied dwelling of another person without the consent of the other person] [goes upon the land of another with the intent to peep into an occupied dwelling of another person without the consent of the other person] [peeps into an area where an occupant of the area reasonably can be expected to disrobe, including restrooms, baths, showers, and dressing rooms, without the consent of the other person] commits voyeurism, a Class B misdemeanor. [The offense is a Level 6 felony if it is (knowingly) (intentionally) committed by means of a camera.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. (knowingly) (intentionally)
  3. [(peeped) (went upon the land of another with the intent to peep) into an occupied dwelling of (*name other person*)]
- [or]

[peeped into (*describe area alleged in charge*) which was an area where an occupant of the area reasonably could be expected to disrobe, such as a (restroom) (bath) (shower) (dressing room)]

4. without the consent of [*name other person*]

[5. (*for Level 6 felony*) and the offense was (knowingly) (intentionally) committed by means of a camera].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of voyeurism, a Class B misdemeanor/Level 6 felony charged in Count \_\_\_\_\_.

Instruction No. 6.0840. Public Voyeurism.

Instruction No. 6.0840. Public Voyeurism.

I.C. 35-45-4-5(d), (e), and (f).

The crime of public voyeurism is defined by law as follows:

A person who, without the consent of the individual and with intent to peep at the private area of an individual, peeps at the private area of an individual and records an image by means of a camera commits public voyeurism, a Class A misdemeanor. [The offense is a Level 6 felony if the person (publishes the image) (makes the image available on the Internet) (transmits or disseminates the image to another person).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. with intent to peep at the private area of (*name individual*) and
3. without the consent of (*name individual*)
4. peeped at the private area of (*name individual*) and
5. recorded an image by means of a camera
6. (*for Level 6 felony*) and (published the image)

(or)

(made the image available on the Internet)

(or)

(transmitted or disseminated the image to another person).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of voyeurism, a Class A misdemeanor/Level 6 felony charged in Count \_\_\_\_\_.

Instruction No. 6.1000. Unlawful Gambling.

Instruction No. 6.1000. Unlawful Gambling.

I.C. 35-45-5-2.

The crime of unlawful gambling is defined by law as follows:

A person who (knowingly) (intentionally) engages in gambling commits unlawful gambling, a Class B misdemeanor. [The offense is a Level 6 felony if an operator (knowingly) (intentionally) uses the Internet to engage in unlawful gambling (in Indiana) (with a person located in Indiana).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. (knowingly) (intentionally)
3. engaged in (*describe alleged gambling*)
- [2. (*for Level 6 felony*) was an operator of (*describe gambling operation*)
3. who (knowingly) (intentionally)
4. used the Internet to engage in (*describe unlawful gambling*), which is unlawful gambling,
5. in (Indiana) (with (*name*), a person located in Indiana).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful gambling, a Class B misdemeanor/Level 6 felony charged in Count \_\_\_\_\_.

Instruction No. 6.1040. Professional Gambling.

Instruction No. 6.1040. Professional Gambling.

I.C. 35-45-5-3(a).

The crime of professional gambling is defined by law as follows:

A person who [knowingly] [intentionally]:

- engages in pool-selling;
- engages in bookmaking;
- maintains, in a place accessible to the public, the equivalent of (slot machines) (one-ball machines or variants thereof) (pinball machines that award anything other than an immediate and unrecorded right of replay) (roulette wheels) (dice tables) (money or merchandise pushcards, punchboards, jars, or spindles);
- conducts (lotteries) (policy or numbers games or sells chances therein);
- conducts any banking or percentage games played with cards, dice, or counters, or accepts any fixed share of the stakes therein; or
- (accepts) (offers to accept) for profit, money, or other property risked in gambling;

commits professional gambling, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [engaged in pool-selling]

[or]

[engaged in bookmaking]

[or]

[maintained (slot machines) (one-ball machines or variants thereof) (pinball machines that award anything other than an immediate and unrecorded right of replay) (roulette wheels) (dice tables) (money or merchandise pushcards, punchboards, jars, or spindles)] in a place accessible to the public, (*describe location*)]

[or]

[conducted (lotteries) (policy or numbers games or sold chances therein)]

[or]

[conducted (any banking or percentage games played with cards, dice, or counters) (accepted any fixed share of the stakes therein)]

[or]

[accepted] [offered to accept] for profit, money, or other property risked in gambling.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of professional gambling, a Level 6 felony charged in Count \_\_\_\_\_

## Instruction No. 6.1080. Professional Gambling Over the Internet.

## Instruction No. 6.1080. Professional Gambling Over the Internet.

I.C. 35-45-5-3(b).

The crime of professional gambling over the Internet is defined by law as follows:

An operator who [knowingly] [intentionally] uses the Internet to:

- engage in pool-selling (in Indiana) (in a transaction directly involving a person located in Indiana);
- engage in bookmaking (in Indiana) (in a transaction directly involving a person located in Indiana);
- maintain, on an Internet site accessible to residents of Indiana, the equivalent of (slot machines) (one-ball machines or variants of one-ball machines) (pinball machines that award anything other than an immediate and unrecorded right of replay) (roulette wheels) (dice tables) (money or merchandise pushcards, punchboards, jars, or spindles)
- (conduct lotteries or policy or numbers games) (sell chances in lotteries or policy or numbers games) (in Indiana) (in a transaction directly involving a person located in Indiana);
- conduct any banking or percentage games played with the computer equivalent of cards, dice, or counters, or accept any fixed share of the stakes in those games (in Indiana) (in a transaction directly involving a person located in Indiana);
- (accept) (offer to accept) for profit money or other property risked in gambling (in Indiana) (in a transaction directly involving a person located in Indiana)

commits professional gambling over the Internet, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. used the Internet to [engage in pool-selling (in Indiana) (in a transaction directly involving a person located in Indiana)]

[or]

[engage in bookmaking (in Indiana) (in a transaction directly involving (*name person*), a person located in Indiana)]

[or]

[maintain, on an Internet site accessible to residents of Indiana, the equivalent of (slot machines) (one-ball machines or variants of one-ball machines) (pinball machines that award anything other than an immediate and unrecorded right of replay) (roulette wheels) (dice tables) (money or merchandise pushcards, punchboards, jars, or spindles)]

[or]

[(conduct lotteries or policy or numbers games) (sell chances in lotteries or policy or numbers games) (in Indiana) (in a transaction directly involving (*name person*), a person located in Indiana)]

[or]

[conduct any banking or percentage games played with the computer equivalent of cards, dice, or counters, or accept any fixed share of the stakes in those games (in Indiana) (in a transaction directly involving (*name person*), a person located in Indiana)]

[or]

[(accept) (offer to accept) for profit money or other property risked in gambling (in Indiana) (in a transaction directly involving \_\_\_\_\_ (*name person*), a person located in Indiana)]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of professional gambling over the Internet, a Level 6 felony charged in Count \_\_\_\_\_

Instruction No. 6.1120. Maintaining a Professional Gambling Site.

Instruction No. 6.1120. Maintaining a Professional Gambling Site.

I.C. 35-45-5-3.5.

The crime of maintaining a professional gambling site is defined by law as follows:

A person who [knowingly] [intentionally] [accepts] [offers to accept] for profit, money, or other property risked in gambling on an electronic gaming device possessed by the person commits maintaining a professional gambling site, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [accepted] [offered to accept] for profit, money, or other property risked in gambling on an electronic gaming device
4. that was possessed by the Defendant

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of maintaining a professional gambling site, a Level 6 felony charged in Count \_\_\_\_\_

Instruction No. 6.1160. Promoting Professional Gambling (Gambling Device).

Instruction No. 6.1160. Promoting Professional Gambling (Gambling Device).

I.C. 35-45-5-4(a)(1).

The crime of promoting professional gambling is defined by law as follows:

A person who [knowingly] [intentionally] [owns, manufactures, possesses, buys, sells, rents, leases, repairs or transports a gambling device] [offers or solicits an interest in a gambling device], commits promoting professional gambling, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the

following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [(owned) (manufactured) (possessed) (bought) (sold) (rented) (leased) (repaired) (transported) a gambling device;]

[or]

[offered or solicited an interest in a gambling device.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of promoting professional gambling, a Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 6.1200. Promoting Professional Gambling (Gambling Information).

## Instruction No. 6.1200. Promoting Professional Gambling (Gambling Information).

### I.C. 35-45-5-4(a)(2).

The crime of promoting professional gambling is defined by law as follows:

A person who before a race, game, contest, or event on which gambling may be conducted, [(knowingly) (intentionally) (transmits) (receives) gambling information by any means] [(knowingly) (intentionally) (installs) (maintains) equipment for the transmission or receipt of gambling information], commits promoting professional gambling, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [knowingly] [intentionally]
  3. [(transmitted) (received) gambling information by any means]
- [or]

[(installed) (maintained) equipment for the transmission or receipt of gambling information]

4. before a race, game, contest, or event on which gambling may have been conducted.

If the State failed to prove each of these elements beyond a reasonable doubt,



you must find the Defendant not guilty of promoting professional gambling, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 6.1240. Promoting Professional Gambling (Providing a Place).

Instruction No. 6.1240. Promoting Professional Gambling (Providing a Place).

I.C. 35–45–5–4(a)(3).

The crime of promoting professional gambling is defined by law as follows:

A person who, having control over the use of a place, knowingly or intentionally permits another person to use the place for professional gambling commits promoting professional gambling, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. while having control over the use of [*describe the place*]
3. [knowingly] [intentionally]
4. permitted [*name*] to use [*describe the place*] for professional gambling.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of promoting professional gambling, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 6.1500. Corrupt Business Influence.

Instruction No. 6.1500. Corrupt Business Influence.

I.C. 35–45–6–2.

The crime of corrupt business influence is defined by law as follows:

A person who:

[has (knowingly) (intentionally) received any proceeds directly or indirectly

derived from a pattern of racketeering activity, and who uses or invests those proceeds or the proceeds derived from them (to acquire an interest in real property) (to establish or to operate an enterprise)]

[through a pattern of racketeering activity, (knowingly) (intentionally) acquires or maintains, either directly or indirectly, an interest in or control of (real property) (an enterprise)]

[is (employed by) (associated with) an enterprise and who (knowingly) (intentionally) conducts or otherwise participates in the activities of that enterprise through a pattern of racketeering activity]

commits corrupt business influence, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. received any proceeds directly or indirectly derived from a pattern of racketeering activity (*set out the specific acts which are charged to constitute a pattern of racketeering activity*) and
4. [used] [invested] those proceeds or the proceeds derived from them to [acquire an interest in real property] [to establish or to operate an enterprise].

[or]

1. The Defendant
2. through a pattern of racketeering activity
3. [knowingly] [intentionally] (*insert the specific acts which are charged to constitute a pattern of racketeering activity*)
4. acquired or maintained, directly or indirectly, an interest in or control of [real property] [an enterprise].

[or]

1. The Defendant
2. was employed by or associated with an enterprise, and
3. [knowingly] [intentionally]
4. conducted or otherwise participated in the activities of that enterprise
5. through a pattern of racketeering activity (*insert the specific acts which are charged to constitute a pattern of racketeering activity*).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of corrupt business influence, a Level 5 felony, charged in Count \_\_\_\_\_.

Instruction No. 6.1700. Loansharking.

Instruction No. 6.1700. Loansharking.

I.C. 35–45–7–2.

The crime of loansharking is defined by law as follows:

A person who, in exchange for the loan of any property, [knowingly] [intentionally] [receives] [contracts to receive] from another person any consideration, at a rate greater than two (2) times the rate specified in IC 24-4.5-3-508(2)(a)(i), commits loansharking, a Level 6 felony. [The offense is a Level 5 felony if force or the threat of force is used to (collect) (to attempt to collect) (any of the property loaned) (any of the consideration for the loan).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. in exchange for the loan of (*describe property*)
3. [knowingly] [intentionally]
4. [received] [contracted to receive] from (*name*) a consideration
5. which consideration was greater than two (2) times the legal rate of interest, which was at the time [*specify %*]\*
- [6. (*for Level 5 felony*) and Defendant used (force) (the threat of force) to (collect) (attempt to collect) (any of the property loaned) (any of the consideration for the loan)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of loansharking, a Level 6/5 felony, charged in Count \_\_\_\_\_.

Instruction No. 6.2000. Consumer Product Tampering (Poison).

Instruction No. 6.2000. Consumer Product Tampering (Poison).

I.C. 35–45–8–3(1).

The crime of consumer product tampering is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] introduces a [poison] [a harmful substance] [a harmful foreign object] into a consumer product that has been introduced into commerce commits consumer product tampering, a Level 6 felony. [The offense is a Level 5 felony if it results in harm to a person.] [The offense is a Level 4 felony if it results in serious bodily injury to a person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. introduced [*name substance as alleged*], [a poison] [a harmful substance] [a harmful foreign object]
4. into a consumer product that had been introduced into commerce
5. [(*for Level 5 felony*) and the offense resulted in harm to (*name person*), a person]
6. [(*for Level 4 felony*) and the offense resulted in serious bodily injury to (*name person*), a person].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of consumer product tampering, a Level 6/5/4 Felony, charged in Count \_\_\_\_\_.

## Instruction No. 6.2040. Consumer Product Tampering (Label).

## Instruction No. 6.2040. Consumer Product Tampering (Label).

### I.C. 35–45–8–3(2).

The crime of consumer product tampering is defined by law as follows:

A person who, with the intent to mislead a consumer of a consumer product, tampers with the labeling of a consumer product that has been introduced into commerce commits consumer product tampering, a Level 6 felony. [The offense is a Level 5 felony if it results in harm to another person.] [The offense is a Level 4 felony if it results in serious bodily injury to another person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. with the intent to mislead a consumer of a consumer product
3. tampered with the labeling
4. of (*name product*), a consumer product that had been introduced into commerce
5. [(*for Level 5 felony*) and the offense resulted in harm to (*name person*), a person]

6. [(for Level 4 felony) and the offense resulted in serious bodily injury to (name person), a person].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of consumer product tampering, a Level 6/5/4 felony, charged in Count \_\_\_\_\_.

## Instruction No. 6.2300. Criminal Gang Activity.

## Instruction No. 6.2300. Criminal Gang Activity.

### I.C. 35–45–9–3.

The crime of criminal gang activity is defined by law as follows:

A person who [knowingly] [intentionally] commits an act [with the intent to commit a (felony) (a misdemeanor) that would cause a reasonable person to believe results in [(a benefit to a criminal gang) (the promotion of a criminal gang) (furthering the interests of a criminal gang)] [for committing a (felony) (a misdemeanor) that would cause a reasonable person to believe results in increasing the person's standing or position within a criminal gang] commits criminal gang activity, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. committed an act  
[with the intent to commit a felony) (a misdemeanor) that would have caused a reasonable person to believe resulted in:  
(a benefit to a criminal gang)  
(the promotion of a criminal gang)  
(furthering the interests of a criminal gang)]

[or]

[for committing a (felony) (a misdemeanor) that would have caused a reasonable person to believe resulted in increasing the Defendant's standing or position within a criminal gang].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of criminal gang activity, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 6.2340. Criminal Gang Intimidation.

Instruction No. 6.2340. Criminal Gang Intimidation.

I.C. 35-45-9-4.

The crime of criminal gang intimidation is defined by law as follows:

A person who threatens another person because the other person [refuses to join a criminal gang] [has withdrawn from a criminal gang] [wishes to withdraw from a criminal gang] commits criminal gang intimidation, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally\*]
3. threatened [*name*]
4. because [*name*]  
[refused to join (*name gang*), a criminal gang]

[or]

withdrew from (*name gang*), a criminal gang]

[or]

[wished to withdraw from (*name gang*), a criminal gang].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of criminal gang activity, a Level 5 felony, charged in Count \_\_\_\_\_.

Instruction No. 6.2380. Criminal Gang Recruitment.

Instruction No. 6.2380. Criminal Gang Recruitment.

I.D. 35-45-9-5.

The crime of criminal gang recruitment is defined by law as follows:

A person who [knowingly] [intentionally] [solicits] [recruits] [entices] [intimidates] another individual to [join a criminal gang] [remain in a criminal gang] commits criminal gang recruitment, a Level 6 felony.

[The offense is a Level 5 felony if (the solicitation, recruitment, enticement, or intimidation occurs within one thousand (1,000) feet of school property) (the individual who is solicited, recruited, enticed, or intimidated is less than eighteen (18) years of age)].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [*knowingly*] [*intentionally*]
3. [solicited]

[or]

[recruited]

[or]

[enticed]

[or]

[intimidated]

4. (*name alleged individual*), another individual
5. to [join a criminal gang] [remain in a criminal gang]
6. (*for Level 5 felony*) and the (solicitation) (recruitment) (enticement) (intimidation) occurred within one thousand (1,000) feet of school property (or)

and (name alleged individual), the individual (solicited) (recruited) (enticed) (intimidated), was less than eighteen (18) years of age at the time of the (solicitation) (recruitment) (enticement) (intimidation).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of criminal gang recruitment, a Level 6/5 felony, charged in Count \_\_\_\_\_.

Instruction No. 6.2600. Failure to Restrain a Dog.

## Instruction No. 6.2600. Failure to Restrain a Dog.

### I.C.5-20-1-4.

The crime of failing to restrain a dog is defined by law as follows:

An owner of a dog commits a Class C misdemeanor if the owner [recklessly] [knowingly] [intentionally] fails to take reasonable steps to restrain the dog and the dog enters property other than the property of the dog's owner and, as the result of the failure to restrain the dog, the dog bites or attacks another person without provocation resulting in bodily injury to the other person.

[The offense is a Class A misdemeanor if the violation results in serious bodily injury to a person.]

[The offense is a Level 6 felony if the owner recklessly violates this section and the violation results in the death of a person.]

[The offense is a Level 5 felony if the owner (intentionally) (knowingly) violates this section and the violation results in the death of a person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. owned a dog and
3. [knowingly] [intentionally] [recklessly] failed to take reasonable steps to restrain the dog, and
4. as a result of Defendant's failure to restrain the dog, the dog entered property other than the Defendant's property, and bit or attacked (*name*), another person, without provocation resulting in bodily injury to (*name*)
5. [and elements 1 through 4 resulted in serious bodily injury to (*name*), a person]
6. [(*for Level 6 felony*) and Defendant committed the offense recklessly and the offense resulted in the death of (*name*), a person]
7. [(*for Level 5 felony*) and Defendant committed the offense (knowingly) (intentionally) and the offense resulted in the death of (*name*), a person].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of failing to restrain a dog, a Class C/A misdemeanor/Level 6/5, charged in Count \_\_\_\_\_.

## Instruction No. 6.2800. Stalking.

## Instruction No. 6.2800. Stalking.

### I.C. 35-45-10-5.



The crime of stalking is defined by law as follows:

A person who stalks another person commits stalking, a Level 6 felony. Stalking means a knowing or an intentional course of conduct involving repeated or continuing harassment of another person that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened and that actually causes the victim to feel terrorized, frightened, intimidated, or threatened.

[The offense is a Level 5 felony if:

1. (a person stalks a victim and makes an explicit or implicit threat with  
  
intent to place the victim in reasonable fear of {sexual battery as defined in IC 35–42–4–8} {serious bodily injury} {death})
2. ({a protective order to prevent domestic or family violence} {a no contact  
  
order}  
  
{other judicial order under any of the following statutes has been issued by the court to protect the same victim or victims from the person and the person has been given actual notice of the order:  
  
(in a [divorce] [legal separation case] under (IC 31–15 and IC 34–36–5 or IC 31–1–11.5 before its repeal)  
  
(in a juvenile court delinquency or child in need of services case (IC 31–34, IC 31–37, or IC 31–6–4 before its repeal)  
(in a juvenile court case (IC 31–32 or IC 31–6–7)  
(in a protective order to prevent abuse case (IC 34–26–5 or IC 34–26–2 and IC 34–4–5.1 before their repeal)  
(in a workplace violence restraining order case (IC 34–26–6))
3. [the person’s stalking of another person violates an order issued as a  
  
condition of pretrial release, including release on bail or personal recognizance or pretrial diversion, that orders the person to refrain from any direct or indirect contact with another person, if the person has been given actual notice of the order]
4. the person’s stalking of another person violates a no contact order issued  
  
as a condition of probation if the person has been given actual notice of the order]
5. [the person’s stalking of another person violates a protective order issued

under IC 31–14–16-1 and IC 34-26-5 in a paternity action if the person has been given actual notice of the order]

6. [the person's stalking of another person violates an order issued in another state that is substantially similar to an order of the type in any of paragraphs numbered 2 through 5 above if the person has been given actual notice of the order]
7. [the person's stalking of another person violates an order that is substantially similar to an order of the type in any of paragraphs numbered 2 through 5 and is issued by an Indian (tribe) (band) (pueblo) (nation) (organized group or community, including an Alaska Native village or regional or village corporation as defined or established under the Alaska Native Claims Settlement Act that is eligible for the special programs and services provided by the United States to Indians because of their special status as Indians if the person has been given actual notice of the order]
8. [a criminal complaint of stalking that concerns an act by the person against the same victim or victims is pending in a court and the person has been given actual notice of the complaint].

[The offense is a Level 4 felony if the act or acts were committed while the person was armed with a deadly weapon.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. engaged in a knowing or an intentional course of conduct which involved repeated or continuing harassment of (*name alleged victim*)
3. and the harassment would have caused a reasonable person to feel terrorized, frightened, intimidated, or threatened,
4. and the harassment actually caused (*name alleged victim*) to feel terrorized, frightened, intimidated, or threatened
- [5. (*for Level 5 felony*) and

(the Defendant made an explicit or implicit threat with intent to place (*name alleged victim*) in reasonable fear of {sexual battery} {serious bodily injury} {death})

(or)

{a protective order to prevent domestic or family violence} {a no contact} {a judicial order

(in a [divorce] [legal separation case] under (IC 31–15 and IC 34–36–5 or IC 31–1–11.5 before its repeal)

(in a juvenile court delinquency or child in need of services case (IC 31–34, IC 31–37, or IC 31–6–4 before its repeal)

(in a juvenile court case (IC 31–32 or IC 31–6–7)

(in a protective order to prevent abuse case (IC 34–26–5 or IC 34–26–2 and IC 34–4–5.1 before their repeal)

(in a workplace violence restraining order case (IC 34–26–6)))

had been issued to protect (*name alleged victim*) from the Defendant and the Defendant had been given actual notice of the order)

(or)

(the Defendant's stalking of (*name alleged victim*) violated an order issued as a condition of pretrial release, including release on bail or personal recognizance or pretrial diversion, that ordered the Defendant to refrain from any direct or indirect contact with (*name alleged victim*), and the Defendant had been given actual notice of the order)

(or)

(the Defendant's stalking of (*name alleged victim*) violated a no contact order issued as a condition of probation and the Defendant had been given actual notice of the order)

(or)

(the Defendant's stalking of (*name alleged victim*) violated a protective order issued under IC 31–14–16-1 and IC 34-26-5 in a paternity and the Defendant had been given actual notice of the order)

(the Defendant's stalking of (*name alleged victim*) violated an order issued in another state that was substantially similar to (*specify the type of order alleged from the types of orders listed above in this element 5*) and the Defendant had been given actual notice of the order)

(or)

(the Defendant's stalking of (*name alleged victim*) violated an order that is substantially similar to an order (*specify the type of order alleged from the list of order types above in element 5*) and was issued by an Indian (tribe) (band) (pueblo) (nation) (organized group or community, including an Alaska Native village or regional or village corporation as defined or established under the Alaska Native Claims Settlement Act) that was eligible for the special programs and services provided by the United States to Indians because of their special status as Indians and the person had been given actual notice of the order)

(or)

(a criminal complaint of stalking that concerned an act by the Defendant against (*name alleged victim*) was pending in a court and the Defendant had been given actual notice of the complaint).]

[6. (*for Level 4 felony*) and when the Defendant engaged in the stalking

conduct the Defendant was armed with a (*describe alleged deadly weapon*), which was a deadly weapon.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of stalking, a Level 6/5/4 felony, charged in Count \_\_\_\_\_.

## Instruction No. 6.3000. Abuse of a Corpse.

## Instruction No. 6.3000. Abuse of a Corpse.

### I.C. 35–45–11–2.

The crime of abuse of a corpse is defined by law as follows:

A person who [knowingly] [intentionally] [mutilates a corpse] [has sexual intercourse or other sexual conduct (as defined in IC 35-31.5-221.5) with a corpse] [opens a casket with the intent to (mutilate) (have sexual intercourse or other sexual conduct with) a corpse commits abuse of a corpse, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [mutilated the corpse of (*name*)]

[or]

[had (sexual intercourse) (other sexual conduct) with the corpse of (*name*)].

[or]

[opened the casket of (*name*) with the intent to

(mutilate the corpse of (*name*))

(engage in other sexual conduct with the corpse of (*name*)).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of abuse of a corpse, a Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 6.3200. Unlawful Use of Telecommunication Services (Making Unlawful Telecommunication Devices).

## Instruction No. 6.3200. Unlawful Use of Telecommunication Services (Making Unlawful Telecommunication Device).

### I.C. 35-45-13-7(1).

The crime of unauthorized use of telecommunications services is defined by law as follows:

A person who [knowingly] [intentionally] [makes] [distributes] [possesses] [uses] [assembles] an unlawful telecommunications device that is [designed] [adapted] [used ] to [commit a theft of telecommunications service] [(acquire) (facilitate the acquisition of) telecommunications service without the consent of the telecommunications service provider] [(conceal) (assist another in concealing) from (a telecommunication services provider or authority) (another person with enforcement authority) the (existence) (place of origin) (destination) of telecommunications] commits unauthorized use of telecommunication services, a Class A misdemeanor. [If the commission of the offense involves at least five (5) unlawful telecommunications devices the offense is a Level 6 felony.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [knowingly] [intentionally]
  3. [made]
- [or]

[distributed]

[or]

[possessed]

[or]

[used]

[or]

[assembled]

4. [an unlawful telecommunications device that was] [unlawful telecommunications devices that were] [designed] [adapted] [used] to  
[commit a theft of telecommunications service]

[or]

[(acquire) (facilitate the acquisition of) telecommunications service without the  
consent of the telecommunications service provider]

[or]

[(conceal) (assist another in concealing) from a telecommunication services  
(provider) (authority) (another person with enforcement authority) the (existence)  
(place of origin) (destination) of telecommunications]

[5. (*for Level 6 felony*) and at least five (5) unlawful telecommunications devices  
were involved].

If the State failed to prove each of these elements beyond a reasonable doubt,  
you must find the Defendant not guilty of unauthorized use of telecommunications  
services, a Class A misdemeanor/Level 6 felony, as charged in Count

\_\_\_\_\_.

Instruction No. 6.3240. Unauthorized Use of Telecommunication Services  
(Sale of Unlawful Telecommunications Device).

Instruction No. 6.3240. Unauthorized Use of Telecommunication Services  
(Sale of Unlawful Telecommunications Device).

I.C. 35-45-13-7(2).

The crime of unauthorized use of telecommunications services is defined by law  
as follows:

A person who [knowingly] [intentionally] [sells] [possesses] [distributes] [gives] [transports] [otherwise transfers to another] [(offers) (advertises) for sale] an unlawful telecommunications device, [with the intent to use the unlawful telecommunications device to] [with the intent to allow the unlawful telecommunications device to be used to] [while knowing or having reason to believe that the unlawful telecommunications device is intended to be used to] [commit a theft of telecommunications service] [(acquire) (facilitate the acquisition of) telecommunications service without the consent of the telecommunications service provider] [(conceal) (assist another in concealing) from (a telecommunication services provider or authority) (another person with enforcement authority) the (existence) (place of origin) (destination) of telecommunications] commits unauthorized use of telecommunications services, a Class A misdemeanor. [The offense is a Level 6 felony if it involves at least five (5) unlawful telecommunications devices.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [sold]

[or]

possessed]

[or]

[distributed]

[or]

[gave]

[or]

[transported]

[or]

[transferred to another]

[or]

[(offered) (advertised) for sale]

4. an unlawful telecommunications device

5. [with the intent to use the unlawful telecommunications device to]

[or]

[with the intent to allow the unlawful telecommunications device to be used to]

[or]

[while knowing or having reason to believe that the unlawful telecommunications device was intended to be used to]

6. [commit a theft of telecommunications service]

[or]

[(acquire) (facilitate the acquisition of) telecommunications service without the consent of the telecommunications service provider]

[or]

[(conceal) (assist another in concealing) from (a telecommunication services provider or authority) (another person with enforcement authority) the (existence) (place of origin) (destination) of telecommunications]

[7. (*for Level 6 felony*) and at least five (5) unlawful telecommunication devices were involved].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unauthorized use of telecommunications services, a Class A misdemeanor/Level 6 felony, as charged in Count

\_\_\_\_\_.

## Instruction No. 6.3280. Unauthorized Use of Telecommunication Services (Unlawful Plans or Instructions).

## Instruction No. 6.3280. Unauthorized Use of Telecommunication Services (Unlawful Plans or Instructions).

### I.C. 35-45-13-7(2)(B).

The crime of unauthorized use of telecommunication services is defined by law as follows:

A person who [knowingly] [intentionally] [sells] [possesses] [distributes] [gives] [transports] [otherwise transfers to another] [(offers) (advertises) for sale] plans or instructions for making or assembling an unlawful telecommunications device, knowing or having reason to believe that the plans or instructions are intended to be used for making or assembling an unlawful telecommunications device, commits unauthorized use of telecommunications services, a Class A misdemeanor. [The offense is a Level 6 felony if it involves at least five (5) unlawful telecommunications devices.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]



3. [sold]

[or]

[possessed]

[or]

[distributed]

[or]

[gave]

[or]

[transported]

[or]

[transferred to another]

[or]

[(offered) (advertised) for sale]

4. plans or instructions for making or assembling an unlawful telecommunications device

5. when the Defendant [knew] [had reason to believe] that the plans or instructions were intended to be used for making or assembling an unlawful telecommunications device

[6. (*for Level 6 felony*) and at least five (5) unlawful telecommunication devices were involved].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unauthorized use of telecommunications services, a Class A misdemeanor/Level 6 felony, as charged in Count

\_\_\_\_\_.

Instruction No. 6.3320. Unauthorized Use of Telecommunication Services  
(Providing Materials).

Instruction No. 6.3320. Unauthorized Use of Telecommunication Services  
(Providing Materials).

I.C. 35-45-13-7(2)(C).

The crime of Unauthorized Use of Telecommunication Services is defined by

law as follows:

A person who [knowingly] [intentionally] [sells] [possesses] [distributes] [gives] [transports] [otherwise transfers to another] [(offers) (advertises) for sale] material, including [hardware] [cables] [tools] [data] [computer software] [other information or equipment], knowing that the purchaser or a third person intends to use the material in the manufacture of an unlawful telecommunications device commits unauthorized use of telecommunications services, a Class A misdemeanor. [The offense is a Level 6 felony if it involves at least five (5) unlawful telecommunications devices.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [sold]

[or]

[possessed]

[or]

[distributed]

[or]

[gave]

[or]

[transported]

[or]

[transferred to another]

[or]

[(offered) (advertised) for sale]

4. material, including

[hardware]

[or]

[cables]

[or]

[tools]

[or]

[data]

[or]

[computer software]

[or]

[other information or equipment]

5. when the Defendant [knew] that (*name*), [the purchaser] [a third person] intended to use the material in the manufacture of an unlawful telecommunications device

[6. (*for Level 6 felony*) and at least five (5) unlawful telecommunication devices were i Involved].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unauthorized use of telecommunications services, a Class A misdemeanor/Level 6 felony, as charged in Count

\_\_\_\_\_.

## Instruction No. 4.3360. Unauthorized Use of Telecommunication Services (Publishing Information).

## Instruction No. 4.3360. Unauthorized Use of Telecommunication Services (Publishing Information).

### I.C. 35-45-13-7(3)(A)&(B).

The crime of unauthorized use of telecommunication services is defined by law as follows:

A person who [knowingly] [intentionally] publishes [the (number) (code) of (an existing) (a canceled) (a revoked) (a nonexistent) (telephone number) (credit number) (other credit device)] [the method of (numbering) (coding) that is employed in the issuance of (telephone numbers) (credit numbers) (other credit devices)] with (knowledge) (reason to believe) that the information may be used to avoid the payment of a lawful (telephone) (telegraph) toll charge] commits unauthorized use of telecommunication services, a Class A misdemeanor. [The offense is a Level 6 felony if the commission of the offense involves at least five (5) unlawful telecommunications devices.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. [knowingly] [intentionally]
3. published
4. [the (number) (code) of (an existing) (a canceled) (a revoked) (a nonexistent) (telephone number) (credit number) (other credit device)]

[or]

[the method of (numbering) (coding) that is employed in the issuance of (telephone numbers) (credit numbers) (other credit devices)]

5. when the Defendant [knew] [had reason to believe] that the information might be used to avoid the payment of a lawful (telephone) (telegraph) toll charge

[6. (for Level 6 felony) and at least five (5) unlawful telecommunications devices were involved].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unauthorized use of telecommunications services, a Class A misdemeanor/Level 6 felony, as charged in Count

\_\_\_\_\_.

## Instruction No. 6.3600. Money Laundering.

## Instruction No. 6.3600. Money Laundering.

### I.C. 35–45–15–5(a)(1) and (2).

The crime of money laundering is defined by law as follows:

A person who [knowingly] [intentionally] [(acquires or maintains an interest in) (receives) (conceals) (possesses) (transfers) (transports) the proceeds of criminal activity] [(conducts) (supervises) (facilitates) a transaction involving the proceeds of criminal activity] commits money laundering, a Level 6 felony. [The offense is a Level 5 felony if (the value of the proceeds or funds is at least fifty thousand dollars (\$50,000)) (if the defendant commits the crime with the intent to {commit or promote an act of terrorism} {obtain or transport a weapon of mass destruction}).] [The offense is a Level 4 felony if the value of the proceeds or funds is at least fifty thousand dollars (\$50,000) and the person commits the crime with the intent to (commit or promote an act of terrorism) (obtain or transport a weapon of mass destruction).]

[It is a defense to prosecution that (the person acted with intent to facilitate the lawful seizure, forfeiture, or disposition of funds or other legitimate law enforcement purpose under Indiana or United States law) (the transaction was necessary to preserve a person's right to representation as guaranteed by the [Sixth Amendment of the United States Constitution](#) or [Article 1, Section 13, of the Constitution of the State of Indiana](#)) (the funds were received as bona fide legal fees by a licensed attorney and, at the time of the receipt of the funds, the attorney did not have actual knowledge that the funds were derived from criminal activity).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [(acquired or maintained an interest in) (received) (concealed) (possessed) (transferred) (transported)]

[or]

[(conducted) (supervised) (facilitated) (*describe transaction alleged*), which was a transaction involving the ]

4. [*describe funds alleged*]

5. when [*describe funds alleged*]

6. was the proceeds of [*describe specific conduct alleged as source for funds*]

7. [(*for Level 5 felony*) and the value of (*describe funds alleged*) was at least fifty thousand [\$50,000] dollars]

9. [(*for Level 5 felony*) and the Defendant committed the crime with the intent to (commit or promote an act of terrorism) (obtain or transport a weapon of mass destruction)]

[10. (*for Level 4 felony*) and the value of (*describe funds alleged*) is at least fifty thousand (\$50,000) dollars and the Defendant committed the crime with the intent to (commit or promote an act of terrorism) (obtain or transport a weapon of mass destruction)].

11. [and (the Defendant acted without an intent to facilitate the [lawful seizure, forfeiture, or disposition of funds] [other legitimate law enforcement purpose under Indiana or United States law])]

(or)

(the transaction of which Defendant was accused was not necessary to preserve [the Defendant's] [a person's] right to representation as guaranteed by the [Sixth Amendment of the United States Constitution](#) or [Article 1, Section 13, of the Constitution of the State of Indiana](#))

(or)

(the funds were not received as bona fide legal fees by the Defendant acting as a licensed attorney [and/or] the Defendant had actual knowledge that the funds were derived from criminal activity)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of money laundering, a Level 6/5/4 felony, charged in Count \_\_\_\_\_.

## Instruction No. 6.3640. Money Laundering.

## Instruction No. 6.3640. Money Laundering.

### I.C. 35–45–15–5(a)(3).

The crime of money laundering is defined by law as follows:

A person who knowingly or intentionally [(invests) (expends) (receives) (offers to invest) (offers to expend) (offers to receive)] the proceeds or funds that are the proceeds of criminal activity, and the person knows that the proceeds or funds are the result of criminal activity commits money laundering, a Level 6 felony.

[The offense is a Level 5 felony (if the value of the proceeds or funds is at least fifty thousand dollars (\$50,000)) (if the defendant commits the crime with the intent to {commit or promote an act of terrorism} {obtain or transport a weapon of mass destruction}).]

[The offense is a Level 4 felony if the value of the proceeds or funds is at least fifty thousand dollars (\$50,000) and the person commits the crime with the intent to (commit or promote an act of terrorism) (obtain or transport a weapon of mass destruction).]

[It is a defense to prosecution that (the Defendant acted with intent to facilitate the lawful seizure, forfeiture, or disposition of funds or other legitimate law enforcement purpose under Indiana or United States law) (the transaction was necessary to preserve Defendant's right to representation as guaranteed by the [Sixth Amendment of the United States Constitution](#) or [Article 1, Section 13, of the Constitution of the State of Indiana](#)) (the funds were received as bona fide legal fees by the Defendant acting as a licensed attorney and that, at the time of the receipt of the funds, the Defendant did not have actual knowledge that the funds were derived from criminal activity).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. (invested) (expended) (received) (offered to invest) (offered to expend) (offered to receive)
4. [*describe funds alleged*]
5. when [*describe funds alleged*]
6. was the proceeds of [*describe specific conduct alleged as source for funds*]
7. [(*for Level 5 felony*) and the value of (*describe funds alleged*) was at least fifty thousand [\$50,000] dollars]
9. [(*for Level 5 felony*) and the Defendant committed the crime with the intent to

(commit or promote an act of terrorism) (obtain or transport a weapon of mass destruction)]

[10. (*for Level 4 felony*) and the value of (*describe funds alleged*) is at least fifty thousand (\$50,000) dollars and the Defendant committed the crime with the intent to (commit or promote an act of terrorism) (obtain or transport a weapon of mass destruction)].

11. [and (the Defendant acted without an intent to facilitate the [lawful seizure, forfeiture, or disposition of funds] [other legitimate law enforcement purpose under Indiana or United States law])

(or)

(the transaction of which Defendant was accused was not necessary to preserve [the Defendant's] [a person's] right to representation as guaranteed by the [Sixth Amendment of the United States Constitution](#) or [Article 1, Section 13, of the Constitution of the State of Indiana](#))

(or)

(the funds were not received as bona fide legal fees by the Defendant acting as a licensed attorney [and/or] the Defendant had actual knowledge that the funds were derived from criminal activity)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of money laundering, a Class 6/5/4 felony, charged in Count \_\_\_\_\_.

## Instruction No. 6.4000. Malicious Mischief.

## Instruction No. 6.4000. Malicious Mischief.

### I.C. 35–45–16–2(c) and (d).

The crime of malicious mischief is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] places human [body fluid] [fecal waste] in a location with the intent that another person will involuntarily touch the [bodily fluid] [fecal waste] commits malicious mischief, a Class B misdemeanor. [The offense is a Level 6 felony if the person (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with (infectious hepatitis) (HIV) (tuberculosis).] [The offense is a Level 5 felony if (the person {knew} {recklessly failed to know} that the {body fluid} {fecal waste} was infected with infectious hepatitis and the offense results in the transmission of infectious hepatitis to

another person) (the person {knew} {recklessly failed to know} that the {body fluid} {fecal waste} was infected with tuberculosis and the offense results in the transmission of tuberculosis to another person.)] [The offense is a Level 4 felony if the person (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with HIV and the offense results in the transmission of HIV to another person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. placed [body fluid] [fecal waste]
4. in (*describe location*), a location with the intent that another person will involuntarily touch the [bodily fluid] [fecal waste]
5. (*for Level 6 felony*) and the Defendant (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with (infectious hepatitis) (HIV) (tuberculosis).
6. (*for Level 5 felony*) and the Defendant (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with infectious hepatitis and the offense resulted in the transmission of infectious hepatitis to (*name of person*).]
7. (*for Level 4 felony*) and the Defendant (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with HIV and the offense resulted in the transmission of HIV to (*name of person*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of malicious mischief, a Class B misdemeanor/Level 6/5/4 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 6.4040. Malicious Mischief with Food.

## Instruction No. 6.4040. Malicious Mischief with Food.

### I.C. 35–45–16–2(e) and (f).

The crime of malicious mischief with food is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] places human [body fluid] [fecal waste] in a location with the intent that another person will ingest the [bodily fluid] [fecal waste] commits malicious mischief with food, a Class A misdemeanor. [The offense is a Level 6 felony if the person (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with (infectious hepatitis) (HIV) (tuberculosis).] [The offense is a Level 5 felony if (the person {knew} {recklessly failed to know} that the {body fluid} {fecal waste} was infected with infectious hepatitis and the offense results in the transmission of infectious hepatitis to the



other person) (the person {knew} {recklessly failed to know} that the {body fluid} {fecal waste} was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person.)] [The offense is a Level 4 felony if the person (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with HIV and the offense results in the transmission of HIV to another person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. placed [body fluid] [fecal waste]
4. in (*describe location*), a location with the intent that another person will ingest the [body fluid] [fecal waste]
- [5. (*for Level 6 felony*) and the Defendant (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with (infectious hepatitis) (HIV) (tuberculosis).
- [6. (*for Level 5 felony*) and the Defendant (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with infectious hepatitis and the offense resulted in the transmission of infectious hepatitis to (*name of person*).]
- [7. (*for Level 4 felony*) and the Defendant (knew) (recklessly failed to know) that the (body fluid) (fecal waste) was infected with HIV and the offense resulted in the transmission of HIV to (*name of person*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of malicious mischief with food, a Class A misdemeanor/Level 6/5/4 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 6.4400. Promoting Combative Fighting.

## Instruction No. 6.4400. Promoting Combative Fighting.

### I.C. 35-45-18-3.

The crime of promoting combative fighting is defined by law as follows:

a person who [knowingly] [intentionally] promotes or organizes combative fighting commits unlawful promotion or organization of combative fighting, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [promoted] [organized] (*describe activity*), which is combative fighting.

Instruction No. 6.4700. Transferring Contaminated Body Fluids.

Instruction No. 6.4700. Transferring Contaminated Body Fluids.

I.C. 35-45-21-1.

The crime of transferring contaminated body fluids is defined by law as follows:

a person who [recklessly] [knowingly] [intentionally] [donates] [sells] transfers [blood] [semen for artificial insemination (as defined in IC 16-41-14-2)] that contains the human immunodeficiency virus (HIV) commits transferring contaminated body fluids, a Level 5 felony. [The offense is a Level 3 felony if it results in the transmission of the human immunodeficiency virus (HIV) to any person other than the defendant.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. [donated] [sold] [transferred]
4. [blood] [semen for artificial insemination] that contained the human immunodeficiency virus (HIV).

[5. (*for Level 3 felony*) and the offense resulted in the transmission of the human immunodeficiency virus (HIV) to (*name of person*).]

Instruction No. 6.5000. Recklessly Violating or Failing to Comply with IC 16-41-7.

Instruction No. 6.5000. Recklessly Violating or Failing to Comply with IC 16-41-7.

I.C. 35-45-21-3.

The crime of recklessly violating or failing to comply with IC 16-41-7 is defined by law as follows:

a person who recklessly [violates] [fails to comply with IC 16-41-7] commits

recklessly violating or failing to comply with IC 16-41-7, a Class B misdemeanor. [The offense is a Level 6 felony if the person [knowingly] [intentionally] violates or fails to comply with IC 16-41-7.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly]
3. [violated] [failed to comply with IC 16-41-7]
4. (*for Level 6 felony*) the Defendant (knowingly) (intentionally) (violated) (failed to comply with IC 16-41-7).]

## Instruction No. 6.5400. Interference with Medical Services.

## Instruction No. 6.5400. Interference with Medical Services.

### I.C. 35–45–21–5.

The crime of interference with medical services is defined by law as follows:

A person who [knowingly] [intentionally] [(physically interrupts) (obstructs) (alters)] [the (delivery) (administration)]] of a prescription drug prescribed or ordered by a practitioner for a person who is a patient of the practitioner and without the prescription or order of a practitioner commits interference with medical services, a Class A misdemeanor. [The offense is a Level 6 felony if the offense results in bodily injury.] [The offense is a Level 5 felony if it is committed by a person who is a licensed health care provider or licensed health professional.] [The offense is a Level 4 felony if it results in serious bodily injury to the patient.] The offense is a Level 2 felony if it results in the death of the patient.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [(physically interrupted) (obstructed) (altered)]
4. [the (delivery) (administration) of (*name of prescription drug*), a prescription drug prescribed or ordered by (*name of practitioner*) for (*name of person*), who is a patient of the practitioner and without the prescription or order of the practitioner.
6. (*for Level 6 felony*) and the offense resulted in bodily injury to (*name of person*).]

[7. (*for Level 5 felony*) and the Defendant is a (*describe occupation*), which is a (licensed health care provider) (licensed health professional).]

[8. (*for Level 4 felony*) and the offense resulted in serious bodily injury to the patient, (*name of patient*).]

[9. (*for Level 2 felony*) and the offense resulted in the death of the patient, (*name of patient*).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of interference with medical services, a Class A misdemeanor/Level 6/5/4/2 felony, as charged in Count \_\_\_\_\_.

## CHAPTER 7 MISCELLANEOUS OFFENSES

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Instruction No. 7.0020. Bigamy.

## Instruction No. 7.0020. Bigamy.

### I.C. 35–46–1–2.

The crime of bigamy is defined by law as follows:

A person who, being married and knowing that his/her spouse is alive, marries again commits bigamy, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. while married to (*name first spouse*),
3. and knowing that (*name first spouse*) was alive,
4. married (*name alleged subsequent spouse*)
5. [and Defendant did not reasonably believe [he] [she] was eligible to remarry].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of bigamy, a Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.0100. Incest.

## Instruction No. 7.0100. Incest.

### I.C. 35–46–1–3.

The crime of incest is defined by law as follows:

A person eighteen (18) years of age or older who engages in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with another person when the person knows that the other person is related to the person biologically as a [parent] [child] [grandparent] [grandchild] [sibling] [aunt] [uncle] [niece] [nephew] commits incest, a Level 5 felony. [The offense is a Level 4 felony if the other person was less than sixteen (16) years of age.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. when [he] [she] was eighteen (18) years of age or older
3. engaged in [sexual intercourse] [other sexual conduct]
4. with [*name other person*]
5. when Defendant knew that [*name other person*] was related to Defendant biologically as a [parent]

[or]

[child]

[or]

[grandparent]

[or]

[grandchild]

[or]

[sibling]

[or]

[aunt]

[or]

[uncle]

[or]

[niece]

[or]

[nephew]

6. [(*for Level 4 felony*) and at the time of the [sexual intercourse] [other sexual conduct] [*name other person*] was less than sixteen (16) years of age].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of incest, a Level 5/4 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.0140. Incest—Defense.

Instruction No. 7.0140. Incest—Defense.

I.C. 35–46–1–3(b).

It is a defense to the charge of incest that at the time of the (sexual intercourse)



(other sexual conduct):

1. Defendant and (*name other person*) were married
2. and the marriage was valid under the laws of the state or country where it was entered into or where the marriage ceremony was performed.

## Instruction No. 7.0300. Neglect of Dependent.

## Instruction No. 7.0300. Neglect of Dependent.

### I.C. 35-46-1-4.

The crime of neglect of a dependent is defined by law as follows:

A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who [knowingly] [intentionally] [places the dependent in a situation that endangers the dependent's life or health] [abandons or cruelly confines the dependent] [deprives the dependent of necessary support] [deprives the dependent of education as required by law] commits neglect of a dependent, a Level 6 felony. [The offense is a Level 5 felony if it results in bodily injury (*note—this Level 5 felony enhancement does not apply to neglect based on depriving of education*) or is (committed in a location where a person is violating I.C. 35-48-4-1 delivery, financing, or manufacture of cocaine, or a narcotic drug) (committed in a location where a person is violating I.C. 35-48-4-1.1 delivery, financing, or manufacture of methamphetamine) (the result of a violation of I.C. 35-48-4-1 delivery, financing, or manufacture of cocaine or a narcotic drug) (the result of a violation of I.C. 35-48-4-1 delivery, financing, or manufacture of methamphetamine).]

[The offense is a Level 5 felony if it consists of cruel or unusual confinement or abandonment that (deprives a dependent of necessary food, water, or sanitary facilities) (consists of confinement in an area not intended for human habitation) (involves the unlawful use of handcuffs, a rope, a cord, tape or similar device to physically restrain a dependent) (*note—this Level 5 felony enhancement applies only to neglect based on abandoning or confining*).] [The offense is a Level 3 felony if it results in serious bodily injury (*note—this Level 3 felony enhancement does not apply to neglect based on depriving of education*).] [The offense is a Level 1 felony if it is committed by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age (*note—this Level 1 felony enhancement does not apply to neglect based on depriving of education*).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
2. [knowingly] [intentionally]
3. [placed *(name)* in a situation that endangered *(name's)* life or health]

[or]

[abandoned or cruelly confined *(name)*]

[or]

[deprived *(name)* of necessary support]

[or]

[deprived *(name)* of education as required by law];

4. when *(name)* was a dependent and when Defendant had the care, custody, or control of *(name)*, whether assumed voluntarily or because of a legal obligation;

[5. *(for Level 5 felony) (do not use this element for neglect based on deprivation of education)*]:

{and the offense resulted in bodily injury to *(name)*}}

{or}

{the offense was [committed in a location where a person was violating] [the result of a violation of]

[I.C. 35-48-4-1, which prohibits the delivery, financing, or manufacture of cocaine or a narcotic drug]

[I.C. 35-48-4-1.1, which prohibits the delivery, financing, or manufacture of methamphetamine)]}

[6. *{(for Level 5 felony) (use this element only for neglect based on confinement or abandonment)}* and the offense consisted of cruel or unusual confinement or abandonment which

(deprived *(name)*, a dependent, of necessary food, water, or sanitary facilities)

(or)

(consisted of confinement in an area not intended for human habitation)

(or)

(involved the unlawful use of [handcuffs] [a rope] [a cord] [a tape] [*describe alleged similar device*] to physically restrain *(name)*, a dependent)}

[7. *(for Level 3 felony)* and the offense resulted in serious bodily injury to *(name)* *(do not use this element for neglect based on deprivation of education)*]

[8. *(for Level 1 felony)* and the offense resulted in the death of *(name)*, who was less than fourteen (14) years of age *(do not use this element for neglect based on deprivation of education)*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of neglect of a dependent, a Level 6/5/3/1 felony, charged in Count \_\_\_\_\_.

[If the State did prove each of these elements beyond a reasonable doubt, but the Defendant proved by the greater weight of the evidence that, in the legitimate practice of [the Defendant's] religious belief, the Defendant provided treatment by spiritual means through prayer, in lieu of medical care, to (*name dependent*), you must find the Defendant not guilty of neglect of a dependent, a Level 6/5/3/1 felony, charged in Count \_\_\_\_\_.]

Instruction No. 7.0340. Neglect of a Dependent—Emergency Medical Provider Defense.

Instruction No. 7.0340. Neglect of a Dependent—Emergency Medical Provider Defense.

I.C. 35–46–1–4(c)(1).

It is a defense to the charge of neglect of a dependent that:

1. The Defendant voluntarily left the child with an emergency medical provider who took custody of the child when the Defendant expressed no intent to return, and
2. the child was not more than thirty (30) days of age
3. and the charge of neglect of a dependent is based solely on the alleged act of having left the child with the emergency medical provider
4. and the alleged act of leaving the child with the emergency medical provider did not result in bodily injury or serious bodily injury to the child.

The Defendant has the burden of proving this defense by the greater weight of the evidence.

Instruction No. 7.0380. Neglect of a Dependent—Defense.

Instruction No. 7.0380. Neglect of a Dependent—Defense.

I.C. 35–46–1–4(c)(2).

It is a defense to the charge of neglect of a dependent that the Defendant, in the

legitimate practice of the Defendant's religious belief, provided treatment by spiritual means through prayer, in lieu of medical care to the Defendant's dependent.

The Defendant has the burden of proving this defense by the greater weight of the evidence.

### Instruction No. 7.0500. Child Selling.

### Instruction No. 7.0500. Child Selling.

#### I.C. 35–46–1–4(d).

The crime of child selling is defined by law as follows:

A person having the care of a dependent child, whether assumed voluntarily or because of a legal obligation, who [knowingly] [intentionally] [transfers] [receives] any property in consideration for the termination of the [care] [custody] [control] of the person's dependent child commits child selling, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. had the care of [name], a dependent child, and
3. [knowingly] [intentionally]
4. [transferred] [received] property
5. in consideration for the termination of the [care] [custody] [control] of [name],

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child selling, a Level 6 felony.

### Instruction No. 7.0540. Child Selling—Exception.

### Instruction No. 7.0540. Child Selling—Exception.

#### I.C. 35–46–1–4(d).

The child selling offense does not apply to property transferred or received: [under a court order made in connection with divorce, support, or custody]

proceedings;]

[or]

[with respect to an adoption, for reasonable attorney fees, hospital and medical expenses concerning childbirth and pregnancy incurred by the adopted person's natural mother, reasonable charges and fees levied by a licensed child-placing agency or by a county department of public welfare, or other charges and fees approved by a court supervising the adoption.]

The Defendant has the burden of proving by a preponderance of the evidence that the property was transferred or received under the court order as described above.

## Instruction No. 7.0700. Reckless Supervision by a Child Care Provider.

## Instruction No. 7.0700. Reckless Supervision by a Child Care Provider.

### I.C. 35-46-1-4.1.

The crime of reckless supervision by a child care provider is defined by law as follows:

A child care provider who recklessly supervises a child commits reckless supervision, a Class B misdemeanor.. [The offense is a Class A misdemeanor if the offense results in serious bodily injury to a child.] [The offense is a Level 6 felony if the offense results in the death of a child.]

To convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was a child care provider who
3. recklessly
4. supervised (*name*), who was a child in the Defendant's care
- [5. (*for Class A misdemeanor*) and the offense resulted in serious bodily injury to (*name*), who was a child in the Defendant's care.]

[6. (*for Level 6 felony*) and the offense resulted in the death of (*name*), who was a child in the Defendant's care].

If the State failed to prove each of these elements beyond a reasonable doubt, you should find the Defendant not guilty reckless supervision by a child care provider, a Class B/A misdemeanor/ Level 6 felony.

Instruction No. 7.0720. Non-support of a Dependent Child.

Instruction No. 7.0720. Non-support of a Dependent Child.

I.C. 35–46–1–5.

The crime of non-support of a dependent child is defined by law as follows:

A person who knowingly or intentionally fails to provide support to [his] [her] dependent child commits non-support of a child, a Level 6 felony.

To convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. failed to provide support to (name)
4. when (*name was*) (*names were*) Defendant's dependent child[ren].

If the State failed to prove each of these elements beyond a reasonable doubt, you should find the Defendant not guilty of non-support of a dependent child, a Level 6 felony.

Instruction No. 7.0740. Non-support of a Dependent Child—Defense.

Instruction No. 7.0740. Non-support of a Dependent Child—Defense.

I.C. 35–46–1–5(b).

It is a defense to the charge of non-support of a dependent child that the child abandoned the home of his family without the consent of his parent or on the order of a court. But it is not a defense that the child abandoned the home of his family if the cause of the child's leaving was the fault of his parent.

The Defendant has the burden of proving this defense, by the greater weight of the evidence.

Instruction No. 7.0760. Non-support of a Dependent Child—Defense.

Instruction No. 7.0760. Non-support of a Dependent Child—Defense.

I.C. 35–46–1–5(c).

It is a defense to the charge of non-support of a dependent child that the person, in the legitimate practice of the person's religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to the person's dependent child.

The Defendant has the burden of proving this defense by the greater weight of the evidence.

## Instruction No. 7.0780. Non-support of a Dependent Child—Defense.

## Instruction No. 7.0780. Non-support of a Dependent Child—Defense.

### I.C. 35–46–1–5(d).

It is a defense to the charge of non-support of a dependent child that the Defendant was unable to provide support.

The Defendant has the burden of proving, by the greater weight of the evidence, that the Defendant was unable to provide support.

## Instruction No. 7.0900. Non-support of a Spouse.

## Instruction No. 7.0900. Non-support of a Spouse.

### I.C. 35–46–1–6(a).

The crime of non-support of a spouse is defined by law as follows:

A person who knowingly or intentionally fails to provide support to the person's spouse, when the spouse needs support, commits non-support of a spouse, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. failed to provide support to (*name*), the person's spouse
4. when (*name*) needed support.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of non-support of a spouse, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.0940. Non-support of a Spouse—Defense.

Instruction No. 7.0940. Non-support of a Spouse—Defense.

I.C. 35–46–1–6(b).

It is a defense to the charge of non-support of a spouse that the Defendant was unable to provide support.

The Defendant has the burden of proving, by the greater weight of the evidence, that the Defendant was unable to provide support.

Instruction No. 7.1000. Contributing to the Delinquency of a Minor.

Instruction No. 7.1000. Contributing to the Delinquency of a Minor.

I.C. 35-46-1-8.

The crime of contributing to the delinquency of a minor is defined by law as follows:

A person eighteen (18) years of age or older who knowingly or intentionally [encourages] [aids] [induces] [causes] a person under eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
2. [knowingly] [intentionally]
3. [encouraged] [aided] [induced] [caused] (*name minor*), who was at the time less than eighteen (18) years of age, to commit;
4. (*name delinquent act alleged*), an act of delinquency, by encouraging, aiding, inducing, or causing (*name minor*) to (*recite alleged conduct constituting*



*delinquent act*);

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of contributing to the delinquency of a minor, a Class A misdemeanor, charged in Count \_\_\_\_\_.

Instruction No. 7.1040. Contributing to the Delinquency of a Minor, with Enhancement for Furnishing Alcohol or Drugs.

Instruction No. 7.1040. Contributing to the Delinquency of a Minor, with Enhancement for Furnishing Alcohol or Drugs.

I.C. 35-46-1-8(b)(1).

The crime of contributing to the delinquency of a minor is defined by law as follows:

A person at least twenty-one (21) years of age who knowingly or intentionally [encourages] [aids] [induces] [causes] a person under eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) and [knowingly] [intentionally] furnishes [an alcoholic beverage to a person less than eighteen (18) years of age in violation of IC 7.1-5-7-8 when the person knew or reasonably should have known that the person was less than eighteen (18) years of age] [a controlled substance (as defined in IC 35-48-1-9) in violation of Indiana law] [a drug (as defined in IC 9-13-2-49.1) in violation of Indiana law] and [consumption] [ingestion] [use] of the [alcoholic beverage] [controlled substance] [drug] is the proximate cause of the death of any person, commits contributing to the delinquency of a minor, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [encouraged] [aided] [induced] [caused] (*name minor*), who was at the time less than eighteen (18) years of age, to commit
4. (*name delinquent act alleged*), an act of delinquency, by [encouraging] [aiding] [inducing] [causing] (*name minor*) to (*recite alleged conduct constituting delinquent act*)
5. and the Defendant was at least twenty-one (21) years of age and [knowingly] [intentionally] furnished

[an alcoholic beverage to (*name*), a person less than eighteen years of age, whom Defendant knew or should have known was less than eighteen years of age]

[or]

[(*name substance or drug*), a (controlled substance) (drug) in violation of Indiana law]

and [consumption] [ingestion] [use] of the [alcoholic beverage] [controlled substance] [drug] was the proximate cause of the death of (*name person*).}

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of contributing to the delinquency of a minor, a Level 5 felony, charged in Count\_\_\_\_\_.

Instruction No. 7.1080. Contributing to the Delinquency of a Minor, with Enhancement for Inducing Criminal Act.

Instruction No. 7.1080. Contributing to the Delinquency of a Minor, with Enhancement for Inducing Criminal Act.

#### I.C. 35-46-1-8(b)(2)..

The crime of contributing to the delinquency of a minor is defined by law as follows:

A person eighteen (18) years of age or older who [knowingly] [intentionally] [encourages] [aids] [induces] [causes] a person less than eighteen (18) years of age to commit an act that would be a felony if committed by an adult under any of the following:

[dealing in (cocaine), (a narcotic drug), I.C. 35-48-4-1]

[dealing in methamphetamine, IC 35-48-4-1.1]

[dealing in a Schedule I, II, or III controlled substance, I.C. 35-48-4-2]

[dealing in a Schedule IV controlled substance, I.C. 35-48-4-3]

[dealing in a Schedule V controlled substance, I.C. 35-48-4-4]

[delivering or financing delivery of a substance represented to be a controlled substance, I.C. 35-48-4-4.5]

[manufacturing, financing, advertising, or possessing with intent to manufacture, finance, advertise, or deliver a substance represented to be a controlled substance, [I.C. 35-48-4-4.6](#)]

[dealing in a counterfeit substance, [I.C. 35-48-4-5](#)]  
commits contributing to the delinquency of a minor, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
2. [knowingly] [intentionally];
3. [encouraged], [aided], [induced] [caused] (*name minor*), who was at the time less than eighteen (18) years of age, to commit;
4. (*name delinquent act alleged*), an act of delinquency, by encouraging, aiding, inducing, or causing (*name minor*) to (*recite alleged conduct constituting delinquent act*);
5. and the act of delinquency which Defendant [encouraged] [aided] [induced] [caused] was an act which, if committed by an adult, would have been the felony of:  
[dealing in (cocaine), (a narcotic drug), [I.C. 35-48-4-1](#), by knowingly or intentionally

(manufacturing)

(or)

(financing the manufacture of)

(or)

(delivering)

(or)

(financing the delivery of)

(or)

(possessing with the intent to manufacture, to finance the manufacture, to deliver, or to finance the delivery of)

(cocaine)

(or)

(*{name alleged drug}*), a narcotic drug, pure or adulterated, classified in schedule I or II)

[or]

[dealing in methamphetamine, [I.C. 35-48-4-1.1](#), by knowingly or intentionally

(manufacturing)

(or)

(financing the manufacture of)

(or)

(delivering)

(or)

(financing the delivery of)

(or)

(possessing with the intent to manufacture, to finance the manufacture, to deliver, or to finance the delivery of)

methamphetamine]

[or]

[dealing in a Schedule I, II, or III controlled substance, [I.C. 35-48-4-2](#), by knowingly or intentionally

(manufacturing)

(or)

(financing the manufacture of)

(or)

(delivering)

(or)

(financing the delivery of)

(or)

(possessing, with intent to manufacture, to finance the manufacture, to deliver, or to finance the delivery of)

(*name alleged substance*), a controlled substance, pure or adulterated, classified in schedule I, II, or III, except marijuana, hash oil, or hashish]

[or]

[dealing in a Schedule IV controlled substance, [I.C. 35-48-4-3](#), by knowingly or intentionally

(manufacturing)

(or)

(financing the manufacture of)

(or)

(delivering)

(or)

(financing the delivery of)

(or)

(possessing, with intent to manufacture, to finance the manufacture, to deliver, or to finance the delivery of)

(*name alleged substance*), a controlled substance, pure or adulterated, classified in schedule IV]

[or]

[dealing in a Schedule V controlled substance, [I.C. 35-48-4-4](#), by knowingly or intentionally

(manufacturing)

(or)

(financing the manufacture of)

(or)

(delivering)

(or)

(financing the delivery of)

(or)

(possessing, with intent to manufacture, to finance the manufacture, to deliver, or to finance the delivery of)

(*name alleged substance*), a controlled substance, pure or adulterated, classified in schedule V]

[or]

[delivering or financing delivery of a substance represented to be a controlled substance, [I.C. 35-48-4-4.5](#), by knowingly or intentionally

(delivering)

(or)

(financing the delivery of)

a substance, other than a controlled substance or a drug for which a prescription is required under federal or state law, that

(was expressly or impliedly represented to be (*name*), a controlled substance)

(or)

(was distributed under circumstances that would lead a reasonable person to believe that the substance was (*name*), a controlled substance)

(by overall dosage unit appearance, including shape, color, size, markings, or lack of markings, taste, consistency, or any other identifying physical characteristic of the substance, would have lead a reasonable person to believe that the substance was {*name alleged substance*}, a controlled substance)]

[or]

[manufacturing, financing, advertising, or possessing with intent to manufacture, finance, advertise, or deliver a substance represented to be a controlled substance, [I.C. 35-48-4-4.6](#), by

(manufacturing)

(or)

(financing the manufacture of)

(or)

(advertising)

(or)

(possessing with intent to manufacture, finance the manufacture of, advertise, or distribute)

a substance under I.C. 35-48-4-4.5 that was

(expressly or impliedly represented to be (*name*), a controlled substance)

(or)

(was distributed under circumstances that would lead a reasonable person to believe that the substance was (*name*), a controlled substance)

(or)

(by overall dosage unit appearance, including shape, color, size, markings, or lack of markings, taste, consistency, or any other identifying physical characteristic of the substance, would have lead a reasonable person to believe that the substance was (*name alleged substance*), a controlled substance)]

[or]

[manufacturing, financing, advertising, or possessing with intent to manufacture, finance, advertise, or deliver a substance represented to be a controlled substance, I.C. 35-48-4-4.6, by knowingly or intentionally

(manufacturing)

(or)

(financing the manufacture of)

(or)

(advertising)

(or)

(distributing)

(or)

(possessing with intent to manufacture or to finance the manufacture or to advertise or to distribute)

a substance, other than a controlled substance or a drug for which a prescription is required under federal or state law, that was

(expressly or impliedly represented to be (*name*), a controlled substance)

(or)

(was distributed under circumstances that would lead a reasonable person to believe that the substance was (*name*), a controlled substance)

(or)

(by overall dosage unit appearance, including shape, color, size, markings, or lack of markings, taste, consistency, or any other identifying physical characteristic of the substance, would have lead a reasonable person to believe that the substance was (*name alleged substance*), a controlled substance)]

[or]

[dealing in a counterfeit substance, [I.C. 35-48-4-5](#), by

(creating)

(or)

(delivering)

(or)

(financing the delivery of)

(or)

(possessing with intent to deliver or finance the delivery of)

a counterfeit substance].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of contributing to the delinquency of a minor, a Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.1200. Profiting from an Adoption.

## Instruction No. 7.1200. Profiting from an Adoption.

### **I.C. 35–46–1–9.**

The crime of profiting from an adoption is defined by law as follows:

A person who, with respect to an adoption, [transfers] [receives] any property in connection with [the waiver of parental rights] [the termination of parental rights] [the consent to adoption] [the petition for adoption] commits profiting from an adoption, a Level 6 felony.



Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. with respect to an adoption
3. [knowingly] [intentionally]
4. [transferred] [received] property, (*describe property as alleged*) in connection with  
[the waiver of parental rights]

[or]

[the termination of parental rights]

[or]

[the consent to adoption]

[or]

[the petition for adoption].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of profiting from an adoption, a Level 6 felony.

## Instruction No. 7.1240. Profiting from an Adoption—Defense.

## Instruction No. 7.1240. Profiting from an Adoption—Defense.

### I.C. 35–46–1–9(b).

It is a defense to the charge of profiting from an adoption that the person who transferred or received any property in connection with [the waiver of parental rights] [the termination of parental rights] [the consent to adoption] [the petition for adoption] transferred or received the property for:

[reasonable attorney fees]

[or]

[hospital and medical expenses concerning childbirth and pregnancy incurred by the adopted person's birth mother]

[or]

[reasonable charges and fees levied by a child-placing agency licensed under

IC 31-27 or the department of child services]

[or]

[reasonable expenses for psychological counseling relating to adoption incurred by the adopted person's birth parents]

[or]

[reasonable costs of housing, utilities, and phone service for the adopted person's birth mother during the second or third trimester of pregnancy and not more than six (6) weeks after childbirth]

[or]

[reasonable costs of maternity clothing for the adopted person's birth mother]

[or]

[reasonable travel expenses incurred by the adopted person's birth mother that relate to the pregnancy or adoption]

[or]

[any additional itemized necessary living expenses for the adopted person's birth mother during the second or third trimester of pregnancy and not more than six (6) weeks after childbirth not listed in the preceding three paragraphs in an amount not to exceed one thousand dollars (\$1,000)]

[or]

[other charges and fees approved by the court supervising the adoption, including reimbursement of not more than actual wages lost as a result of the inability of the adopted person's birth mother to work at her regular, existing employment due to a medical condition, excluding a psychological condition, if:

(A) the attending physician of the adopted person's birth mother has ordered or recommended that the adopted person's birth mother discontinue her employment; and

(B) the medical condition and its direct relationship to the pregnancy of the adopted person's birth mother are documented by her attending physician].

The Defendant has the burden of proving this defense by the greater weight of the evidence.

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Instruction No. 7.1400. Exploitation of Dependent or Endangered Adult.

Instruction No. 7.1400. Exploitation of Dependent or Endangered Adult.

I.C. 35-46-1-12(a), (b).

The crime of exploitation of [a dependent] [an endangered adult] is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] exerts unauthorized use of the [personal services] [property] of [an endangered adult] [a dependent eighteen (18) years of age or older] for [the person's own] [another person's] [profit] [advantage] commits exploitation of [a dependent] [an endangered adult], a Class A misdemeanor. [The offense is a Level 6 felony if (the fair market value of the personal services or property is more than ten thousand dollars (\$10,000)) (the endangered adult or dependent is at least sixty (60) years of age).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
  3. exerted unauthorized use of the [personal services] [property] of
  4. [(name), an endangered adult]

[or]

[(name), a dependent eighteen (18) years of age or older]

5. [for the (Defendant's own) (another person's) (profit) (advantage)].
6. [(for Level 6 felony) and the fair market value of the (personal services) (property) was more than ten thousand dollars (\$10,000)]

[or]

[(the endangered adult) (dependent) was at least sixty (60) years of age.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of exploitation of [a dependent] [an endangered adult], a Class A misdemeanor/Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.1440. Exploitation of Dependent or Endangered Adult  
(Social Security Benefits).

Instruction No. 7.1440. Exploitation of Dependent or Endangered Adult  
(Social Security Benefits).

I.C. 35-46-1-12(c), (d).

The crime of exploitation of [a dependent] [an endangered adult] is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] deprives [an endangered adult] [a dependent] of the proceeds of the [endangered adult's] [a dependent's] [benefits under the Social Security Act] [other retirement program that the division of family resources has budgeted for the endangered (adult's) (dependent's) health care] commits exploitation of [a dependent] [an endangered adult], a Class A misdemeanor. [The offense is a Level 6 felony if (the amount of the proceeds is more than ten thousand dollars (\$10,000)) (the [endangered adult] [dependent] is at least sixty (60) years of age).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. deprived (*name*), [an endangered adult] [a dependent]
4. of (*name's*), [an endangered adult's] [a dependent's]
5. [benefits under the Social Security Act]

[or]

[other retirement program that the division of family resources had budgeted for (the endangered adult's) (dependent's) health care.]

6. [(*for Level 6 felony*) and (the amount of the proceeds is more than ten thousand dollars (\$10,000))

(or)

((*name*), {the endangered adult} {dependent} was at least sixty (60) years of age).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of exploitation of [a dependent] [an endangered adult], a Class A misdemeanor/Level 6 felony, charged in Count

\_\_\_\_\_.

## Instruction No. 7.1600. Invasion of Privacy.

## Instruction No. 7.1600. Invasion of Privacy.

### I.C. 35-46-1-15.1.

The crime of invasion of privacy is defined by law as follows:

A person who [knowingly] [intentionally] violates:

- a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2- or IC 34-4-5.1-5 before their repeal);
- an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
- a workplace violence restraining order issued under IC 34-26-6;
- a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-36-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;
- a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under IC 35-33-8-3.6;
- a no contact order issued as a condition of probation;
- a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);
- a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;
- a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding
- an order issued in another state that is substantially similar to an order described in subdivision (1) through (9);
- an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian (tribe) (band) (pueblo) (nation) (organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

- an order issued under IC 35-33-8-3.2; or
- an order issued under IC 35-38-1-30

commits invasion of privacy, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally] violated

[a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2- or IC 34-4-5.1-5 before their repeal]

[or]

[an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal)

[or]

[a workplace violence restraining order issued under IC 34-26-6]

[or]

[a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-36-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child]

[or]

[a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under IC 35-33-8-3.6

[or]

[a no contact order issued as a condition of probation]

[or]

[a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal]

[or]

[a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action]

[or]

[a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding]

[or]

[an order issued in another state that is substantially similar to an order described in subdivision (1) through (9)]

[or]

[an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian (tribe) (band) (pueblo) (nation) (organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians]

[or]

[an order issued under IC 35-33-8-3.2]

[or]

[an order issued under IC 35-38-1-30.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of invasion of privacy, a Class A misdemeanor, charged in Count \_\_\_\_\_.

Instruction No. 7.1800. Harboring a Non-Immunized Dog.

Instruction No. 7.1800. Harboring a Non-Immunized Dog.

I.C. 35-46-3-1.

The crime of harboring a non-immunized dog is defined by law as follows:

A person who [knowingly] [intentionally] harbors a dog that is over the age of six (6) months and not immunized against rabies, commits harboring a non-immunized dog, a Class C misdemeanor. [The offense is a Class B misdemeanor if the dog causes bodily injury by biting a person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. harbored a dog that is over the age of six (6) months
4. and the dog is not immunized against rabies
5. [(for Class B misdemeanor) and the dog caused bodily injury to (*person's name*).

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of harboring a non-immunized dog, a Class C/B misdemeanor, charged in Count \_\_\_\_\_.

Instruction No. 7.1900. Carrying Handgun Without a License.

Instruction No. 7.1900. Carrying Handgun Without a License.



I.C. 35-47-2-1.

The crime of carrying a handgun without a license is defined by law as follows:

A person who carries a handgun in any vehicle or on or about his person, except in his dwelling, on his property, or fixed place of business, without a license issued under this chapter being in his possession, commits carrying a handgun without a license, a Class A misdemeanor. [The offense is a Level 5 felony if it is committed (on or in school property) (within five hundred (500) feet of school property) (on a school bus).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
2. carried a handgun [in a vehicle] [on or about (his) or (her) person];
3. away from Defendant's dwelling, property, or fixed place of business;
4. (*for Level 5 felony*) and the offense was committed:  
[on or in school property]

[or]

[within five hundred (500) feet of school property]

[or]

[on a school bus)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of carrying a handgun without a license, a Class A misdemeanor/Level 5 felony, charged in Count \_\_\_\_\_.

[*If exception of valid license raised:*] It is a defense that the Defendant had been issued a license to carry a handgun which was valid at the time of the charged offense, and the burden is on the Defendant to prove this defense by the greater weight of the evidence. If the State proved each of the elements of the offense listed above beyond a reasonable doubt, and the Defendant proved by the greater weight of the evidence that he/she possessed a valid license, you must find the Defendant not guilty of carrying a handgun without a license, a Class A misdemeanor/Level 5 felony.]

Instruction No. 7.1920. Carrying Handgun Without a License—Defense.

Instruction No. 7.1920. Carrying Handgun Without a License—Defense.

I.C. 35-47-2-2.

The statute requiring a license to carry a handgun does not apply to:

[a marshal]

[or]

[a sheriff]

[or]

[the commissioner of the department of corrections or a person authorized by the commissioner in writing to carry firearms]

[or]

[a judicial officer]

[or]

[a law enforcement officer]

[or]

[a member of the armed forces of the United States or of the national guard or organized reserves while (he) (she) is on duty]

[or]

[a regularly enrolled member of any organization duly authorized to purchase or receive such weapons from the United States or from this state who is at or is going to or from his place of assembly or target practice]

[or]

[an employee of the United States duly authorized to carry handguns]

[or]

[an employee of express companies when engaged in company business]

[or]

[any person engaged in the business of manufacturing, repairing, or dealing in firearms or the agent or representative of any such person having in his possession, using, or carrying a handgun in the usual or ordinary course of that business].

The Defendant has the burden of proving this defense by the greater weight of the evidence.

Instruction No. 7.1940. Possession of Firearms on School Property, at  
School Functions, or On School Bus.

Instruction No. 7.1940. Possession of Firearms on School Property, at  
School Functions, or On School Bus.

I.C. 35-47-9-2.

The crime of possessing a firearm on school property is defined by law as follows:

A person who[knowingly] [intentionally] possesses a firearm [in or on school property] [in or on property that is being used by a school for a school function] [on a school bus] commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [knowingly] [intentionally]
  3. possessed a firearm
  4. [in or on school property]
- [or]

[in or on property that is being used by a school for a school function]

[or]

[on a school bus.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of a firearm on school property, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.1960. Prohibited Sale or Transfer of Handgun or Assault  
Weapon to Minor.

Instruction No. 7.1960 Prohibited Sale or Transfer of Handgun or Assault  
Weapon to Minor.

I.C. 35–47–2–7(a), I.C. 35–47–2–23(b).

The crime of prohibited sale or transfer of a [handgun] [an assault weapon] to a minor is defined by law as follows:

[A] person who sells, gives, or in any other manner transfers the ownership or possession of a [handgun] [assault weapon] to any person under eighteen (18) years of age commits prohibited sale or transfer of a [handgun] [an assault weapon] to a minor, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. sold, gave, or in some other manner transferred ownership or possession of [a handgun] [an assault weapon]
3. to (*name*) when (*name*) was less than eighteen (18) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, [or if the Defendant proved a defense by the greater weight of the evidence,] you must find the Defendant not guilty of prohibited sale or transfer of [a handgun] [an assault weapon], a Level 5 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.1980. Defense to Prohibited Sale or Transfer of Handgun or Assault Weapon to Minor.

Instruction No. 7.1980. Defense to Prohibited Sale or Transfer of Handgun or Assault Weapon to Minor.

I.C. 35–47–2–7(a), I.C. 35–47–2–23(b). I.C. 35–47–10–1.

It is a defense that the person who sold, gave, or otherwise transferred ownership or possession of the [handgun] [assault weapon] did so:

[while acting in a parent-minor child relationship to the person under eighteen (18) years of age]

[or]

[while acting in a guardian-minor protected person relationship to the person under eighteen (18) years of age]

[or]

[for the purpose of the person under eighteen (18) years of age attending a (hunters safety course) (a firearms safety course)]

[or]

[for the purpose of the person under eighteen (18) years of age engaging in practice in using a handgun for target shooting:

(at an established range)

(or)

(in an area where the discharge of a firearm is:  
{not prohibited}

{or}

{supervised by:

(a qualified firearms instructor)

(or)

(an adult who is supervising the child while the child is at the range)))]

[or]

[for the purpose of the person under eighteen (18) years of age engaging in an organized competition involving the use of a handgun]

[or]

[for the purpose of the person under eighteen (18) years of age participating in or practicing for a performance by an organized group under [Section 501\(c\)\(3\) of the Internal Revenue Code](#) that uses handguns as a part of a performance]

[or]

[for the purpose of the person under eighteen (18) years of age (hunting) (trapping) under a valid (hunting)(trapping) license issued to the child under Ind. Code § 14-2-7]

[or]

[for the purpose of the person under eighteen (18) years of age traveling with an unloaded handgun (to) (from) (*specify Ind. Code § 35-47-10-1 activity listed above*)] [or]

[to a person under eighteen (18) years of age:

who is on real property that is under control of the person's (parent) (an adult family member of the person) (the person's legal guardian)

and

who has permission to possess a handgun from the person's (parent) (an adult

family member of the person) (the person's legal guardian)]

[or]

[to a person under eighteen (18) years of age who:  
is at (his) (her) residence

and

has permission from:

([his] [her] parent)

(or)

(an adult member of [his] [her] family)

(or)

([his] [her] legal guardian)

to possess a handgun.]

The Defendant has the burden to prove this defense by a preponderance of the evidence.

Instruction No. 7.2000. Prohibited Sale or Transfer of Handgun to Felon,  
Drug or Alcohol Abuser, or Incompetent.

Instruction No. 7.2000. Prohibited Sale or Transfer of Handgun to Felon,  
Drug or Alcohol Abuser, or Incompetent.

I.C. 35-47-2-7(b), I.C. 35-47-2-23(b).

The crime of prohibited sale or transfer of a handgun is defined by law as follows:

A person who sells, gives, or in any other manner transfers the ownership or possession of a handgun to another person who the person has reasonable cause to believe [has been convicted of a felony] [is less than twenty-three (23) years of age and has been adjudicated a delinquent child for an act that would be a felony if committed by an adult] [is a drug abuser] [is an alcohol abuser] [is mentally incompetent] commits prohibited sale or transfer of a handgun , a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. sold, gave, or in some other manner transferred ownership or possession of a handgun to (*name*)
3. when the Defendant had reasonable cause to believe that (*name*)  
[had been previously convicted of a felony]

[or]

[was less than twenty-three (23) years of age and had been adjudicated a delinquent child for (*name act*), an act that would be a felony if committed by an adult]

[or]

[was a drug abuser]

[or]

[was an alcohol abuser]

[or]

[was mentally incompetent].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of prohibited sale or transfer of [a handgun][an assault weapon], a Level 5 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.2020. Dangerous Possession of a Firearm—Non-Exempt Purpose.

## Instruction No. 7.2020. Dangerous Possession of a Firearm—Non-Exempt Purpose.

### I.C. 35–47–10–5(a).

The crime of dangerous possession of a firearm is defined by law as follows:

A person under age eighteen (18) years of age who [knowingly] [intentionally] [recklessly] possesses a firearm for any purpose other than for the purpose of attending a hunters safety course or a firearms safety course  
or

for the purpose of engaging in practice in using a firearm for target shooting:

at an established range

or

in an area where the discharge of a firearm is:  
not prohibited

or

supervised by:  
a qualified firearms instructor

or

an adult who is supervising the person under age eighteen (18) years of age  
while the person under age eighteen (18) years of age is in the area

or

for the purpose of engaging in an organized competition involving the use of a  
firearm

or

for the purpose of the person under eighteen (18) years of age participating in or  
practicing for a performance by an organized group under [Section 501\(c\)\(3\) of the  
Internal Revenue Code](#) that uses firearms as a part of a performance

or

for the purpose of the person under eighteen (18) years of age hunting or  
trapping under a valid hunting trapping license issued to the person under age  
eighteen (18) years of age under Ind. Code § 14-2-7

or

for the purpose of the person under eighteen (18) years of age traveling with an  
unloaded firearm to or from (*specify Ind. Code § 35-47-10-1 activity listed above*)

or

having the firearm when the person under eighteen (18) years of age

is on real property that is under control of the person's parent or an adult family  
member of the person or the person's legal guardian and

has permission to possess a firearm from the person's parent or an adult family  
member of the person or the person's legal guardian

or

having the firearm when the person under eighteen (18) years of age:



is at (his) (her) residence

and

has permission from:  
[his] [her] parent

or

an adult member of [his] [her] family

or

[his] [her] legal guardian

to possess a firearm

commits dangerous possession of a firearm, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. when [he] [she] was under eighteen (18) years of age
3. [knowingly] [intentionally] [recklessly]
4. possessed a firearm
5. and Defendant's possession was not:  
for the purpose of attending a hunters safety course or a firearms safety course

or

for the purpose of engaging in practice in using a firearm for target shooting:

at an established range

or

in an area where the discharge of a firearm was:

{not prohibited}

{or}

{supervised by:

a qualified firearms instructor

or

an adult who would supervise the Defendant while Defendant was at the place}

or

for the purpose of engaging in an organized competition involving the use of a firearm

or

for the purpose participating in or practicing for a performance by an organized group under [Section 501\(c\)\(3\) of the Internal Revenue Code](#) that used firearms as a part of a performance

or

for the purpose of hunting or trapping under a valid hunting or trapping license issued to Defendant under Ind. Code § 14-2-7

or

for the purpose of traveling with an unloaded firearm to from (*specify Ind. Code § 35-47-10-1 activity listed above*)

or

on real property that was under control of Defendant's parent or an adult family member of the Defendant or Defendant's legal guardian

and

with permission to possess a firearm from Defendant's parent or an adult family member of Defendant or Defendant's legal guardian

or

at Defendant's residence with permission from:

Defendant's] parent

or

an adult member of Defendant's family

or

Defendant's legal guardian

to possess a firearm.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dangerous possession of a firearm, a Class A misdemeanor.

Instruction No. 7.2040 Dangerous Possession of Firearm—Providing to Another Child.

Instruction No. 7.2040. Dangerous Possession of Firearm—Providing to Another Child.

I.C. 35–47–10–5(b).

The crime of dangerous possession of a firearm is defined by law as follows:

A child who [knowingly] [intentionally] [recklessly] provides a firearm to another child, with or without remuneration for any purpose other than described in IC 35-47-10-5-1, commits dangerous possession of a firearm, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. while under eighteen (18) years of age
3. [knowingly] [intentionally] [recklessly]
4. provided a firearm
5. to [*name other child*] when [*name other child*] was under eighteen (18) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dangerous possession of a firearm, a Class A misdemeanor.

Instruction No. 7.2060. Dangerous Control of Firearm.

Instruction No. 7.2060. Dangerous Control of Firearm.

I.C. 35–47–10–6.

The crime of dangerous control of a firearm is defined by law as follows:

An adult who [knowingly] [intentionally] [recklessly] provides a firearm to a child, with or without remuneration, for any purpose other than for the purpose of attending a hunters safety course or a firearms safety course

or

for the purpose of engaging in practice in using a firearm for target shooting:

at an established range

or

in an area where the discharge of a firearm is:  
not prohibited

or

supervised by:  
a qualified firearms instructor

or

an adult who is supervising the person under age eighteen (18) while the person under age eighteen (18) is in the area

or

for the purpose of engaging in an organized competition involving the use of a firearm

or

for the purpose of the person under eighteen (18) participating in or practicing for a performance by an organized group under [Section 501\(c\)\(3\) of the Internal Revenue Code](#) that uses firearms as a part of a performance

or

for the purpose of the person under eighteen (18) hunting or trapping under a valid hunting trapping license issued to the person under age eighteen (18) under Ind. Code § 14-2-7

or

for the purpose of the person under eighteen (18) traveling with an unloaded firearm to or from (*specify Ind. Code § 35-47-10-1 activity listed above*)

or

having the firearm when the person under eighteen (18)

is on real property that is under control of the person's parent or an adult family member of the person or the person's legal guardian

and

has permission to possess a firearm from the person's parent or an adult family member of the person or the person's legal guardian

or

having the firearm when the person under eighteen (18):

is at (his) (her) residence

and

has permission from:  
[his] [her] parent

or

an adult member of [his] [her] family

or

[his] [her] legal guardian

to possess a firearm

commits dangerous control of a firearm, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. when [he] [she] was eighteen (18) years of age or older
3. [knowingly] [intentionally] [recklessly]
4. provided a firearm to (*name child*)
5. when (*name child*) was under eighteen (18) years of age
6. for any purpose other than  
for the purpose of (*name child*)'s attending a hunters safety course or a firearms safety course

or

for the purpose of (*name child*)'s engaging in practice in using a firearm for target shooting:

at an established range

or

in an area where the discharge of a firearm was:

{not prohibited}

{or}

{supervised by:

a qualified firearms instructor

or

an adult who would supervise (*name child*) while (*name child*) was at the place}

or

for the purpose of (*name child*)'s engaging in an organized competition involving the use of a firearm

or

for the purpose of (*name child*)'s participating in or practicing for a performance by an organized group under [Section 501\(c\)\(3\) of the Internal Revenue Code](#) that used firearms as a part of a performance

or

for the purpose of (*name child*)'s hunting or trapping under a valid hunting or trapping license issued to (*name child*) under Ind. Code § 14-2-7

or

for the purpose of (*name child*)'s traveling with an unloaded firearm to or from (*specify Ind. Code § 35-47-10-1 activity listed above*)

or

for the purpose of (*name child*)'s being on real property that was under control of (*name child*)'s parent

or

an adult member of (*name child*)'s family

or

(*name child*)'s legal guardian

and

with permission to possess a firearm from (*name child*)'s parent or an adult family member of (*name child*) or (*name child*)'s legal guardian

or

for the purpose of being at (*name child*)'s residence with permission from:

(*name child*)'s parent

or

an adult member of (*name child*)'s family

or

(*name child*)'s legal guardian

to possess a firearm.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dangerous control of a firearm, a Level 5 felony.]

## Instruction No. 7.2080. Dangerous Control of a Child.

## Instruction No. 7.2080. Dangerous Control of a Child.

### I.C. 35–47–10–7.

The crime of dangerous control of a child is defined by law as follows:

A child's parent or legal guardian who [knowingly] [intentionally] [recklessly] permits the child to possess a firearm [while aware of a substantial risk that the child will use the firearm to commit a felony and failing to make reasonable efforts to prevent the use of a firearm by the child to commit a felony] [or]

[when the child has been convicted of a crime of violence or has been adjudicated as a juvenile for an offense that would constitute a crime of violence if the child were an adult] commits dangerous control of a child, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. while in the relationship of [parent] [legal guardian] to [*name child*]
3. [knowingly] [intentionally]
4. permitted [*name child*] to possess a firearm
5. when [*name child*] was under eighteen (18) years of age and

6. [when Defendant  
was aware of a substantial risk that (*name child*) would use the firearm to  
commit a felony, and  
failed to make reasonable efforts to prevent (*name child*) from using the  
firearm to commit a felony]

[or]

[when (*name child*) had been (convicted of [*specify alleged crime of violence*], which was a crime of violence)

(or)

(had been adjudicated as a delinquent for an offense which would have  
been [*specify alleged crime of violence*], which would have been a crime  
of violence if committed by an adult)].

If the State failed to prove each of these elements beyond a reasonable doubt,  
you must find the Defendant not guilty of dangerous control of a child, a Level 5  
felony.

## Instruction No. 7.2300. Obtaining a Handgun or Firearm by False Information.

## Instruction No. 7.2300. Obtaining a Handgun or Firearm by False Information.

I.C. 35-47-2-17,

I.C. 35-47-2-23(b).

The crime of obtaining a handgun by false information is defined by law as  
follows:

No person, in purchasing or otherwise securing delivery of a firearm, or in  
applying for a license to carry a handgun, shall [knowingly] [intentionally] give false  
information on a form required to [purchase or secure delivery of a firearm] [apply  
for a license to carry a handgun] [offer false evidence of identity]. A person who  
violates this section commits a Level 5 felony.



Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [in purchasing or otherwise securing delivery of a firearm]  
[or]

- [in applying for a license to carry a handgun]
3. [knowingly] [intentionally]
4. gave false information on a form required to [purchase or secure delivery of a firearm] [apply for a license to carry a handgun]  
[or]

[offered false evidence of identity].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of obtaining a handgun by false information, a Level 5 felony.

## Instruction No. 7.2320. Using or Attempting to Use False or Altered Handgun License.

## Instruction No. 7.2320. Using or Attempting to Use False or Altered Handgun License.

I.C. 35-47-2-22.

The crime of use of a false or altered handgun license is defined by law as follows:

It is unlawful for any person to use, or to attempt to use, a false, counterfeit, spurious, or altered handgun-carrying license to obtain a handgun contrary to the provisions of this chapter. A person who violates this section commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [used] [attempted to use]
3. [a false] [a counterfeit] [a spurious] [an altered] handgun-carrying license
4. to obtain a handgun
5. in a manner contrary to that provided by law
6. by [*here specify the respect in which charge alleges statutory handgun process*]

*was avoided*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the crime of using a false or altered handgun license, a Level 6 felony.

## Instruction No. 7.2340. Alteration, Removal or Obliteration of Identifying Marks of Handguns.

## Instruction No. 7.2340. Alteration, Removal or Obliteration of Identifying Marks of Handguns.

I.C. 35–47–2–18(1), I.C. 35–47–2–23(b).

The crime of alteration, removal or obliteration of identifying marks on handguns is defined by law as follows:

A person who changes, alters, removes or obliterates the name of the maker, model, manufacturer's serial number, or other mark of identification on any handgun commits obliterating identification marks on a handgun, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [changed] [altered] [removed] [obliterated]
  3. [the name of the maker]
- [or]

[the model]

[or]

[the manufacturer's serial number]

[or]

[other mark of identification]

4. on a handgun.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of alteration, removal, or obliteration of identifying marks on a handgun, a Level 5 felony.

Instruction No. 7.2360. Possession of an Altered Handgun.

Instruction No. 7.2360. Possession of an Altered Handgun.

I.C. 35–47–2–18(2).

The crime of possessing an altered handgun is defined by law as follows:

A person who possesses any handgun on which the name of the maker, model, manufacturer's serial number, or other mark of identification has been changed, altered, removed or obliterated, when the person has knowledge of the change, alteration, removal, or obliteration, commits possession of an altered handgun, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. possessed a handgun on which
  3. [the name of the maker]
- [or]

[the model]

[or]

[the manufacturer's serial number]

[or]

[other mark of identification]

4. had been [changed] [altered] [removed] [obliterated]
5. and Defendant knew of the [change] [alteration] [removal] [obliteration].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of an altered handgun, a Level 5 felony.

Instruction No. 7.2380. Improper Disposition of Confiscated Firearm.

Instruction No. 7.2380. Improper Disposition of Confiscated Firearm.

### I.C. 35-47-3-4.

The crime of improper disposition of confiscated firearms is defined by law as follows:

A person who [knowingly] [intentionally] [delivers a confiscated firearm to a person convicted of a felony offense involving use of a firearm and which felony offense is the basis of the confiscation] [delivers a confiscated firearm to another with knowledge that there is a rightful owner to whom the firearm must be returned] [fails to deliver a confiscated firearm to (the sheriff's department) (a city or town police force) (the state police department laboratory) (a state or local forensic laboratory) for disposition after a determination that the rightful owner of the firearm cannot be ascertained, commits improper disposition of confiscated firearms, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [knowingly] [intentionally]
  3. [delivered a confiscated firearm to (*name*) when the firearm had been confiscated from (*name*) and (*name*) had been convicted of a felony involving use of a firearm]
- [or]

[delivered a confiscated firearm to (*name*) knowing that another person was the rightful owner of the firearm to whom the firearm should have been returned]

[or]

[failed to deliver a confiscated firearm to the (sheriff's department) (a city or town police force) (the state police department laboratory) (a state or local forensic laboratory) for disposition after a determination had been made that the identity of the rightful owner of the firearm could not be ascertained.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of improper disposition of confiscated firearms, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.2500. Dealing in a Sawed-Off Shotgun.

Instruction No. 7.2500. Dealing in a Sawed-Off Shotgun.

### I.C. 35-47-5-4.1, I.C. 35-47-1-10.

The crime of dealing in a sawed-off shotgun is defined by law as follows:

A person who [manufactures] [causes to be manufactured] [imports into Indiana]

[keeps for sale] [offers or exposes for sale] [gives, lends, or possesses] any sawed-off shotgun commits dealing in a sawed-off shotgun, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. [manufactured]

[or]

[caused to be manufactured]

[or]

[imported into Indiana]

[or]

[kept for sale]

[or]

[offered or exposed for sale]

[or]

[gave, lent, or possessed]

3. [a shotgun with (a barrel) (barrels) less than eighteen (18) inches in length]]

[or]

[a weapon made from a shotgun (whether by alteration, modification, or otherwise) which as modified had an overall length of less than twenty-six (26) inches]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dealing in a sawed-Off shotgun, a Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.2520. Inference of Possession.

## Instruction No. 7.2520. Inference of Possession.

### I.C. 35–47–5–4.1(b).

The presence of a sawed-off shotgun in a motor vehicle may create an inference that the weapon was in possession of all persons in the vehicle. [There is no such inference if the weapon was found on or under the control of one of the occupants.] [The inference does not apply to a duly licensed driver of a motor vehicle for hire who finds the weapon in that vehicle in the proper pursuit of the

driver's trade.]

An inference never relieves the State of its burden of proof. You may accept the inference or reject it.

## Instruction No. 7.2540. Ownership or Possession of a Machine Gun.

## Instruction No. 7.2540. Ownership or Possession of a Machine Gun.

### I.C. 35–47–5–8.

The crime of ownership or possession of a machine gun is defined by law as follows:

A person who [knowingly] [intentionally] owns or possesses a machine gun commits a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. owned or possessed
4. a machine gun.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of ownership or possession of a machine gun, a Level 5 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.2560. Operation of a Loaded Machine Gun.

## Instruction No. 7.2560. Operation of a Loaded Machine Gun.

### I.C. 35–47–5–9.

The crime of operation of a loaded machine gun is defined by law as follows:

A person who operates a loaded machine gun commits a Level 4 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. operated a loaded machine gun.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of operation of a loaded machine gun, a Level 4 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.2580. Possession of a Deadly Weapon When Boarding Aircraft.

Instruction No. 7.2580. Possession of a Deadly Weapon When Boarding Aircraft.

I.C. 35-47-6-1.

The crime of a possession of a deadly weapon when boarding aircraft is defined by law as follows:

A person who [knowingly] [intentionally] boards a commercial or charter aircraft having in the person's possession [a firearm] [an explosive] [any other deadly weapon] commits a Level 5 felony. [The offense is a Level 4 felony if the person committed the offense with the intent to (disrupt the operation of the aircraft) (cause harm to another person).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. boarded a commercial or charter aircraft
4. while possessing  
[a firearm]

[or]

[an explosive]

[or]

[any deadly weapon.]

[5. (*for Level 4 felony*) and the Defendant committed the offense with the intent to (disrupt the operation of the aircraft)

(or)

(cause harm to another person).]

If the State failed to prove each of these elements beyond a reasonable doubt,

you must find the Defendant not guilty of possession of a deadly weapon when boarding aircraft, a Level 5/4 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.2700. Pointing a Firearm—Level 6 felony.

Instruction No. 7.2700. Pointing a Firearm—Level 6 felony.

I.C. 35-47-4-3.

The crime of pointing a firearm is defined by law as follows:

A person who knowingly or intentionally points a firearm at another person commits a Level 6 felony. [The offense is a Class A misdemeanor if the firearm was not loaded.]

*[(Note to Judge: give following paragraph and the other bracketed language below if evidence raises any inference that the firearm was not loaded)]* The fact that the firearm was not loaded is a mitigating factor which reduces the offense from a Level 6 felony to a Class A misdemeanor. The State has the burden to prove beyond a reasonable doubt that the firearm was loaded.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. pointed a firearm
4. at [name].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of pointing a firearm, a Level 6 felony, charged in Count \_\_\_\_\_.

[If the State did prove each of these elements beyond a reasonable doubt, but the State failed to prove beyond a reasonable doubt that the firearm was loaded, you may find the Defendant guilty of pointing a firearm, a class A misdemeanor.]

If the State did prove each of these elements beyond a reasonable doubt, and the State further proved beyond a reasonable doubt that the firearm was loaded, you may find the Defendant guilty of pointing a firearm, a Level 6 felony.]



Instruction No. 7.2740. Possession of a Firearm in Violation of I.C. 35-47-4-5.

Instruction No. 7.2740. Possession of a Firearm in Violation of I.C. 35-47-4-5.

**I.C. 35-47-4-5.**

The crime of possession of a firearm in violation of **I.C. 35-47-4-5** is defined by law as follows:

A person who knowingly or intentionally possesses a firearm after having been convicted of and sentenced for [an offense enumerated under **I.C. 35-47-4-5**] [an offense in any other jurisdiction if the elements of the other jurisdiction's crime for which the conviction was entered are substantially similar to the elements of an Indiana offense enumerated under **I.C. 35-47-4-5**] commits possession of a firearm in violation of **I.C. 35-47-4-5**, a Level 4 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
2. knowingly or intentionally;
3. possessed a firearm;
4. after the Defendant had been convicted of [the Indiana offense of *insert name of alleged prior*, which the Court instructs you is an offense enumerated under **I.C. 35-47-4-5\*\***]

[or]

[the *insert name of alleged jurisdiction crime of insert name of alleged crime*, which the Court instructs you is substantially similar to an Indiana crime enumerated under **I.C. 35-47-4-5\*\***].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of a firearm in violation of **I.C. 35-47-4-5**, a Level 4 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.2780. Unlawful use of body armor.

Instruction No. 7.2780. Unlawful use of body armor.

### IC. 35–47–5–13.

The crime of unlawful use of body armor is defined by law as follows:

A person who [knowingly] [intentionally] uses body armor, defined as bullet resistant metal or other material worn by a person to provide protection from weapons or bodily injury, while committing a felony commits unlawful use of body armor, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. used body armor
4. while committing (*state felony alleged*), a felony, defined as (*state elements of felony alleged*)

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful use of body armor, a Level 6 felony, charged in Count \_\_\_\_\_.

### Instruction No. 7.2900. Terrorism.

### Instruction No. 7.2900. Terrorism.

### I.C. 35–47–12–1.

The crime of terrorism is defined by law as follows:

A person who [knowingly] [intentionally] [possesses] [manufactures] [places] [disseminates] [detonates] a weapon of mass destruction with the intent to carry out terrorism commits terrorism, a Level 3 felony. [The offense is a Level 2 felony if the conduct results in serious bodily injury or death of any person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [possessed] [manufactured] [placed] [disseminated] [detonated]
4. a weapon of mass destruction
5. with the intent to carry out terrorism
6. (*for Level 2 felony*) and the offense resulted in (serious bodily injury) (death) to (*name*).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of terrorism, a Level 3/2 felony, charged in

Count \_\_\_\_\_.

### Instruction No. 7.2940. Agricultural Terrorism.

### Instruction No. 7.2940. Agricultural Terrorism.

#### I.C. 35–47–12–2.

The crime of agricultural terrorism is defined by law as follows:

A person who [knowingly] [intentionally] [possesses] [manufactures] [places] [disseminates] [detonates] a weapon of mass destruction with the intent to damage, destroy, sicken, or kill [crops] [livestock] of another person without the consent of the other person commits agricultural terrorism, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [possessed] [manufactured] [placed] [disseminated] [detonated]
4. a weapon of mass destruction
5. with the intent to damage, destroy, sicken, or kill
6. [crops] [livestock] of another person without the consent of the other person.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of agricultural terrorism, a Level 5 felony, charged in Count \_\_\_\_\_.

### Instruction No. 7.2980. Terroristic Mischief.

### Instruction No. 7.2980. Terroristic Mischief.

#### I.C. 35–47–12–3.

The crime of terroristic mischief is defined by law as follows:

A person who [knowingly] [intentionally] [places] [disseminates] a device or substance with the intent to cause a reasonable person to believe that the device or substance is a weapon of mass destruction commits terroristic mischief, a Level 5 felony. [The offense is a Level 4 felony, if as a result of the terroristic mischief (a physician prescribes diagnostic testing or medical treatment for any person other than the person who committed the terroristic mischief) (a person suffers serious

bodily injury).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [placed] [disseminated]
4. a device or substance
5. with the intent to cause a reasonable person to believe that the device or substance was a weapon of mass destruction
6. (for Level 4 felony) and as a result of Defendant's conduct:

[a physician prescribed (diagnostic testing) (medical treatment)

for any person other than the Defendant]

[or]

[(name), a person, suffered serious bodily injury].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of terroristic mischief, a Level 5/4felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.3100. Possession of Destructive Device.

## Instruction No. 7.3100. Possession of Destructive Device.

### I.C. 35-47.5-5-2.

The crime of unauthorized [possession] [manufacture] [transportation] [distribution] [possession with intent to distribute] [offering to distribute] a destructive device is defined by law as follows:

A person who [knowingly] [intentionally] [possesses] [manufactures] [transports] [distributes] [possesses with the intent to distribute] [offers to distribute] a destructive device, unless authorized by law, commits a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [knowingly] [intentionally]
  3. [possessed]
- [or]

[manufactured]

[or]

[transported]

[or]

[distributed]

[or]

[possessed with the intent to distribute]

[or]

[offered to distribute]

4. a destructive device.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [possession] [manufacture] [transportation] [distribution] [possession with intent to distribute] [offering to distribute] a destructive device, a Level 5 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.3120. Possession of Regulated Explosive.

## Instruction No. 7.3120. Possession of Regulated Explosive.

### I.C. 35–47.5–5–3.

The crime of [possession] [manufacture] [transportation] [distribution] [possession with intent to distribute] [offering to distribute] a regulated explosive by a felon is defined by law as follows:

A person who has been convicted of a felony by an Indiana court or a court of any other state, the United States, or another country and [knowingly] [intentionally] [possesses] [manufactures] [transports] [distributes] [possesses with intent to distribute] [offers to distribute] a regulated explosive commits a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [knowingly] [intentionally]
  3. [possessed]
- [or]

[manufactured]

[or]

[transported]

[or]

[distributed]

[or]

[possessed with the intent to distribute]

[or]

[offered to distribute]

4. a regulated explosive

5. after the Defendant had been convicted of a felony by [*specify state, federal or other country*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [possession] [manufacture] [transportation] [distribution] [possession with intent to distribute] [offering to distribute] a regulated explosive, a Level 5 felony.

## Instruction No. 7.3140. Distribution of Regulated Explosive to a Felon.

## Instruction No. 7.3140. Distribution of Regulated Explosive to a Felon.

### I.C. 35–47.5–5–4.

The crime of distribution of a regulated explosive to a felon is defined by law as follows:

A person who [knowingly] [intentionally] distributes a regulated explosive to a person who has been convicted of a felony by [an Indiana court] [a court of another state] [the United States] [another country] commits a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. [knowingly] [intentionally]

3. distributed

4. a regulated explosive

5. to [*name*], when [*name*] had been convicted of a felony by [an Indiana court] [a court of another state] [the United States] [another country].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of distribution of a regulated explosive to a felon, a Level 5 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.3160. Distribution of Explosive to a Minor.

## Instruction No. 7.3160. Distribution of Explosive to a Minor.

### I.C. 35–47.5–5–5.

The crime of distribution of an explosive to a minor is defined by law as follows:

A person who [knowingly] [intentionally] distributes or offers to distribute [a destructive device] [an explosive] [a detonator] to a person who is less than eighteen (18) years of age commits a Level 4 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [distributed] [offered to distribute]
4. [a destructive device] [an explosive] [a detonator]
5. to [*name minor*] when [*name minor*] was less than eighteen (18) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of distribution of an explosive to a minor, a Level 4 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.3180. Hoax Devices.

## Instruction No. 7.3180. Hoax Devices.

### I.C. 35–47.5–5–6.

The crime of unlawful conduct with a hoax device is defined by law as follows:

A person who [manufactures] [possesses] [transports] [distributes] [uses] a hoax device or replica with the intent to cause another to believe that the hoax device or

replica is a destructive device or detonator commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [manufactured] [possessed] [transported] [distributed] [used]
3. a hoax device or replica
4. with the intent to cause another to believe that the hoax device or replica was a destructive device or detonator.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of illegal conduct with a hoax device, a Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.3200. Hindering Destructive Device Response.

## Instruction No. 7.3200. Hindering Destructive Device Response.

### I.C. 35–47.5–5–7.

The crime of unlawful hindering or obstructing of destructive device response is defined by law as follows:

A person who [knowingly] [intentionally] hinders or obstructs a [law enforcement officer] [fire official] [emergency management official] [animal trained to detect destructive devices] [robot or mechanical device designed or used by a law enforcement officer, fire official, or emergency management official] of Indiana or of the United States in the detection, disarming, or destruction of a destructive device commits a Level 4 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [hindered] [obstructed]
4. [a law enforcement officer] [a fire official] [an emergency management official] [an animal trained to detect destructive devices] [a robot or mechanical device designed or used by a law enforcement officer, fire official, or emergency management official of Indiana or of the United States]
4. in the [detection] [disarming] [destruction] of a destructive device.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of hindering destructive device response, a Level 4 felony, charged in Count \_\_\_\_\_.



Instruction No. 7.3220. Possessing or Detonating Destructive Device.

Instruction No. 7.3220. Possessing or Detonating Destructive Device.

I.C. 35–47.5–5–8.

The crime of [possessing] [transporting] [receiving] [placing] [detonating] a destructive device or explosive is defined by law as follows:

A person who [possesses] [transports] [receives] [places] [detonates] a destructive device or explosive with the knowledge or intent that it will be used to [kill, injure, or intimidate an individual] [destroy property] commits a Level 2 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [possessed] [transported] [received] [placed] [detonated]
3. [a destructive device] [an explosive]
4. with the knowledge or intent that it would be used to [kill, injure, or intimidate an individual] [destroy property].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [possessing] [transporting] [receiving] [placing] [detonating] a destructive device or explosive, a Level 2 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.3240. Use of Overpressure Device.

Instruction No. 7.3240. Use of Overpressure Device.

I.C. 35–47.5–5–9.

The crime of use of overpressure device is defined by law as follows:

A person who [knowingly] [intentionally] uses an overpressure device commits a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. used an overpressure device.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of use of an overpressure device, a Class A misdemeanor, charged in Count \_\_\_\_\_.

### Instruction No. 7.3400. Deploying a Booby Trap.

### Instruction No. 7.3400. Deploying a Booby Trap.

#### I.C. 35–47.5–5–10.

The crime of deploying a booby trap is defined by law as follows:

A person who knowingly or intentionally deploys a booby trap commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. deployed a booby trap.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of deploying a booby trap, a Level 6 felony, charged in Count \_\_\_\_\_.

### Instruction No. 7.3500. Possession of Knife at School.

### Instruction No. 7.3500. Possession of Knife at School.

#### I.C. 35-47-5-2.5.

The crime of possession of a knife at school is defined by law as follows:

A person who recklessly, knowingly, or intentionally possesses a knife on [school property] [a school bus] [a special purpose bus] commits possession of a

knife at school, a Class B misdemeanor. [The offense is a Level 6 felony if it results in bodily injury to another person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. possessed a knife
4. on [school property] [a school bus] [a special purpose bus]
- [5. (*for Level 6 felony*) and the possession resulted in bodily injury to (*name alleged person*), another person.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of a knife at school, a Class B misdemeanor/Level 6 felony as charged in Count \_\_\_\_\_.

## Instruction No. 7.3700. Failure to Act as Required After Accident Involving Bodily Injury (Offenses Prior to Jan. 1, 2015).

## Instruction No. 7.3700. Failure to Act as Required After Accident Involving Bodily Injury (Offenses Prior to Jan. 1, 2015).

### I.C. 9-26-1-8.

The crime of failure to act as required after an accident involving bodily injury is defined by law as follows:

The driver of a vehicle who [knows (he) (she) was in an accident] [should have known that (he) (she) was in an accident] [should reasonably have anticipated that (his) (her) operation of the vehicle resulted in injury to a person] is under a duty imposed by law to do the following:

- Stop; or
- Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary; and
- Immediately return to and remain at the scene of the accident until the driver does the following:

    Gives the driver's name and address and the registration number of the vehicle the driver was driving; and

    Upon request, exhibits the driver's license of the driver to the following:

        The person struck.

    The driver or occupant of or person attending each vehicle involved in the accident; and

- Determine the need for and render reasonable assistance to each person [injured] [entrapped] in the accident, including the removal or the making of arrangements for
  - [the removal from the scene of the accident of each injured person to a physician or hospital for medical treatment] and/or
  - [the removal of each entrapped person from the vehicle in which the person is entrapped].

A person who [knowingly] [intentionally] fails to comply with this duty imposed by law after causing injury to a person commits the crime of failure to act as required after an accident involving bodily injury, a Class A misdemeanor. [The offense is a Level 6 felony if the accident involves serious bodily injury to a person.] [The offense is a Level 5 felony if the accident involves the death of a person.] [The offense is a Level 4 felony if it is committed after the person commits operating while intoxicated causing serious bodily injury.\* \* \*]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was the driver of a vehicle involved in an accident
3. and the Defendant caused injury to (*name of injured person*), and
- \*\*4. the Defendant

[knew that (he) (she) had been in an accident]

[or]

[should have known that (he) (she) had been in an accident]

[or]

[should reasonably have anticipated that (his) (her) operation of the vehicle had resulted in injury to a person] and

5. the Defendant [knowingly] [intentionally]

6. [did not stop the vehicle]

[or] [and]

[did not immediately stop the vehicle at the scene of the accident or as close to the accident as possible]

[or] [and]

[did not immediately return to and remain at the scene of the accident until (Defendant) had:

(a) given (Defendant's) name and address and the registration number of the vehicle (Defendant) had been driving, and

(b) upon request, exhibited (Defendant's) driver's license to the person struck and to the driver or occupant of or person attending each vehicle involved in the accident,

[or] [and]

[did not determine the need for and did not render reasonable assistance to each person injured in the accident, including the removal or the making of arrangements for the removal of each injured person to a physician or hospital for medical treatment]

[or] [and]

[did not determine the need for and did not render reasonable assistance to each person entrapped in the accident, including the removal or the making of arrangements for the removal of each entrapped person from the vehicle in which the person was entrapped]

[7. (for Level 6 felony) and the accident involved serious bodily injury to (name)]

[8. (for Level 5 felony) and the accident involved the death of (name)]

[9. (for Level 4 felony) and the Defendant committed the offense of failure to act as required after an accident after the Defendant had committed the offense of operating while intoxicated causing serious bodily injury\*\*\*].

If the State failed to prove each of these elements beyond a reasonable doubt, then you must find the Defendant not guilty of failure to act as required after an accident involving bodily injury, a class A misdemeanor/Level 6/5/4 felony.

## Instruction No. 7.3740. Leaving the Scene of an Accident Involving Other Persons (Offenses On or After Jan. 1, 2015).

## Instruction No. 7.3740. Leaving the Scene of an Accident Involving Other Person(s) (Offenses On or After Jan. 1, 2015).

### I.C. 9-26-1-1.1.

The crime of leaving the scene of an accident is defined by law as follows:

The operator of a motor vehicle who [knows the vehicle was involved in an accident] [should have known that the vehicle was involved in an accident] is under a legal duty to:

- immediately stop the motor vehicle at the scene of the accident, or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary; or
- remain at the scene of the accident until the operator:
  - gives the operator's name and address and the registration number of the

- vehicle the operator was driving to any person involved in the accident and
  - exhibits the operator's driver's license to any person involved in the accident or any person attending to any vehicle involved in the accident.
- [If the accident results in the injury or death of another person, the operator shall, in addition to the requirements above:
- provide reasonable assistance to each person [injured in] [entrapped by] the accident, as directed by a law enforcement officer, medical personnel, or a 911 telephone operator, and
  - Immediately give notice of the accident by the quickest means of communication to:
    - the local police department, if the accident occurs within a municipality
    - the office of the county sheriff or the nearest state police post, if the accident occurs outside a municipality.

A person who [knowingly] [intentionally] fails to comply with this legal duty commits the crime of leaving the scene of an accident, a Class B misdemeanor. [The offense is a Class A misdemeanor if it results in bodily injury to another person.] [The offense is a Level 6 felony if the accident involves serious bodily injury to a person.] [The offense is a Level 5 felony if the accident involves the death of a person.] [The offense is a Level 3 felony if it is committed during or after the commission of ([operating a vehicle with an alcohol concentration of .08 gram of alcohol per {one hundred (100) milliliters of the person's blood} {two hundred ten (210) liters of the person's breath}) (operating with a schedule I or II controlled substance or its metabolite in the person's body) (operating while intoxicated) causing (serious bodily injury) (death).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was the operator of a vehicle involved in an accident
3. the Defendant

[knew that (he) (she) had been in an accident]

[or]

[should have known that (he) (she) had been in an accident]

[or]

[(*when personal injury is alleged*) should have reasonably anticipated that the accident resulted in injury to a person]

4. and the Defendant [knowingly] [intentionally]
5. (*select items under this element below as alleged in charge*)

[did not immediately stop the (his)(her) vehicle (at the scene of the accident) (as close to the accident as possible in a manner that did not obstruct traffic more than was necessary]

[did not remain at the scene of the accident until (he) (she) had:

(given (his) (her) name, address, and the registration number of the vehicle (he) (she) had been driving to any person involved in the accident)

(exhibited (his) (her) driver's license to any person involved in the accident or any person attending to any vehicle involved in the accident)

[when the accident resulted in the (injury) (death) of another person, failed to:

(provide reasonable assistance to each person {injured in} {entrapped by} the accident, as directed by {a law enforcement officer} {medical personnel} {a 911 telephone operator} )

(immediately give notice of the accident by the quickest means of communication to:

{the local police department of the municipality in which the accident occurred}

{(when the accident did not occur in a municipality) the county sheriff's office or the nearest state police post})

[6. (for Class A misdemeanor) and the accident resulted in bodily injury to (name)]

[7. (for Level 6 felony) and the accident involved serious bodily injury to (name)]

[8. (for Level 5 felony) and the accident involved the death of (name)]

[9. (for Level 3 felony) and the Defendant committed the leaving the scene of an accident after the Defendant had committed the offense of  
([operating a vehicle with an alcohol concentration of .08 gram of alcohol per {one hundred (100) milliliters of the Defendant's blood} {two hundred ten (210) liters of the Defendant's breath})  
(or)  
(operating with a schedule I or II controlled substance or its metabolite in the Defendant's body)  
(or)  
(operating while intoxicated) causing (serious bodily injury) (death).].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of leaving the scene of an accident, a Class B/A misdemeanor/Level 6/5/3 felony.

Instruction No. 7.3800. Operating a Motorboat While Intoxicated.

Instruction No. 7.3800. Operating a Motorboat While Intoxicated.

I.C. 35-46-9-6.

I.C. 35-46-9-2.

I.C. 35-46-9-3.

The crime of operating a motorboat while intoxicated is defined by law as follows:

A person who operates a motorboat while [having an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) of at least eight-hundredths (0.08) gram of alcohol per (one hundred (100) milliliters of the person's blood) (two hundred ten (210) liters of the person's breath)] [having a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body] [intoxicated], commits a Class C misdemeanor. [The offense is a Level 6 felony if the offense resulted in serious bodily injury to another person.] [The offense is a Level 5 felony if the offense resulted in the death of another person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. operated a motorboat while
3. [having an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) of at least eight-hundredths (0.08) gram of alcohol per (one hundred (100) milliliters of the person's blood) (two hundred ten (210) liters of the person's breath)]

[or]

[[having a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body]

[or]

[intoxicated]

4. [*Level 6 felony*] and the offense resulted in serious bodily injury to (*name*)
5. [*Level 5 felony*] and the offense resulted in the death of (*name*).]

If the State failed to prove each of these elements beyond a reasonable doubt,



you must find the Defendant not guilty of operating a motorboat while intoxicated, a Class C misdemeanor/Level 6/5 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.3900. Operating a Vehicle With Eight-hundredths (0.08) Gram of Alcohol, A misdemeanor

Instruction No. 7.3900. Operating a Vehicle With Eight-hundredths (0.08) Gram of Alcohol, A misdemeanor.

I.C. 9-30-5-1(a).

I.C. 9-30-5-3 With Passenger Under 18, Level 6 felony.

I.C. 9-30-5-4 Causing Serious Bodily Injury, Level 6 felony.

I.C. 9-30-5-5 Causing Death, Level 5 felony.

The crime of operating a vehicle while intoxicated is defined by law as follows:

A person who operates a vehicle with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol \* but less than fifteen-hundredths (0.15) gram of alcohol per [one hundred (100) milliliters of the person's blood][two hundred ten liters (210) liters of the person's breath] commits a Class C misdemeanor. [The offense is a Class A misdemeanor if the person operates a vehicle in a manner that endangers a person.] [The offense is a Level 6 felony if the person is at least twenty-one (21) years of age and at least one (1) passenger in the vehicle is less than eighteen (18) years of age.] [The offense is a Level 6 felony if the person causes serious bodily injury to another person.] [The offense is a Level 5 felony if the person causes the death of another person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. operated a vehicle
3. with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per  
[one hundred (100) milliliters of Defendant's blood]

[or]

[two hundred ten (210) liters of Defendant's breath]  
[4. (for Level 6 felony) and  
the Defendant was at least twenty-one years of age and  
at least one passenger in the vehicle was less than eighteen (18) years of  
age.]  
[5. (for Level 6 felony) and Defendant's operation of the vehicle caused serious  
bodily injury to (name).]  
[6. (for Level 5 felony) and Defendant's operation of the vehicle caused the death  
of (name).]

If the State failed to prove each of these elements beyond a reasonable doubt,  
you must find the Defendant not guilty of Operating a Vehicle With Eight-  
hundredths (0.08) Gram of Alcohol, a Class C/A misdemeanor/Level 6/5 felony  
charged in Count \_\_\_\_\_.

Instruction No. 7.3940 Operating a Vehicle With Fifteen-hundredths (0.15)  
Gram of Alcohol, A misdemeanor; With Passenger Under 18, Level 6 felony

Instruction No. 7.3940. Operating a Vehicle With Fifteen-hundredths (0.15)  
Gram of Alcohol, A misdemeanor; With Passenger Under 18, Level 6  
felony.

I.C. 9-30-5-1(b).

I.C. 9-30-5-3(a)(2).

I.C. 9-30-5-5(b).

The crime of operating a vehicle with fifteen-hundredths (0.15) gram of alcohol  
is defined by law as follows:

A person who operates a vehicle with an alcohol concentration equivalent to at  
least fifteen-hundredths (0.15) gram of alcohol per [one hundred (100) milliliters of  
the person's blood][two hundred ten liters (210) liters of the person's breath]  
commits a Class A misdemeanor. [The offense is a Level 6 felony if the person is  
at least twenty-one (21) years of age and at least one (1) passenger in the vehicle  
is less than eighteen (18) years of age.] [The offense is a Level 6 felony if the  
person causes serious bodily injury to another person.] [The offense is a Level 5  
felony if the person causes the death of another person.] [The offense is a Level 4  
felony if the person is at least twenty-one and causes the death of another person.]

Before you may convict the Defendant, the State must have proved each of the

following beyond a reasonable doubt:

1. The Defendant
2. operated a vehicle
3. with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per  
[one hundred (100) milliliters of Defendant's blood]  
[or]  
[two hundred ten (210) liters of Defendant's breath]
4. (*for Level 6 felony*) when  
the Defendant was at least twenty-one years of age  
and  
at least one passenger in the vehicle was less than eighteen (18) years of age.]
5. (*for Level 6 felony*) and Defendant's operation of the vehicle caused serious bodily injury to (*name*).]
6. (*for Level 5 felony*) and Defendant's operation of the vehicle caused the death of (*name*).]
7. (*for Level 4 felony*) and at the time of the operation of the vehicle  
Defendant was twenty-one (21) or more years of age  
and  
Defendant's operation of the vehicle caused the death of (*name*).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of Operating a Vehicle With Fifteen-hundredths (0.15) Gram of Alcohol, a Class A misdemeanor/Level 6/5/4 felony charged in Count \_\_\_\_\_.

## Instruction No. 7.3980 Operating a Vehicle With Controlled Substance or Metabolite

### Instruction No. 7.3980. Operating a Vehicle With Controlled Substance or Metabolite.

I.C. 9-30-5-1(c).

I.C. 9-30-5-3(2) With Passenger Under 18, Level 6 felony.

I.C. 9-30-5-4 Causing Serious Bodily Injury, Level 6 felony.

I.C. 9-30-5-5 Causing Death, Level 5 felony.

The crime of operating a vehicle with controlled substance or metabolite is defined by law as follows:

A person who operates a vehicle with a controlled substance listed in Schedule I or II of [I.C. 35-48-2](#) or its metabolite in the person's body commits a Class C misdemeanor. [The offense is a Level 6 felony if the person is at least twenty-one (21) years of age and at least one (1) passenger in the vehicle is less than eighteen (18) years of age.] [The offense is a Level 6 felony if the person causes serious bodily injury to another person.] [The offense is a Level 5 felony if the person causes the death of another person.] [The offense is a Level 4 felony if the person is at least twenty-one and causes the death of another person.]

[It is a defense that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in [I.C. 35-48-1](#)) who acted in the course of the practitioner's professional practice.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. operated a vehicle
3. [with a controlled substance listed in Schedule I or II, namely (*state substance*)]  
[or]

[with a metabolite of a controlled substance listed in schedule I or II, namely (*state substance*)]

4. in the Defendant's body

[5. the Defendant did not consume the controlled substance under a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice.]

6. (*for Level 6 felony*) and

the Defendant was at least twenty-one years of age

and

at least one passenger in the vehicle was less than eighteen (18) years of age.]

[7. (*for Level 6 felony*) and Defendant's operation of the vehicle caused serious bodily injury to (*name*).]

[8. (*for Level 5 felony*) and Defendant's operation of the vehicle caused the death of (*name*).]

9. (*for Level 4 felony*) and at the time of the operation of the vehicle

Defendant was twenty-one (21) or more years of age

and

Defendant's operation of the vehicle caused the death of (*name*).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of operating a vehicle with controlled substance or metabolite, a Class C misdemeanor/ Level 6/5/4 felony charged in Count \_\_\_\_\_.

## Instruction No. 7.4200. Operating a Vehicle While Intoxicated.

I.C. 9-30-5-2(a) & (b).

I.C. 9-30-5-3(2) With Passenger Under 18, Level 6 felony.

I.C. 9-30-5-4 Causing Serious Bodily Injury, Level 6 felony.

I.C. 9-30-5-5 Causing Death, Level 5 felony.

The crime of operating a vehicle while intoxicated is defined by law as follows:

A person who operates a vehicle while intoxicated commits a Class C Misdemeanor. [A person who operates a vehicle while intoxicated in a manner that endangers a person commits a Class A misdemeanor.] [The offense is a Level 6 felony if the person operates a vehicle while intoxicated in a manner that endangers a person and the person is at least twenty-one (21) years of age and at least one (1) passenger in the vehicle is less than eighteen (18) years of age.] [The offense is a Level 6 felony if the person causes serious bodily injury to another person.] [The offense is a Level 5 felony if the person causes the death of another person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. operated a vehicle
3. while intoxicated
- [4. (*for class A misdemeanor*) in a manner that endangered a person]
- [5. (*for Level 6 felony*)  
in a manner that endangered a person  
and the Defendant was at least twenty-one years of age  
and  
at least one passenger in the vehicle was less than eighteen (18) years of age.]
- [6. (*for Level 6 felony*) and caused serious bodily injury to (*name*)]
- [7. (*for Level 5 felony*) and caused the death of (*name*)]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of operating a vehicle while intoxicated with passenger under 18 causing serious bodily injury causing death], a Class C/A misdemeanor/ Level 6/5/4 felony charged in Count \_\_\_\_\_.

## Instruction No. 7.4240. Prima Facie Evidence of Intoxication.

## Instruction No. 7.4240. Prima Facie Evidence of Intoxication.

By statute, intoxication may be inferred from evidence that

- (1) a sample of the Defendant's [blood] [breath] was tested, and
- (2) the test results showed there was at least eight-hundredths (.08) gram of alcohol [in one hundred (100) milliliters of the Defendant's blood] [in two hundred ten (210) liters of the Defendant's breath], and
- (3) the test was performed within three (3) hours or less of the time the Defendant operated the vehicle.

If you find items (1), (2), and (3) occurred, you may infer that the Defendant was sufficiently under the influence of alcohol to lessen Defendant's driving ability so as to be intoxicated within the meaning of the law. You are not required to make this inference. You may accept it or reject it.

## Instruction No. 7.4280. Operating a Vehicle With Eight-hundredths (0.08) Gram of Alcohol Causing Death of Law Enforcement Animal.

## Instruction No. 7.4280. Operating a Vehicle With Eight-hundredths (0.08) Gram of Alcohol Causing Death of Law Enforcement Animal.

### I.C. 9-30-5-5(c).

The crime of causing the death of a law enforcement animal while operating a motor vehicle is defined by law as follows:

A person who causes the death of a law enforcement animal while operating a vehicle with [an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per (one hundred (100) milliliters of the person's blood) (two hundred ten liters (210) liters of the person's breath)] [a controlled substance listed in schedule I or II of [IC 35-48-2](#) or its metabolite in the person's blood] commits causing the death of a law enforcement animal while operating a motor vehicle, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the

following beyond a reasonable doubt:

1. The Defendant
2. caused the death of a law enforcement animal (as defined in [IC 35-46-3-4.5](#))
3. when the Defendant was operating a motor vehicle
4. when the Defendant had an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per  
[one hundred (100) milliliters of Defendant's blood]  
[or]  
[two hundred ten (210) liters of Defendant's breath]  
[or]

when the Defendant had (*name substance*), a controlled substance listed in schedule I or II of [IC 35-48-2](#) or its metabolite, in the Defendant's blood.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of causing the death of a law enforcement animal while operating a motor vehicle, a Level 6 felony charged in Count

\_\_\_\_\_.

## Instruction No. 7.4400. Operating a Motor Vehicle While Suspended as an Habitual Traffic Violator.

## Instruction No. 7.4400. Operating a Motor Vehicle While Suspended as an Habitual Traffic Violator.

### [I.C. 9-30-10-16\(a\)\(1\).](#)

The crime of operating a motor vehicle while suspended as an habitual traffic violator is defined by law as follows:

A person who operates a motor vehicle while the person's driving privileges are validly suspended under [[IC 9-30-10](#) (current law)] [[IC 9-12-2](#) (repealed July 1, 1991)] and the person knows that the person's driving privileges are suspended commits operating a motor vehicle while suspended as an habitual traffic violator, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. operated a motor vehicle
3. when the Defendant's driving privileges were validly suspended under [[IC 9-30-](#)

10 (current law)] [IC 9-12-2 (repealed July 1, 1991)]

4. and

5. when the Defendant knew that [his] [her] driving privileges were suspended.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of operating a motor vehicle while suspended as an habitual traffic violator, a Level 6 felony.

Instruction No. 7.4500. Validly Suspended.

Instruction No. 7.4500. Validly Suspended.

I.C. 9-30-10-5.

I.C. 9-30-10-6.

I.C. 9-30-10-8.

The suspension of a person's driving privileges as a habitual traffic offender is valid if:

1. the Bureau of Motor Vehicles mailed a notice of the suspension to the person at the person's last known address; and
2. the Bureau's notice of suspension informed the person that
  - the person might be entitled to relief if the person's driving record with the Bureau contained a material error, and
  - the person could notify the Bureau that the Bureau's records for the person's driving record did contain a material error, and
  - the Bureau would reinstate the person's license if it found that a material error was made with respect to the person's driving record, and
  - the person could seek judicial review of the habitual offender suspension at which the person could not only challenge the Bureau's review of the person's driving record for errors but could also raise any legal defenses available to the suspension.

The State has the burden to prove beyond a reasonable doubt that the suspension of Defendant's driving privileges was valid.



Instruction No. 7.4600. Presumption of Knowledge of Habitual Traffic Offender Suspension.

Instruction No. 7.4600. Presumption of Knowledge of Habitual Traffic Offender Suspension.

I.C. 9-30-10-16.

- If you find that the State has proved beyond a reasonable doubt that:
1. the Bureau of Motor Vehicles served notice of the suspension of the Defendant's driving privileges on the Defendant
    - by first class mail
    - sent to the last address shown for the Defendant in the Bureau of Motor Vehicles' records, and
  2. the Bureau's notice of suspension informed the Defendant that
    - Defendant might have been entitled to relief if Defendant's driving record with the Bureau contained a material error, and
    - Defendant could notify the Bureau that the Bureau's records for Defendant's driving record did contain a material error, and
    - the Bureau would reinstate Defendant's license if it found that a material error was made with respect to Defendant's driving record, and
    - Defendant could seek judicial review of the habitual offender suspension at which the Defendant could not only challenge the Bureau's review of Defendant's driving record for errors but could also raise any legal defenses available to the suspension,

then you may find that the State has established an inference that the Defendant knew from the notice that Defendant's driving privileges had been suspended. This inference is not conclusive. You are free to accept or reject the inference in determining whether the State has proved beyond a reasonable doubt that the Defendant knew of the suspension of driving privileges when [he] [she] operated a motor vehicle as alleged.

Instruction No. 7.4700. Operating a Motor Vehicle in Violation of Restrictions Imposed for Being a Habitual Traffic Violator.

## Instruction No. 7.4700. Operating a Motor Vehicle in Violation of Restrictions Imposed for Being a Habitual Traffic Violator.

### I.C. 9-30-10-16.

The crime of operating a motor vehicle in violation of restrictions imposed for being a habitual traffic violator is defined by law as follows:

A person who operates a motor vehicle in violation of restrictions imposed under [I.C. 9-30-10, the habitual traffic violator chapter] [I.C. 9-12-2 (repealed July 1, 1991), the former habitual traffic violator chapter] and who knows of the existence of the restrictions commits operating a motor vehicle in violation of restrictions imposed for being a habitual traffic violator, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
2. operated a motor vehicle [and] [when] [while] [describe alleged violation of license restriction];
3. when the Defendant's driving privileges were subject to the restriction that [he] [she] [describe restriction];
4. and this restriction had been imposed on Defendant because Defendant had been found to be a habitual traffic violator under [I.C. 9-30-10 (current law)] [I.C. 9-12-2 (repealed July 1, 1991)];
5. and when the Defendant operated the motor vehicle the Defendant knew of the existence of the restriction on [his] [her] driving privileges that [he] [she] [describe restriction].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of operating a motor vehicle in violation of restrictions imposed for being a habitual traffic violator, a Level 6 felony.

## Instruction No. 7.4800. Operating a Motor Vehicle When Driving Privileges Have Been Revoked for Life.

## Instruction No. 7.4800. Operating a Motor Vehicle When Driving Privileges Have Been Revoked for Life.

### I.C. 9-30-10-17.

The crime of operating a motor vehicle when driving privileges have been revoked for life is defined by law as follows:

A person who operates a motor vehicle after the person's driving privileges are forfeited for life under [I.C. 9-30-10-16] and [I.C. 9-12-3-1, repealed July 1, 1991] [I.C. 9-4-13-14, repealed Apr. 1, 1984)] commits operating a motor vehicle when driving privileges have been revoked for life, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
2. operated a motor vehicle;
3. when the Defendant's driving privileges were forfeited for life under [I.C. 9-30-10-16 (current law since July 1, 1991)] [I.C. 9-12-3-1 (April 1, 1984 to July 1, 1991)] [I.C. 9-4-13-14 (repealed April 1, 1984)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of operating a motor vehicle when driving privileges have been revoked for life, a Level 5 felony.

## Instruction No. 7.5000. Furnishing Alcoholic Beverage to a Minor.

## Instruction No. 7.5000. Furnishing Alcoholic Beverage to a Minor.

### I.C. 7.1-5-7-8.

The crime of furnishing an alcoholic beverage to a minor is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] sells, barter, exchanges, provides, or furnishes an alcoholic beverage to a minor commits furnishing an alcoholic beverage to a minor, a Class B misdemeanor. [The offense is a Level 6 felony if the (consumption) (ingestion) (use) of the alcoholic beverage is the proximate cause of the (serious bodily injury) (death) of any person.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. [sold] [bartered] [exchanged] [provided] [furnished]
4. an alcoholic beverage
5. to [name person]
6. when [name person] was a minor
7. (for Level 6 felony) and the (consumption) (ingestion) (use) of the alcoholic beverage was the proximate cause of (serious bodily injury) (death) to (name

person).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of furnishing an alcoholic beverage to a minor, a Class B misdemeanor/Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.5200. Neglect or Abandonment of an Animal.

## Instruction No. 7.5200. Neglect or Abandonment of an Animal.

I.C. 35-46-3-7,

The crime of [abandonment] [neglect] of an animal is defined by law as follows:

A person who has a vertebrate animal in the person's custody and [recklessly] [knowingly] [intentionally] [abandons] [neglects] the animal, commits [abandonment] [neglect] of an animal, a Class A misdemeanor. [It is a defense that the person reasonably believed that the vertebrate animal was capable of surviving on its own.]

[(*When defense is raised*) The Defendant has raised the reasonable belief of survival defense. To prove this defense, the Defendant has the burden to prove by the greater weight of the evidence that the Defendant reasonably believed the animal was capable of surviving on its own.]

Before you may convict the Defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The Defendant
2. had (*describe animal as alleged in charging instrument*), which was a vertebrate animal, in the Defendant's custody, and
3. [recklessly] [knowingly] [intentionally]4. [abandoned] [neglected] the animal.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [abandonment] [neglect] of an animal, a Class A misdemeanor charged in Count \_\_\_\_\_.

[(*When defense is raised*) If you find that the State proved each of the elements beyond a reasonable doubt, but you also find that Defendant proved that it was more likely than not that the Defendant reasonably believed the animal was capable of surviving on its own, you must find the Defendant not guilty of [abandonment] [neglect] of an animal, a Class A misdemeanor charged in Count \_\_\_\_\_.]

Instruction No. 7.5300. Purchase or Possession of Animals for Fighting Contests.

Instruction No. 7.5300. Purchase or Possession of Animals for Fighting Contests.

I.C. 35-46-3-8.

The crime of [purchase] [possession] of animals for fighting contests is defined by law as follows:

A person who [knowingly] [intentionally] [purchases] [possesses] an animal for the purpose of using the animal in an animal fighting contest commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [purchased]
- [or]

[possessed]

4. (*describe animal as alleged in charging instrument*), an animal
5. for the purpose of using the animal in an animal fighting contest.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [purchase] [possession] of animals for fighting contests, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.5340. Possession of Animal Fighting Paraphernalia.

Instruction No. 7.5340. Possession of Animal Fighting Paraphernalia.

I.C. 35-46-3-8.5.

The crime of possession of animal fighting paraphernalia is defined by law as follows:

A person who [knowingly] [intentionally] possesses animal fighting paraphernalia with the intent to commit a violation of IC 35-46-3-9, [(promoting) (staging) an animal fighting contest] [using an animal in a fighting contest] [attending an animal fighting contest having an animal in the person's possession], commits possession of animal fighting paraphernalia, a Class B misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. possessed
4. (*describe alleged paraphernalia*), which was animal fighting paraphernalia
5. with the intent to commit a violation of IC 35-46-3-9 by  
[promoting or staging an animal fighting contest]

[or]

[using an animal in a fighting contest]

[or]

[attending an animal fighting contest having an animal in the Defendant's possession.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of animal fighting paraphernalia, a Class B misdemeanor, charged in Count \_\_\_\_\_.

Instruction No. 7.5380. Promoting Animal Fighting Contest. Using Animal at Contest. Attending Contest With Animal.

Instruction No. 7.5380. Promoting Animal Fighting Contest. Using Animal at Contest. Attending Contest With Animal.

#### IC. 35-46-3-9.

The crime of [(promoting) (staging) an animal fighting contest] [using an animal in a fighting contest] [attending an animal fighting contest having an animal] is defined by law as follows:

A person who [knowingly] [intentionally] [(promotes) (stages) an animal fighting contest] [uses an animal in a fighting contest] [attends an animal fighting contest having an animal in the person's possession] commits [promoting or staging an animal fighting contest] [using an animal in a fighting contest] [attending an animal

fighting contest having an animal], a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [knowingly] [intentionally]
  3. [(promoted) (staged) an animal fighting contest]
- [or]

[used an animal in a fighting contest]

[or]

[attended an animal fighting contest having an animal in the Defendant's possession].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [(promoting) (staging) an animal fighting contest] [using an animal in a fighting contest] [attending an animal fighting contest having an animal], a Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.5420. Promoting Animal Fighting Contest.

## Instruction No. 7.5420. Promoting Animal Fighting Contest.

### I.C. 35-46-3-9.5.

The crime of promoting an animal fighting contest is defined by law as follows:

A person who [knowingly] [intentionally] possesses animal fighting paraphernalia with the intent to commit a violation of [IC 35-46-3-9](#), by [promoting or staging an animal fighting contest] [using an animal in a fighting contest] [attending an animal fighting contest having an animal in the person's possession], and [possesses] [harbors] [trains] a [dog] [cock] [fowl] [bird] bearing [a scar] [a wound] [an injury] consistent with [participation in] [training for] an animal fighting contest, commits promoting an animal fighting contest, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. possessed (*describe alleged paraphernalia*), which was animal fighting paraphernalia
4. with the intent to commit a violation of [IC 35-46-3-9](#) by

[(promoting) (staging) an animal fighting contest]

[or]

[using an animal in a fighting contest]

[or]

[attending an animal fighting contest while having an animal in the

Defendant's possession]

5. while the Defendant [possessed] [harbored] [trained] a  
[dog]

[or]

[cock]

[or]

[fowl]

[or]

[bird]

which bore a

[scar]

[or]

[wound]

[or]

[injury]

that was consistent with [participating in] [training for] an animal fighting contest.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of promoting an animal fighting contest, a Level 6 felony, charged in Count \_\_\_\_\_.



Instruction No. 7.5460. Attending Animal Fighting Contest.

Instruction No. 7.5460. Attending Animal Fighting Contest.

I.C. 35-46-3-10.

The crime of attending an animal fighting contest is defined by law as follows:

A person who [knowingly] [intentionally] attends an animal fighting contest commits attending an animal fighting contest, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. attended a fighting contest involving animals.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of attending an animal fighting contest, a Class A misdemeanor, charged in Count \_\_\_\_\_.

Instruction No. 7.5600. Mistreatment or Interference With Law Enforcement Animal.

Instruction No. 7.5600. Mistreatment or Interference With Law Enforcement Animal.

I.C. 35-46-3-11.

The crime of [mistreating] [interfering with] a law enforcement animal is defined by law as follows:

A person who [knowingly] [intentionally] [(strikes) (torments) (injures) (otherwise mistreats) a law enforcement animal] [interferes with the actions of a law enforcement animal while the animal is engaged in assisting a law enforcement

officer in the performance of the officer's duties] commits [mistreating] [interfering with] a law enforcement animal, a Class A misdemeanor. [The offense is a Level 6 felony if it results in (serious permanent disfigurement) (unconsciousness) (permanent or protracted loss or impairment of the function of a bodily member or organ) (death) of the law enforcement animal.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. (struck)

[or]

(tormented)

[or]

(injured)

[or]

(mistreated)

(*describe alleged law enforcement animal*), which was a law enforcement animal]

[or]

[3. interfered with the actions of (*describe alleged law enforcement animal*), a law enforcement animal, while the animal was engaged in assisting (*name alleged law enforcement officer*), who was a law enforcement officer, while (*name alleged law enforcement officer*) was engaged in the performance of the officer's duties]

[4. (*for Level 6 felony*) and the Defendant's act resulted in (serious permanent disfigurement) (unconsciousness) (permanent or protracted loss or impairment of the function of a bodily member or organ) (death) of (*describe alleged law enforcement animal*), a law enforcement animal].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [mistreating] [interfering with] a law enforcement animal, a Class A misdemeanor/Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.5640. Mistreatment or Interference With Search and Rescue Dog.

## Instruction No. 7.5640. Mistreatment or Interference With Search and Rescue Dog.

I.C. 35-46-3-11.3

The crime of [mistreating] [interfering with] a search and rescue dog is defined by law as follows:

A person who [knowingly] [intentionally] [interferes with the actions of a search and rescue dog while the dog is performing or attempting to perform a search and rescue task] [(strikes) (torments) (injures) (otherwise mistreats) a search and rescue dog] commits [mistreating] [interfering with] a search and rescue dog, a Class A misdemeanor. [The offense is a Level 6 felony if the act results in (serious permanent disfigurement) (unconsciousness) (permanent or protracted loss or impairment of the function of a bodily member or organ) (death) of the search and rescue dog.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
- [3. interfered with the actions of (*describe alleged search and rescue dog*), a search and rescue dog, while the animal was performing or attempting to perform a search and rescue task]

[or]

[3. (struck)

(or)

(tormented)

(or)

(injured)

(or)

(mistreated)

(*describe alleged search and rescue dog*), which was a search and rescue dog]

[4. (*for Level 6 felony*) and the Defendant's act resulted in (serious permanent disfigurement) (unconsciousness) (permanent or protracted loss or impairment of the function of a bodily member or organ) (death) of (*describe alleged search and rescue dog*), a search and rescue dog].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [mistreating] [interfering with] a search and rescue dog, a Class A misdemeanor/Level 6 felony, charged in Count

\_\_\_\_\_.

Instruction No. 7.5680. Interference With or Mistreatment of Service Animal.

Instruction No. 7.5680. Interference With or Mistreatment of Service Animal.

I.C. 35-46-3-11.5.

The crime of [mistreating] [interfering with] a service animal is defined by law as follows:

A person who [knowingly] [intentionally] [interferes with the actions of a service animal] [(strikes) (torments) (injures) (otherwise mistreats) a service animal] while the service animal is engaged in assisting a person who is impaired by [blindness or any other visual impairment] [deafness or any other aural impairment] [a physical disability] [a medical condition] commits [mistreating] [interfering with] a service animal, a Class A misdemeanor. [The offense is a Level 6 felony if the act results in (serious permanent disfigurement) (unconsciousness) (permanent or protracted loss or impairment of the function of a bodily member or organ) (death) of the service animal.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
- [3. interfered with the actions of (*describe alleged service animal*), which was a service animal]

[or]

[3. (struck)

[or]

(tormented)

[or]

(injured)

[or]

(mistreated) (*describe alleged service animal*), which was a service animal]

[4. while the animal was engaged in assisting (*name alleged impaired person*), a person impaired by:

[blindness or any other visual impairment]

[deafness or any other aural impairment]

[a physical disability]

[a medical condition]

[5. (*for Level 6 felony*) and the Defendant's act resulted in (serious permanent disfigurement) (unconsciousness) (permanent or protracted loss or impairment of the function of a bodily member or organ) (death) of (*describe alleged service animal*), a service animal].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [mistreating] [interfering with] a service animal, a Class A misdemeanor/Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.5800. Beating a Vertebrate Animal.

## Instruction No. 7.5800. Beating a Vertebrate Animal.

### I.C. 35-46-3-12(b).

The crime of beating a vertebrate animal is defined by law as follows:

A person who [knowingly] [intentionally] beats a vertebrate animal commits a Class A misdemeanor. [The offense is a Level 6 felony if the person committed it with the intent to (threaten) (intimidate) (coerce) (harass) (terrorize) a (family) (household) member.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. [knowingly] [intentionally]
  3. beat
  4. (*describe animal as alleged in charging instrument*), a vertebrate animal.
- [5. (*for Level 6 felony*) and the Defendant committed elements 1, 2, 3, and 4 above with the intent to (threaten) (intimidate) (coerce) (harass) (terrorize) (*name alleged family or household member*), who was a family or household member of the Defendant].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of beating a vertebrate animal, a Class A misdemeanor/Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.5840. Torture or Mutilation of a Vertebrate Animal.

Instruction No. 7.5840. Torture or Mutilation of a Vertebrate Animal.

I.C. 35-46-3-12(c).

The crime of [torture] [mutilation] of a vertebrate animal is defined by law as follows:

A person who [knowingly] [intentionally] [tortures] [mutilates] a vertebrate animal commits torturing or mutilating a vertebrate animal, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [tortured]

[or]

[mutilated]

4. (*describe animal as alleged in charging instrument*), which was a vertebrate animal.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [torture] [mutilation] of a vertebrate animal, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.6100. Killing a Domestic Animal.

Instruction No. 7.6100. Killing a Domestic Animal.

I.C. 35-46-3-12(d).

The crime of killing a domestic animal is defined by law as follows:

A person who [knowingly] [intentionally] kills a domestic animal without the consent of the owner of the domestic animal commits killing a domestic animal, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. killed
4. (*describe animal as alleged in charging instrument*), which was a domestic animal
5. without the consent of (*name individual*)
6. when (*name individual*) was the owner of the domestic animal.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of killing a domestic animal, a Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.6140. Defense of Reasonable Conduct Toward Animal.

## Instruction No. 7.6140. Defense of Reasonable Conduct Toward Animal.

### I.C. 35-46-3-12(e).

It is a defense that the accused person:

[reasonably believed the conduct was necessary to (prevent injury to the accused person or another person) (protect the property of the accused person from destruction or substantial damage) )prevent a seriously injured vertebrate animal from prolonged suffering]]

[or]

[engaged in a reasonable and recognized act of (training) (handling) (disciplining) the vertebrate animal.]

The Defendant has the burden to prove this defense the greater weight of the evidence.

You may not convict the Defendant if the Defendant proves by the greater weight of the evidence:

1. The Defendant
2. reasonably believed the Defendant's conduct was necessary to (prevent injury to {Defendant} {*another person*})

(or)

(protect the Defendant's property from {destruction} {substantial damage})

(or)

(prevent a seriously injured {*describe animal as alleged in charging instrument*}, a vertebrate animal, from prolonged suffering)]  
[or]  
[2. was engaged in a reasonable and recognized act of (training) (handling) (disciplining) the (*describe animal as alleged in charging instrument*)].

If the Defendant proved all these aspects of the defense by the greater weight of the evidence, you cannot find the Defendant guilty of (*insert name of offense*), in Count (*insert count number*).

## Instruction No. 7.6180. Domestic Violence Animal Cruelty.

## Instruction No. 7.6180. Domestic Violence Animal Cruelty.

### I.C. 35-46-3-12.5.

The crime of domestic violence animal cruelty is defined by law as follows:

A person who [knowingly] [intentionally] kills a vertebrate animal with the intent to [threaten] [intimidate] [coerce] [harass] [terrorize] a family or household member commits domestic violence animal cruelty, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. killed (*describe animal as alleged in charging instrument*), a vertebrate animal
4. with the intent to  
[threaten]  
[or]  
[intimidate]  
[or]  
[coerce]  
[or]  
[harass]  
[or]  
[terrorize]

(*name alleged person*), who was at the time a (family) (household) member of the Defendant.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of domestic violence animal cruelty, a Level 6 felony, charged in Count \_\_\_\_\_.



Instruction No. 7.6300. Bestiality.

Instruction No. 7.6300. Bestiality.

I.C. 35-46-3-14.

The crime of bestiality is defined by law as follows:

A person who [knowingly] [intentionally] performs an act involving [the sex organ of a person and the (mouth) (anus) of an animal] [the sex organ of an animal and the (mouth) (anus) of a person] [the penetration of the human female sex organ by an animal's sex organ] [any penetration of the animal's sex organ by the human male sex organ] commits bestiality, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. performed an act involving [the sex organ of a person and the (mouth) (anus) of an animal]

[or]

[the sex organ of an animal and the (mouth) (anus) of a person]

[or]

[the penetration of the human female sex organ by an animal's sex organ]

[or]

[any penetration of the animal's sex organ by the human male sex organ.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of bestiality, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.6500. Unlawful Transfer of Human Tissue.

Instruction No. 7.6500. Unlawful Transfer of Human Tissue.

I.C. 35-46-5-1.

The crime of unlawful transfer of human tissue is defined by law as follows:

A person who [knowingly] [intentionally] [(acquires) (receives) (sells) (transfers) in exchange for an item of value] [a human organ for use in human organ transplantation] [fetal tissue] commits unlawful transfer of human tissue, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [(acquired) (received) (sold) (transferred) in exchange for an item of value]
4. [a human organ for use in human organ transplantation]

[or]

[fetal tissue.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful transfer of human tissue, a Level 5 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.6700. Unlawful Cloning.

Instruction No. 7.6700. Unlawful Cloning.

I.C. 35-46-5-2.

The crime of unlawful cloning is defined by law as follows:

A person who [knowingly] [intentionally] [participates in cloning [implants or attempts to implant a cloned human embryo into a uterine environment to initiate a pregnancy] [ships or receives a cloned human embryo] commits unlawful participation in cloning, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [participated in cloning]

[or]

[implanted or attempted to implant a cloned human embryo into a uterine environment to initiate a pregnancy]

[or]

[shipped or received a cloned human embryo.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful cloning, a Level 6 felony, charged in Count \_\_\_\_\_.

## Instruction No. 7.6800. Unlawful Transfer of Human Organism.

## Instruction No. 7.6800. Unlawful Transfer of Human Organism.

### I.C. 35-46-5-3(a), (b), and (c).

The crime of unlawful transfer of human organism is defined by law as follows:

A person who [knowingly] [intentionally] [(purchases) (sells) a human (ovum) (zygote) (embryo) (fetus)] commits unlawful transfer of a human organism, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [(purchased) (sold) a human (ovum)

(or)

(zygote)

(or)

(embryo)

(or)

(fetus)

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful transfer of a human organism, a Level 5 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.6900. Unlawful Use of Human Embryo.

Instruction No. 7.6900. Unlawful Use of Human Embryo.

I.C. 35-46-5-3.

The crime of unlawful use of a human embryo is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] uses a human embryo created with an ovum provided to a qualified third party under IC 35-46-5-3 for purposes of embryonic stem cell research commits unlawful use of a human embryo, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. used a human embryo created with an ovum that was provided to (*name of qualified third party*), a qualified third party for purposes of embryonic stem cell research

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful use of a human embryo, a Level 5 felony, charged in Count \_\_\_\_\_.

Instruction No. 7.7200. Using or Distributing Nitrous Oxide.

Instruction No. 7.7200. Using or Distributing Nitrous Oxide.

I.C. 35-46-6-3.

The crime of using or distributing nitrous oxide is defined by law as follows:

A person who [knowingly] [intentionally] [uses] [distributes] nitrous oxide to cause a condition of [intoxication] [euphoria] [excitement] [exhilaration] [stupefaction] [dulling of the sense of another person], commits using or distributing nitrous oxide, a Class B misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [used] [distributed] nitrous oxide
4. to cause a condition of [(intoxication) (euphoria) (excitement) (exhilaration) (stupefaction) (dulling of the senses of another person).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of using or distributing nitrous oxide, a Class B misdemeanor, charged in Count \_\_\_\_\_.

Instruction No. 7.7400. Unlawful Photography and Surveillance on Private Property.

Instruction No. 7.7400. Unlawful Photography and Surveillance on Private Property.

I.C. 35-46-8.5-1.

The crime of unlawful photography and surveillance on private property is defined by law as follows:

A person who [knowingly] [intentionally] places a [camera] [electronic surveillance equipment] that records [images] [data] of any kind while unattended on the private property of another person without the consent of the [owner] [tenant] of the private property, commits unlawful photography and surveillance on private property, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. placed a [camera] [electronic surveillance equipment] that records (images) (data) of any kind] while unattended
4. on the private property of \_\_\_\_\_ (*name of property owner*)
5. without the consent of \_\_\_\_\_ (*name*). the [owner] [tenant] of the private property.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful photography and surveillance on private property, a Class A misdemeanor, charged in Count \_\_\_\_\_.

## CHAPTER 8 CONTROLLED SUBSTANCES

### SYNOPSIS

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**Instruction No. 8.0100. Dealing in Cocaine or a Narcotic Drug.**

**Instruction No. 8.0100. Dealing in Cocaine or a Narcotic Drug.**

### I.C. 35-48-4-1.

The crime of dealing in [cocaine] [a narcotic drug] is defined by law as follows:

A person who {knowingly or intentionally [manufactures] [finances the manufacture of] [delivers] [finances the delivery of]} {possesses with intent to [manufacture] [finance the manufacture of] [deliver] [finance the delivery of]} [cocaine, pure or adulterated] [a narcotic drug, pure or adulterated, classified in schedule I or II], commits dealing in [cocaine] [a narcotic drug], a Level 5 felony.

[The offense is a Level 4 felony if the amount of the drug involved is (at least one [1] gram but less than five [5]) grams) (less than one [1] gram and [*insert enhancing circumstance alleged – see statute*]).]

[The offense is a Level 3 felony if the amount of the drug involved is (at least five [5] grams but less than ten [10] grams) (at least one [1] gram but less than five [5] grams and [*insert enhancing circumstance alleged – see statute*]).]

[The offense is a Level 2 felony if the amount of the drug involved is (at least ten [10] grams) ((is at least five [5] grams but less than ten [10] grams and [*insert enhancing circumstance alleged – see statute*]).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

{2. knowingly or intentionally

[manufactured]

[or]

[financed the manufacture of]

[or]

[delivered]

[or]

[financed the delivery of]}

{or}

{2. [possessed, with intent to manufacture or deliver]

[or]

[possessed with intent to finance the manufacture or delivery of]}

3. [cocaine, pure or adulterated]



[or]

[(*name drug*), a narcotic drug, pure or adulterated, which the Court instructs you is classified by statute as a controlled substance in schedule I or II].

[4. and

(*for Level 4 felony*) {the amount of the drug involved was  
(at least one [1] gram but less than five [5]) grams)  
(or)  
(less than one [1] gram and [*insert enhancing circumstance alleged – see statute*]).}

(*for Level 3 felony*) {the amount of the drug involved was  
(at least five [5] grams but less than ten [10] grams)  
(or)  
(at least one [1] gram but less than five [5] grams and [*insert enhancing circumstance alleged – see statute*]).}

(*for Level 2 felony*) {the amount of the drug involved was  
(at least ten [10] grams)  
(or)  
(was at least five [5] grams but less than ten [10] grams and [*insert enhancing circumstance alleged – see statute*]).}

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dealing in [cocaine] [a narcotic drug], a Level 5/4/3/2 felony, as charged in Count \_\_\_\_\_.

## **Instruction No. 8.0300. Dealing in Methamphetamine.**

### **Instruction No. 8.0300. Dealing in Methamphetamine.**

#### **I.C. 35-48-4-1.1.**

The crime of dealing in methamphetamine is defined by law as follows:

A person who {knowingly or intentionally [manufactures] [finances the manufacture of] [delivers] [finances the delivery of]} {possesses with intent to [manufacture] [finance the manufacture of] [deliver] [finance the delivery of]} methamphetamine commits dealing in methamphetamine, a Level 5 felony.

[The offense is a Level 4 felony if the amount of the drug involved is (at least one [1] gram but less than five [5]) grams) (less than one [1] gram and [*insert enhancing circumstance alleged –*

see statute)).]

[The offense is a Level 3 felony if the amount of the drug involved is (at least five [5] grams but less than ten [10] grams) (at least one [1] gram but less than five [5] grams and [*insert enhancing circumstance alleged – see statute*)).]

[The offense is a Level 2 felony if (the amount of the drug involved is at least ten [10] grams) (the amount of the drug involved is at least five [5] grams but less than ten [10] grams and [*insert enhancing circumstance alleged – see statute*]) (the person is manufacturing the drug and the manufacture results in an explosion causing serious bodily injury to a person other than the manufacturer).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

{2. knowingly or intentionally

[manufactured]

[or]

[financed the manufacture of]

[or]

[delivered]

[or]

[financed the delivery of]}

{or}

{2. [possessed, with intent to manufacture or deliver]

[or]

[possessed with intent to finance the manufacture or delivery of]}

3. methamphetamine

[4. and

(for Level 4 felony) {the amount of the drug involved was  
(at least one [1] gram but less than five [5] grams)  
(or)

(less than one [1] gram and [*insert enhancing circumstance alleged – see statute*]).}

(for Level 3 felony) {the amount of the drug involved was  
(at least five [5] grams but less than ten [10] grams)  
(or)

(at least one [1] gram but less than five [5] grams and [*insert*

*enhancing circumstance alleged – see statute*)).}

(for Level 2 felony)

{(the amount of the drug involved was at least ten [10] grams)

(or)

(the amount of the drug involved was at least five [5] grams but less than ten [10] grams and [*insert enhancing circumstance alleged – see statute*] )

(or)

(the Defendant was manufacturing the drug and the manufacture resulted in an explosion which caused serious bodily injury to a person other than the manufacturer).}

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dealing in methamphetamine, a Level 5/4/3/2 felony, as charged in Count \_\_\_\_\_.

### **Instruction No. 8.0800. Dealing in a Schedule I, II, or III Controlled Substance.**

### **Instruction No. 8.0800. Dealing in a Schedule I, II, or III Controlled Substance.**

#### **I.C. 35-48-4-2.**

The crime of dealing in a schedule I, II, or III controlled substance is defined by law as follows:

A person who {knowingly or intentionally [manufactures] [finances the manufacture of] [delivers] [finances the delivery of]} {possesses with intent to [manufacture] [finance the manufacture of] [deliver] [finance the delivery of]} a controlled substance, pure or adulterated, classified in schedule I, II, or III, except marijuana, hash oil, hashish, salvia, or a synthetic drug, commits dealing in schedule I, II, or III controlled substance, a Level 6 felony.

[The offense is a Level 5 felony if the amount of the drug involved is (at least one [1] gram but less than five [5] grams) (less than one [1] gram and [*insert enhancing circumstance alleged – see statute*]).]

[The offense is a Level 4 felony if the amount of the drug involved is (at least five [5] grams but less than ten [10] grams) (at least one [1] gram but less than five [5] grams and [*insert enhancing circumstance alleged – see statute*]).]

[The offense is a Level 3 felony if the amount of the drug involved is (at least ten [10] grams but less than twenty-eight [28] grams) (at least five [5] grams but less than ten [10] grams and [*insert enhancing circumstance alleged – see statute*]).]

[The offense is a Level 2 felony if the amount of the drug involved is (at least twenty-eight [28] grams) (at least ten [10] grams but less than twenty-eight [28] grams and [*insert enhancing*

*circumstance alleged – see statute*)).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

{2. knowingly or intentionally

[manufactured]

[or]

[financed the manufacture of]

[or]

[delivered]

[or]

[financed the delivery of]}

{or}

{2. [possessed, with intent to manufacture or deliver]

[or]

[possessed with intent to finance the manufacture or delivery of]}

3. a schedule I, II, or III controlled substance

[4. and

(for Level 5 felony) {the amount of the drug involved was  
(at least one [1] gram but less than five [5]) grams)

(or)

(less than one [1] gram and [*insert enhancing circumstance  
alleged – see statute*]).}

(for Level 4 felony) {the amount of the drug involved was  
(at least five [5] grams but less than ten [10] grams)

(or)

(at least one [1] gram but less than five [5] grams and [*insert  
enhancing circumstance alleged – see statute*]).}

(for Level 3 felony) {(the amount of the drug involved was  
(at least ten [10] grams but less than twenty-eight [28] grams)

(or)

(at least five [5] grams but less than ten [10] grams and [*insert  
enhancing circumstance alleged – see statute*]).}

(for Level 2 felony){the amount of the drug involved was  
(at least twenty-eight [28] grams)

(or)  
(at least ten [10] grams but less than twenty-eight [28] grams  
and [*insert enhancing circumstance alleged – see statute*]).}

If the State failed to prove each of these elements beyond a reasonable doubt,  
you must find the Defendant not guilty of dealing in a schedule I, II, or III controlled  
substance, a Level 5/4/3/2 felony, as charged in Count \_\_\_\_\_.

Instruction No. 8.1000. Dealing in a Schedule IV Controlled Substance.

Instruction No. 8.1000. Dealing in a Schedule IV Controlled Substance.

### I.C. 35-48-4-3.

The crime of dealing in a schedule IV controlled substance is defined by law as  
follows defined by law as follows:

A person who {knowingly or intentionally [manufactures] [finances the manufacture of]  
[delivers] [finances the delivery of]} {possesses with intent to [manufacture] [deliver] } a  
controlled substance, pure or adulterated, classified in schedule IV commits dealing in a  
schedule IV controlled substance, a Class A misdemeanor.

[The offense is a Level 6 felony if the amount of the drug involved is (at least one [1] gram but  
less than five [5] grams) (less than one [1] gram and [*insert enhancing circumstance alleged –  
see statute*]).]

[The offense is a Level 5 felony if the amount of the drug involved is (at least five [5] grams but  
less than ten [10] grams) (at least one [1] gram but less than five [5] grams and [*insert  
enhancing circumstance alleged – see statute*]).]

[The offense is a Level 4 felony if the amount of the drug involved is (at least ten [10] grams  
but less than twenty-eight [28] grams) (at least five [5] grams but less than ten [10] grams and  
[*insert enhancing circumstance alleged – see statute*]).]

[The offense is a Level 3 felony if the amount of the drug involved is (at least twenty-eight [28]  
grams) (at least ten [10] grams but less than twenty-eight [28] grams and [*insert enhancing  
circumstance alleged – see statute*]).]

Before you may convict the Defendant, the State must have proved each of the  
following beyond a reasonable doubt:

1. The Defendant

{2. knowingly or intentionally

[manufactured]

[or]

[financed the manufacture of]

[or]

[delivered]

[or]

[financed the delivery of]]

{or}

{2. [possessed, with intent to manufacture or deliver]}

3. a schedule IV controlled substance

[4. and

(for Level 6 felony) {the amount of the drug involved was  
(at least one [1] gram but less than five [5]) grams)

(or)

(less than one [1] gram and [*insert enhancing circumstance  
alleged – see statute*]).}

(for Level 5 felony) {the amount of the drug involved was  
(at least five [5] grams but less than ten [10] grams)

(or)

(at least one [1] gram but less than five [5] grams and [*insert  
enhancing circumstance alleged – see statute*]).}

(for Level 4 felony) {(the amount of the drug involved was  
(at least ten [10] grams but less than twenty-eight [28] grams)

(or)

(at least five [5] grams but less than ten [10] grams and [*insert  
enhancing circumstance alleged – see statute*]).}

(for Level 3 felony){the amount of the drug involved was  
(at least twenty-eight [28] grams)

(or)

(at least ten [10] grams but less than twenty-eight [28] grams  
and [*insert enhancing circumstance alleged – see statute*]).}

If the State failed to prove each of these elements beyond a reasonable doubt,  
you must find the Defendant not guilty of dealing in a schedule IV controlled substance,  
a (Class A misdemeanor) (Level 6/5/4/3) felony, as charged in Count

\_\_\_\_\_.

**Instruction No. 8.1200. Dealing in a Schedule V Controlled Substance.**

**Instruction No. 8.1200. Dealing in a Schedule V Controlled Substance.**

#### I.C. 35-48-4-4.

The crime of dealing in a schedule V controlled substance is defined by law as follows:

A person who {knowingly or intentionally [manufactures] [finances the manufacture of] [delivers] [finances the delivery of]} {possesses with intent to [manufacture] [finance the manufacture of] [deliver] [finance the delivery of]} a controlled substance, pure or adulterated, classified in schedule V commits dealing in a schedule V controlled substance, a Class B misdemeanor.

[The offense is a Class A misdemeanor if the amount of the drug involved is (at least one [1] gram but less than five [5] grams) (less than one [1] gram and [*insert enhancing circumstance alleged – see statute*]).]

[The offense is a Level 6 felony if the amount of the drug involved is (at least five [5] grams but less than ten [10] grams) (at least one [1] gram but less than five [5] grams and [*insert enhancing circumstance alleged – see statute*]).]

[The offense is a Level 5 felony if the amount of the drug involved is (at least ten [10] grams but less than twenty-eight [28] grams) (at least five [5] grams but less than ten [10] grams and [*insert enhancing circumstance alleged – see statute*]).]

[The offense is a Level 4 felony if the amount of the drug involved is (at least twenty-eight [28] grams) (at least ten [10] grams but less than twenty-eight [28] grams and [*insert enhancing circumstance alleged – see statute*]).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

{2. knowingly or intentionally

[manufactured]

[or]

[financed the manufacture of]

[or]

[delivered]

[or]

[financed the delivery of]}

{or}

{2. [possessed, with intent to manufacture or deliver]

[or]

[possessed with intent to finance the manufacture or delivery of]]

3. a schedule V controlled substance

[4. and

(for Class A misdemeanor) {the amount of the drug involved was  
(at least one [1] gram but less than five [5]) grams)

(or)

(less than one [1] gram and [*insert enhancing circumstance  
alleged – see statute*]).}

(for Level 6 felony) {the amount of the drug involved was  
(at least five [5] grams but less than ten [10] grams)

(or)

(at least one [1] gram but less than five [5] grams and [*insert  
enhancing circumstance alleged – see statute*]).}

(for Level 5 felony) {(the amount of the drug involved was  
(at least ten [10] grams but less than twenty-eight [28] grams)

(or)

(at least five [5] grams but less than ten [10] grams and [*insert  
enhancing circumstance alleged – see statute*]).}

(for Level 4 felony){the amount of the drug involved was  
(at least twenty-eight [28] grams)

(or)

(at least ten [10] grams but less than twenty-eight [28] grams  
and [*insert enhancing circumstance alleged – see statute*]).}

If the State failed to prove each of these elements beyond a reasonable doubt,  
you must find the Defendant not guilty of dealing in a schedule V controlled substance, a  
(Class B/A misdemeanor) (Level 6/5/4) felony, as charged in Count

\_\_\_\_\_.

## **Instruction No. 8.1500. Dumping Controlled Substance Waste.**

### **Instruction No. 8.1500. Dumping Controlled Substance Waste.**

I.C. 35-48-4-4.1.

The crime of dumping a controlled substance waste is defined by law as  
followsdefined by law as follows:

A person who [dumps] [discharges] [discards] [transports] [otherwise disposes  
of] [chemicals, knowing the chemicals were used in the illegal manufacture of a  
controlled substance or an immediate precursor] [waste, knowing that the waste



was produced from the illegal manufacture of a controlled substance or an immediate precursor] commits dumping controlled substance waste, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [dumped]

[or]

[discharged]

[or]

[discarded]

[or]

[transported]

[or]

otherwise disposed of]

[3. (*name of chemicals*), which are chemicals, and

4. knew the chemicals were used in the illegal manufacture of (*describe substance*), (a controlled substance) (an immediate precursor)]

[or]

[3. (*name of waste*), which is a waste, and

4. knew the waste was used in the illegal manufacture of (*describe substance*), (a controlled substance) (an immediate precursor).]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dumping controlled substance waste, a Level 6 felony.

**Instruction No. 8.1800. Dealing in Substance Represented to Be Controlled Substance.**

**Instruction No. 8.1800. Dealing in Substance Represented to Be Controlled Substance.**

**I.C. 35-48-4-4.5.**

The crime of dealing in a substance represented to be a controlled substance is defined by law as follows: defined by law as follows:

A person who knowingly or intentionally delivers or finances the delivery of a substance [other than a controlled substance or a drug for which a prescription is required under federal or state law\*] that is expressly or impliedly represented to be a controlled substance, is distributed under circumstances that would lead a reasonable person to believe that the substance is a controlled substance, or by overall dosage unit appearance, including shape, color, size, markings, or lack of markings, taste, consistency, or any other identifying characteristic of the substance, would lead a reasonable person to believe the substance is a controlled substance, commits dealing in a substance represented to be a controlled substance, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. knowingly or intentionally
  3. [delivered]
- [or]

[financed the delivery of]

4. a substance [other than a controlled substance or a drug for which a prescription was required under federal or state law\*] that

[was expressly or impliedly represented to be (name substance), a controlled substance]

[or]

[was distributed under circumstances which would have led a reasonable person to believe that the substance was (name substance), a controlled substance]

[or]

[by overall dosage unit appearance, including shape, color, size, markings or lack of markings, taste, consistency, or other identifying physical characteristic of the substance, would have led a reasonable person to believe the substance was (name substance), a controlled substance.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dealing in a substance represented to be a controlled substance, a Level 6 felony, as charged in Count \_\_\_\_\_.

**Instruction No. 8.1900. Manufacture or Distribution of Substance  
Represented to Be Controlled Substance.**

**Instruction No. 8.1900. Manufacture or Distribution of Substance  
Represented to Be Controlled Substance.**

**I.C. 35-48-4-4.6.**

The crime of manufacture or distribution of a substance represented to be a controlled substance is defined by law as follows:

A person who knowingly or intentionally (manufactures) (finances the manufacture of) (advertises) (distributes) (possesses with intent to manufacture) (finance the manufacture of) (advertise) (distribute) a substance\* other than a controlled substance or a drug for which a prescription is required under federal or state law that (is expressly or impliedly represented to be a controlled substance) (is distributed under circumstances that would lead a reasonable person to believe that the substance is a controlled substance) (by overall dosage unit appearance, including shape, color, size, markings, or lack of markings, taste, consistency, or any other identifying characteristic of the substance) would lead a reasonable person to believe the substance is a controlled substance, commits manufacture or distribution of a substance represented to be a controlled substance, a Level 5 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. [manufactured]  
[or]  
[financed the manufacture of]  
[or]  
[advertised]  
[or]  
[distributed]

[or]

[possessed, with intent to manufacture, finance the manufacture of, advertise, or distribute]

3. a substance that  
[was expressly or impliedly represented to be (name substance), a controlled substance]

[or]

[was distributed under circumstances which would have led a reasonable person to believe that the substance was (*name substance*), a controlled substance]

[or]

[by overall dosage unit appearance, including shape, color, size, markings or lack of markings, taste, consistency, or other identifying physical characteristic of the substance, would have led a reasonable person to believe the substance was (*name substance*), a controlled substance.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of manufacture or distribution of a substance represented to be a controlled substance, a Level 5 felony, as charged in Count \_\_\_\_\_.

## **Instruction No. 8.2200. Dealing in a Counterfeit Substance.**

## **Instruction No. 8.2200. Dealing in a Counterfeit Substance.**

### **I.C. 35-48-4-5.**

The crime of dealing in a counterfeit substance is defined by law as follows:

A person who [knowingly or intentionally (creates) (delivers) (finances the delivery of)] [possesses, with intent to (deliver) (finance the delivery of)] a counterfeit substance commits dealing in a counterfeit substance, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of

the following beyond a reasonable doubt:

1. The Defendant

{2. knowingly or intentionally (created) (delivered) (financed the delivery of)}

{or}

{2. possessed, with intent to (deliver) (finance the delivery of)}

3. a counterfeit substance.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dealing in a counterfeit substance, a Level 6 felony, as charged in Count \_\_\_\_\_.

## **Instruction No. 8.2500. Possession of Cocaine or a Narcotic Drug.**

## **Instruction No. 8.2500. Possession of Cocaine or a Narcotic Drug.**

### **I.C. 35-48-4-6.**

The crime of possession of [cocaine], [a narcotic drug] is defined by law as follows:

A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses cocaine (pure or adulterated) or a narcotic drug (pure or adulterated) classified in schedule I or II, commits possession of cocaine or a narcotic drug, a Level 6 felony.

[The offense is a Level 5 felony if the amount of the drug involved is (at least five [5] grams but less than ten [10] grams) (less than five [5] grams and [*insert enhancing circumstance alleged – see statute*]).]

[The offense is a Level 4 felony if the amount of the drug involved is (at least ten [10] grams but less than twenty-eight [28] grams) (at least five [5] grams but less than ten [10] grams and [*insert enhancing circumstance alleged – see statute*]).]

[The offense is a Level 3 felony if the amount of the drug involved is (at least twenty-eight [28] grams) (at least ten [10] grams but less than twenty-eight [28] grams and [*insert enhancing circumstance alleged – see statute*]).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. possessed

[cocaine (pure or adulterated)]

[or]

[a narcotic drug (pure or adulterated) classified in schedule I or II]

[4. and

(for Level 5 felony) {the amount of the drug involved was  
(at least five [5] grams but less than ten [10] grams)  
(or)  
(at least one [1] gram but less than five [5] grams and [*insert enhancing circumstance alleged – see statute*]).}

(for Level 4 felony) {(the amount of the drug involved was  
(at least ten [10] grams but less than twenty-eight [28] grams)  
(or)  
(at least five [5] grams but less than ten [10] grams and [*insert enhancing circumstance alleged – see statute*]).}

(for Level 3 felony) {the amount of the drug involved was  
(at least twenty-eight [28] grams)  
(or)  
(at least ten [10] grams but less than twenty-eight [28] grams  
and [*insert enhancing circumstance alleged – see statute*]).}

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [cocaine] [a narcotic drug], a Level 6/5/4/3 felony, as charged in Count \_\_\_\_\_.

## Instruction No. 8.2700. Possession of Methamphetamine.

### Instruction No. 8.2700. Possession of Methamphetamine.

#### I.C. 35-48-4-6.1.

The crime of possession of methamphetamine is defined by law as follows:

A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses methamphetamine (pure or adulterated) commits possession of methamphetamine, a Level 6 felony.

[The offense is a Level 5 felony if the amount of the drug involved is (at least five [5] grams but less than ten [10] grams) (less than five [5] grams and [*insert enhancing circumstance alleged – see statute*]).]

[The offense is a Level 4 felony if the amount of the drug involved is (at least ten [10] grams but less than twenty-eight [28] grams) (at least five [5] grams but less than ten [10] grams and [*insert enhancing circumstance alleged – see statute*]).]

[The offense is a Level 3 felony if the amount of the drug involved is (at least twenty-eight [28] grams) (at least ten [10] grams but less than twenty-eight [28] grams and [*insert enhancing circumstance alleged – see statute*]).]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. without a valid prescription or order of a practitioner acting in the course  
of the practitioner's professional practice,
3. knowingly or intentionally

4. possessed methamphetamine

[5. and

(for Level 5 felony) {the amount of the drug involved was  
(at least five [5] grams but less than ten [10] grams)  
(or)  
(less than five [5] grams and [*insert enhancing circumstance alleged – see statute*]).}

(for Level 4 felony) {(the amount of the drug involved was  
(at least ten [10] grams but less than twenty-eight [28] grams)  
(or)  
(at least five [5] grams but less than ten [10] grams and [*insert enhancing circumstance alleged – see statute*]).}

(for Level 3 felony) {the amount of the drug involved was  
(at least twenty-eight [28] grams)  
(or)  
(at least ten [10] grams but less than twenty-eight [28] grams  
and [*insert enhancing circumstance alleged – see statute*]).}

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [cocaine] [a narcotic drug], a Level 6/5/4/3 felony, as charged in Count \_\_\_\_\_.

### **Instruction No. 8.3000. Possession of a I, II, III, or IV Controlled Substance.**

### **Instruction No. 8.3000. Possession of a I, II, III, or IV Controlled Substance.**

I.C. 35–48–4–7(a).

The crime of possession of a controlled substance is defined by law as followsdefined by law as follows:

A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses a controlled substance (pure or adulterated) classified in schedule I, II, III, or IV, commits possession of a controlled substance, a Class A misdemeanor.

[The offense is a Level 6 felony if the person commits the offense and [*insert enhancing circumstance alleged – see statute*]].]



Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice,
3. knowingly or intentionally
4. possessed (*name substance*) (pure or adulterated), which was a controlled substance classified in schedule [*state schedule*].
- [5. (*for Level 6 felony*) and [*insert enhancing circumstance alleged – see statute*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of a controlled substance, a (Class A misdemeanor) (Level 6 felony, as charged in Count \_\_\_\_\_).

### **Instruction No. 8.3300. Possession of a Schedule V Substance.**

### **Instruction No. 8.3300. Possession of a Schedule V Substance.**

#### **I.C. 35-48-4-7(c).**

The crime of possession of a Schedule V controlled substance is defined by law as follows:

A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally obtains [more than four (4) ounces of schedule V controlled substance containing codeine in any given forty-eight (48) hour period unless pursuant to a prescription] [or] [a schedule V controlled substance pursuant to written or verbal misrepresentation] [or] [possession of a schedule V controlled substance other than by means of a prescription or by means of signing an exempt narcotic register maintained by a pharmacy licensed by the Indiana State Board of Pharmacy] commits possession of a Schedule V controlled substance containing codeine, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice
3. knowingly or intentionally
4. obtained

[in a forty-eight (48) hour period, without a prescription, more than four (4) ounces of (*name substance*), which the Court instructs you is a schedule V controlled substance containing codeine]

[or]

[by written or verbal misrepresentation, (*name alleged substance*), which the Court instructs you is a schedule V controlled substance]

[or]

[possession of (*name alleged substance*), which the Court instructs you is a schedule V controlled substance, other than by means of a prescription or by means of signing an exempt narcotic register maintained by a pharmacy licensed by the Indiana State Board of Pharmacy].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of a schedule V controlled substance, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

## **Instruction No. 8.3700. Possessing Ammonia with Intent to Manufacture Methamphetamine.**

## **Instruction No. 8.3700. Possessing Ammonia with Intent to Manufacture Methamphetamine.**

**I.C. 35-48-4-14.5(c).**

The crime of possessing ammonia with intent to manufacture methamphetamine or amphetamine is defined by law as follows:

A person who possesses [anhydrous ammonia] [ammonia solution] with the intent to manufacture methamphetamine or amphetamine, Schedule II controlled substances, commits a Level 6 felony. (The offense is a Level 5 felony [if the person possessed a firearm] [if the person possessed the anhydrous ammonia or ammonia solution in, on, or within five hundred [500] feet of (school property)(a public park)]).

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. possessed [anhydrous ammonia] [ammonia solution]
3. with the intent to manufacture [methamphetamine] [amphetamine], which the Court instructs you is a Schedule II controlled substance

(4. *(for Level 5 felony)* and

[the Defendant possessed a firearm when he possessed the (anhydrous ammonia) (ammonia solution)]

[or]

[the Defendant possessed the (anhydrous ammonia) (ammonia solution) in, on or within five hundred [500] feet of

[school property]

[or]

[a public park].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possessing chemical reagents or precursors with intent to manufacture methamphetamine, a Level 6/5 felony, as charged in Count

\_\_\_\_\_.

**Instruction No. 8.3900. Possessing Reagents or Precursors with Intent to Manufacture Controlled Substance.**

**Instruction No. 8.3900. Possessing Reagents or Precursors with Intent to Manufacture Controlled Substance.**

**I.C. 35-48-4-14.5(e).**

The crime of possessing chemical reagents or precursors with intent to manufacture a controlled substance is defined by law as follows:

A person who possesses two or more chemical reagents or precursors with the intent to manufacture a controlled substance commits a Level 6 felony.  
(The offense is a Level 5 felony [if the person possesses a firearm] [if it is committed in, on, or within five hundred [500] feet of [school property] [a public park] while a person under eighteen (18) years of age was reasonably expected to be present]).

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. possessed [*name alleged chemical reagent or precursor*], which the Court instructs you is a chemical reagent,  
and  
also possessed [*name alleged chemical reagent or precursor*], which the Court instructs you is a chemical reagent
3. with the intent to manufacture [*name alleged controlled substance*], which the Court instructs you is a controlled substance.

(4. (for Level 5 felony) and

[the Defendant possessed a firearm when he committed the offense]

[or]

[the Defendant committed the offense in, on or within five hundred (500) feet of

{school property}

{or}

{a public park}

while a person under eighteen (18) years of age was reasonably expected to be present.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possessing chemical reagents or precursors with intent to manufacture a controlled substance, a Level 6/5 felony, as charged in Count \_\_\_\_\_.

**Instruction No. 8.4100. Possessing Ephedrine, Pseudoephedrine or Phenylpropanolamin.**

**Instruction No. 8.4100. Possessing Ephedrine, Pseudoephedrine or Phenylpropanolamin.**

**I.C. 35-48-4-14.5(b).**

The crime of possessing [ephedrine] [pseudoephedrine] [phenylpropanolamin] is defined by law as follows:

A person who possesses more than ten (10) grams of [ephedrine] [pseudoephedrine] [phenylpropanolamin] commits a Level 6 felony. [The offense is a Level 5 felony if (the person possessed a firearm) (the offense is committed in, on, or within five hundred [500] feet of {school property} {a public park} while a person under eighteen (18) years of age was reasonably expected to be present)].

Before you may convict the Defendant, the State must have proved the following beyond a reasonable doubt:

1. The Defendant
2. possessed
3. more than ten (10 grams) of
4. [ephedrine]

[or]

[pseudoephedrine]

[or]

[phenylpropanolamin]

- (5. and (*for Level 5 felony*)

[the Defendant possessed a firearm when he committed the offense]

[or]

[the Defendant committed the offense [in, on or within five hundred [500] feet of {school property} {a public park} while a person under eighteen (18) years of age was reasonably expected to be present]].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possessing [ephedrine] [pseudoephedrine] [phenylpropanolamin], a Level 6/5 felony, as charged in Count \_\_\_\_\_.

### **Instruction No. 8.4500. Unlawful Sale of a Precursor.**

### **Instruction No. 8.4500. Unlawful Sale of a Precursor.**

#### **I.C. 35-48-4-14.5(g).**

The crime of unlawful sale of a precursor is defined by law as follows:

A person who [sells], [transfers], [distributes], or [furnishes] a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursor to manufacture a controlled substance commits unlawful sale of a precursor, a Level 6 felony. [The offense is a Level 5 felony if the person sells, transfers, distributes, or furnishes more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. [sold]

[or]

[transferred]

[or]

[distributed]

[or]

[furnished]

3. [(for Level 6 felony) (name alleged reagent or precursor), which the Court instructs you is established by law to be a chemical reagent or precursor]

[or]

[(for Level 5 felony) more than ten (10) grams of (ephedrine) (pseudoephedrine) (phenylpropanolamine)]

4. to (name other person)

5. with knowledge or the intent that (name other person) would use the [chemical reagent or precursor] [more than ten (10) grams of (ephedrine) (pseudoephedrine) (phenylpropanolamine)] to manufacture [name alleged controlled substance], which the Court instructs you is established by law to be a controlled substance.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful sale of a precursor, a Level 6/5 felony charged in Count \_\_\_\_\_.

defined by law as follows

### **Instruction No. 8.4700. Possession of Precursor by a Methamphetamine Offender.**

### **Instruction No. 8.4700. Possession of Precursor by a Methamphetamine Offender.**

#### **I.C. 35-48-4-14.5.**

The crime of possession of a precursor by a methamphetamine offender is defined by law as follows:

A person who has been convicted of [dealing in methamphetamine] [possession of more than ten (10) grams of (ephedrine) (pseudoephedrine) (phenylpropanolamine)] [possession of (anhydrous ammonia) (ammonia solution) with intent to manufacture methamphetamine or amphetamine] [possession of two (2) or more chemical reagents or precursors with the intent to

manufacture a controlled substance] [unlawful sale of a precursor] and who not later than seven (7) years from the date the person was sentenced for the offense knowingly or intentionally possesses (ephedrine) (pseudoephedrine) (phenylpropanolamine), pure or adulterated, commits possession of a precursor by a methamphetamine offender, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. possessed pure or adulterated (ephedrine) (pseudoephedrine)  
(phenylpropanolamine)
4. not later than seven (7) years from the date the Defendant was sentenced  
for the offense of  
[dealing in methamphetamine]  
[or]  
[possession of more than ten (10) grams of (ephedrine) (pseudoephedrine)  
(phenylpropanolamine)]  
[or]  
[possession of (anhydrous ammonia) (ammonia solution) with intent to  
manufacture methamphetamine or amphetamine]  
[or]  
[possession of two (2) or more chemical reagents or precursors with the intent to  
manufacture a controlled substance] [unlawful sale of a precursor].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of a precursor by a methamphetamine offender, a Level 6 felony as charged in Count \_\_\_\_\_.



**Instruction No. 8.5000. Manufacture of Paraphernalia.**

**Instruction No. 8.5000. Manufacture of Paraphernalia.**

**I.C. 35–48–4–8.1.**

The infraction of manufacture of paraphernalia is defined by law as follows:

A person who knowingly or intentionally\* [manufactures] [finances the manufacture of] [designs an instrument, device, or other object that is intended to be used primarily for introducing into the human body (a controlled substance) (testing the strength, effectiveness, or purity of a controlled substance) (enhancing the effect of a controlled substance)] in violation of Indiana Code Chapter 35–48–4, commits a Class A infraction for manufacturing paraphernalia.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. manufactured]  
[or]  
[financed the manufacture of]  
[or]  
[designed]
4. an instrument, device or other object which the Defendant intended to be used primarily for  
[introducing into the human body]  
[or]  
[testing the strength, effectiveness, or purity of]

[or]

[enhancing the effect of]

*name substance*], which the Court instructs you is a controlled substance,

5. in violation of Indiana Code Chapter 35–48–4–[insert section number], which prohibits [*here describe elements of 35–48–4 offense Defendant intended object to be used in violation of*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of manufacturing paraphernalia, a Class A infraction, as charged in Count \_\_\_\_\_.

### **Instruction No. 8.5200. Dealing in Paraphernalia.**

### **Instruction No. 8.5200. Dealing in Paraphernalia.**

#### **I.C. 35-48-4-8.5(a).**

The crime of dealing in paraphernalia is defined by law as follows:

A person who knowingly or intentionally\* [keeps for sale] [offers for sale] [delivers or finances the delivery of] a raw material, an instrument, a device, or other object that is intended to be or that is designed or marketed to be used primarily for [ingesting, inhaling, or otherwise introducing into the human body (marijuana) (hash oil) (hashish) (salvia) (a synthetic drug) (a controlled substance)] [testing the strength, effectiveness, or purity of (marijuana) (hash oil) (hashish) (salvia) (a synthetic drug) (a controlled substance)] [enhancing the effect of a controlled substance] [manufacturing, compounding, converting, producing, processing, or preparing (marijuana) (hash oil) (hashish) (salvia) (a synthetic drug) (a controlled substance)] [diluting or adulterating (marijuana) (hash oil) (hashish) (salvia) (a synthetic drug) (a controlled substance) by individuals] [any purpose announced or described by the seller that is in violation of this chapter (**I.C. 35-48-4-8.5**)] commits dealing in paraphernalia. a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. knowingly or intentionally

3. [kept for sale]

[or]

[offered for sale]

[or]

[delivered]

[or]

[financed the delivery of]

4. [a raw material]

[or]

[an instrument]

[or]

[a device]

[or]

[an object]

that was

[intended]

[or]

[designed]

[or]

[marketed]

to be used primarily for

[ingesting, inhaling, or otherwise introducing into the human body

(marijuana)

(or)

(hash oil)

(or)

(hashish)

(or)

(salvia)

(or)

(*[name substance]* which the Court instructs you is a synthetic drug)

(or)

(*[name substance]*, which the Court instructs you is a controlled substance)]

[or]

[testing the strength, effectiveness, or purity of

(marijuana)

(or)

(hash oil)

(or)

(hashish)

(or)

(salvia)

(or)

(*[name substance]* which the Court instructs you is a synthetic drug)

(or)

(*[name substance]*, which the Court instructs you is a controlled substance)]

[or]

[enhancing the effect of (*name substance*), which the Court instructs you is a controlled substance]

[or]

[(manufacturing)

(or)

(compounding)

(or)

(converting)

(or)

(producing)

(or)

(processing)

(or)

(preparing)

(marijuana)

(or)

(hash oil)

(or)

(hashish)

(or)

(salvia)

(or)

(*[name substance]* which the Court instructs you is a synthetic drug)

(or)

(*[name substance]*, which the Court instructs you is a controlled substance)]

[or]

[testing the strength, effectiveness, or purity of

(marijuana)

(or)

(hash oil)

(or)

(hashish)

(or)

(salvia)

(or)

(*[name substance]* which the Court instructs you is a synthetic drug)

(or)

(*[name substance]*, which the Court instructs you is a controlled substance)]

[or]

[the purpose, announced or described by (*name*), the seller, of (*here describe elements of I.C. 35-48-4-8.5 offense*)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dealing in paraphernalia, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

### **Instruction No. 8.5400. Possession of Paraphernalia.**

### **Instruction No. 8.5400. Possession of Paraphernalia.**

#### **I.C. 35-48-4-8.3.**

The crime of possession of paraphernalia is defined by law as follows:

A person who knowingly or intentionally possesses [a raw material] [an instrument] [a device] [an other object] that the person intends to use for [introducing into the person's body a controlled substance] [testing the strength, effectiveness, or purity of a controlled substance] [enhancing the effect of a controlled substance] in violation of this chapter [I.C. 35-48-4] commits possession of paraphernalia, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. possessed [a raw material] [an instrument] [a device] [an object]
4. that the Defendant intended to use for
  - [introducing into the Defendant's body]
  - [or]
  - [testing the strength, effectiveness, or purity of]
  - [or]
  - [enhancing the effect of][*name substance*], which the Court instructs you is a controlled substance
5. in violation of **I.C. 35-48-4**-[*insert appropriate section number*], which prohibits [*set out elements of the I.C. 35-48-4 offense*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of paraphernalia, a Class A misdemeanor, as charged in Count \_\_\_\_\_.

## **Instruction No. 8.5700. Dealing in Marijuana, Hash Oil, Hashish, or Salvia.**

## **Instruction No. 8.5700. Dealing in Marijuana, Hash Oil, Hashish, or Salvia.**

### **I.C. 35-48-4-10.**

The crime of dealing in (marijuana) (hash oil) (hashish) (salvia) is defined by law as follows:

A person who {knowingly or intentionally [manufactures] [finances the manufacture of] [delivers] [finances the delivery of]} {possesses with intent to [manufacture] [finance the

manufacture of] [deliver] [finance the delivery of]] [marijuana] [hash oil] [hashish] [salvia]  
commits dealing in (marijuana) (hash oil) (hashish) (salvia), a Class A misdemeanor.

[The offense is a Level 6 felony if the amount of the drug involved is (at least thirty [30] grams but less than ten [10] pounds of marijuana) (at least five [5] grams but less than three hundred [300] grams of hash oil, hashish, or salvia.)

[The offense is a Level 5 felony {if the amount involved is at least (ten [10] pounds of marijuana) (three hundred [300] or more grams of hash oil or hashish salvia)}

{or}

{if the offense involved a sale to a minor}.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. [manufactured]

[or]

[financed the manufacture of]

[or]

[delivered]

[or]

[financed the delivery of]

[or]

[possessed, with intent to (manufacture) (finance the manufacture of) (deliver) (finance the delivery of)]

4. pure or adulterated

[marijuana]

[or]

[hash oil]



[or]

[hashish]

[or]

[salvia]

[5. and (*for Level 6 felony*) the amount involved was

(more than thirty [30] grams but less than ten [10] pounds of marijuana)

(or)

(at least five [5] or more grams but less than three hundred [300] grams of [hash oil or hashish] [salvia])

[6. and (*for Level 5 felony*)

{the amount involved was at least (ten [10] pounds of marijuana) (three hundred [300] or more grams of [hash oil] [hashish] [salvia])}

{or}

{ the offense involved a sale to a minor} .

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dealing in [marijuana] [hash oil] [hashish] [salvia] a (Class A misdemeanor) (Level 6/5 felony) , as charged in Count \_\_\_\_\_.

**Instruction No. 8.6000. Dealing in a Synthetic Drug or Synthetic Drug Lookalike Substance (Infraction as basis for Level 6 Felony).**

**Instruction No. 8.6000. Dealing in a Synthetic Drug or Synthetic Drug Lookalike Substance (Infraction as basis for Level 6 Felony).**

**I.C. 35-48-4-10.5(a).**

The infraction of dealing in a synthetic drug or synthetic drug lookalike substance is defined by law as follows:

A person who knowingly or intentionally [manufactures] [finances the manufacture of] [delivers] [finances the delivery of] [possesses, with intent to (deliver) (finance the delivery of)] [a synthetic drug] [a synthetic drug lookalike substance] commits dealing in [a synthetic drug] [a synthetic drug lookalike substance], a Class A infraction.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. [manufactured]

[or]

[financed the manufacture of]

[or]

[delivered]

[or]

[financed the delivery of]

[or]

[possessed, with intent to (deliver) (finance the delivery of)]

4. [the (substance) (compound) (*name alleged substance or compound*), which the court instructs you is a synthetic drug] [a synthetic drug lookalike substance].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of dealing in [a synthetic drug] [a synthetic drug lookalike substance], a Class A infraction as charged in Count \_\_\_\_\_.

**Instruction No. 8.6200. Dealing in a Synthetic Drug or Synthetic Drug Lookalike Substance (Misdemeanor).**

**Instruction No. 8.6200. Dealing in a Synthetic Drug or Synthetic Drug Lookalike Substance (Misdemeanor).**

**I.C. 35-48-4-10.5(c), (e).**

The crime of dealing in a synthetic drug or synthetic drug lookalike substance is defined by law as follows:

A person who knowingly or intentionally [manufactures] [finances the manufacture of] [delivers] [finances the delivery of] [possesses, with intent to (manufacture) (finance the manufacture of) (deliver) (finance the delivery of)] [a synthetic drug] [a synthetic drug lookalike substance] commits dealing in [a synthetic drug] [a synthetic drug lookalike substance], a Class A misdemeanor. [The offense is a Level 6 felony if (the recipient or intended recipient is under eighteen (18) years of age) (the amount involved is more than five (5) grams).] [The offense is a Level 5 felony if the amount involved is more than five (5) grams and the person delivered or financed the delivery of [the synthetic drug] [the synthetic drug lookalike substance] [on a school bus] [in, on, or within five hundred (500) feet of (school property) (a public park) while a person under (18) years of age was reasonably expected to be present.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. [manufactured]

[or]

[financed the manufacture of]

[or]

[delivered]

[or]

[financed the delivery of]

[or]

[possessed, with intent to (manufacture) (finance the manufacture of) (deliver)  
(finance the delivery of)]

4. [the (substance) (compound)(*name alleged substance or compound*), which the  
court instructs you is a synthetic drug] [a synthetic drug lookalike substance]

[5. and (*for Level 6 felony*)

[the recipient or intended recipient was under eighteen (18) years of age]

[or]

[the amount of [the synthetic drug] [the synthetic drug lookalike substance]  
involved was more than five (5) grams] ]

[6. and (*for Level 5 felony*) the amount of [the synthetic drug] [the synthetic

drug lookalike substance] involved was more than five (5) grams and the  
Defendant [delivered] [financed the delivery of] [the synthetic drug] [the synthetic  
drug lookalike substance]

[on a school bus]

[or]

[in, on, or within five hundred (500) feet of (school property) ( a public  
park)]

while a person under (18) years of age was reasonably expected to be present.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must  
find the Defendant not guilty of dealing in [a synthetic drug] [a synthetic drug lookalike  
substance] a (Class A misdemeanor) (Level 6/5 felony), as charged in Count

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**Instruction No. 8.6500. Possession of Marijuana, Hash Oil, Hashish, or Salvia.**

**Instruction No. 8.6500. Possession of Marijuana, Hash Oil, Hashish, or Salvia.**

**I.C. 35-48-4-11.**

The crime of possession of (marijuana) (hash oil) (hashish) (salvia) is defined by law as follows:

A person who [knowingly or intentionally possesses (pure or adulterated) (marijuana) (hash oil) (hashish) (salvia)] [knowingly or intentionally grows or cultivates marijuana] [knowing that marijuana is growing on his/her premises, fails to destroy the marijuana plants] commits possession of (marijuana) (hash oil) (hashish) (salvia), a Class B misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. [possessed pure or adulterated (marijuana) (hash oil) (hashish) (salvia)]

[or]

[grew or cultivated marijuana]

[or]

[with knowledge that marijuana was growing on his/her premises failed to destroy the marijuana plants].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of marijuana, hash oil or hashish, a Class B misdemeanor.

**Instruction No. 8.6700. Possession of Synthetic Drug or Synthetic Drug Lookalike Substance.**

**Instruction No. 8.6700. Possession of Synthetic Drug or Synthetic Drug Lookalike Substance.**

**I.C. 35-48-4-11.5**

The crime of possession of a [synthetic drug] [synthetic drug lookalike substance] is defined by law as follows:

A person who knowingly or intentionally possesses a [synthetic drug] [a synthetic drug lookalike substance] commits possession of [synthetic drug] [a synthetic drug lookalike substance], a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. possessed

[(*name substance alleged*), which the Court instructs you is a synthetic drug]

[or]

[a synthetic drug lookalike substance.]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of [a synthetic drug] [a synthetic drug lookalike substance], a Class A misdemeanor as charged in Count \_\_\_\_\_.

**Instruction No. 8.6900. Unlawful Possession of a Legend Drug.**

## **Instruction No. 8.6900. Unlawful Possession of a Legend Drug.**

I.C. 16-42-19-13, I.C. 16-42-19-17

The crime of unlawful possession or use of a legend drug is defined by statute as follows:

A person who knowingly possesses or uses a legend drug unless the person has a valid prescription to do so or has the order of a practitioner acting in the course of his professional practice to do so, or was provided the drug by a practitioner or is a pharmacist, commits unlawful possession or use of a legend drug, a Class D felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly
3. possessed or used
4. (name drug alleged), which the Court instructs you was classified at the time  
as a legend drug .

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful possession or use of a legend drug, a Level 6 felony as charged in Count \_\_\_\_\_.

## **Instruction No. 8.7100. Unlawful Possession of An Injection Device.**

## **Instruction No. 8.7100. Unlawful Possession of An Injection Device.**

I.C. 16-42-19-18, 16-42-19-27

A person may not possess or have under control, with intent to violate this chapter, a hypodermic syringe or needle or an instrument adapted for the use of a legend drug by injection into a human being.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly
3. possessed
4. a [hypodermic syringe] [needle] [other instrument]
5. adapted for use of a legend drug by injection into a human being

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful possession of an injection device, a Level 6 felony as charged in Count \_\_\_\_\_.

Instruction No. 8.7400. Exposure of a Minor or Endangered Adult to Drugs or Controlled Substances.

Instruction No. 8.7400. Exposure of a Minor or Endangered Adult to Drugs or Controlled Substances.

I.C. 35-48-4-13.3.

The crime of exposure of a minor or endangered adult to drugs or controlled substances is defined by law as follows:

A person who recklessly, knowingly, or intentionally takes [a person less than eighteen (18) years of age] [an endangered adult (as defined in IC 12-10-3-2)] into a [building] [structure] [vehicle] [other place] that is being used by any person to [unlawfully possess drugs or controlled substances] [unlawfully (manufacture) (keep) (offer for sale) (sell) (deliver) (finance the delivery of) drugs or controlled substances)] commits exposure of a minor or endangered adult to drugs or controlled substances, a Class A misdemeanor.

Before you may convict the Defendant, the State must have proved the following beyond a reasonable doubt:

1. The Defendant



2. [recklessly] [knowingly] [intentionally]

3. took (*name alleged minor or endangered adult*), when (*name alleged minor or endangered adult*) was [less than eighteen (18) years of age] [or] [an endangered adult]

4. to (*describe alleged place*), a [building] [structure] [vehicle] [other place]

5. when (*describe alleged place*) was being used by a person to

[unlawfully possess (*name alleged drug or controlled substance*), a (drug) (controlled substance)]

[or]

[unlawfully

(manufacture)

(or)

(keep)

(or)

(offer for sale)

(or)

(sell)

(or)

(deliver)

(or)

(finance the delivery of)

(*name alleged drug or controlled substance*), a (drug) (controlled substance)].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of exposure of a minor or endangered adult to drugs or controlled substances, a class A misdemeanor.

## Instruction No. 8.7600. Maintaining a Common Nuisance

## Instruction No. 8.7600. Maintaining a Common Nuisance

I.C. 35–48–4–13(b).

The crime of maintaining a common nuisance is defined by law as follows:

A person who knowingly or intentionally maintains a building, structure, vehicle, or other place that is used one [1] or more times by persons (to unlawfully use controlled substances) (for unlawfully manufacturing, keeping, offering for sale, selling, delivering, or financing the delivery of [controlled substances] [items of drug paraphernalia as described in I.C. 35–48–4–8.2]), commits maintaining a common nuisance, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. maintained a [building] [structure] [vehicle] [other place]
4. that was used one or more times

[by persons to unlawfully use (*name substances*), which the Court instructs you are controlled substances]

[or]

[for unlawfully

(manufacturing)

(or)

(keeping)

(or)

(offering for sale)

(or)

(selling)

(or)

(delivering)

(or)

(financing the delivery of)

(*{name substances}*, which the Court instructs you are controlled substances)

(or)

(items of drug paraphernalia, defined in I.C. 35–48–4–8.2) as {raw materials}  
{instruments} {devices} {objects} intended to be used for

[introducing into the human body]

[or]

[testing the strength, effectiveness, or purity of]

[or]

[enhancing the effect of]

[*name substance*], which the Court instructs you is a controlled substance

in violation of I.C. 35–48–4–[*insert appropriate section number*], which prohibits [*set out elements of the I.C. 35–48–4 offense*]].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of maintaining a common nuisance, a Level 6 felony.

Instruction No. 8.7800. Distribution in Violation of I.C. 35–48–3.

Instruction No. 8.7800. Distribution in Violation of I.C. 35–48–3.

I.C. 35–48–4–14(a)(1).

The crime of distribution in violation of I.C. 35–48–3 is defined by law as follows:

A person who is subject to I.C. 35–48–3 and who recklessly, knowingly, or intentionally distributes or dispenses a controlled substance in violation of I.C. 35–48–3 commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. was subject to I.C. 35–48–3 in that [here specify the alleged basis for Defendant's being subject to I.C. 35–48–3]
3. and when subject to I.C. 35–48–3
4. recklessly, knowingly or intentionally
5. [distributed] [dispensed]
6. [*name substance*], which the Court instructs you is a controlled substance
7. in violation of I.C. 35–48–3 [*here specify the alleged violation*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of distribution in violation of I.C. 35–48–3, a Level 6 felony.

Instruction No. 8.8000. Manufacture or Distribution Unauthorized by  
Registration.

Instruction No. 8.8000. Manufacture or Distribution Unauthorized by  
Registration.

I.C. 35–48–4–14(a)(2).

The crime of manufacture or distribution unauthorized by registration is defined by law as follows:

A person who is a registrant and who recklessly, knowingly, or intentionally [manufactures] [finances the manufacture of] [distributes] [dispenses] a controlled substance not authorized by his registration to another registrant or other authorized person commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. when a registrant [*here specify allegations as to registrant status*]
3. [recklessly] [knowingly] [intentionally]
4. [manufactured]  
[or]  
[financed the manufacture of]  
[or]  
[distributed]  
[or]  
[dispensed]
5. [*name substance*], which the Court instructs you is a controlled substance

7. when [*name substance*] was not authorized by Defendant's registration

6. to [*name individual*], another registrant or other authorized person.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of manufacture or distribution unauthorized by registration, a Level 6 felony.

## Instruction No. 8.8200. Failure to Document.

## Instruction No. 8.8200. Failure to Document.

I.C. 35–48–4–14(a)(3).

The crime of failure to document is defined by as follows:

A person who [recklessly] [knowingly] [intentionally] fails to [make] [keep] [furnish] (a record) (a notification) (an order form) (a statement) (an invoice) (information required under I.C. 35–48) commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. [recklessly] [knowingly] [intentionally]

3. failed to

[make]

[or]

[keep]

[or]

[furnish]

3. [a record]

[or]

[a notification]

[or]

[an order form]

[or]

[a statement]

[or]

[an invoice]

[or]

[information]

4. in violation of the requirement that [*specify statutory record requirement allegedly violated*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of failure to document, a Level 6 felony.

## Instruction No. 8.8400. Refusal of Inspection.

## Instruction No. 8.8400. Refusal of Inspection.

### I.C. 35–48–4–14(a)(4).

The crime of refusal of inspection is defined by law as follows:

A person who [recklessly] [knowingly] [intentionally] refuses entry into any premises for an inspection authorized by I.C. 35–48 commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [recklessly] [knowingly] [intentionally]
3. refused entry into [*describe premises alleged*]
4. for an inspection authorized by [*here specify statutory source and nature of inspection authorized*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of refusal of inspection, a Level 6 felony.

## Instruction No. 8.8600. Distribution Without an Order Form.

## Instruction No. 8.8600. Distribution Without an Order Form.

### I.C. 35–48–4–14(b)(1).

The crime of distribution without an order form is defined by law as follows:

A person who [knowingly] [intentionally] distributes as a registrant a controlled substance classified in Schedule I or II, except under an order form as required by I.C. 35–48–3, commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. distributed as a registrant [*here describe basis for registrant status*]
4. [*name substance*], which the Court instructs you is a controlled substance classified in Schedule I or II
5. without an order form as required by [*here set out statutory source for order form requirement*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of distribution without an order form, a Level 6 felony.

## Instruction No. 8.8800. Use of Fictitious Registration Number.

## Instruction No. 8.8800. Use of Fictitious Registration Number.

### I.C. 35–48–4–14(b)(2).

The crime of use of a fictitious registration number is defined by law as follows:

A person who knowingly or intentionally uses in the course of the [manufacture] [financing] [manufacture] [distribution] of a controlled substance a federal or state registration number that is [fictitious] [revoked] [suspended] [issued to another person] commits a Level 6 felony.



To convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. in the course of the  
[manufacture]

[or]

[financing]

[or]

[manufacture]

[or]

[distribution]

4. of [*name substance*], which the Court instructs you is a controlled substance
5. used a federal or state registration number that was  
[fictitious]

[or]

[revoked]

[or]

[suspended]

[or]

[issued to another person].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of use of a fictitious registration number, a Level 6 felony.

Instruction No. 8.9000. False Documentation.

Instruction No. 8.9000. False Documentation.

I.C. 35–48–4–14(b)(3).

The crime of false documentation is defined by law as follows:

A person who [knowingly] [intentionally] [furnishes false or fraudulent material information in] [omits any material information from] an [application] [report] [document] required to be kept or filed under I.C. 35–48 commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [knowingly] [intentionally]
3. [furnished false or fraudulent material information in]  
[or]

[omitted material information from]  
4. [name document], which was  
[an application]

[a report]

[a document]

required to be kept or filed [*here set out statutory requirement for the application, report, or document and facts alleged*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of false documentation, a Level 6 felony.

## Instruction No. 8.9200. Counterfeit Trademarking.

## Instruction No. 8.9200. Counterfeit Trademarking.

### I.C. 35–48–4–14(b)(4).

The crime of counterfeit trademarking is defined by law as follows:

A person who knowingly or intentionally [makes] [distributes] [possesses] a punch, die, plate, stone, or other thing designed to print, imprint or reproduce the trademark, trade name or other identifying mark, imprint, or device of another or a likeness of any of the foregoing on a drug or container or labeling thereof so as to render the drug a counterfeit substance, commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
  2. knowingly or intentionally
  3. [made]
- [or]

[distributed]

[or]

[possessed]

4. a [punch] [die] [plate] [stone] [thing] designed to print, imprint, or reproduce
  5. [the trademark]
- [or]

[a likeness of the trademark]

[or]

[the trade name]

[or]

[a likeness of the trade name]

[or]

[identifying mark, imprint or device]

[or]

[a likeness of the identifying (mark) (imprint) or (device)]

6. of (*name owner*)

7. on (a drug) (a container) (the labeling of a drug) (the labeling of a container] so as to render the drug a counterfeit substance.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of counterfeit trademarking, a Level 6 felony.

Instruction No. 8.9400. Possession of a Controlled Substance by  
Misrepresentation.

Instruction No. 8.9400. Possession of a Controlled Substance by  
Misrepresentation.

I.C. 35-48-4-14(c).

The crime of possession of a controlled substance by misrepresentation is defined by law as follows:

A person who knowingly or intentionally acquires possession of a controlled substance by [misrepresentation] [fraud] [forgery] [deception] [subterfuge] [alteration of a prescription order] [concealment of a material fact] [use of a false name or false address] commits possession of a controlled substance by misrepresentation, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

The Defendant

1. knowingly or intentionally
2. acquired possession of [name substance], a controlled substance
3. [by misrepresentation]

[or]

[by fraud]

[or]

[by forgery]

[or]

[by deception]

[or]

[by subterfuge]

[or]

[by alteration of a prescription order]

[or]

[by concealment of a material fact]

[or]

[by use of a false name or a false address].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of a controlled substance by misrepresentation, a Level 6 felony.

Instruction No. 8.9600. False Labeling of a Controlled Substance.

Instruction No. 8.9600. False Labeling of a Controlled Substance.

I.C. 35–48–4–14(d).

The crime of false labeling of a controlled substance is defined by law as follows:

A person who knowingly or intentionally affixes any false or forged label to a package or receptacle containing a controlled substance commits a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. affixed a false or forged label
4. to a package or receptacle containing [*name substance*], a controlled substance.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of false labeling of a controlled substance, a Level 6 felony.

Instruction No. 8.9800. Unlawful Duplication of Prescription Pads.

Instruction No. 8.9800. Unlawful Duplication of Prescription Pads.

I.C. 35–48–4–14(e).

The crime of unlawful duplication of prescription pads is defined by law as follows:

A person who duplicates, reproduces, or prints any prescription pads or forms without the prior written consent of a practitioner commits a Level 6 felony. [This offense does not apply to the printing of prescription pads or forms upon a written, signed order place by a practitioner or pharmacist, by legitimate printing companies.]

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant
2. [duplicated] [reproduced] [printed]
3. prescription [pads] [forms]
4. without the prior written consent of a practitioner.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful distribution of prescription pads, a Level 6 felony.

## CHAPTER 9 BASIS OF LIABILITY

### SYNOPSIS

No. 9.0020. Territorial Jurisdiction — Conduct or Result Element in Indiana  
No. 9.0040. Territorial Jurisdiction — Homicide  
No. 9.0060. Territorial Jurisdiction — Homicide — Body Found in Indiana  
No. 9.0080. Voluntary Conduct  
No. 9.0100. Voluntary Conduct — Possession of Property  
No. 9.0120. Culpability  
No. 9.0140. Transferred Intent

Instruction No. 9.0020. Territorial Jurisdiction — Conduct or Result Element  
in Indiana.

Instruction No. 9.0020. Territorial Jurisdiction — Conduct or Result Element  
in Indiana.

#### I.C. 35–41–1–1(b).

[When evidence of territorial jurisdiction over the crime conflicts, modify the instruction defining the offense by adding the italicized material shown in the example below:]

The crime of theft is defined by statute as follows:

A person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Level 6 felony.

*The law requires that some part of the criminal conduct or result occur in Indiana.*

Before you may convict the Defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. exerted unauthorized control
4. over property of another person (*name*)
5. with intent to deprive the other person (*name*) of any part of its value or use, and
6. *some part of the criminal conduct or result occurred in Indiana.*

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of theft, a Level 6 felony, charged in Count

\_\_\_\_\_.

Instruction No. 9.0040. Territorial Jurisdiction — Homicide.

Instruction No. 9.0040. Territorial Jurisdiction — Homicide.

I.C. 35–41–1–1(c).

[When evidence of territorial jurisdiction over a homicide conflicts, modify the instruction defining the offense by inserting the italicized language appearing in the example below:]

The crime of murder is defined by statute as follows:

A person who knowingly or intentionally kills another human being commits murder, a felony.

*Statute also requires that the death of the victim or the bodily impact causing death occur in Indiana.*

Before you may convict the Defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. killed
4. *(name), and*
5. *(name) died in Indiana*

*[or]*

*the bodily impact which caused [name's] death occurred in Indiana.*

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of murder, a felony, charged in Count

\_\_\_\_\_.

Instruction No. 9.0060. Territorial Jurisdiction — Homicide — Body Found in Indiana.

Instruction No. 9.0060. Territorial Jurisdiction — Homicide — Body Found in Indiana.

I.C. 35–41–1–1(c).

You may consider evidence that *(name's)* body was found in Indiana as



evidence tending to prove either (1) that (*name*) died in Indiana or (2) that any bodily impact which may have caused (*name's*) death occurred in Indiana.

Instruction No. 9.0080. Voluntary Conduct.

Instruction No. 9.0080. Voluntary Conduct.

I.C. 35–41–2–1(a).

[When evidence raises an issue of voluntariness, modify the instruction defining the offense by adding the italicized material shown in the example below:]

The crime of theft is defined by statute as follows:

A person who knowingly or intentionally [*and voluntarily*] exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Level 6 felony.

Before you may convict the Defendant, the State must have proved each of the following elements beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. [*and voluntarily*]
4. exerted unauthorized control over property of (*name*), another person
5. with intent to deprive (*name the other person*) of any part of the property's value or use.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of theft, a Level 6 felony, charged in Count \_\_\_\_\_.

Instruction No. 9.0100. Voluntary Conduct — Possession of Property.

Instruction No. 9.0100. Voluntary Conduct — Possession of Property.

I.C. 35–41–2–1(b).

Voluntary conduct is defined by statute as follows:

If possession of property constitutes any part of the prohibited conduct, it is a defense that the person who possessed the property was not aware of his

possession for a time sufficient for him to have terminated his possession.

If you find that the Defendant was not aware of possession of the property for a time sufficient to have terminated possession, you should find the Defendant not guilty.

### Instruction No. 9.0120. Culpability.

### Instruction No. 9.0120. Culpability.

#### I.C. 35–41–2–2.

[Intentionally] [Knowingly] [Recklessly] is defined by statute as follows:

A person engages in conduct intentionally if, when he/she engages in the conduct, it is his/her conscious objective to do so. [If a person is charged with intentionally causing a result by his/her conduct, the State is required to prove (beyond a reasonable doubt) that it must have been his conscious objective not only to engage in the conduct but to also cause the result.]

A person engages in conduct "knowingly" if, when he/she engages in this conduct, he/she is aware of a high probability that he/she is doing so. [If a person is charged with knowingly causing a result by his/her conduct, the State is required to prove (beyond a reasonable doubt) that he/she must have been aware of a high probability that his/her conduct would cause the result.]

A person engages in conduct "recklessly" if he/she engages in the conduct in plain, conscious, and unjustifiable disregard of harm that might result and the disregard involves a substantial deviation from acceptable standards of conduct.

### Instruction No.9.0140. Transferred Intent.

### Instruction No.9.0140. Transferred Intent.

The crime of (*insert name of crime charged*) is defined by law as follows: (*insert*

definition of charged crime).

When a person intends to (*insert action pertinent to charged crime - e.g., "touch" or "kill" or "damage"*)

[another person]

[or]

[the property of another person]

and [instead] [in addition] [*insert result pertinent to charged crime - e.g., "touches a different person" or "damages the property of a different person"*], his intent is transferred from [the person] [the property] to [whom] [which] it was directed to [the person] [the property] actually [*insert pertinent result - e.g., "touched" or "killed" or "damaged,"*], and he may be found guilty of (*insert crime charged - e.g., "battery" or "murder" or "criminal mischief"*) of the [person who] [property which] was [*insert pertinent result - e.g., "touched" or "killed" or "damaged"*].

Before you may convict the Defendant, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant

2. acting to

a. [knowingly] [intentionally]

b. [*insert elements of charged crime and identity of intended victim - e.g., "kill person X" or "damage the property of person X without X's consent"*]

3. and [instead] [in addition]

4. [*insert elements of charged crime and identity of actual victim - e.g., "killed person Y" or "damaged the property of person Y without Y's consent"*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [*insert name of charged crime*], a [Level \_\_\_\_\_ (*insert grade of charged crime*) \_\_\_\_\_ felony] [Class \_\_\_\_\_ (*insert grade of charged crime*) misdemeanor], charged in Count \_\_\_\_\_.

## CHAPTER 10 DEFENSES RELATING TO CULPABILITY

### SYNOPSIS

Instruction No. 10.0100. Legal Authority.  
Instruction No. 10.0200. Defense of Parent to Exercise Reasonable Discipline.  
Instruction No. 10.0300. Use of Force to Protect Person.  
Instruction No. 10.0400. Use of Force to Protect Dwelling.  
Instruction No. 10.0500. Use of Force to Protect Property.  
Instruction No. 10.0600. Use of Force to Protect an Aircraft.  
Instruction No. 10.0700. Use of Force Against a Public Servant to Protect Person.  
Instruction No. 10.0800. Use of Force Against a Public Servant to Protect Dwelling, Curtilage, or Motor Vehicle.  
Instruction No. 10.0900. Use of Force Against a Public Servant to Protect Property.  
Instruction No. 10.1000. Use of Deadly Force Against a Public Servant.  
Instruction No. 10.1100. Citizen's Use of Reasonable Force Relating to Arrest or Escape.  
Instruction No. 10.1200. Law Enforcement Officer's Use of Force Relating to Arrest or Escape.  
Instruction No. 10.1300. Intoxication—Involuntary.  
Instruction No. 10.1400. Intoxication—Voluntary.  
Instruction No. 10.1500. Mistake of Fact.  
Instruction No. 10.1600. Duress.  
Instruction No. 10.1700. Entrapment.  
Instruction No. 10.1800. Abandonment.  
Instruction No. 10.1900. Accident.  
Instruction No. 10.2000. Alibi.  
Instruction No. 10.2100. Necessity.

Instruction No. 10.0100. Legal Authority.

Instruction No. 10.0100. Legal Authority.

#### I.C. 35-41-3-1.

A person may not be convicted for engaging in conduct that would otherwise be a crime if he has legal authority to engage in the conduct.

It is an issue in this case whether the Defendant had legal authority to [describe prohibited conduct.] Under Indiana law, a person is authorized to [describe prohibited conduct] when [describe applicable circumstances.]

The State has the burden of proving beyond a reasonable doubt that the Defendant did not have legal authority.

Instruction No. 10.0200. Defense of Parent to Exercise Reasonable Discipline.

Instruction No. 10.0200. Defense of Parent to Exercise Reasonable Discipline.

It is a defense to the charge of \_\_\_\_\_ that the Defendant was the parent of [*name alleged victim*] and that Defendant's alleged conduct was the use by Defendant upon [*name alleged victim*] of (reasonable force) (reasonable confinement) which Defendant reasonably believed to be necessary for [*name alleged victim*]'s proper control, training, or education.

In determining whether Defendant's conduct was such reasonable discipline, you may consider:

1. whether the Defendant was [(*name alleged victim*)'s parent] [authorized to exercise parental authority over (*name alleged victim*)];
2. (*name alleged victim*)'s age, sex, and physical and mental condition;
3. the influence of (*name alleged victim*)'s example upon other children of the same family or group;
4. whether the alleged [force] [confinement] was reasonably necessary and appropriate to compel obedience to a proper command to (*name alleged victim*);
5. whether the alleged [force] [confinement] was:
  - disproportionate to (*name alleged victim*)'s behavior, and/or
  - unnecessarily degrading, and/or
  - likely to cause serious or permanent harm;
6. \_\_\_\_\_[insert any other factor unique to the case that should be considered].

In considering these factors, you should balance them against each other, giving each the weight you find was appropriate under the circumstances in determining whether the alleged [force] [confinement] was reasonable discipline.

The State has the burden to prove beyond a reasonable doubt that:

- a. the [force] [confinement] Defendant used was unreasonable.
- or
- b. Defendant's belief that the [force] [confinement] used was necessary to control the child and to prevent misconduct was unreasonable.

If you find that the State has not proved a. or b. above beyond a reasonable doubt, you may not convict the Defendant of (*name alleged offense*), a Level \_\_\_\_\_ felony.

Instruction No. 10.0300. Use of Force to Protect Person.

Instruction No. 10.0300. Use of Force to Protect Person.

I.C. 35-41-3-2.

It is an issue whether the Defendant acted in [self-defense] [defense of another person].

A person may use reasonable force against another person to protect (himself/herself from what he/she) or (someone else) from what the Defendant reasonably believes to be the imminent use of unlawful force.

A person is justified in using deadly force, and does not have a duty to retreat, only if he/she reasonably believes that deadly force is necessary [to prevent serious bodily injury to himself/herself or a third person] [to prevent the commission of a forcible felony].

[However, a person may not use force if:

(he/she is committing a crime that is directly and immediately connected to the (confrontation) (*use a descriptive term based on evidence*).

(or)

(he/she is escaping after the commission of a crime that is directly and immediately connected to the (confrontation) (*use a descriptive term based on evidence*).)

(or)

(he/she provokes a fight with another person with intent to cause bodily injury to that person).

(or)

(he/she has willingly entered into a fight with another person or started the fight, unless he withdraws from the fight and communicates to the other person his intent to withdraw and the other person nevertheless continues or threatens to continue the fight).]

The State has the burden of proving beyond a reasonable doubt that the Defendant did not act in self-defense.

Instruction No. 10.0400. Use of Force to Protect Dwelling.

Instruction No. 10.0400. Use of Force to Protect Dwelling.

I.C. 35-41-3-2.

It is an issue whether the Defendant acted in defense of his/her dwelling [or adjoining property].

A person may use reasonable force, including deadly force, against another person, and does not have a duty to retreat, if he/she reasonably believes that the force is necessary to prevent or terminate the other person's unlawful entry of or attack on [his/her dwelling] [the land adjoining his/her dwelling, including buildings, used for domestic purposes] [his/her occupied motor vehicle].

[However, a person may not use force if:

(he/she is committing a crime that is directly and immediately connected to the (entry or attack on his dwelling) (*use a descriptive term based on evidence*)]

(or)

(he/she is escaping after the commission of a crime that is directly and immediately connected to the (entry or attack on his dwelling) (*use a descriptive term based on evidence*)]

(or)

(he/she provokes a fight with another person with intent to cause bodily injury to that person)

(or)

(he/she has willingly entered into a fight with another person or started the fight, unless he/she withdraws from the fight and communicates to the other person his/her intent to withdraw and the other person nevertheless continues or threatens to continue the fight).]

The State has the burden of proving beyond a reasonable doubt that the Defendant did not act in defense of [his/her dwelling] [the land adjoining his/her dwelling, including buildings, used for domestic purposes] [his/her occupied motor vehicle].

Instruction No. 10.0500. Use of Force to Protect Property.

Instruction No. 10.0500. Use of Force to Protect Property.

I.C. 35-41-3-2.

It is an issue whether the Defendant acted in defense of his/her property.

[With respect to property other than (a dwelling) (the land adjoining a dwelling, including buildings, used for domestic purposes) (an occupied motor vehicle),] (A) person may use reasonable force, but not deadly force, against another person if he reasonably believes that the force is necessary to immediately prevent or terminate the other person's (trespass on) (criminal interference with) property (lawfully in Defendant's possession) (lawfully in possession of a member of Defendant's immediate family) (belonging to a person whose property Defendant has authority to protect).

[However, a person may not use force if:

(he/she is committing a crime that is directly and immediately connected to the trespass or criminal interference with the property (lawfully in Defendant's possession) (lawfully in possession of a member of Defendant's immediate family) (belonging to a person whose property Defendant has authority to protect) (*use a descriptive term based on evidence*).)

(or)

(he/she is escaping after the commission of a crime that is directly and immediately connected to the property (lawfully in Defendant's possession) (lawfully in possession of a member of Defendant's immediate family) (belonging to a person whose property Defendant has authority to protect)) (*use a descriptive term based on evidence*).)

(or)

(he/she provokes a fight with another person with intent to cause bodily injury to that person)

(or)

(he/she has willingly entered into a fight with another person or started the fight, unless he/she withdraws from the fight and communicates to the other person



his/her intent to withdraw and the other person nevertheless continues or threatens to continue the fight).]

The State has the burden of proving beyond a reasonable doubt that the Defendant did not act in defense of his/her property.

## Instruction No. 10.0600. Use of Force to Protect an Aircraft.

## Instruction No. 10.0600. Use of Force to Protect an Aircraft.

### I.C. 35-41-3-2(f) and (h).

It is an issue whether the Defendant acted in defense of an aircraft in flight.

A person may use reasonable force, including deadly force, against another person, and does not have a duty to retreat, if the person reasonably believes that the force is necessary to prevent or stop the other person from [hijacking] [attempting to hijack] [otherwise seizing or attempting to seize unlawful control of] an aircraft in flight.

For purposes of this subsection, an aircraft is considered to be in flight while the aircraft is:

- on the ground in Indiana:
  - after the door of the aircraft are closed for takeoff; and
  - until the aircraft takes off;
- in the airspace above Indiana;
- on the ground in Indiana:
  - after the aircraft lands; and
  - before the doors of the aircraft are opened after landing.

[However, a person may not use force if:

(the person is committing or is escaping after the commission of a crime

(or)

(the person provokes unlawful action by another person with intent to cause bodily injury to that person)

(or)

(the person has willingly entered into combat with another person or is the initial aggressor unless the person withdraws from the encounter and communicates to the other person the intent to do so and the other person nevertheless continues or threatens to continue unlawful action).]

The State has the burden of proving beyond a reasonable doubt that the Defendant did not act in defense of an aircraft in flight.

## Instruction No. 10.0700. Use of Force Against a Public Servant to Protect Person.

## Instruction No. 10.0700. Use of Force Against a Public Servant to Protect Person.

### I.C. 35-41-3-2(i) and (j).

It is an issue whether the Defendant acted against a public servant in lawful [self-defense] [defense of another person].

A person may use reasonable force against a public servant to protect [the person] [someone else] from what the person reasonably believes to be the imminent use of unlawful force.

[However, a person may not use force against a public servant if:

(the person is committing a crime that is directly and immediately connected to the (confrontation with the public servant)) (*use a descriptive term based on evidence*).

(or)

(the person is escaping after the commission of a crime that is directly and immediately connected to the (confrontation with the public servant)) (*use a descriptive term based on evidence*).]

(or)

(while acting with the intent to cause bodily injury to the public servant, the person provokes action by the public servant).]

(or)

(the person has entered into a fight with the public servant or has started the fight, unless the person withdraws from the fight and communicates to the law enforcement officer the person's intent to withdraw and the law enforcement officer nevertheless continues or threatens to continue unlawful action).]

(or)

the person reasonably believes the public servant is acting lawfully or engaged in the lawful execution of the public servant's official duties.]

The State has the burden of proving beyond a reasonable doubt that the Defendant did not act in lawful self-defense.

### Instruction No. 10.0800. Use of Force Against a Public Servant to Protect Dwelling, Curtilage, or Motor Vehicle.

### Instruction No. 10.0800. Use of Force Against a Public Servant to Protect Dwelling, Curtilage, or Motor Vehicle.

#### I.C. 35-41-3-2(i)(2) and (j).

It is an issue whether the Defendant acted against a public servant in lawful defense of property.

A person may lawfully use reasonable force against a public servant if the person reasonably believes that the force is necessary to prevent or terminate the public servant's entry of or attack on [the person's dwelling] [the land adjoining the person's dwelling, including buildings, used for domestic purposes] [the person's occupied motor vehicle].

[However, a person may not use force against a public servant if:

(the person is committing a crime that is directly and immediately connected to the (confrontation with the public servant)) (*use a descriptive term based on evidence*).]

(or)

(the person is escaping after the commission of a crime that is directly and immediately connected to the (confrontation with the public servant)) (*use a descriptive term based on evidence*).]

(or)

(while acting with the intent to cause bodily injury to the public servant, the person provokes action by the public servant).]

(or)

(the person has entered into a fight with the public servant or has started the fight, unless the person withdraws from the fight and communicates to the law enforcement officer the person's intent to withdraw and the law enforcement officer nevertheless continues or threatens to continue unlawful action).]

(or)

(the person reasonably believes the public servant is acting lawfully or engaged in the lawful execution of the public servant's official duties).]

The State has the burden of proving beyond a reasonable doubt that the Defendant did not use reasonable force in defense of [his/her dwelling] [the land adjoining his/her dwelling, including buildings, used for domestic purposes] [his/her occupied motor vehicle].

## Instruction No. 10.0900. Use of Force Against a Public Servant to Protect Property.

## Instruction No. 10.0900. Use of Force Against a Public Servant to Protect Property.

### I.C. 35-41-3-2(i)(3) and (j).

It is an issue whether the Defendant acted against a public servant in lawful defense of property.

A person may lawfully use reasonable force against a public servant if the person reasonably believes that the force is necessary to prevent or terminate the public servant's [unlawful trespass on] [criminal interference with] property [lawfully in the person's possession] [lawfully in the possession of a member of the person's immediate family] [belonging to another person when the person has the authority to protect it].

[However, a person may not use force against a public servant if:  
(the person is committing a crime that is directly and immediately connected to the confrontation with the public servant)) (*use a descriptive term based on*

evidence).]

(or)

(the person is escaping after the commission of a crime that is directly and immediately connected to the (confrontation with the public servant)) (*use a descriptive term based on evidence*).]

(or)

(while acting with the intent to cause bodily injury to the public servant, the person provokes action by the public servant).]

(or)

(the person has entered into a fight with the public servant or has started the fight, unless the person withdraws from the fight and communicates to the law enforcement officer the person's intent to withdraw and the law enforcement officer nevertheless continues or threatens to continue unlawful action).]

(or)

(the person reasonably believes the public servant is acting lawfully or engaged in the lawful execution of the public servant's official duties).]

The State has the burden of proving beyond a reasonable doubt that the Defendant did not act against a public servant in lawful defense of property.

## Instruction No. 10.1000. Use of Deadly Force Against a Public Servant.

## Instruction No. 10.1000. Use of Deadly Force Against a Public Servant.

### I.C. 35-41-3-2(k).

It is an issue whether the Defendant lawfully used deadly force against a public servant.

A person is not justified in using deadly force against a public servant whom the person knows or reasonably should know is a public servant unless

- (1) the person reasonably believes that the public servant is (acting unlawfully) (not engaged in the execution of the public servant's official duties)
- and
- (2) the deadly force is reasonably necessary to prevent serious bodily injury to the

person or a third person.

The State has the burden of proving beyond a reasonable doubt that the Defendant did not lawfully use deadly force against a public servant.

Instruction No. 10.1100. Citizen's Use of Reasonable Force Relating to Arrest or Escape.

Instruction No. 10.1100. Citizen's Use of Reasonable Force Relating to Arrest or Escape.

I.C. 35-41-3-3(a).

A person other than a law enforcement officer is justified in using reasonable force against another person to effect that person's arrest or prevent that person's escape if:

1. a felony has been committed; and
2. there is probable cause to believe the other person committed that felony.

The felony of *(name felony Defendant asserts was committed by arrested person)* is defined as *(define felony)*.

It is a defense to the charge of *(name offense charged)* that

1. The felony of *(name felony Defendant asserts was committed by arrested person)* had in fact been committed, and
2. The Defendant knew that *(name felony)* had been committed, and
3. Based on all the circumstances known to the Defendant there was a reasonable probability *(name arrested person)* had committed the felony, and
4. The Defendant used reasonable nondeadly force to [arrest \_\_\_\_\_ *(name arrested person)*] [prevent \_\_\_\_\_ *(name arrested person)* from escaping].

The State has the burden of disproving this defense beyond a reasonable doubt.

Instruction No. 10.1200. Law Enforcement Officer's Use of Force Relating to Arrest or Escape.

Instruction No. 10.1200. Law Enforcement Officer's Use of Force Relating to Arrest or Escape.

I.C. 35-41-3-3.

[A law enforcement officer is justified in using reasonable force if he/she reasonably believes that the force is necessary to effect a lawful arrest.

However, an officer is justified in using deadly force only if the officer:

(has probable cause to believe that deadly force is necessary to prevent the commission of a forcible felony)

(or)

(to effect an arrest of a person whom the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person)

and

( has given a warning, if feasible, to the person against whom the deadly force is to be used).]

[A law enforcement officer making an arrest under an invalid warrant is justified in using force as if the warrant was valid, unless the officer knows that the warrant is invalid.]

[A law enforcement officer who has an arrested person in custody is justified in using the same force to prevent the escape of the arrested person from custody that the officer would be justified in using if the officer was arresting that person.

However, an officer is justified in using deadly force only if the officer:

(has probable cause to believe that deadly force is necessary to prevent the escape from custody of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person)

and (has given a warning, if feasible, to the person against whom the deadly force is to be used).]

[A guard or other official in a penal facility or a law enforcement officer is justified in using reasonable force, including deadly force, if he reasonably believes

that the force is necessary to prevent the escape of a person who is detained in the penal facility.]

The State has the burden of disproving this defense beyond a reasonable doubt.

#### Instruction No. 10.1300 Intoxication—Involuntary.

#### Instruction No. 10.1300 Intoxication—Involuntary.

##### I.C. 35–41–3–5.

Involuntary intoxication is a defense to the crime of (*insert name of crime*). Involuntary intoxication occurs when the Defendant commits the crime charged while intoxicated and the intoxication has resulted from the introduction of a substance into the body of the Defendant [without Defendant's consent] [when the Defendant did not know the substance might cause intoxication.]

Involuntary intoxication is a defense to the crime charged if the intoxication rises to the level that the Defendant was unable to appreciate the wrongfulness of the conduct at the time of the offense.

The Defendant has the burden to prove the defense of involuntary intoxication by a preponderance of the evidence.

#### Instruction No. 10.1400. Intoxication—Voluntary.

#### Instruction No. 10.1400. Intoxication—Voluntary.

##### I.C. 35–41–2–5, I.C. 35–41–3–5.

Voluntary intoxication is not a defense to a charge of (*insert name of crime*). You may not take voluntary intoxication into consideration in determining whether the Defendant acted [intentionally] [knowingly] [recklessly] as alleged in the [information] [indictment].



Instruction No. 10.1500. Mistake of Fact.

Instruction No. 10.1500. Mistake of Fact.

I.C. 35–41–3–7.

It is an issue whether the Defendant mistakenly committed the acts charged.

It is a defense that the Defendant was reasonably mistaken about a matter of fact if the mistake prevented the Defendant from:

[intentionally] [knowingly] [recklessly] committing the acts charged

[or]

[committing the acts charged with specific intent to (*specify specific intention for crime*)].

The State has the burden of proving beyond a reasonable doubt that the Defendant was not reasonably mistaken.

Instruction No. 10.1600. Duress.

Instruction No. 10.1600. Duress.

I.C. 35–41–3–8.

It is an issue whether the Defendant was acting under duress.

It is a defense that the Defendant was compelled to commit the acts charged by threat of imminent serious bodily injury to himself or another person. [With respect to offenses other than felonies, it is a defense that the Defendant was compelled to commit the acts charged by force or threat of force.] Compulsion exists only if the force, threat, or circumstances would render a reasonable person incapable of resisting the pressure.

This defense does not apply to a person who [(recklessly) (knowingly) (intentionally)] placed himself in a situation where it was foreseeable that he would be subjected to duress [committed an offense against the person as defined in IC 35–42].

The State has the burden of proving beyond a reasonable doubt that the Defendant was not acting under duress.

### Instruction No. 10.1700 Entrapment.

### Instruction No. 10.1700 Entrapment.

#### I.C. 35–41–3–9.

The defense of entrapment is an issue in this case.

In order to overcome this defense, the State must prove beyond a reasonable doubt:

1. that the prohibited conduct of the Defendant was not the product of [a law enforcement officer] [[a law enforcement officer's agent] using persuasion or other means likely to cause the Defendant to engage in the conduct, or
2. that the Defendant was predisposed to commit the offense.

Conduct merely affording a person an opportunity to commit the offense does not constitute entrapment.

### Instruction No. 10.1800. Abandonment.

### Instruction No. 10.1800. Abandonment.

#### I.C. 35-41-3-10.

It is a defense to a charge of [aiding, inducing, or causing an offense] [attempt] [conspiracy] that the Defendant abandoned [his] [her] effort to commit the *[insert name of crime attempted, conspired to, or aided]* and prevented its commission.

To constitute a valid defense, the abandonment must have been a complete and voluntary giving up of the criminal purpose. The abandonment was not voluntary if motivated:

- 1) in whole or in part;
- 2) by circumstances not present or apparent when Defendant began [his] [her] course of conduct;
- 3) when those circumstances

- a. increased the probability of detection or apprehension,  
or
- b. made commission of the crime more difficult.

A decision to postpone the criminal conduct or to change the objective or victim does not constitute abandonment.

The State has the burden of disproving this defense beyond a reasonable doubt.

Instruction No. 10.1900 Accident.

Instruction No. 10.1900 Accident.

This instruction has been withdrawn.

Instruction No. 10.2000. Alibi.

Instruction No. 10.2000. Alibi.

I.C. 35–36–4–1.

This instruction has been withdrawn.

Instruction No. 10.2100. Necessity.

Instruction No. 10.2100. Necessity.

The defense of necessity is an issue in this case.

The defense of necessity applies when:

(1) the act charged as criminal was the result of an emergency and was done to prevent a significant harm;

- (2) there was no adequate alternative to the commission of the act;
- (3) the harm caused by the act was not disproportionate to the harm avoided;
- (4) the Defendant had a good-faith belief that his/her act was necessary to prevent greater harm;
- (5) the Defendant's belief was objectively reasonable under all the circumstances of the case; and
- (6) the Defendant did not substantially contribute to the creation of the emergency.

The State has the burden to prove beyond a reasonable doubt that the Defendant was not acting out of necessity, and may do so by disproving any one of the above facts.

## CHAPTER 11 INSANITY DEFENSE

### SYNOPSIS

No. 11.0100. Sample Elements Instruction.  
No. 11.0300. Mentally Ill—Definition.  
No. 11.0500. Preliminary on Burden of Proof.  
No. 11.0700. Definition of Defense of Insanity.  
No. 11.0900. Preponderance of Evidence.  
No. 11.1100. Temporary Insanity.  
No. 11.1300. Expert Witnesses—Procedure.  
No. 11.1500. Expert Testimony—Weight.  
No. 11. 1700. Consequences of Not Guilty By Reason of Insanity or Guilty But Mentally Ill Verdicts.

Instruction No. 11.0100. Sample Elements Instruction.

Instruction No. 11.0100. Sample Elements Instruction.

I.C. 35-42-1-1, I.C. 35-41-3-6, I.C. 35-41-4-1, I.C. 35-36-1-1, I.C. 35-36-2-3.

The crime of murder is in part defined as follows:

A person who knowingly or intentionally kills another human being commits murder, a felony.

Before you may convict the Defendant of the crime of murder, the State must have proved each of the following elements beyond a reasonable doubt:

1. The Defendant
2. knowingly or intentionally
3. killed [*name*].

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of murder, a felony, charged in Count \_\_\_\_\_.

If the State did prove each of these elements beyond a reasonable doubt, and the Defendant also proved by a preponderance of the evidence that at the time of such conduct, as the result of a mental disease or defect, he was unable to appreciate the wrongfulness of the conduct, then you must find the Defendant not responsible by reason of insanity.

If the State did prove each of these elements beyond a reasonable doubt, and the Defendant did not prove by a preponderance of the evidence that at the time of such conduct, as the result of a mental disease or defect, he was unable to appreciate the wrongfulness of the conduct, and you do not find that the Defendant was mentally ill at the time of the conduct, then you may find the Defendant guilty

of murder, a felony, charged in Count \_\_\_\_\_.

If the State did prove each of these elements beyond a reasonable doubt, and the Defendant did not prove by a preponderance of the evidence that at the time of such conduct, as the result of a mental disease or defect, he was unable to appreciate the wrongfulness of the conduct, but you find that the Defendant was mentally ill at the time of the conduct, then you may find the Defendant guilty but mentally ill of murder, a felony, charged in Count \_\_\_\_\_.

Instruction No. 11.0300. Mentally Ill—Definition.

Instruction No. 11.0300. Mentally Ill—Definition.

I.C. 35-36-1-1.

The term “mentally ill” means having a psychiatric disorder which substantially disturbs a person’s thinking, feeling or behavior and impairs the person’s ability to function; “mentally ill” also includes having any mental retardation.

Instruction No. 11.0500. Preliminary on Burden of Proof.

Instruction No. 11.0500. Preliminary on Burden of Proof.

I.C. 35–41–4–1.

The Defendant has raised the defense of insanity. On the issue of insanity, the burden rests upon the Defendant to prove to each of you, by a preponderance of the evidence, that he was not responsible by reason of insanity at the time of the offense charged.

Instruction No. 11.0700. Definition of Defense of Insanity.

Instruction No. 11.0700. Definition of Defense of Insanity.

I.C. 35–41–3–6 (1984).

The defense of insanity is defined by law as follows:

A person is not responsible for having engaged in prohibited conduct if, as a result of mental disease or defect, he was unable to appreciate the wrongfulness of the conduct at the time of the offense.

“Mental disease or defect” means a severely abnormal mental condition that grossly and demonstrably impairs a person’s perception, but the term does not include an abnormality manifested only by repeated unlawful or anti-social conduct.

#### Instruction No. 11.0900. Preponderance of Evidence.

#### Instruction No. 11.0900. Preponderance of Evidence.

Preponderance of the evidence, as it applies to the issue of insanity, means that you must be convinced from a consideration of all the evidence in the case that the Defendant was more probably insane than sane. The number of witnesses testifying on that issue for one side or the other is not necessarily of the greater weight. Evidence which convinces you most strongly of its truthfulness is of the greater weight.

#### Instruction No. 11.1100. Temporary Insanity.

#### Instruction No. 11.1100. Temporary Insanity.

This instruction has been withdrawn.

#### Instruction No. 11. 1300. Expert Witnesses — Procedure.

#### Instruction No. 11. 1300. Expert Witnesses — Procedure.

#### I.C. 35–36–2–2.

Under Indiana law, when a Defendant in a criminal case raises the defense of not responsible by reason of insanity, the court is required to appoint disinterested [psychiatrists] [physicians] [psychologists] to examine the Defendant. The court is further required to call those [psychiatrists] [physicians] [psychologists] to testify at trial concerning their opinion about the Defendant’s sanity at the time of the offense.

The fact that these [psychiatrists] [physicians] [psychologists] are called as witnesses by the court does not mean the court necessarily approves or sanctions their testimony. You should weigh, evaluate, and scrutinize the testimony of the court’s psychiatric witnesses in the same manner you would the witnesses called by the Defendant and the State.

#### Instruction No. 11. 1500. Expert Testimony — Weight.

#### Instruction No. 11. 1500. Expert Testimony — Weight.

The jury is not bound by the opinions or conclusions of experts who have testified as to what is a mental disease or mental defect. Mental disease or mental

defect includes any abnormal condition of the mind which substantially affects mental or emotional processes and substantially impairs behavior controls. Thus, you are instructed to consider expert testimony in light of all other testimony presented concerning the development, adaptation and functioning of the Defendant's mental and emotional processes and behavior controls and not necessarily accept the ultimate conclusions of the experts as to the Defendant's legal sanity or insanity. This is your decision and only your decision. You must decide the extent of the Defendant's mental disability, if any.

### **Instruction No. 11. 1700. Consequences of Not Guilty By Reason of Insanity or Guilty But Mentally Ill Verdicts**

### **Instruction No. 11. 1700. Consequences of Not Guilty By Reason of Insanity or Guilty But Mentally Ill Verdicts**

If the Defendant is found guilty but mentally ill at the time of the crime, the court will sentence the Defendant in the same manner as a Defendant found guilty of the offense. The Defendant will then be further evaluated and treated as is psychiatrically indicated for [his] [her] illness.

If the Defendant is found not responsible by reason of insanity at the time of the crime, the prosecuting attorney will file a petition for mental health commitment with the court. The court will hold a mental health commitment hearing at the earliest opportunity. The Defendant will be detained in custody until the completion of the hearing. If the court finds that the Defendant is mentally ill and either dangerous or gravely disabled, then the court may order the Defendant to be either placed in an outpatient treatment program of not more than ninety (90) days, or committed to an appropriate mental health facility until a court determines commitment is no longer needed.



## CHAPTER 12 EVIDENCE

### SYNOPSIS

Instruction No. 12.0100. Direct Evidence and Circumstantial Evidence.  
Instruction No. 12.0300. Defendant's Statement.  
Instruction No. 12.0500. Defendant's Statement—Multiple Defendants.  
Instruction No. 12.0700. Multiple Defendants—Separate Consideration.  
Instruction No. 12.0900. Dying Declaration.  
Instruction No. 12.1100. Evidence of Defendant's Reputation.  
Instruction No. 12.1500. Other Crimes, Wrongs, or Acts.  
Instruction No. 12.2000. Impeachment and Substantive Evidence.  
Instruction No. 12.2100. Impeachment—Prior Inconsistent Statements.  
Instruction No. 12.2500. Escape.  
Instruction No. 12.2700. Flight.  
Instruction No. 12.3000. Motive.  
Instruction No. 12.3300. Expert Testimony—Hypothetical Question.  
Instruction No. 12.3500. Opinion of Layperson.  
Instruction No. 12.3700. Testimony of an Accomplice.  
Instruction No. 12.3900. Date of Crime Charged.  
Instruction No. 12.4100. Statute of Limitation—Defendant Out of State.  
Instruction No. 12.4500. Agreed Facts.  
Instruction No. 12.4700. Judicially Noticed Facts.  
Instruction No. 12.5000. Depositions—Transcripts.  
Instruction No. 12.5300. Inspection of Place.

Instruction No. 12.0100. Direct Evidence and Circumstantial Evidence.

Instruction No. 12.0100. Direct Evidence and Circumstantial Evidence.

The parties in this case may prove a fact by one of two types of evidence—direct evidence or circumstantial evidence.

Direct evidence is direct proof of a fact. Circumstantial evidence is indirect proof of a fact.

For example, direct evidence that an animal ran in the snow might be the testimony of someone who actually saw the animal run in the snow. On the other hand, circumstantial evidence that an animal ran in the snow might be the testimony of someone who only saw the animal's tracks in the snow.

It is not necessary that any fact be proved by direct evidence. You may consider both direct evidence and circumstantial evidence as proof.

Instruction No. 12.0300. Defendant's Statement.

Instruction No. 12.0300. Defendant's Statement.

Evidence has been introduced that the Defendant made a statement concerning the crime charged. It is for you to determine, in light of all the circumstances under which the statement was made, if it was properly obtained by the [police, prosecutor, law enforcement]. The law does not allow the [police, prosecutor, law enforcement] to obtain a statement by [abuse, threats, duress, or violence] [false promises]. If you find that [police, prosecutor, law enforcement] obtained the statement by such means, you should not consider the statement as evidence against the Defendant. If you find from a consideration of all the evidence that the statement was properly obtained by [police, prosecutor, law enforcement], then it is for you to determine what value should be given to the statement.

Instruction No. 12.0500. Defendant's Statement—Multiple Defendants.

Instruction No. 12.0500. Defendant's Statement—Multiple Defendants.

A Defendant's statement concerning the crime charged may not be considered by you against any Defendant other than the one who made it.

Instruction No. 12.0700. Multiple Defendants—Separate Consideration.

Instruction No. 12.0700. Multiple Defendants—Separate Consideration.

You should give separate consideration to each Defendant. Each Defendant is entitled to have his case decided on the evidence and the law that applies to him/her.

Any evidence which was limited to [one Defendant] [some Defendants] should not be considered by you as to any other Defendant[s].

Instruction No. 12.1000. Other Crimes, Wrongs, or Acts.

Instruction No. 12.1000. Other Crimes, Wrongs, or Acts.

Indiana Rule of Evidence 404(b).

Evidence has been introduced that the Defendant was involved in (crimes) (a

crime) (wrongful conduct) (bad acts) other than (those) (that) charged in the information. This evidence has been received solely on the issue of Defendant's (identity) (motive) (intent) (preparation) (plan) (knowledge) (absence of mistake) (absence of accident) (sanity). This evidence should be considered by you only for that limited purpose.

#### Instruction No. 12.1300 Impeachment—Prior Inconsistent Statements.

#### Instruction No. 12.1300 Impeachment—Prior Inconsistent Statements.

The credibility of a witness may be attacked by introducing evidence that on some former occasion the witness [made a statement] [made a written statement] [in former testimony testified] [acted in a manner] inconsistent with his testimony in this case. Evidence of this kind may be considered by you in deciding the value of the testimony of the witness.

#### Instruction No. 12.1900. Motive.

#### Instruction No. 12.1900. Motive.

Motive is what causes a person to act. The State is not required to prove a motive for the crime charged.

#### Instruction No. 12.2300. Expert Testimony—Hypothetical Question.

#### Instruction No. 12.2300. Expert Testimony—Hypothetical Question.

A person who has specialized education, knowledge or experience is permitted to express an opinion in those areas. You should evaluate this testimony as you would other evidence in this case. You should also consider the witness's skill, experience, knowledge, and familiarity with the facts of this case.

[Questions have been asked in which the witness was asked to assume that certain facts were true and to give an opinion based upon those facts. If you find that any assumed fact is not true, you may consider that in determining the value of the opinion.]

Instruction No. 12.2500. Opinion of Layperson.

Instruction No. 12.2500. Opinion of Layperson.

This instruction is withdrawn.

Instruction No. 12.2900. Date of Crime Charged.

Instruction No. 12.2900. Date of Crime Charged.

I.C. 35–34–1–2.

The State is not required to prove that the crime charged was committed on the particular date [during a particular time period] alleged in the [information] [indictment].

Instruction No. 12.3100. Statute of Limitation—Defendant Out of State.

Instruction No. 12.3100. Statute of Limitation—Defendant Out of State.

I.C. 35–41–4–2.

It is a defense to the crime charged that the case did not begin within the time allowed by law.

A person may not be found guilty of [\_\_\_\_\_ *insert name of crime charged*] unless the case began

[within five years after the commission of the crime (*if B, C, or D felony*)]

[within two years after commission of the crime (*if misdemeanor*)]

[before the date the alleged victim reached thirty-one (31) years of age (*if child molesting under I.C. 35–42–4–2(a), vicarious sexual gratification, child solicitation, child seduction or incest*)]

[within five years after commission of the crime if at the time of the crime the Defendant was at least sixteen years of age and the alleged victim was not more than two years younger than the Defendant (*for child molesting under I.C. 35–42–4–3(c)(repealed) or I.C. 35–42–4–3(d) (repealed)*)]

[within five years after maturity of the instrument (*if the crime is forgery or uttering a forged instrument*)].

[This case began on \_\_\_\_\_ (use if parties agree on beginning date.)

[or]

[A case begins on the earlier of the following events: the date the charge was filed, the date a valid arrest warrant for the crime was issued, or the date the Defendant was lawfully arrested without a warrant].

The time period for beginning a criminal case does not include any period of time:

[the Defendant was not usually and publicly residing in Indiana]

[or]

[the Defendant concealed himself so that he could not be officially notified of the case against him]

[or]

[the Defendant concealed evidence of the offense and evidence of the offense was unknown to the prosecuting attorney and could not have been discovered by the prosecutor by exercise of due diligence]

[or]

[the Defendant was elected or appointed to an office under a statute or the constitution, and the offense charged is theft or conversion of public funds or bribery while in public office].

The burden is on the State to prove beyond a reasonable doubt that the case did begin within the time allowed by law.

### Instruction No. 12.3500. Agreed Facts.

### Instruction No. 12.3500. Agreed Facts.

When the parties agree to certain fact[s], you should accept the fact[s] as true.

### Instruction No. 12.3700. Judicially Noticed Facts.

### Instruction No. 12.3700. Judicially Noticed Facts.

The Court has taken judicial notice that \_\_\_\_\_. You may, but are not required to, accept this as true.

#### Instruction No. 12.4000. Depositions—Transcripts.

#### Instruction No. 12.4000. Depositions—Transcripts.

##### I.C. 35–37–4–3.

Some evidence was presented through a \_\_\_\_\_ [deposition] [transcript of testimony] which was read to you. It is your duty to decide the value you give to this evidence. The significance of this evidence should be determined in the same manner other evidence is evaluated.

#### Instruction No. 12.4300. Inspection of Place

#### Instruction No. 12.4300. Inspection of Place

##### Ind. Jury Rule 25; I.C. 35–37–2–5.

The court will allow the jury to see \_\_\_\_\_ [*state what is to be inspected*].

During your trip to and from the place to be inspected, you are not to discuss this case or any subject connected with the trial among yourselves or with anyone else.

The court has appointed (*name person*) to show the place to you. While you are away from the courtroom for this inspection, you are not to speak with any person other than (*name person appointed*) about any subject connected with the trial

At the place of inspection you are to remain together as a group. You are not to conduct an independent investigation.

What you see at the scene is not to be considered as evidence or in contradiction of evidence given in this case. The purpose of the inspection is to help each of you better understand and evaluate the evidence that is admitted in the courtroom.

## CHAPTER 13 GENERAL INSTRUCTIONS

### SYNOPSIS

Instruction No. 13.0100. Instructions to Be Considered as a Whole.  
Instruction No. 13.0300. Duty of Judge and Jury.  
Instruction No. 13.0500. Issue for Trial.  
Instruction No. 13.0700. Information/Indictment Not Evidence.  
Instruction No. 13.0900. Presumption of Innocence—Burden of Proof.  
Instruction No. 13.1000. Burden of Proof—Reasonable Doubt—Final Instruction.  
Instruction No. 13.1100. Credibility of Witnesses—Weighing Evidence.  
Instruction No. 13.1300. Recalling Evidence.  
Instruction No. 13.1500. Sympathy—Prejudice.  
Instruction No. 13.1700. Rulings of Court.  
Instruction No. 13.1900. Statements by Counsel.  
Instruction No. 13.2100. Defendant Refuses Cross-Examination.  
Instruction No. 13.2300. Defendant does not testify.  
Instruction No. 13.2500. Defendant Testifies.  
Instruction No. 13.2700. Jury Deliberations.  
Instruction No. 13.2900. Duty of Alternate Juror in Deliberations.  
Instruction No. 13.3100. Unanimous Decision on Crime.  
Instruction No. 13.3300. Unanimous Decision on “Generic Evidence” of Multiple Acts.  
Instruction No. 13.3500. Penalty Imposed by Court.  
Instruction No. 13.3700. Included Offense Introduction [Instruction Numbers 13.3700, 13.3900, and 13.4100 should be given together and in sequence when a lesser included offense instruction is given.].  
Instruction No. 13.3900. Charged offense—elements.  
Instruction No. 13.4100. Included offense—elements.  
Instruction No. 13.4300. Consider Separate Counts Individually.  
Instruction No. 13.4500. Admonition at Breaks in Deliberations.

Instruction No. 13.0100. Instructions to Be Considered as a Whole.

Instruction No. 13.0100. Instructions to Be Considered as a Whole.

You are to consider all of the instructions [both preliminary and final] together. Do not single out any certain sentence or any individual point or instruction and ignore the others.

Instruction No. 13.0300. Duty of Judge and Jury.

Instruction No. 13.0300. Duty of Judge and Jury.

See Preliminary [Instruction No. 1.0300](#).

**[Preliminary Instruction 1.0300:**

Under the Constitution of Indiana you have the right to determine both the law and the facts. The Court's instructions are your best source in determining the law.]

Instruction No. 13.0500. Issue for Trial.

Instruction No. 13.0500. Issue for Trial.

See Preliminary Instruction 1.0700.

**[Preliminary Instruction 1.0700:**

In this case, the State of Indiana has charged the Defendant with [Count 1: (*name of charge in Count 1*), Count 2: (*name of charge in Count 2*), etc.] The charge(s) read(s) as follows:

[*insert the Charge*].]

Instruction No. 13.0700. Information/Indictment Not Evidence.

Instruction No. 13.0700. Information/Indictment Not Evidence.

See Preliminary Instruction 1.1100.

**[Preliminary Instruction 1.1100:**

The charge that has been filed is the formal method of bringing the Defendant to trial. The filing of a charge or the Defendant's arrest is not to be considered by you as any evidence of guilt.

A plea of not guilty has been entered on behalf of the Defendant.]

Instruction No. 13.0900. Presumption of Innocence—Burden of Proof.

Instruction No. 13.0900. Presumption of Innocence—Burden of Proof.

See Preliminary Instruction 1.1300.

**[Preliminary Instruction 1.1300:**



Under the law of this State, a person charged with a crime is presumed to be innocent. This presumption of innocence continues in favor of the Defendant throughout each stage of the trial and you should fit the evidence presented to the presumption that the Defendant is innocent, if you can reasonably do so.

If the evidence lends itself to two reasonable interpretations, you must choose the interpretation consistent with the defendant's innocence. If there is only one reasonable interpretation, you must accept that interpretation and consider the evidence with all the other evidence in the case in making your decision.

To overcome the presumption of innocence, the State must prove the Defendant guilty of each element of the crime charged, beyond a reasonable doubt.

The Defendant is not required to present any evidence to prove his innocence or to prove or explain anything.

## Instruction No. 13.1000. Burden of Proof—Reasonable Doubt—Final Instruction.

## Instruction No. 13.1000. Burden of Proof—Reasonable Doubt—Final Instruction.

See Preliminary [Instruction No. 1.1500](#).

### [Preliminary [Instruction 1.1500](#):

The burden is upon the State to prove beyond a reasonable doubt that the Defendant is guilty of the crime(s) charged. It is a strict and heavy burden. The evidence must overcome any reasonable doubt concerning the Defendant's guilt. But it does not mean that a Defendant's guilt must be proved beyond all possible doubt.

A reasonable doubt is a fair, actual and logical doubt based upon reason and common sense. A reasonable doubt may arise either from the evidence or from a lack of evidence. Reasonable doubt exists when you are not firmly convinced of the Defendant's guilt, after you have weighed and considered all the evidence.

A Defendant must not be convicted on suspicion or speculation. It is not enough for the State to show that the Defendant is probably guilty. On the other hand, there are very few things in this world that we know with absolute certainty. The State does not have to overcome every possible doubt.

The State must prove each element of the crime(s) by evidence that firmly

convinces each of you and leaves no reasonable doubt. The proof must be so convincing that you can rely and act upon it in this matter of the highest importance. [In determining whether the guilt of the accused is proven beyond a reasonable doubt, you should require that the proof be so conclusive and sure as to exclude every reasonable theory of innocence.]

If you find that there is a reasonable doubt that the Defendant is guilty of the crime(s), you must give the Defendant the benefit of that doubt and find the Defendant not guilty of the crime under consideration.

## Instruction No. 13.1100. Credibility of Witnesses—Weighing Evidence.

## Instruction No. 13.1100. Credibility of Witnesses—Weighing Evidence.

See Preliminary [Instruction 1.1700](#). The Committee notes that [Instruction 13.0100](#) in effect incorporates Preliminary [Instruction 1.1700](#).

### [Preliminary [Instruction 1.1700](#):

You are the exclusive judges of the evidence, which may be either witness testimony or exhibits. In considering the evidence, it is your duty to decide the value you give to the exhibits you receive and the testimony you hear.

In determining the value of a witness's testimony, some factors you may consider are:

- the witness's ability and opportunity to observe;
- the behavior of the witness while testifying;
- any interest, bias or prejudice the witness may have;
- any relationship with people involved in the case;
- the reasonableness of the testimony considering the other evidence;
- your knowledge, common sense, and life experiences.

You should not disregard the testimony of any witness without a reason and without careful consideration. If you find conflicting testimony, you must determine which of the witnesses you will believe and which of them you will disbelieve.

The quantity of evidence or the number of witnesses need not control your determination of the truth. You should give the greatest value to the evidence you find most convincing.

## Instruction No. 13.1300. Recalling Evidence.

## Instruction No. 13.1300. Recalling Evidence.

See Preliminary [Instruction 1.2100](#). The Committee recommends giving only as a preliminary instruction. The Committee also notes that [Instruction 13.0100](#) in effect incorporates by reference Preliminary [Instruction 1.1100](#).

### [Revised Pattern 1.2100]

You must decide the facts from your memory of the testimony and exhibits admitted for your consideration. You may take notes during the trial. However, do not become so involved in note taking that you fail to listen carefully and observe the witnesses as they testify.]

## Instruction No. 13.1500. Sympathy—Prejudice.

## Instruction No. 13.1500. Sympathy—Prejudice.

Your verdict should be based on the law and the facts as you find them. It should not be based on sympathy or bias.

## Instruction No. 13.1700. Rulings of Court.

## Instruction No. 13.1700. Rulings of Court.

See Preliminary [Instruction 1.1900](#).

## Instruction No. 13.1900. Statements by Counsel.

Instruction No. 13.1900. Statements by Counsel.  
Statements made by the attorneys are not evidence.

Instruction No. 13.2100. Defendant Refuses Cross-Examination.

Instruction No. 13.2100. Defendant Refuses Cross-Examination.

Once the Defendant has testified, the Defendant has no right to refuse to be cross-examined. The Defendant must answer questions when directed by the Court to do so. If the Defendant refuses to answer a question, you may consider that refusal in weighing Defendant's credibility.

Instruction No. 13.2300. Defendant does not testify.

Instruction No. 13.2300. Defendant does not testify.

No defendant may be compelled to testify. A defendant has no obligation to testify.

The Defendant did not testify. You must not consider this in any way.

Instruction No. 13.2500. Defendant Testifies.

Instruction No. 13.2500. Defendant Testifies.

You should judge the testimony of the Defendant as you would the testimony of any other witness.

Instruction No. 13.2700. Jury Deliberations.

Instruction No. 13.2700. Jury Deliberations.

To return a verdict, each of you must agree to it.

Each of you must decide the case for yourself, but only after considering the evidence with the other jurors. It is your duty to consult with each other. You should try to agree on a verdict, if you can do so without compromising your individual judgment. Do not hesitate to re-examine your own views and change your mind if you believe you are wrong. But do not give up your honest belief just because the other jurors may disagree, or just to end the deliberations. After the verdict is read in court, you may be asked individually whether you agree with it.

When you begin, select one of your members as foreperson to manage the deliberations.

No one will be allowed to hear your discussions and no recording will be made of what you say. The bailiff is available to assist you with personal needs, but cannot answer any questions about the case.

Any question for [the Court] [me] must be in writing and given to the bailiff. [The Court often is] [I often am] not allowed to answer your questions, except by re-reading all of the jury instructions. Because [the Court has] [I have] given you those instructions, you may be able to answer your questions by reviewing them.

If there is a break in deliberations, do not talk about this case among yourselves or with anyone else.

[The Court is] [I am] submitting to you forms of possible verdicts you may return. The foreperson should sign and date the verdict[s] to which you all agree. Do not sign any verdict form for which there is not unanimous agreement. Sign only one verdict form for each count. The foreperson must return all verdict forms, signed or unsigned.

When you have agreed upon a verdict[s], inform the bailiff. When the parties are present, you will be brought back to court for the verdict to be read. After you return a verdict, you are under no obligation to discuss it with anyone.

## Instruction No. 13.2900. Duty of Alternate Juror in Deliberations.

### Instruction No. 13.2900. Duty of Alternate Juror in Deliberations.

[Mr.][Ms.] [*name of alternate juror*], you have been selected as an alternate juror.

Your duties are the same as those of the regular jurors, except you must not participate in the deliberations or voting of the jury unless I direct you to do so.

The foreperson shall prevent alternate jurors from deliberating or voting with the jury. The foreperson shall promptly report any violation of this instruction to me.

### Instruction No. 13.3100. Unanimous Decision on Crime.

### Instruction No. 13.3100. Unanimous Decision on Crime.

The Defendant is accused in Count \_\_\_\_\_ of having committed (*name crime*) against [*name alleged victim*] between (*insert date*) and (*insert date*).

The State has presented evidence that the Defendant may have committed more than one act of (*name crime*) against (*name alleged victim*) between (*insert date*) and (*insert date*). Before you may find the Defendant guilty, you must all unanimously find and agree that the State proved beyond a reasonable doubt the Defendant committed the same specific, single act of (*name crime*) against (*name alleged victim*) between (*insert date*) and (*insert date*).

If you find the Defendant guilty, your verdict does not have to specify the particular act of (*name crime*) Defendant committed.

### Instruction No. 13.3300. Unanimous Decision on “Generic Evidence” of Multiple Acts.

### Instruction No. 13.3300. Unanimous Decision on “Generic Evidence” of Multiple Acts.

The Defendant is accused in this case of having committed the crime of [*name alleged crime*] against [*name victim*] during [*state alleged time period*].

The State has presented evidence that the Defendant may have committed more than one act of [*name alleged crime*] against [*victim*] during [*date*]. The evidence described multiple acts that may constitute the crime of [*name alleged crime*]. Before you may find the Defendant guilty of the crime of [*name alleged crime*] in the case:

(1) You must all unanimously find and agree that the State proved beyond a reasonable doubt that the Defendant committed all acts of [*name alleged crime*] against [*name victim*] described in the evidence during [*specify time period alleged*].

Or

(2) You must all unanimously find and agree that the State proved beyond a reasonable doubt that the Defendant committed the act of [*name alleged crime*] against [*name victim*] in [*specify first time alleged in the charge*]

Or

(3) You must all unanimously find and agree that the State proved beyond a reasonable doubt that the Defendant committed the act of [*name alleged crime*] against [*name victim*] in [*specify second time alleged in the charge*].

If you find the Defendant guilty, your verdict does not have to specify the particular act of [*name alleged crime*] Defendant committed or the time it was committed.

### Instruction No. 13.3500. Penalty Imposed by Court.

### Instruction No. 13.3500. Penalty Imposed by Court.

These instructions do not contain any information concerning a possible sentence. The Court alone is responsible for sentencing if there is a conviction.

### Instruction No. 13.3700. Included Offense Introduction

[Instruction Numbers 13.3700, 13.3900, and 13.4100 should be given together and in sequence when a lesser included offense instruction is given.]

### Instruction No. 13.3700. Included Offense Introduction

[Instruction Numbers 13.3700, 13.3900, and 13.4100 should be given together and in sequence when a lesser included offense instruction is given.]

The Defendant is charged with \_\_\_\_\_ [*charged offense*].  
\_\_\_\_\_ [*Name included offense(s)*] is/are included in Count I  
\_\_\_\_\_ [*name charged offense*]. If the State proves the Defendant guilty of  
\_\_\_\_\_ [*the charged offense*], you need not consider the included crime(s).  
However, if the State fails to prove the Defendant committed \_\_\_\_\_ [*name charged offense*], you may consider whether the Defendant committed  
\_\_\_\_\_ [*name included offense(s)*], which the Court will define for you.

You must not find the Defendant guilty of more than one crime for each count.

### Instruction No. 13.3900. Charged offense—elements.

### Instruction No. 13.3900. Charged offense—elements.

[Give standard instruction on charged offense, which should conclude with the

following paragraph:]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of \_\_\_\_\_, a Level \_\_\_\_\_ felony, as charged in Count \_\_\_\_\_.

#### Instruction No. 13.4100. Included offense—elements.

#### Instruction No. 13.4100. Included offense—elements.

You may then consider any included crime. The crime of \_\_\_\_\_ [*name included offense*] is included in the charged crime of \_\_\_\_\_ [*name charged offense*].

[Give standard elements instruction of included offense, replacing the last paragraph with the following:]

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [included offense] as included in Count \_\_\_\_\_.

#### Instruction No. 13.4300. Consider Separate Counts Individually.

#### Instruction No. 13.4300. Consider Separate Counts Individually.

In this case, the Defendant is charged with \_\_\_\_\_ counts of criminal offenses. Although all of counts are contained within one charging document, you are to consider the law and the evidence as it may apply to each count individually and separately from the other counts.

#### Instruction No. 13.4500. Admonition at Breaks in Deliberations.

#### Instruction No. 13.4500. Admonition at Breaks in Deliberations.

#### Jury Rules 26 and 29.

Members of the jury, we will now have a break in deliberations. During this break:  
(1) do not discuss the case among yourselves or with anyone else;



- (2) do not talk to the attorneys, parties, or witnesses;
- (3) do not express any opinion about the case;
- (4) do not listen to or read any outside or media accounts of the trial;
- (5) do not communicate with anyone or post information about the case, or what you are doing in the case, by any means, including telephone, text messages, email, internet chat rooms, blogs, or social websites; and
- (6) do not Google or otherwise search for any information about the case, or the law that applies to the case, or the people involved in the case, including the parties, witnesses, lawyers, or Judge.

## CHAPTER 14 DEFINITIONS

### SYNOPSIS

## CHAPTER 14 DEFINITIONS

### SYNOPSIS

Instruction No. 14.0020. Abandon.  
Instruction No. 14.0040. Access.  
Instruction No. 14.0060. Administer.  
Instruction No. 14.0080. Adoptive Grandparent.  
Instruction No. 14.0100. Adoptive Parent.  
Instruction No. 14.0120. Adult.  
Instruction No. 14.0140. Agency.  
Instruction No. 14.0160. Alcohol Abuser.  
Instruction No. 14.0180. Alcoholic Beverage.  
Instruction No. 14.0200. Alien.  
Instruction No. 14.0220. Ammonia Solution.  
Instruction No. 14.0240. Animal Fighting Contest.  
Instruction No. 14.0260. Animal Fighting Paraphernalia.  
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Instruction No. 14.0420. Bodily Injury.  
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Instruction No.14.0020. Abandon.

Instruction No.14.0020. Abandon.

I.C. 35-31.5-2-1.

The term “abandon” means to desert an animal or to leave the animal permanently in a place without making provision for adequate long term care of the animal.

Instruction No.14.0040. Access.

Instruction No.14.0040. Access.

I.C. 35-31.5-2-2.

The term “access” is defined by law as meaning to approach, instruct, communicate with, store data in, retrieve data from, or make use of resources of a computer, computer system, or computer network.

Instruction No.14.0060. Administer.

Instruction No.14.0060. Administer.

I.C. 35-31.5-2-4.

The term “administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (1) A practitioner or by his authorized agent; or
- (2) The patient or research subject at the direction and in the presence of the practitioner.

Instruction No. 14.0080. Adoptive Grandparent.

Instruction No.14.0080. Adoptive Grandparent.

I.C. 35-31.5-2-6.

“Adoptive grandparent” means the parent of an adoptive parent.

Instruction No.14.0100. Adoptive Parent.

Instruction No.14.0100. Adoptive Parent.

I.C. 35-31.5-2-7.

“Adoptive parent” means an adult who has become a parent of a child through adoption.

Instruction No.14.0120. Adult.

Instruction No.14.0120. Adult.

I.C. 35-31.5-2-8.

The term “adult” means a person who is at least eighteen (18) years of age.

Instruction No.14.0140. Agency.

Instruction No.14.0140. Agency.

I.C. 35-31.5-2-11.

The term “agency” means any state [administration] [agency] [authority] [board] [bureau] [commission] [committee] [council] [department] [division] [institution] [office] [service] [other similar body of state government].

Instruction No.14.0160. Alcohol Abuser.

Instruction No.14.0160. Alcohol Abuser.

I.C. 35-31.5-2-14.

The term “alcohol abuser” means an individual who has had two (2) or more alcohol related offenses, any one of which resulted in conviction by a court or treatment in an alcohol abuse facility within three (3) years prior to the date of the application.

Instruction No.14.0180. Alcoholic Beverage.

Instruction No.14.0180. Alcoholic Beverage.



I.C. 7.1-1-3-5.

- The term “alcoholic beverage” means a liquid or solid that:
- is, or contains, one-half percent (0.5%) or more alcohol by volume
  - is fit for human consumption, and
  - is reasonably likely, or intended, to be used as a beverage.

Instruction No.14.0200. Alien.

Instruction No.14.0200. Alien.

I.C. 35-31.5-2-15.

The term “alien” means any person not a citizen of the United States.

Instruction No.14.0220. Ammonia Solution.

Instruction No.14.0220. Ammonia Solution.

I.C. 35-48-4-14.5.

“Ammonia solution” means any ammonia solution that contains at least ten percent (10%) by weight of free ammonia or having a vapor pressure of one (1) PSIG or above at one hundred four (104) degrees Fahrenheit.

Instruction No.14.0240. Animal Fighting Contest.

Instruction No.14.0240. Animal Fighting Contest.

I.C. 35-31.5-2-18.

The term “animal fighting contest” means a conflict between two (2) or more animals. The term does not include a conflict that is unorganized or accidental.

Instruction No. 14.0260. Animal Fighting Paraphernalia.

Instruction No. 14.0260. Animal Fighting Paraphernalia.

I.C. 35-31.5-2-19.

The term “animal fighting paraphernalia” means equipment used to train or condition animals for participation in an animal fighting contest.

Instruction No. 14.0280. Assault Weapon.

Instruction No. 14.0280. Assault Weapon.

I.C. 35-50-2-11.

The term “assault weapon” means a firearm that shoots automatically more than one (1) shot without manually reloading by a single function of the trigger.

Instruction No. 14.0300. Battery.

Instruction No. 14.0300. Battery.

I.C. 35-42-2-1.

A “battery” is defined by law as a knowing or intentional touching of another person in a rude, insolent or angry manner.

Instruction No. 14.0400. Beat.

Instruction No. 14.0400. Beat.

I.C. 35-31.5-2-26.

The term “beat” means to unnecessarily or cruelly strike an animal, or to throw the animal against an object causing the animal to suffer severe pain or injury.

Instruction No. 14.0420. Bodily Injury.

Instruction No. 14.0420. Bodily Injury.

I.C. 35-31.5-2-29.

The term “bodily injury” is defined by law as meaning any impairment of physical condition, including physical pain.

Instruction No. 14.0440. Booby Trap.

Instruction No. 14.0440. Booby Trap.

I.C. 35-31.5-2-32.

“Booby trap” means a device meant to cause death or bodily injury by hiding the device or by activating the device by trip wires, switches, antidisturbance, or other remote means.

Instruction No. 14.0460. Business Relationship with an Agency.

Instruction No. 14.0460. Business Relationship with an Agency.

I.C. 35-41-1-4.5.

The term “business relationship with an agency” means to:  
(1) Conduct a business under a license or permit granted by a state agency; or  
(2) Have a pecuniary interest in a contract or purchase connected with an action of an agency; or

(3) Derive a profit from a contract or purchase connected with an action of an agency.

The term does not include employment by an entity that has a business relationship with an agency unless the employee shares in the profits of the entity.

Instruction No. 14.0480. Camera.

Instruction No. 14.0480. Camera.

I.C. 35-31.5-2-33.

“Camera” means a camera, a video camera, a device that captures a digital image, or any other type of video recording device.

Instruction No. 14.0500. Card Skimming Device.

Instruction No. 14.0500. Card Skimming Device.

I.C. 35-31.5-2-34.

The term “card skimming device” means a device that is designed to read information encoded on a credit card. The term includes a device designed to read, record, or transmit information encoded on a credit card:

- (1) directly from a credit card; or
- (2) from another device that reads information directly from a credit card.

Instruction No. 14.0520. Cause of Death.

Instruction No. 14.0520. Cause of Death.

“Cause of death” is that event which initiates a chain of events, however short or protracted, that results in the death of an individual.

Instruction No. 14.0540. Child.

## Instruction No. 14.0540. Child.

I.C. 35-31.5-2-38.

The term “child” means a person who is less than eighteen (18) years of age.

## Instruction No. 14.0560. Child Care Worker.

## Instruction No. 14.0560. Child Care Worker.

I.C. 35-31.5-2-40.

The term “child care worker” is defined by law as a person who provides care or supervision of a child within the scope of the person’s employment in a public or private school or shelter facility.

## Instruction No. 14.0580. Claim Statement.

## Instruction No. 14.0580. Claim Statement.

I.C. 35-31.5-2-42.

The term “claim statement” is defined by law as meaning:

an insurance policy, a document, or a statement made in support of or in opposition to a claim for payment or other benefit under an insurance policy, or other evidence of expense, injury, or loss. The term includes statements made orally, in writing, or electronically, including the following:

- (1) An account.
- (2) A bill for services.
- (3) A bill of lading.
- (4) A claim.
- (5) A diagnosis.
- (6) An estimate of property damages.
- (7) A hospital record.
- (8) An invoice.
- (9) A notice.
- (10) A proof of loss.
- (11) A receipt for payment.
- (12) A physician’s records.
- (13) A prescription.
- (14) A statement.
- (15) A test result.
- (16) X-rays.

Instruction No. 14.0600. Cocaine.

Instruction No. 14.0600. Cocaine.

I.C. 35-31.5-2-44.8.

The term “cocaine” includes coca leaves and any salt, compound, or derivative of coca leaves, and any salt, compound, isomer, derivative, or preparation which is chemically equivalent or identical to any of these substances. However, decocainized coca leaves or extraction of coca leaves that do not contain cocaine or ecgonine are not included.

Instruction No. 14.0620. Coin Machine.

Instruction No. 14.0620. Coin Machine.

I.C. 35-31.5-2-46.

The term “coin machine” is defined by law as meaning:

a coin box, vending machine, or other mechanical or electronic device or receptacle designed:

- (1) to receive a coin, bill, or token made for that purpose; and
  - (2) in return for the insertion or deposit of a coin, bill, or token automatically:
    - (A) to offer, provide, or assist in providing; or
    - (B) to permit the acquisition of;
- some property.

Instruction No. 14.0640. Communicates.

Instruction No. 14.0640. Communicates.

I.C. 35-31.5-2-47.5.

“Communicates” includes posting a message electronically, including on a social networking web site.

Instruction No. 14.0660. Component Part.

Instruction No. 14.0660. Component Part.

I.C. 9-13-2-34.

The term "component part" is defined by law as meaning an engine, a transmission, a body-chassis, a doghouse (front assembly), a rear-end, or a frame.

Instruction No. 14.0680. Computer Network and Computer System (for Purposes of IC 35-43-2-3).

Instruction No. 14.0680. Computer Network and Computer System (for Purposes of IC 35-43-2-3).

I.C. 35-31.5-2-53 and -55.

The term "computer network" is defined by law as meaning the interconnection of communication lines with a computer through remote terminals or a complex consisting of two (2) or more interconnected computers.

The term "computer system" means a set of related computer equipment, software or hardware.

Instruction No. 14.0700. Computer Program.

Instruction No. 14.0700. Computer Program.

I.C. 35-31.5-2-54.

The term "computer program" is defined by law as meaning an ordered set of instructions or statements that, when executed by a computer, causes the computer to process data.

Instruction No. 14.0720. Confine.

Instruction No. 14.0720. Confine.

I.C. 35-31.5-2-57.

The term "confine" is defined by law as meaning to substantially interfere with

the liberty of a person.

## Instruction No. 14.0740. Consumer.

## Instruction No. 14.0740. Consumer.

I.C. 35-31.5-2-59.

The term “consumer” means an individual who owns, leases, or rents the residential property that is the subject of a home improvement contract.

## Instruction No. 14.0760. Consumer Product (for Purposes of IC 35-45-8).

## Instruction No. 14.0760. Consumer Product (for Purposes of IC 35-45-8.

I.C. 35-31.5-2-60.

The term “consumer product” means:

[a “food,” defined as articles used for food, drink, confectionary or condiment for man, chewing gum, or articles used for components of any such article;]

[or]

[a “drug,” defined as articles recognized in the (*here instruct on the particular Pharmacopoeia or Formulary listed in I.C. 16-1-28-3*), articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, or articles (other than “food”) intended to affect the structure or any function of the body of man or other animals, or articles intended for use as a component of any of the articles above (except devices or their components, parts or accessories);]

[or]

[a “device,” defined as instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, or to affect the structure or any function of the body of man or other animals;]

[or]

[a “cosmetic,” defined as articles meant to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and articles intended for use as a component of any such articles, except that the term does not include soap;]



[or]

[an item designed to be consumed for personal care or for performing household services.]

Instruction No. 14.0780. Controlled Substance.

Instruction No. 14.0780. Controlled Substance.

I.C. 35-31.5-2-64.

The term “controlled substance” means a drug, substance, or immediate precursor in [schedule I, II, III, IV or V under

(I.C. 35-48-2-4) (I.C. 35-48-2-6) (I.C. 35-48-2-8) (I.C. 35-48-2-10) (I.C. 35-48-2-12)]

[or]

[a rule adopted by the Indiana State Board of Pharmacy.]

\_\_\_\_\_ [Here specify pertinent statute or rule] provides in pertinent part that the \_\_\_\_\_ [drug] \_\_\_\_\_ [substance] \_\_\_\_\_ [here name drug or substance] is [in schedule (here specify schedule number)] [an immediate precursor of (name controlled substance), a substance in schedule (here specify schedule number)].

Instruction No. 14.0800. Correctional Professional.

Instruction No. 14.0800. Correctional Professional.

(I.C. 35-31.5-2-67.

The term “correctional professional” means a probation officer, parole officer, community corrections worker, or home detention officer.

Instruction No. 14.0820. Corrections Officer.

Instruction No. 14.0820. Corrections Officer.

I.C. 35-31.5-2-67.2.

In prosecutions for battery by body waste, [I.C. 35-42-2-1](#), the term “corrections officer” includes any person employed by [the department of correction] [a law enforcement agency] [a probation department] [a county jail] [a (circuit) (superior) (county) (probate) (city) (town) court].

Instruction No. 14.0860. Counterfeit Substance.

Instruction No. 14.0860. Counterfeit Substance.

I.C. 35-31.5-2-68.

The term “counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

Instruction No. 14.0880. Credit Card.

Instruction No. 14.0880. Credit Card.

I.C. 35-31.5-2-69.

“Credit card” means an instrument or device (whether known as a credit card or charge plate, or by any other name) issued by an issuer for use by, or on behalf of, the credit card holder in obtaining property.

Instruction No. 14.0900. Credit Card Holder.

Instruction No. 14.0900. Credit Card Holder.

I.C. 35-31.5-2-70.

“Credit card holder” means the person to whom, or for whose benefit, the credit card is issued by an issuer.

Instruction No. 14.0920. Credit Institution.

Instruction No. 14.0920. Credit Institution.

I.C. 35-31.5-2-71.

The term “credit institution” is defined by law as meaning a bank, insurance company, credit union, building and loan association, investment trust, industrial loan and investment company, or other organization held out to the public as a place of deposit of funds or a medium of savings or collective investment.

Instruction No. 14.0940. Crime.

Instruction No. 14.0940. Crime.

I.C. 35-31.5-2-75.

The term “crime” is defined by law as meaning a felony or a misdemeanor.

Instruction No. 14.0960. Criminal Gang.

Instruction No. 14.0960. Criminal Gang.

I.C. 35-31.5-2-74.

The term “criminal gang” means a group with at least three (3) members that specifically

[promotes]

[or]

[sponsors]

[or]

[assists in]

[or]

[participates in]

[or]

[requires as a condition of membership or continued membership]

the commission of a felony, or an act that would be a felony if committed by an adult, or the offense of battery.

### Instruction No. 14.0980. Curtilage.

### Instruction No. 14.0980. Curtilage.

The term "curtilage" means the land, not necessarily fenced or enclosed, adjoining the dwelling house including buildings used in the conduct of family affairs and domestic purposes. In determining whether an area or building is within the "curtilage" of a dwelling house, two (2) factors are of principle importance:

1. its proximity to the dwelling, and
2. its use in connection with the dwelling for the purpose of conducting family affairs and domestic purposes.

### Instruction No. 14.0990. Custodian.

### Instruction No. 14.0990. Custodian.

I.C. 35-31.5-2-80.

As used in this section, "custodian" means any person who resides with a child and is responsible for the child's welfare.

## Instruction No. 14.1000. Data.

## Instruction No. 14.1000 Data.

I.C. 35-31.5-2-84.

The term “data” is defined by law as meaning a representation of information, facts, knowledge, concepts, or instructions that:

(1) may take any form, including computer printouts, magnetic storage media, punched cards, or stored memory;

(2) has been prepared or is being prepared; and

(3) has been processed, is being processed, or will be processed;

in a computer system or computer network.

## Instruction No. 14.1020. Deadly Force.

## Instruction No. 14.1020. Deadly Force.

I.C. 35-31.5-2-85.

The term “deadly force” is defined by law as meaning force that creates a substantial risk of serious bodily injury.

## Instruction No. 14.1040. Deadly Weapon.

## Instruction No. 14.1040. Deadly Weapon.

I.C. 35-31.5-2-86.

The term “deadly weapon” is defined by law as meaning:

[a loaded or unloaded firearm]

[or]

[a weapon, device, taser (as defined in I.C. 35-47-8-3) or electronic stun weapon (as defined in I.C. 35-47-8-1), equipment, chemical substance, or other material that in the manner it is used, or could ordinarily be used, is readily capable of causing serious bodily injury]

[or]

[an animal (as defined in I.C. 35-46-3-3) that is:

(A) readily capable of causing serious bodily injury

and

(B) used in the commission or attempted commission of a crime

[or]

[A biological disease, virus, or organism that is capable of causing serious bodily injury.]

### Instruction No. 14.1060. Delivery.

### Instruction No. 14.1060. Delivery.

I.C. 35-31.5-2-89.

The term “delivery” means an actual or constructive transfer from one (1) person to another of a controlled substance, whether or not there is an agency relationship, or the organization or supervision of an actual or constructive transfer from one (1) person to another of a controlled substance, whether or not there is an agency relationship.

### Instruction No. 14.1080. Denied Entry.

### Instruction No. 14.1080. Denied Entry.

I.C. 35-43-2-2.

A person has been denied entry to the real property of another person when he has been denied entry by means of a personal communication, oral or written, or by the posting or exhibiting of a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public, or by a hearing authority or court order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36..

### Instruction No. 14.1100. Dependent.

### Instruction No. 1100. Dependent.

I.C. 35-31.5-2-90.

The term “dependent” is defined by law as meaning:

[an unemancipated person who is under eighteen (18) years of age]

[or]

[a person of any age who is mentally or physically disabled.]

#### Instruction No. 14.1120. Destructive Device.

#### Instruction No. 14.1120. Destructive Device.

##### I.C. 35-31.5-2-92.

“Destructive device” means:

- (1) an explosive, incendiary, or overpressure device that is configured as a \_\_\_\_\_[bomb] \_\_\_\_\_[grenade] [rocket with a propellant charge of more than four (4) ounces] [missile having an explosive or incendiary charge of more than one-quarter (1/4) ounce] \_\_\_\_\_[mine] [Molotov cocktail] [device that is substantially similar to a \_\_\_\_\_[*insert “bomb,” “grenade,” or other term in preceding list*]
- (2) a type of weapon that may be readily converted to expel a projectile by the action of an explosive or other propellant through a barrel that has a bore diameter of more than one-half (1/2) inch
- (3) a combination of parts designed or intended for use in the conversion of a device into a destructive device.

#### Instruction No. 14.1140. Detonator.

#### Instruction No. 14.1140. Detonator.

##### I.C. 35-31.5-2-93.

“Detonator” means a device containing a detonating charge that is used to initiate detonation in an explosive, including the following:

- (1) Electric blasting caps.
- (2) Blasting caps for use with safety fuses.
- (3) Detonating cord delay connectors.
- (4) Blasting caps for use with a shock tube.
- (5) Improvised devices designed to function as a detonator.

#### Instruction No. 14.1160. Disadvantaged Business Enterprise.

#### Instruction No. 14.1160. Disadvantaged Business Enterprise.

##### I.C. 5-16-6.5-1.

The term “disadvantaged business enterprise” is defined by law as meaning an

individual, partnership, corporation, or joint venture of any kind that is owned and controlled by one or more persons who are United States citizens and members of a racial minority group.

#### Instruction No. 14.1180. Dispatched Firefighter.

#### Instruction No. 14.1180. Dispatched Firefighter.

##### I.C. 35-31.5-2-95.

“Dispatched firefighter” means a member of:

- (1) the fire company having jurisdiction over an emergency incident area; or
- (2) a fire company that has entered into a mutual aid agreement with the fire company having jurisdiction over an emergency incident area;

who has been dispatched by the local fire department having jurisdiction over the particular emergency incident area.

#### Instruction No. 14.1200. Dispense.

#### Instruction No. 14.1200. Dispense.

##### I.C. 35-31.5-2-96.

The term “dispense” means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to, the lawful order of a practitioner and includes the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

#### Instruction No. 14.1220. Dispenser.

#### Instruction No. 14.1220. Dispenser.

##### I.C. 35-31.5-2-97.

The term “dispenser” means a practitioner who dispenses.

#### Instruction No. 14.1240. Disseminate.



Instruction No. 14.1240. Disseminate.

I.C. 35-31.5-2-98.

“Disseminate” means to transfer possession for free or for a consideration.

Instruction No. 14.1260. Distribute.

Instruction No. 14.1260. Distribute.

I.C. 35-31.5-2-100.

The term “distribute” means to deliver other than by administering or dispensing a controlled substance.

Instruction No. 14.1280. Distribute (Controlled Explosives Offenses).

Instruction No. 14.1280. Distribute (Controlled Explosives Offenses).

I.C. 35-31.5-2-100.

“Distribute” means the actual, constructive, or attempted transfer from one(1) person to another.

Instruction No. 14.1300. Distributor.

Instruction No. 14.1300. Distributor.

I.C. 35-31.5-2-101.

The term “distributor” means a person who distributes.

Instruction No. 14. 14.1320. Divest.

Instruction No. 14. 14.1320. Divest.

The term “divest” means to rid oneself of something, such as a business interest or investment.

Instruction No. 14.1340. Domestic Animal.

Instruction No. 14.1340. Domestic Animal.

I.C. 35-3.5-2-103

The term “domestic animal” means an animal that is not wild. The term is limited to:

- [cattle]
- [calves]
- [horses]
- [mules]
- [swine]
- [sheep]
- [goats]
- [dogs]
- [cats]
- [poultry]
- [ostriches]
- [rhea]
- [emus]

and  
an animal of the

- [bovine]
- [equine]
- [ovine]
- [caprine]
- [porcine]
- [canine]
- [feline]
- [camelid]
- [cervidae]
- [bison]

species.

Instruction No. 14.1360. Drug.

Instruction No. 14.1360. Drug.

I.C. 35-3.15-2-104, I.C.16-42-19-2.

The term “drug” means:

- (1) articles or substances recognized in United States Pharmacopeial Convention, Inc., The United States Pharmacopoeia, Twenty-second Edition (1990), or United States Pharmacopeial Convention, Inc., The National Formulary, Seventeenth Edition (1990), as revised by United States Pharmacopeial Convention, Inc., Supplement 1 to The United States Pharmacopoeia, Twenty-second Edition, and the National Formulary, Seventeenth Edition (1990);
- (2) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals;
- (3) articles other than food intended to affect the structure or any function of the body of human beings or other animals;
- (4) articles intended for use as a component of any article specified above in (1), (2), or (3); and
- (5) devices.

#### Instruction No. 14.1380. Drug Abuser.

#### Instruction No. 14.1380. Drug Abuser.

#### I.C. 35-31.5-2-105.

The term “drug abuser” means an individual who has had two (2) or more violations of I.C. 35-48-1, I.C. 35-48-2, I.C. 35-48-3 or I.C. 35-48-4, any one of which resulted in conviction by a court or treatment in a drug abuse facility within five (5) years prior to the date of application.

Comments For use only with Chapter 7—Firearms Offense Instructions.

#### Instruction No. 14.1400. Dwelling.

#### Instruction No. 14.1400. Dwelling.

#### I.C. 35-31.5-2-107.

The term “dwelling” is defined by law as meaning a building, structure, or other enclosed space, permanent or temporary, movable or fixed, that is a person’s home or place of lodging.

#### Instruction No. 14.1420. Emergency Incident Area.

#### Instruction No. 14.1420. Emergency Incident Area.

#### I.C. 35-31.5-2-114.

“Emergency incident area” means the area surrounding a structure, vehicle,

property, or area that is:

(1) defined by police or firefighters with flags, barricades, barrier tape, or other markers; or

(2) one hundred and fifty (150) feet in all directions from the perimeter of the emergency incident;

whichever is greater.

Instruction No. 14. 14.1440. Emergency Medical Services Provider.

Instruction No. 14. 14.1440. Emergency Medical Services Provider.

I.C. 16-41-10-1; I.C. 35-46-1-4(c)(1);

I.C. 31-34-2.5-1; I.C. 31-9-2-43.5.

The term “emergency medical services provider” is defined by law as a \_\_\_\_\_[firefighter] [law enforcement officer] \_\_\_\_\_[paramedic] [emergency medical technician] [other person who provides emergency medical services in the course of the person’s employment].

Instruction No. 14.1460. Endangered Adult—Offenses other than Battery.

Instruction No. 14.1460. Endangered Adult—Offenses other than Battery.

I.C. 12-10-3-2. (For Battery use Instruction 14.1480).

“Endangered adult” means an individual who is

- at least eighteen (18) years of age
- and incapable by reason of mental illness, mental retardation, dementia, habitual drunkenness, excessive use of drugs, or other physical or mental incapacity of managing or directing the management of [his] [her] property or providing or directing the provision of self-care;
- and is harmed or threatened with harm as a result of neglect, battery, or exploitation of [his] [her] services or property.

Instruction No. 14.1480. Endangered Adult—Battery.

Instruction No. 14.1480. Endangered Adult—Battery.

I.C. 12-10-3-2.

“Endangered adult” means an individual who is

- at least eighteen (18) years of age

- and
- incapable by reason of mental illness, mental retardation, dementia, or other physical or mental incapacity of
  - ☐ [managing or directing the management of (his) (her) property]
  - ☐ or
  - ☐ [providing or directing the provision of self-care,]
- and
- harmed or threatened with harm as a result of [neglect] [battery].

Instruction No. 14.1500. Enterprise.

Instruction No. 14.1500. Enterprise.

35-31.5-2-118.

The term “enterprise” is defined by law as meaning a sole proprietorship, corporation, partnership, business trust, or governmental entity; or a union, association, or group, whether a legal entity or merely associated in fact.

Instruction No. 14.1520. Entrapment and Entrapped.

Instruction No. 14.1520. Entrapment and Entrapped.

I.C. 9-13-2-49.7.

The term “entrapment” is defined by law as a confining circumstance from which escape or relief is difficult or impossible. A person is “entrapped” if he or she is in a confining circumstance from which escape or relief is difficult or impossible.

Instruction No. 14.1540. Exert Control Over Property.

Instruction No. 14.1540. Exert Control Over Property.

I.C. 35-31.5-2-124.

The term “exert control over property” is defined by law as meaning to obtain, take, carry, drive, lead away, conceal, abandon, sell, convey, encumber, or possess property, or to secure, transfer, or extend a right to property.

Instruction No. 14.1560. Explosives.

Instruction No. 14.1560. Explosives.

I.C. 35-31.5-2-125.

“Explosives” means a chemical compound or other substance or mechanical system intended to produce an explosion capable of causing injury to persons or damage to property or containing oxidizing and combustible units or other ingredients in such proportions or quantities that ignition, fire, friction, concussion, percussion, or detonation may produce an explosion capable of causing injury to persons or damage to property, including the substances designated in IC 35-47.5-3.

Instruction No. 14.1600. Family Housing Complex.

Instruction No. 14.1600. Family Housing Complex.

I.C. 35-31.5-2-127.

The term “family housing complex” means a building or series of buildings:

[that contains at least twelve (12) dwelling units

where children are domiciled or are likely to be domiciled; and

that are owned by a governmental unit or political subdivision]

[that is operated as a hotel or motel (*as described in I.C. 22-11-18-1*)]

[that is operated as an apartment complex (*as defined in I.C. 6-1.1-20.6-1*)]

[that contains subsidized housing].

Instruction No. 14.1610. Fear.

Instruction No. 14.1610. Fear.

The word “fear” means an emotional state of mind created by anticipation of bodily injury.

Instruction No. 14.1620. Federal Enforcement Officer.

Instruction No. 14.1620. Federal Enforcement Officer.

I.C. 35-31.5-2-129.

The term “federal enforcement officer” is defined by law as meaning any of the following:

- (1) a Federal Bureau of Investigation special agent;
- (2) a United States Marshals Service marshall or deputy;
- (3) a United States Secret Service special agent;
- (4) a United States Fish and Wildlife Service special agent;
- (5) a United States Drug Enforcement Agency agent;
- (6) a Bureau of Alcohol, Tobacco, and Firearms agent;
- (7) a United States Department of Defense police officer or criminal investigator;
- (8) a United States Customs Service agent;
- (9) a United States Postal Service investigator.

Instruction No. 14.1640. Federal Public Benefit.

Instruction No. 14.1640. Federal Public Benefit.

I.C. 12-32-1-2.

**The term “federal public benefit” means:**

- (1) Except as provided in paragraph (2), “Federal public benefit” means—
  - (A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and
  - (B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.
- (2) Such term shall not apply—
  - (A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in [Public Law 99-239 or 99-658](#) (or a successor provision) is in effect;

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Attorney General, after consultation with the Secretary of State; or

(C) to the issuance of a professional license to, or the renewal of a professional license by, a foreign national not physically present in the United States.

### Instruction No. 14.1660. Felony Conviction.

### Instruction No. 14.1660. Felony Conviction.

I.C. 35-31.5-2-130.

The term “felony conviction” is defined by law as meaning a conviction, in any jurisdiction, at any time, with respect to which the convicted person might have been imprisoned for more than one (1) year; but it does not include a conviction with respect to which the person has been pardoned, or the commission of a Level 6 felony, the judgment of conviction for which is entered as a Class A misdemeanor under I.C. 35-50-2-7(b).

### Instruction No. 14.1680. Fetus.

### Instruction No. 14.1680. Fetus.

I.C. 35-42-1-4, 16-18-2-365.

The term “fetus” means a fetus which has attained the ability to live outside the mother’s womb.

### Instruction No. 14.1700. Financial Institution.



Instruction No. 14.1700. Financial Institution.

I.C. 35-43-5-12.

The term “financial institution” means a state or federally chartered bank, a savings bank, a building and loan association, a savings association, or a credit union.

Instruction No. 14.1720. Firearm.

Instruction No. 14.1720. Firearm.

I.C. 25-31.5-2-133.

The word “firearm” means any weapon that is capable of or designed to or that may readily be converted to expel a projectile by means of an explosion.

Instruction No. 14.1760. Fire Protective Clothing and Fire Protective Gear.

Instruction No. 14.1760. Fire Protective Clothing and Fire Protective Gear.

I.C. 35-31.5-2-135.2.

“Fire protective clothing and fire protective gear” includes any of the following items generally used by firefighters:

- (1) Outer fire retardant clothing and headgear.
- (2) Fire gloves.
- (3) Selfcontained breathing apparatus.
- (4) Emergency medical services protective gear.
- (5) Hazardous materials protective gear.

Instruction No. 14.1780. Forcible Felony.

Instruction No. 14.1780. Forcible Felony.

I.C. 35-31.5-2-138.

The term “forcible felony” is defined by law as meaning a felony that involves the use or threat of force against a human being, or in which there is an imminent danger of bodily injury to a human being.

Instruction No. 14.1800. Funds.

Instruction No. 14.1800. Funds.

I.C. 35-31.5-2-139.5.

As used in the definition of the money laundering crime, the term “funds” is defined by law as including the following:

- (1) Coin or paper money of the United States or any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issue.
- (2) United States silver certificates, United States Treasury notes, and Federal Reserve System notes.
- (3) Official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country.
- (4) Foreign bank drafts.

Instruction No. 14.1820. Gain.

Instruction No. 14.1820. Gain.

I.C. 35-31.5-2-140.

The term “gain” is defined by law as meaning the direct realization of winnings.

Instruction No. 14.1840. Gambling.

Instruction No. 14.1840. Gambling.

I.C. 35-31.5-2-141.

The term “gambling” is defined by law as meaning risking money or other property for gain, contingent in whole or in part upon lot, chance, or the operation of a gambling device; but it does not include participating in:

1. bona fide contests of skill, strength, or endurance in which awards are made

- only to entrants or the owners of entries; or
2. bona fide business transactions that are valid under the law of contracts.

### Instruction No. 14.1860. Gambling Device.

### Instruction No. 14.1860. Gambling Device.

#### I.C. 35-31.5-2-142.

The term “gambling device” is defined by law as meaning:

1. a mechanism by the operation of which a right to money or other property may be credited, in return for consideration, as the result of the operation of an element of chance;
2. a mechanism that, when operated for a consideration, does not return the same value or property for the same consideration upon each operation;
3. a mechanism, furniture, fixture, construction, or installation designed primarily for use in connection with professional gambling;
4. a policy ticket or wheel; or
5. a subassembly or essential part designed or intended for use in connection with such a device, mechanism, furniture, fixture, construction, or installation.

In the application of this definition, an immediate and unrecorded right to replay mechanically conferred on players of pinball machines and similar amusement devices is presumed to be without value.

### Instruction No. 14.1880. Gambling Information.

### Instruction No. 14.1880. Gambling Information.

#### I.C. 35-31.5-2-143.

The term “gambling information” is defined by law as meaning:

1. a communication with respect to a wager made in the course of professional gambling; or
2. information intended to be used for professional gambling.

### Instruction No. 14.1900. Governmental Entity.

### Instruction No. 14.1900. Governmental Entity.

#### I.C. 35-31.5-2-144.

The term “governmental entity” is defined by law as meaning:

- a. the United States or any state, county, township, city, town, separate municipal

corporation, special taxing district, or public school corporation;

b. any authority, board, bureau, commission, committee, department, division, hospital, military body, or other instrumentality of any of those entities; or

c. a state-assisted college or state-assisted university.

Instruction No. 14.1920. HIV.

Instruction No. 14.1920. HIV.

I.C. 35-45-16-1.

The term "HIV" (human immunodeficiency virus) includes acquired immune deficiency syndrome (AIDS) and AIDS related complex.

Instruction No. 14.1940. Handgun.

Instruction No. 14.1940. Handgun.

I.C. 35-31.5-2-148.

The word "handgun" means any firearm:

(1) designed or adapted so as to be aimed and fired from one (1) hand, regardless of barrel length; or

(2) any firearm with:

(a) a barrel less than sixteen (16) inches in length; or

(b) an overall length of less than twenty-six (26) inches.

Instruction No. 14.1960. Harbor.

Instruction No. 14.1960. Harbor.

The term "harbor" means to shelter or protect.

Instruction No. 14.1980. Harm.

Instruction No. 14.1980. Harm.

I.C. 35-31.5-2-149.

The term “harm” is defined by law as meaning loss, disadvantage, or injury or anything so regarded by the person affected, including loss, disadvantage, or injury to any other person in whose welfare the person is interested.

Instruction No. 14.2000. Harrassment.

Instruction No. 14.2000. Harrassment.

I.C. 35-31.5-2-150.

The term “harassment” is defined by law as meaning conduct directed toward a victim that includes but is not limited to repeated or continuing impermissible contact that would cause a reasonable person to suffer emotional distress and that actually causes the victim to suffer emotion distress. Harassment does not include statutorily or constitutionally protected activity, such as lawful picketing pursuant to labor disputes or lawful employer-related activities pursuant to labor disputes.

Instruction No. 14.2020. Hazing.

Instruction No. 14.2020. Hazing.

I.C. 35-31.5-2-151.

“Hazing” means forcing or requiring another person, with or without that person’s consent, and as a condition of association with a group or organization, to perform an act that creates a substantial risk of bodily injury.

Instruction No. 14.2040. Hoax Device or Replica.

Instruction No. 14.2040. Hoax Device or Replica.

I.C. 35-31.5-2-154.

“Hoax device” or “replica” means a device or article that has the appearance of a destructive device or detonator.

Instruction No. 14.2060. Home Improvement.

Instruction No. 14.2060. Home Improvement.

I.C. 35-31.5-2-156.

The term “home improvement” means any alteration, repair, or other modification of residential property. The term does not include the original construction of a dwelling.

Instruction No. 14.2080. Home Improvement Contract.

Instruction No. 14.2080. Home Improvement Contract.

I.C. 35-31.5-2-157.

The term “home improvement contract” means an oral or written agreement between a home improvement supplier and a consumer to make a home improvement and for which the contract price exceeds one hundred fifty dollars (\$150). Multiple contracts entered into by a home improvement supplier with a consumer are considered a home improvement contract for the purposes of this chapter if the multiple contracts arise from the same transaction.

Instruction No. 14.2100. Home Improvement Contract Price.

Instruction No. 14.2100. Home Improvement Contract Price.

I.C. 35-31.5-2-158.

The term “home improvement contract price” means the amount actually charged for the services, materials, and work to be performed under the home improvement contract but does not include financing costs, loan consolidation amounts, taxes, and governmental fees paid by or on behalf of the consumer, amounts returned to or on behalf of the consumer or similar costs not related to the home improvement.

Instruction No. 14.2120. Home Improvement Supplier.

Instruction No. 14.2120. Home Improvement Supplier.

I.C. 35-31.5-2-159.

The term "home improvement supplier" means a person who engages in or solicits home improvement contracts whether or not the person deals directly with the consumer.

Instruction No. 14.2140. Human Being.

Instruction No. 14.2140. Human Being.

I.C. 35-31.5-2-160.

The term "human being" is defined by law as meaning an individual who has been born and is alive.

Instruction No. 14.2160. Impermissible Contact.

Instruction No. 14.2160. Impermissible Contact.

I.C. 35-45-10-3.

The term "impermissible contact" is defined by law as including but not limited to knowingly or intentionally following or pursuing the victim.

Instruction No. 14.2180. Imprison.

Instruction No. 14.2180. Imprison.

I.C. 35-31.5-2-166.

Imprison" means to:

- (1) confine in a penal facility;
- (2) commit to the department of correction; or
- (3) assign to a community transition program under IC 11-10-11.5.

Instruction No. 14.2200. Incendiary.

## Instruction No. 14.2200. Incendiary.

### I.C. 35-31.5-2-167.

“Incendiary” means a flammable liquid or compound with a flash point not greater than one hundred fifty (150) degrees Fahrenheit, as determined by a Tagliabue or an equivalent closed cup device, including gasoline, kerosene, fuel oil, or a derivative of these substances.  
offenses.

## Instruction No. 14.2220. Identifying Information.

## Instruction No. 14.2220. Identifying Information.

### I.C. 35-43-5-1.

The term “identifying information” is defined by law as meaning information that identifies an individual, including an individual’s:

- (1) name, address, date of birth, place of employment, employer identification number, mother’s maiden name, Social Security number, or any identification number issued by a governmental entity;
- (2) unique biometric data, including the individual’s fingerprint, voice print, or retina or iris image;
- (3) unique electronic identification number, address, or routing code;
- (4) telecommunication identifying information; or
- (5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access that may be used to:
  - (A) obtain money, goods, services, or any other thing of value; or
  - (B) initiate a transfer of funds.

## Instruction No. 14.2240. Instant Messaging or Chat Room Program.

## Instruction No. 14.2240. Instant Messaging or Chat Room Program.

### I.C. 35-31.5-2-173.



The term “instant messaging or chat room program” means a software program that:

- requires a person to register or create (an account) (a username) (a password) to become a member or registered user of the program
- and allows two (2) or more members or authorized users to communicate over the Internet in real time.

The term does not include an electronic mail program or message board program.

Instruction No. 14.2260. Insurance Policy.

Instruction No. 14.2260. Insurance Policy.

**I.C. 35-31.5-2-173.8.**

The term “insurance policy” as defined by law includes includes

[an insurance policy]

[or]

[a contract with a health maintenance organization (as defined in **IC 27-13-1-19**)  
or

a limited service health maintenance organization (as defined in **IC 27-13-1-27**)]

[or]

[a written agreement entered into under **IC 27-1-25**].

Instruction No. 14.2280. Insurer.

Instruction No. 14.2280. Insurer.

**I.C. 35-31.5-2-174.**

The term “insurer” is defined by law as meaning:

[a company, firm, partnership, association, order, society or system making any kind or kinds of insurance and includes associations operating as Lloyds,

reciprocal or inter-insurers, or individual underwriters]

[or]

[a reinsurer]

[or]

[a purported insurer or reinsurer]

[or]

[a broker]

[or]

[an agent of an insurer, a reinsurer, a purported insurer or reinsurer, or a broker]

[or]

[a health maintenance organization]

[or]

[a limited service health maintenance organization].

Instruction No. 14.2300. Intoxicated.

Instruction No. 14.2300. Intoxicated.

#### I.C. 9-13-2-86.

“Intoxicated” means under the influence of [alcohol] [a controlled substance][any drug other than alcohol or a controlled substance] [model glue] [a substance that contains (toluene)(acetone) (benzene) (N-butyl nitrite) (any aliphatic nitrite, unless prescribed by a physician) (butane) (amyl butrate) (isobutyl nitrate) (freon) (chlorinated hydrocarbon) (methylene chloride) (hexane) (ether) (chloroform)(halothane) (nitrous oxide)] [any other chemical having the property of releasing toxic vapors] [any combination of the preceding substances] [any other substance, not including food and food ingredients (as defined in IC 6-2.5-1-20), tobacco (as defined in IC 6-2.5-1-28), or a dietary supplement (as defined in IC 6-2.5-1-16)] so that there is an impaired condition of thought and action and the loss of normal control of a person’s faculties.

Instruction No. 14.2320. Items of Drug Paraphernalia as Described in I.C. 35-48-4-8.5.

Instruction No. 14.2320. Items of Drug Paraphernalia as Described in I.C. 35-48-4-8.5.

**I.C. 35-48-4-8.5.**

The term “items of drug paraphernalia as described in **I.C. 35-48-5-8.5**” means a raw material, instrument, device, or other object that is intended to be or that is designed or marketed to be used primarily for:

- (1) ingesting, inhaling, or otherwise introducing into the human body marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance; or
- (2) testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance; or
- (3) enhancing the effect of a controlled substance; or
- (4) manufacturing, compounding, converting, producing, processing or preparing marijuana, hash oil, hashish, or a controlled substance; or
- (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance by individuals; or
- (6) any purpose announced or described by the seller that is in violation of **I.C. 35-48-4**, the Indiana Code Chapter defining controlled substance offenses.

Instruction No. 14.2340. Juvenile Facility.

Instruction No. 14.2340. Juvenile Facility.

**I.C. 35-31.5-2-178.**

The term “juvenile facility” means:

- (1) A secure facility (as defined in **IC 31-9-2-114**) in which a child is detained or which is used for a child awaiting adjudication or adjudicated as a child in need of services or a delinquent child.

[or]

- (2) A shelter care facility (as defined in **IC 31-9-2-117**) in which a child is detained or used for a child awaiting adjudication or adjudicated as a child in need of services or a delinquent child.

Instruction No. 14.2360. Key Facility.

## Instruction No. 14.2360. Key Facility.

### I.C. 35-31.5-2-179.

The term “key facility” means:

[A chemical manufacturing facility]

[or]

[A refinery]

[or]

[An electric utility facility, including:

(a power plant)

(or)

(a power generation facility peaker)

(or)

(an electric transmission facility)

(or)

(an electric station or substation)

(or)

(any other facility used to support the generation, transmission, or distribution of electricity)]

[or]

[A water intake structure or water treatment facility]

[or]

[A natural gas utility facility, including:

(an age station)

(or)

(a compressor station)

(or)

(an odorization facility)

(or)

(a main line valve)

(or)

(a natural gas storage facility)

(or)

(any other facility used to support the acquisition, transmission, distribution, or storage of natural gas)]

[or]

[A gasoline, propane, liquid natural gas (LNG), or other fuel terminal or storage facility]

[or]

[A transportation facility, including, but not limited to, a port, railroad switching yard, or trucking terminal]

[or]

[A pulp or paper manufacturing facility]

[or]

[A pharmaceutical manufacturing facility]

[or]

[A hazardous waste storage, treatment, or disposal facility]

[or]

[A telecommunications facility, including a central office or cellular telephone tower site]

[or]

[A facility:

(that is substantially similar to a facility, structure, or station listed in this section)

(or)

(whose owner or operator is required to submit a risk management plan under the federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act [\(42 U.S.C. 7412\(r\)\)](#)].

Instruction No. 14.2380. Knife.

Instruction No. 14.2380. Knife.

IC 35-31.5-2-180.

The term “knife” means an instrument that (1) consists of a sharp edged or sharp pointed blade capable of inflicting cutting, stabbing, or tearing wounds and (2) is intended to be used as a weapon. The term includes a dagger, dirk, poniard, stiletto, switchblade knife, or gravity knife.

Instruction No. 14.2400. Labeling.

Instruction No. 14.2400. Labeling.

I.C. 35-45-8-2.

I.C. 16-1-28-3. (repealed)

The term “labeling” means all labels and other written, printed, or graphic matter upon any article or any of its containers or wrappers or accompanying such article.

Instruction No. 14.2420. Law Enforcement Animal.

Instruction No. 14.2420. Law Enforcement Animal.

**I.C. 35-31.5-2-184.**

The term "law enforcement animal" means an animal that is owned or used by a law enforcement agency for the principal purposes of (1) aiding in the detection of criminal activity, the enforcement of laws, and the apprehension of offenders and (2) ensuring the public welfare. The term includes, but is not limited, to the following: (a horse) (an arson investigation dog) (a bomb detection dog) (a narcotic detection dog) (a patrol dog).

Instruction No. 14.2440. Law Enforcement Officer.

Instruction No. 14.2440. Law Enforcement Officer.

**I.C. 35-31.5-2-185.**

"Law enforcement officer" means:

**(1)** a police officer (including a correctional police officer), sheriff, constable, marshal, prosecuting attorney, special prosecuting attorney, special deputy prosecuting attorney, the securities commissioner, or the inspector general;

**(2)** a deputy of any of those persons;

**(3)** an investigator for a prosecuting attorney or for the inspector general;

**(4)** a conservation officer;

**(5)** an enforcement officer of the alcohol and tobacco commission;

**(6)** an enforcement officer of the securities division of the office of the secretary of state; or

**(7)** a gaming agent employed under IC 4-33-4.5 or a gaming control officer employed by the gaming control division under IC 4-33-20.

**(b)** "Law enforcement officer", for purposes of [IC 35-42-2-1](#), includes an alcoholic beverage

enforcement officer, as set forth in [IC 35-42-2-1\(b\)\(1\)](#).

(c) "Law enforcement officer", for purposes of IC 35-45-15, includes a federal enforcement officer, as set forth in [IC 35-45-15-3](#).

(d) "Law enforcement officer", for purposes of [IC 35-44.1-3-1](#) and [IC 35-44.1-3-2](#), includes a school resource officer (as defined in [IC 20-26-18.2-1](#)) and a school corporation police officer appointed under IC 20-26-16.

## Instruction No. 14.2460. Lawful Detention.

## Instruction No. 14.2460. Lawful Detention.

### I.C. 35-31.5-2-186.

"Lawful detention" means:

[arrest]

[or]

[custody following surrender in lieu of arrest]

[or]

[detention in a penal facility]

[or]

[detention in a facility for custody of persons alleged or found to be delinquent children]

[or]

[detention under a law authorizing civil commitment in lieu of criminal proceedings or authorizing such detention while criminal proceedings are held in abeyance]

[or]

[detention for extradition or deportation]

[or]

[placement in a community corrections program's residential facility]

[or]



electronic monitoring]

[or]

[custody for purposes incident to any of the above including transportation, medical diagnosis or treatment, court appearances, work, or recreation]

[or]

[any other detention for law enforcement purposes.]

Except as provided in subsection (a)(7) and (a)(8), the term does not include supervision of a person on probation or parole or constraint incidental to release with or without bail.

Instruction No. 14.2470. Legend Drug.

Instruction No. 14.2470. Legend Drug.

I.C. 16-18-2-199.

A legend drug is a drug not safe for use by humans except under the supervision of a duly licensed practitioner, dispensable only by prescription in accordance with 21 U.S.C. §353 or is duly licensed as a prescription drug in the United States Drug Administration Prescription Drug Product List.

Instruction No. 14.2480. Machine Gun.

Instruction No. 14.2480. Machine Gun.

I.C. 35-31.5-2-190.

The term “machine gun” means a weapon that shoots, or can readily be

restored to shoot, automatically more than one (1) shot, without manual reloading, by a single function of the trigger.

Instruction No. 14.2500. Make.

Instruction No. 14.2500. Make.

I.C. 35-31.5-2-191.

“Make” means to draw, prepare, complete, counterfeit, copy or otherwise reproduce, or alter any written instrument in whole or in part.

Instruction No. 14.2520. Manufacture.

Instruction No. 14.2520. Manufacture.

I.C. 35-31.5-2-192.

The term “manufacture” means: (1) the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, or (2) the organizing or supervision of any such production, preparation, propagation, compounding, conversion, or processing of a controlled substance.

“Manufacture” does not include the preparation, compounding, packaging, or labeling of a controlled substance:

- (a) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or
- (b) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research teaching or chemical analysis and not for sale.

Instruction No. 14.2530. Manufacture of an Unlawful Telecommunications Device.

## Instruction No. 14.2530. Manufacture of an Unlawful Telecommunications Device.

### I.C. 35-45-13-1.

The term “manufacture of an unlawful telecommunications device” means:  
(1) the production or assembly of an unlawful telecommunications device; or  
(2) the modification, alteration, programming, or reprogramming of a telecommunications device to render it capable of acquiring or facilitating the acquisition of telecommunications service without the consent of the telecommunications service provider.

## Instruction No. 14.2540. Marijuana.

## Instruction No. 14.2540. Marijuana.

### I.C. 35-31.5-2-195.

The term “marijuana” means any part of the plant genus *Cannabis* whether growing or not; the seeds thereof; the resin extracted from any part of the plant, including hashish and hash oil; any compound, manufacture, salt derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom); or the sterilized seed of the plant which is incapable of germination.

## Instruction No. 14.2560. Matter.

## Instruction No. 14.2560. Matter.

### I.C. 35-31.5-2-196.

“Matter” means any book, magazine, newspaper, or other printed or written

material; any picture, drawing, photograph, motion picture, or other pictorial representation; any statue or other figure; any recording, transcription, or mechanical, chemical, or electric reproduction; or any other articles, equipment, machines, or materials.

Instruction No. 14.2580. Mental Health Professional.

Instruction No. 14.2580. Mental Health Professional.

Mental Health Professional.

I.C. 35-31.5-2-197.5.

“Mental health professional” means:

- (1) a mental health counselor licensed under IC 25-23.6-8.5;
- (2) a psychologist; or
- (3) a psychiatrist.

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Instruction No. 14.2600. Military Recruiter.

Instruction No. 14.2600. Military Recruiter.

I.C. 35-31.5-2-200.

The term “military recruiter” means a member of the armed forces of the United States (as defined in IC 20-33-10-2) or the Indiana National Guard whose primary job function, classification, or specialty is recruiting individuals to enlist with the armed forces of the United States or the Indiana National Guard.

Instruction No. 14.2620. Minor.

Instruction No. 14.2620. Minor.

I.C. 7.1-1-3-25.

The term “minor” means a person less than twenty-one (21) years of age.

Instruction No. 14.2640. Model Glue.

Instruction No. 14.2640. Model Glue.

I.C. 35-31.5-2-204.

The term “model glue” means a glue or cement containing toluene or acetone or both

Instruction No. 14.2660. Motor Vehicle.

Instruction No. 14.2660. Motor Vehicle.

I.C. 35-31.5-2-207.

"Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of agriculture designed to be operated primarily in a farm field or on farm premises, or an electric personal assistive mobility device.

Instruction No. 14.2680. Mutilate.

Instruction No. 14.2680. Mutilate.

I.C. 35-31.5-2-208.

The term “mutilate” means to wound, injure, maim, or disfigure an animal by irreparably damaging the animal’s body parts or to render any part of the animal’s body useless. The term includes bodily injury involving \_\_\_\_\_[serious permanent disfigurement] [serious temporary disfigurement] [permanent or protracted loss or impairment of the function of a bodily part or organ] [a fracture].

Instruction No. 14.2700. Narcotic Drug.

Instruction No. 14.2700. Narcotic Drug.

I.C. 35-31.5-2-209.

The term “narcotic drug” means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
- (2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical to any of the substances referred to in subdivision (1) of this definition, but not including the isoquinoline alkaloids of opium;
- (3) Opium poppy and poppy straw.

Instruction No. 14.2720. Neglect.

Instruction No. 14.2720. Neglect.

I.C. 35-31.5-2-210.

The term “neglect” means:

[endangering an animal's health by failing to provide or arrange to provide the animal with food or drink, if the animal is dependent upon the person for the provision of food or drink;]

[or]

[restraining an animal for more than a brief period in a manner that endangers the animal's life or health by the use of a rope, chain, or tether that:

- (i) is less than three (3) times the length of the animal;
- (ii) is too heavy to permit the animal to move freely; or
- (iii) causes the animal to choke]

[or]

[restraining an animal in a manner that seriously endangers the animal's life or health]

[or]

[failing to:

- (i) provide reasonable care for; or
- (ii) seek veterinary care for;

an injury or illness to a dog or cat that seriously endangers the life or health of the dog or cat]

[or]

[leaving a dog or cat outside and exposed to:

- (i) excessive heat without providing the animal with a means of shade from the heat; or
- (ii) excessive cold if the animal is not provided with straw or another means of protection from the cold;

regardless of whether the animal is restrained or kept in a kennel.]

Instruction No. 14.2740. “Offender Under I.C. 35-42-4-11” (Offender Against Children).

Instruction No. 14.2740. “Offender Under I.C. 35-42-4-11” (Offender Against Children).

#### I.C. 35-42-4-11.

A person is an “offender under I.C. 35-42-4-11” if that person  
[is an offender under I.C. 35-38-1-7.5

[or]

[has been convicted once or more of

[committing]

[or]

[attempting to commit]

[or]

[conspiring to commit]

(child molesting {IC 35-42-4-3\*})

(child exploitation {IC 35-42-4-4(b)\*})

(child solicitation {IC 35-42-4-6\*})

(child seduction {IC 35-42-4-7\*})

(kidnapping {IC 35-42-3-2}\* , if the victim is less than eighteen {18} years of age) and the person is not the child’s parent or guardian)

(an offense in another jurisdiction that is substantially similar to  
{child molesting})

{child exploitation}  
{child solicitation}  
{child seduction}  
{kidnapping, if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian}}].

Instruction No. 14.2760. Offense.

Instruction No. 14.2760. Offense.

I.C. 35-31.5-2-215.

The term “offense” is defined by law as meaning a crime. The term does not include an infraction.

Instruction No. 14.2780. Officer.

Instruction No. 14.2780. Officer.

I.C. 35-31.5-2-217.5.

The term “officer” is defined by law as including the following:

[law enforcement officer]

[or]

[A person employed by  
{the department of correction}  
{or}  
{a law enforcement agency}  
{or}  
{a probation department}  
{or}  
{a county jail}  
{or}  
{a circuit, superior, county, probate, city, or town court}

who is required to carry a firearm in performance of the person's official duties].



Instruction No. 14.2800. Official Proceeding.

Instruction No. 14.2800. Official Proceeding.

I.C. 35-31.5-2-218.

The term “official proceeding” is defined by law as meaning a proceeding held or that may be held before a legislative, judicial, administrative, or other agency or before an official authorized to take evidence under oath, including a referee, hearing examiner, commissioner, notary, or other person taking evidence in connection with a proceeding.

Instruction No. 14.2815 . Other Sexual Conduct.

I.C. 35-31.5-2-221.5.

The term “other sexual conduct” is defined by law as meaning an act involving:  
[a sex organ of one person and the mouth or anus of another person]  
[or]  
[the penetration of the sex organ or anus of a person by an object.]

Instruction No. 14.2820. Overpass.

Instruction No. 14.2820. Overpass.

I.C. 35-31.5-2-222.

“Overpass” means a bridge or other structure designed to carry vehicular or

pedestrian traffic over any roadway, railroad track, or waterway.

#### Instruction No. 14.2840. Overpressure Device.

#### Instruction No. 14.2840. Overpressure Device.

##### I.C. 35-31.5-2-223.

“Overpressure device” means:

a frangible container filled with an explosive gas or expanding gas that is designed or constructed to cause the container to break or fracture in a manner that is capable of causing death, bodily harm, or property damage; or a container filled with an explosive gas or expanding gas or chemicals that generate an expanding gas.

#### Instruction No. 14.2860. Owned and Controlled.

#### Instruction No. 14.2860. Owned and Controlled.

##### I.C. 4-13-16.5-1.

The term “owned and controlled” is defined by law as meaning having:

- (1) ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation;
- (2) control over the management and day-to-day operations of the business; and
- (3) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

#### Instruction No. 14.2880. Party.

#### Instruction No. 14.2880. Party.

##### I.C. 35-31.5-2-226.

As used in I.C. 35-43-9 statutes on conversion or misappropriation of title insurance escrow funds, the term “party” means an individual who is buying, selling, or refinancing a dwelling in a residential real property transaction.

Instruction No. 14.2900. Pattern of Racketeering Activity.

Instruction No. 14.2900. Pattern of Racketeering Activity.

I.C. 35-31.5-2-227.

The term “pattern of racketeering activity” means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents; however, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

Instruction No. 14.2920. Pecuniary.

Instruction No. 14.2920. Pecuniary.

The term “pecuniary” means of, relating to, or consisting of money or something of value.

Instruction No. 14.2940. Peep.

Instruction No. 14.2940. Peep.

I.C. 31-31.5-2-231.

“Peep” means any looking of a clandestine, surreptitious, prying or secretive nature.

Instruction No. 14.2960. Penal Facility.

Instruction No. 14.2960. Penal Facility.

I.C. 35-31.5-2-232.

The term “penal facility” is defined by law as meaning a state prison, correctional facility, county jail, penitentiary, house of correction, or any other facility for confinement of persons under sentence, or awaiting trial or sentence, for offenses. The term includes a correctional facility constructed under IC 4-13.5.

Instruction No. 14.2980. Performance.

Instruction No. 14.2980. Performance.

I.C. 35-31.5-2-233.

“Performance” means any play, motion picture, dance, or other exhibition or presentation, whether pictured, animated, or live, performed before an audience of one (1) or more persons.

Instruction No. 14.3000. Person.

Instruction No. 14.3000. Person.

I.C. 35-31.5-2-234.

The term “person” is defined by law as meaning a human being, corporation, partnership, unincorporated association, or governmental entity.

Instruction No. 14.3020. Person – Insurance Funds.

Instruction No. 14.3020. Person – Insurance Funds.

I.C. 35-31.5-2-234.

As used in the I.C. 35-43-9 statutes on conversion or misappropriation of title insurance escrow funds, the term “person” means an individual, a corporation, a limited liability company, a partnership, a firm, an association, or another organization.

Instruction No. 14.3040. Person—Home Improvement Frauds.

Instruction No. 14.3040. Person—Home Improvement Frauds.

I.C. 35-31.5-2-234.

The term “person” means an individual, corporation, business trust, estate, trust, partnership, association, cooperative, or any other legal entity.

Instruction No. 14.3060. Possession.

Instruction No. 14.3060. Possession.

The word “possess” means to own or to exert control over. The word “possession” can take on several different, but related, meanings.

There are two kinds of “possession”—actual possession and constructive possession. A person who knowingly has direct physical control of a thing at a given time is then in actual possession of it. A person who, although not in actual possession, knowingly has both the power and the intention at a given time to exercise control over a thing, either directly or through another person or persons, is then in constructive possession of it.

[Possession may be sole or joint. If one person alone has actual or constructive possession of a thing, then possession is sole. If two or more persons share actual or constructive possession of a thing, then possession is joint.]

Possession may be actual or constructive[, and either alone or jointly with others].

Instruction No. 14.3080. Practitioner.

Instruction No. 14.3080. Practitioner.

I.C. 35-31.5-2-242; I.C. 35-48-1-24.

The term “practitioner” means a physician, dentist, veterinarian [**but not in interference with health care cases, I.C. 35-42-2-8(a)**], scientific investigator, pharmacy, hospital, or other institution or individual licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in Indiana.

Instruction No. 14.3100. Prescription Drug.

Instruction No. 14.3100. Prescription Drug.

I.C. 35-31.5-2-244(b).

“Prescription drug” means a controlled substance or a legend drug (as defined in IC 16-18-2-199).

Instruction No. 14.3120. Previous Conviction of Operating While Intoxicated.

Instruction No. 14.3120. Previous Conviction of Operating While Intoxicated.

I.C. 9-13-2-130.

The term “previous conviction of operating while intoxicated” means a previous conviction:

(1) In Indiana of:

(A) An alcohol related or drug related crime under Acts 1939, c.48, s.52, as amended, IC 9-4-1-54 (repealed September 1, 1983), or I.C. 9-11-2 (repealed July 1, 1991); or

(B) A crime under IC 9-30-5-1 through 9-30-5-9;

(or)

(2) In any other jurisdiction: in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a crime described in IC 9-30-5-1 through IC 9-30-5-9.

Instruction No. 14.3140. Principal.

Instruction No. 14.3140. Principal.

I.C. 35-31.5-2-245.

“Principal” includes the monetary value of property which has been loaned from one (1) person to another person.

Instruction No. 14.3160. Private Area.

Instruction No. 14.3160. Private Area.

“Private area” means the naked or undergarment-clad genitals, pubic area, or buttocks of an individual.

Instruction No. 14.3180. Production.

Instruction No. 14.3180. Production.

I.C. 35-31.5-2-248.2.

The term “production” includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

Instruction No. 14.3200. Professional Relationship.

## Instruction No. 14.3200. Professional Relationship.

### I.C. 35-31.5-2-248.5.

A person has a “professional relationship” with a child if:

(1) the person:

(A) has a license issued by the state or a political subdivision on the basis of the person’s training and experience that authorizes the person to carry out a particular occupation; or

(B) is employed in a position in which counseling, supervising, instructing, or recruiting children forms a significant part of the employment; and

(2) the person has a relationship with a child that is based on the person’s employment or licensed status as described in (1).

[(*use if applicable*) The term includes a relationship between a child and a (mental health professional) (military recruiter).]

[(*use if applicable*) The term does not include a coworker relationship between a child and a person described in (1)(B).]

In determining whether a person used or exerted the person’s professional relationship with the child to engage in [sexual intercourse] [other sexual conduct] [fondling or touching with the intent to arouse or satisfy the sexual desires of the child or the person], the trier of fact may consider one (1) or more of the following:

(1) The age difference between the person and the child.

(2) Whether the person was in a position of trust with respect to the child.

(3) Whether the person’s conduct with the child violated any ethical obligations of the person’s profession or occupation.

(4) The authority that the person had over the child.

(5) Whether the person exploited any particular vulnerability of the child.

(6) Any other evidence relevant to the person’s ability to exert undue influence over the child.

## Instruction No. 14.3220. Profit.

## Instruction No. 14.3220. Profit.

### I.C. 35-31.5-2-250.

The term “profit” is defined by law as meaning a realized or unrealized benefit [other than a gain] and includes benefits from proprietorship or management and unequal advantage in a series of transactions.

## Instruction No. 14.3240. Property.

## Instruction No. 14.3240. Property.

### I.C. 35-31.5-2-253.

The term "property" is defined by law as meaning anything of value; and includes a gain or advantage or anything that might reasonably be regarded as such by the beneficiary; real property, personal property, money, labor, services; intangibles; commercial instruments, written instruments concerning labor, services, or property; written instruments otherwise of value to the owner, such as a public record, deed, will, credit card, or letter of credit; a signature or a written instrument; extension of credit; trade secrets; contract rights, choses-in-action, and other interest in or claims to wealth; electricity, gas, oil, and water; captured or domestic animals, birds, and fish; food and drink; human remains, and data.

### Instruction No. 14.3260. Proximate Cause.

### Instruction No. 14.3260. Proximate Cause.

A person's conduct is legally responsible for causing [an injury][property damage][a death] if:

(1) the [injury][property damage][a death] would not have occurred without the conduct, and

(2) the [injury][property damage][a death] was a natural, probable, and foreseeable result of the conduct.

This is called a "proximate cause."

[There can be more than one proximate cause for an injury.]

### Instruction No. 14.3280. Public Park.

### Instruction No. 14.3280. Public Park.

### I.C. 35-31.5-2-258.

The term "public park" means any property operated by a political subdivision for park purposes, defined in IC 36-10-1-2 as including the establishment, equipment, and operation of parks, boulevards, pleasure drives, parkways, wheelways, park boulevards, bridlepaths, playgrounds, playfields, bathhouses, comfort stations, swimming pools, community centers, recreation centers, other recreational facilities, and recreational programs.



Instruction No. 14.3300. Public Relief or Assistance.

Instruction No. 14.3300. Public Relief or Assistance.

I.C. 35-31.5-2-259.

The term “public relief or assistance” means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes poor relief, food stamps, direct relief, unemployment compensation, and any other form of support or aid.

Instruction No. 14.3310. Public Safety Official.

Instruction No. 14.3310. Public Safety Official.

I.C. 35-45-2-1.

The term “public safety official” means:

(1) a law enforcement officer, including an alcoholic beverage enforcement officer;

(2) an employee of a penal facility or a juvenile detention facility (as defined in [IC 31-9-2-71](#));

(3) an employee of the department of correction;

(4) a probation officer;

(5) a parole officer;

(6) a community corrections worker;

(7) a home detention officer;

(8) a department of child services employee;

(9) a firefighter; or

(10) an emergency medical services provider.

Instruction No. 14.3320. Public Servant.

Instruction No. 14.3320. Public Servant.

I.C. 35-31.5-2-261.

The term "public servant" is defined by law as meaning a person who:

- (1) is authorized to perform an official function on behalf of, and is paid by, a governmental entity;
- (2) is elected or appointed to office to discharge a public duty for a governmental entity; or,
- (3) with or without compensation, is appointed in writing by a public official to act in an advisory capacity to a governmental entity concerning a contract or purchase to be made by the entity.

The term does not include a person appointed by the governor to an honorary advisory or honorary military position.

Instruction No. 14.3340. Public Servant.

Instruction No. 14.3340. Public Servant.

I.C. 35-41-3-2.

The term "public servant" means:

- (1) a police officer (including a correctional police officer), sheriff, constable, marshal, prosecuting attorney, special prosecuting attorney, special deputy prosecuting attorney, the securities commissioner, or the inspector general;
- (2) a deputy of any of those persons;
- (3) an investigator for a prosecuting attorney or for the inspector general;
- (4) a conservation officer;
- (5) an enforcement officer of the alcohol and tobacco commission; or
- (6) an enforcement officer of the securities division of the office of the secretary of state.
- (7) a gaming agent employed under IC 4-33-4.5 or a gaming control officer employed by the gaming control division under IC 4-33-20.
- (8) A Federal Bureau of Investigation special agent.

- (9) A United States Marshals Service marshal or deputy.
- (10) A United States Secret Service special agent.
- (11) A United States Fish and Wildlife Service special agent.
- (12) A United States Drug Enforcement Agency agent.
- (13) A Bureau of Alcohol, Tobacco, Firearms and Explosives agent.
- (14) A United States Forest Service law enforcement officer.
- (15) A United States Department of Defense police officer or criminal investigator.
- (16) A United States Customs Service agent.
- (17) A United States Postal Service investigator.
- (18) A National Park Service law enforcement commissioned ranger.
- (19) United States Department of Agriculture, Office of Inspector General special agent.
- (20) A United States Citizenship and Immigration Services special agent.
- (21) An individual who is
  - (A) an employee of a federal agency; and
  - (B) authorized to make arrests and carry a firearm in the performance of the individual's official duties.

Instruction No. 14.3360. Publish.

Instruction No. 14.3360. Publish.

I.C. 35-31.5-2-264.

The term "publish" means the communication or dissemination of information to at least one (1) person by any of the following methods:

- (1) Orally.
- (2) In person.
- (3) By telephone, radio, or television.
- (4) In a writing of any kind, including a letter, memorandum, circular handbill, newspaper, magazine article, or book.

Instruction No. 14.3380. Racial Minority Group.

Instruction No. 14.3380. Racial Minority Group.

I.C. 4-13-16.5-1.

The term "racial minority group" is defined by law as meaning Blacks, American Indians, Hispanics, Asian Americans, and other similar racial minority groups.

Instruction No. 14.3400. Racketeering Activity.

Instruction No. 14.3400. Racketeering Activity.

I.C. 35-31.5-2-265.

The term “racketeering activity” means to commit, to attempt to commit, or to conspire to commit a violation, or aiding and abetting in a violation of a provision of I.C. \_\_\_\_\_ *[here insert the statute which is applicable to the charge contained in the affidavit or indictment]*.

Instruction No. 14.3420. Rate.

Instruction No. 14.3420. Rate.

I.C. 35-31.5-2-266.

The word “rate” is defined by law as meaning the monetary value of the consideration received per annum or due per annum, calculated according to the actuarial method on the unpaid balance of the principal.

Instruction No. 14.3440. Receiving.

Instruction No. 14.3440. Receiving.

I.C. 35-31.5-2-268.

The term “receiving” is defined by law as meaning acquiring possession or control of or title to property, or lending on the security of property.

Instruction No. 14.3460. Regulated Explosive.

Instruction No. 14.3460. Regulated Explosive.

I.C. 35-31.5-2-273.3.

“Regulated explosive” includes a destructive device and an explosive.

Instruction No. 14.3480. Residential Real Property Transaction.

Instruction No. 14.3480. Residential Real Property Transaction.

I.C. 35-31.5-2-277.

As used in the I.C. 35-43-9 statutes on conversion or misappropriation of title insurance escrow funds, the term “residential real property transaction” means the purchase, sale, or refinancing of a dwelling that has been or will be the residence of a party in the purchase, sale, or refinancing.

Instruction No. 14.3500. Salvia.

Instruction No. 14.3500. Salvia.

I.C. 35-31.5-2-281

“Salvia” means salvia divinorum or salvinorin A, including:

- (1) all parts of the plant that are classified botanically as salvia divinorum, whether growing or not;
- (2) the seeds of the plant;
- (3) any extract from any part of the plant; and
- (4) every compound, manufacture, derivative, mixture, or preparation of the plant, its seeds, or extracts, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of the plant, its seeds, or extracts.

The term does not include any other species in the genus salvia.

Instruction No. 14.3520. Sawed-Off Shotgun.

Instruction No. 14.3520. Sawed-Off Shotgun.

I.C. 35-31.5-2-282.

The term “sawed-off shotgun” means:

- (1) a shotgun having one or more barrels less than eighteen [18] inches in length; and
- (2) any weapon made from a shotgun (whether by alteration, modification, or

otherwise) if the weapon as modified has an overall length of less than twenty-six [26] inches.

Instruction No. 14.3540. School Bus.

Instruction No. 14.3540. School Bus.

I.C. 35-31.5-2-283.

The term "school bus" means any motor vehicle designed and constructed for the accommodation of more than ten (10) passengers, which is used for the transportation of Indiana school children.

Instruction No. 14.3560. School Property.

Instruction No. 14.3560. School Property.

I.C. 35-31.5-2-285.

The term "school property" means:

- (1) a building or other structure owned or rented by
  - (A) a school corporation;
  - (B) an entity that is required to be licensed under IC 12-17.2 or IC 12-17.4;
  - (C) a private school (as defined in IC 20-9.1-1-3); or
  - (D) a federal, state, local, or nonprofit program or service operated to serve, assist, or otherwise benefit children who are at least three (3) years of age and not yet enrolled in kindergarten, including the following:
    - (i) a Head Start program under [42 U.S.C. 9831 et seq.](#)
    - (ii) a special education preschool program
    - (iii) a developmental child care program for preschool children.
- (2) the grounds adjacent to and owned or rented in common with a building or other structure described in subdivision (1).

Instruction No. 14.3580. Scientific Research Facility.

Instruction No. 14.3580. Scientific Research Facility.

I.C. 35-31.5-2-287.

The term “scientific research facility” means a facility in which research is conducted.

Instruction No. 14.3600. Search and Rescue Dog.

Instruction No. 14.3600. Search and Rescue Dog.

I.C. 35-31.5-2-288.

The term “search and rescue dog” means a dog that receives special training to locate or attempt to locate by air scent or ground or water tracking a person who is an offender or is lost, trapped, injured, or incapacitated.

Instruction No. 14.3620. Serious Bodily Injury.

Instruction No. 14.3620. Serious Bodily Injury.

I.C. 35-31.5-2-291.

The term “serious bodily injury” is defined by law as meaning bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, unconsciousness, extreme pain, permanent or protracted loss or impairment of the function of a bodily member or organ, or loss of a fetus.

Instruction No. 14.3640. Service Provider.

Instruction No. 14.3640. Service Provider.

I.C. 35-31.5-2-296.

The term “service provider” means a public servant or other person employed by a governmental entity or another person who provides goods or services to a person who is subject to lawful detention.

Instruction No. 14.3660. Sexual Conduct.

Instruction No. 14.3660. Sexual Conduct.

I.C. 35-31.5-2-300(a).

The term “sexual conduct” means sexual intercourse, other sexual conduct (as defined in IC 35-31.5-2-221.5), exhibition of the uncovered genitals intended to satisfy or arouse the sexual desires of any person, sadomasochistic abuse, sexual intercourse or other sexual conduct with an animal, or any fondling or touching of a child by another person or of another person by a child intended to arouse or satisfy the sexual desires of either the child or the other person.

Instruction No. 14.3680. Sexual Intercourse.

Instruction No. 14.3680. Sexual Intercourse.

I.C. 35-31.5-2-302.

The term “sexual intercourse” is defined by law as meaning an act that includes any penetration of the female sex organ by the male sex organ.

Instruction No. 14.3700. “Offender Under 35-38-1-7.5” [Sexually Violent Predator] Based on Single Offense.

Instruction No. 14.3700. “Offender Under 35-38-1-7.5” [Sexually Violent Predator] Based on Single Offense.

I.C. 35-38-1-7.5(b)(1).

A person is an offender under 35-38-1-7.5 if when he/she was at least eighteen  
[18] he/she  
[committed]  
[or]  
[attempted to commit]  
[or]



[conspired to commit]  
 {the Indiana offense of}  
 {or}  
 {a crime under the laws of another jurisdiction, including a military court, that is  
 substantially similar to the Indiana offense of}  
 [rape {*IC 35-42-4-1*\*}]  
 [or]  
 [criminal deviate conduct {*IC 35-42-4-2*\*}]  
 [or]  
 [child molesting as a Level 1 or Level 2 felony {*IC 35-42-4-3*\*}]  
 [or]  
 [vicarious sexual gratification {*IC 35-42-4-5*\*}  
 (by touching or fondling a child under the age of fourteen [14])  
 (or)  
 (by using or threatening the use of deadly force)  
 (or)  
 (while armed with a deadly weapon)  
 (or)  
 (when commission of the offense is facilitated by furnishing the victim,  
 without the victim's knowledge, with a drug or controlled substance)  
 (or)  
 (when commission of the offense is facilitated by knowing that the victim  
 was furnished with a drug or controlled substance)  
 (or)  
 (resulting in serious bodily injury)  
 (or)  
 (by directing, aiding, inducing, or causing a child under the age of sixteen  
 [16] to engage in sexual intercourse with another child under the age of sixteen  
 [16]  
 [when any child involved in the offense was less than fourteen [14]  
 years of age]  
 [or]  
 [when the offense was committed by using or threatening the use of  
 deadly force]  
 [or]  
 [when the offense was committed while armed with a deadly weapon]  
 [or]  
 [when the offense resulted in serious bodily injury]  
 [or]  
 [when the offense was facilitated by  
 {furnishing the victim without the victim's knowledge with a drug or  
 controlled substance}  
 {or}  
 {knowing that the victim was furnished with a drug or controlled  
 substance}}]  
 (or)  
 (by directing, aiding, inducing or causing a child under the age of sixteen  
 [16] to engage in sexual conduct with an animal other than a human being)  
 (or)  
 (by directing, aiding, inducing, or causing a child under the age of sixteen  
 [16] to engage in deviate sexual conduct with another person

[when any child involved in the offense was less than fourteen {14}  
years of age]  
[or]  
[when the offense was committed by using or threatening the use of  
deadly force]  
[or]  
[when the offense was committed while armed with a deadly weapon]  
[or]  
[when the offense resulted in serious bodily injury]  
[or]  
[when the offense was facilitated by  
{furnishing the victim without the victim's knowledge with a drug or  
controlled substance}  
{or}  
{knowing that the victim was furnished with a drug or controlled  
substance}})]

and he/she was released from incarceration, secure detention, or probation for the  
offense after June 30, 1994.

Instruction No. 14.3720. "Offender Under 35-38-1-7.5" [Sexually Violent  
Predator] Based on Offense With a Prior Unrelated Conviction.

Instruction No. 14.3720. "Offender Under 35-38-1-7.5" [Sexually Violent  
Predator] Based on Offense With a Prior Unrelated Conviction.

#### I.C. 35-38-1-7.5(b)(2).

A person is an offender under I.C. 35-38-1-7.5 if he/she

[committed]

[or]

[attempted to commit]

[or]

[conspired to commit]

{the Indiana offense of}

{or}

{a crime under the laws of another jurisdiction, including a military court, that is  
substantially equivalent to the Indiana offense of}

[rape {IC 35-42-4-1\*}]

[or]

[criminal deviate conduct {IC 35-42-4-2\*}]  
[or]  
[child molesting {IC 35-42-4-2\*}]  
[or]  
[child exploitation {IC 35-42-4-4(b)\*}]  
[or]  
[vicarious sexual gratification (including performing sexual conduct in the presence of a minor) {IC 35-42-4-5\*}]  
[or]  
[child solicitation {IC 35-42-4-6\*}]  
[or]  
[child seduction {IC 35-42-4-7\*}]  
[or]  
[sexual misconduct with a minor as a Level 1, Level 2, or Level 4 felony {IC 35-42-4-9\*}]  
    unless  
        • the person is convicted of sexual misconduct with a minor as a Level 6 felony, and  
        • the person is not more than  
            ◦ four years older than the victim if the offense was committed after June 30, 2007, and  
            or  
            ◦ five years older than the victim if the offense was committed before July 1, 2007, and  
        • the sentencing court finds that the person should not be required to register as a sex offender]  
[or]  
[incest {IC 35-46-1-3\*}]  
[or]  
[sexual battery {IC 35-42-4-8\*}]  
[or]  
[kidnapping {IC 35-42-3-2\*}, if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian]  
[or]  
[criminal confinement {IC 35-42-3-3\*}, if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian]  
[or]  
[possession of child pornography {IC 35-42-4-4(c)\*}]  
[or]  
[promoting prostitution {IC 35-45-4-4\*} as a Class B felony]  
[or]  
[promotion of human trafficking {IC 35-42-3.5-1(a)(2)\*} if the victim is less than eighteen (18) years of age]  
[or]  
[sexual trafficking of a minor {IC 35-42-3.5-1(b)\*}]  
[or]  
[human trafficking {IC 35-42-3.5-1(c)(3)\*} if the victim is less than eighteen (18) years of age]

[or]  
{sexual misconduct by a service provider with a detained child {*IC 35-44-1-5(c)*}}

when he/she had a prior conviction of  
{the Indiana offense of}  
{or}  
{a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to the Indiana offense of}

[committing]  
[or]  
[attempting to commit]  
[or]  
[conspiring to commit]  
{rape [*IC 35-42-4-1*\*]}  
{or}  
{criminal deviate conduct [*IC 35-42-4-2*\*]}  
{or}  
{child molesting [*IC 35-42-4-2*\*]}  
{or}  
{child exploitation [*IC 35-42-4-4(b)*\*]}  
{or}  
{vicarious sexual gratification (including performing sexual conduct in the presence of a minor) [*IC 35-42-4-5*\*]}  
{or}  
{child solicitation [*IC 35-42-4-6*\*]}  
{or}  
{child seduction [*IC 35-42-4-7*\*]}  
{or}  
{sexual misconduct with a minor as a Level 2, Level 4, or Level 5 felony [*IC 35-42-4-9*\*]}

unless  
• the person is convicted of sexual misconduct with a minor as a Level 6 felony, and  
• the person is not more than  
◦ four years older than the victim if the offense was committed after June 30, 2007, and  
or

◦ five years older than the victim if the offense was committed before July 1, 2007, and

• the sentencing court finds that the person should not be required to register as a sex offender}

{or}  
{incest [*IC 35-46-1-3*\*]}  
{or}  
{sexual battery [*IC 35-42-4-8*\*]}  
{or}  
{kidnapping [*IC 35-42-3-2*\*], if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian}

{or}  
{criminal confinement [*IC 35-42-3-3*], if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian}  
{or}  
{possession of child pornography [*IC 35-42-4-4(c)*]}  
{or}  
{promoting prostitution [*IC 35-45-4-4*] as a Level 4 felony}  
{or}  
{promotion of human trafficking [*IC 35-42-3.5-1(a)(2)*] if the victim is less than eighteen (18) years of age}  
{or}  
{sexual trafficking of a minor [*IC 35-42-3.5-1(b)*]}  
{or}  
{human trafficking [*IC 35-42-3.5-1(c)(3)*] if the victim is less than eighteen (18) years of age}  
{or}  
{sexual misconduct by a service provider with a detained child [*IC 35-44-1-5(c)*]}

and he/she was released from incarceration, secure detention, or probation for the offense after June 30, 1994.

Instruction No. 14.3740. "Offender Under I.C. 35-38-1-7.5" [Sexually Violent Predator] Based on Offense With a Previous Unrelated Adjudication and a Determination Likely to Offend Again.

Instruction No. 14.3740. "Offender Under I.C. 35-38-1-7.5" [Sexually Violent Predator] Based on Offense With a Previous Unrelated Adjudication and a Determination Likely to Offend Again.

*I.C. 35-38-1-7.5(b)(3).*

A person is an offender under *I.C. 35-38-1-7.5* if he/she

[committed]

[or]

[attempted to commit]

[or]

[conspired to commit]

{the Indiana offense of}  
 {or}  
 {a crime under the laws of another jurisdiction, including a military court, that is  
 substantially equivalent to the Indiana offense of}  
 [rape {*IC 35-42-4-1*\*}]  
 [or]  
 [criminal deviate conduct {*IC 35-42-4-2*\*}]  
 [or]  
 [child molesting {*IC 35-42-4-2*\*}]  
 [or]  
 [child exploitation {*IC 35-42-4-4(b)*\*}]  
 [or]  
 [vicarious sexual gratification (including performing sexual conduct in the  
 presence of a minor) {*IC 35-42-4-5*\*}]  
 [or]  
 [child solicitation {*IC 35-42-4-6*\*}]  
 [or]  
 [child seduction {*IC 35-42-4-7*\*}]  
 [or]  
 [sexual misconduct with a minor as a Level 2, Level 4, or Level 5 felony {*IC 35-42-4-9*\*}]  
 unless  
     • the person is convicted of sexual misconduct with a minor as a Level 6  
 felony, and  
     • the person is not more than  
         ◦ four years older than the victim if the offense was committed after  
 June 30, 2007, and  
         or  
         ◦ five years older than the victim if the offense was committed before  
 July 1, 2007, and  
     • the sentencing court finds that the person should not be required to  
 register as a sex offender]  
 [or]  
 [incest {*IC 35-46-1-3*\*}]  
 [or]  
 [sexual battery {*IC 35-42-4-8*\*}]  
 [or]  
 [kidnapping {*IC 35-42-3-2*\*}, if the victim is less than eighteen (18) years of  
 age, and the person who kidnapped the victim is not the victim's parent or  
 guardian]  
 [or]  
 [criminal confinement {*IC 35-42-3-3*\*}, if the victim is less than eighteen (18)  
 years of age, and the person who kidnapped the victim is not the victim's parent or  
 guardian]  
 [or]  
 [possession of child pornography {*IC 35-42-4-4(c)*\*}]  
 [or]  
 [promoting prostitution {*IC 35-45-4-4*\*} as a Level 4 felony]  
 [or]  
 [promotion of human trafficking {*IC 35-42-3.5-1(a)(2)*\*} if the victim is less than  
 eighteen (18) years of age]

[or]  
[sexual trafficking of a minor {*IC 35-42-3.5-1(b)\**}]  
[or]  
[human trafficking {*IC 35-42-3.5-1(c)(3)\**} if the victim is less than eighteen (18) years of age]  
[or]  
[sexual misconduct by a service provider with a detained child {*IC 35-44-1-5(c)*}]

when he/she had a previous unrelated adjudication as a delinquent child for an act which, if committed by an adult, would have been:

{the Indiana offense of}  
{or}  
{a crime under the laws of another jurisdiction, including a military court, that was substantially equivalent to the Indiana offense of}:  
[committing]  
[or]  
[attempting to commit]  
[or]  
[conspiring to commit]  
    {rape [*IC 35-42-4-1\**]}  
    {or}  
    {criminal deviate conduct [*IC 35-42-4-2\**]}  
    {or}  
    {child molesting [*IC 35-42-4-2\**]}  
    {or}  
    {child exploitation [*IC 35-42-4-4(b)\**]}  
    {or}  
    {vicarious sexual gratification (including performing sexual conduct in the presence of a minor) [*IC 35-42-4-5\**]}  
    {or}  
    {child solicitation [*IC 35-42-4-6\**]}  
    {or}  
    {child seduction [*IC 35-42-4-7\**]}  
    {or}  
    {sexual misconduct with a minor as a Level 2, Level 4, or Level 5 felony [*IC 35-42-4-9\**]}  
    unless  
        • the person is convicted of sexual misconduct with a minor as a Level 6 felony, and  
        • the person is not more than  
            ◦ four years older than the victim if the offense was committed after June 30, 2007, and  
            or  
            ◦ five years older than the victim if the offense was committed before July 1, 2007, and  
        • the sentencing court finds that the person should not be required to register as a sex offender]  
    {or}  
    {incest [*IC 35-46-1-3\**]}

{or}  
{sexual battery [IC 35-42-4-8\*]}  
{or}  
{kidnapping [IC 35-42-3-2\*], if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian}  
{or}  
{criminal confinement [IC 35-42-3-3\*], if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian}  
{or}  
{possession of child pornography [IC 35-42-4-4(c)\*]}  
{or}  
{promoting prostitution [IC 35-45-4-4\*] as a Level 4 felony}  
{or}  
{promotion of human trafficking [IC 35-42-3.5-1(a)(2)\*] if the victim is less than eighteen (18) years of age}  
{or}  
{sexual trafficking of a minor [IC 35-42-3.5-1(b)\*]}  
{or}  
{human trafficking [IC 35-42-3.5-1(c)(3)\*] if the victim is less than eighteen (18) years of age}  
{or}  
{sexual misconduct by a service provider with a detained child [IC 35-44-1-5(c)]}

and was found by a court by clear and convincing evidence to be likely to commit an additional sex offense.

Instruction No. 14.3760. "Offender Under I.C. 35-38-1-7.5" [Sexually Violent Predator] Based on an Offense With a Previous Unrelated Adjudication and a Duty to Register.

Instruction No. 14.3760. "Offender Under I.C. 35-38-1-7.5" [Sexually Violent Predator] Based on an Offense With a Previous Unrelated Adjudication and a Duty to Register.

I.C. 35-38-1-7.5(b)(4).

A person is an offender under I.C. 35-38-1-7.5 if he/she  
  
[committed]  
  
[or]



[attempted to commit]

[or]

[conspired to commit]

{the Indiana offense of}

{or}

{a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to the Indiana offense of}

[rape {*IC 35-42-4-1*\*}]

[or]

[criminal deviate conduct {*IC 35-42-4-2*\*}]

[or]

[child molesting {*IC 35-42-4-2*\*}]

[or]

[child exploitation {*IC 35-42-4-4(b)*\*}]

[or]

[vicarious sexual gratification (including performing sexual conduct in the presence of a minor) {*IC 35-42-4-5*\*}]

[or]

[child solicitation {*IC 35-42-4-6*\*}]

[or]

[child seduction {*IC 35-42-4-7*\*}]

[or]

[sexual misconduct with a minor as a Level 2, Level 4, or Level 5 felony {*IC 35-42-4-9*\*}]

unless

• the person is convicted of sexual misconduct with a minor as a Level 6 felony, and

• the person is not more than

◦ four years older than the victim if the offense was committed after June 30, 2007, and

or

◦ five years older than the victim if the offense was committed before July 1, 2007, and

• the sentencing court finds that the person should not be required to register as a sex offender]

[or]

[incest {*IC 35-46-1-3*\*}]

[or]

[sexual battery {*IC 35-42-4-8*\*}]

[or]

[kidnapping {*IC 35-42-3-2*\*}, if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian]

[or]

[criminal confinement {*IC 35-42-3-3*\*}, if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian]

[or]  
 [possession of child pornography {*IC 35-42-4-4(c)\**}]  
 [or]  
 [promoting prostitution {*IC 35-45-4-4\**} as a Level 4 felony]  
 [or]  
 [promotion of human trafficking {*IC 35-42-3.5-1(a)(2)\**} if the victim is less than eighteen (18) years of age]  
 [or]  
 [sexual trafficking of a minor {*IC 35-42-3.5-1(b)\**}]  
 [or]  
 [human trafficking {*IC 35-42-3.5-1(c)(3)\**} if the victim is less than eighteen (18) years of age]  
 [or]  
 [sexual misconduct by a service provider with a detained child {*IC 35-44-1-5(c)*}]

when he/she had a previous unrelated adjudication as a delinquent child for an act which, if committed by an adult, would have been:

{the Indiana offense of}  
 {or}  
 {a crime under the laws of another jurisdiction, including a military court, that was substantially equivalent to the Indiana offense of}:  
 [committing]  
 [or]  
 [attempting to commit]  
 [or]  
 [conspiring to commit]  
 {rape [*IC 35-42-4-1\**]}  
 {or}  
 {criminal deviate conduct [*IC 35-42-4-2\**]}  
 {or}  
 {child molesting [*IC 35-42-4-2\**]}  
 {or}  
 {child exploitation [*IC 35-42-4-4(b)\**]}  
 {or}  
 {vicarious sexual gratification (including performing sexual conduct in the presence of a minor) [*IC 35-42-4-5\**]}  
 {or}  
 {child solicitation [*IC 35-42-4-6\**]}  
 {or}  
 {child seduction [*IC 35-42-4-7\**]}  
 {or}  
 {sexual misconduct with a minor as a Class Level 2, Level 4, or Level 5 felony [*IC 35-42-4-9\**]}  
 unless  
 • the person is convicted of sexual misconduct with a minor as a Level 6 felony, and  
 • the person is not more than  
     ◦ four years older than the victim if the offense was committed after June 30, 2007, and

or  
○ five years older than the victim if the offense was committed before July 1, 2007, and  
• the sentencing court finds that the person should not be required to register as a sex offender]  
{or}  
{incest [*IC 35-46-1-3*]}  
{or}  
{sexual battery [*IC 35-42-4-8*]}  
{or}  
{kidnapping [*IC 35-42-3-2*], if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian}  
{or}  
{criminal confinement [*IC 35-42-3-3*], if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian}  
{or}  
{possession of child pornography [*IC 35-42-4-4(c)*]}  
{or}  
{promoting prostitution [*IC 35-45-4-4*] as a Level 4 felony}  
{or}  
{promotion of human trafficking [*IC 35-42-3.5-1(a)(2)*] if the victim is less than eighteen (18) years of age}  
{or}  
{sexual trafficking of a minor [*IC 35-42-3.5-1(b)*]}  
{or}  
{human trafficking [*IC 35-42-3.5-1(c)(3)*] if the victim is less than eighteen (18) years of age}  
{or}  
{sexual misconduct by a service provider with a detained child [*IC 35-44-1-5(c)*]}

and the defendant had been required to register as a sex offender because he/she was at least fourteen [14] years of age  
and  
was

[on probation]  
[or]  
[on parole]  
[or]  
[discharged from a facility by the department of correction]  
[or]  
[discharged from a secure private facility (as defined in *IC 31-9-2-115*)]  
[or]  
[discharged from a juvenile detention facility]  
as a result of having been adjudicated to be a delinquent child for an act which would have been:  
[committing]  
[or]  
[attempting to commit]

[or]  
 [conspiring to commit]  
   {rape [IC 35-42-4-1\*]}  
   {or}  
   {criminal deviate conduct [IC 35-42-4-2\*]}  
   {or}  
   {child molesting [IC 35-42-4-2\*]}  
   {or}  
   {child exploitation [IC 35-42-4-4(b)\*]}  
   {or}  
   {vicarious sexual gratification (including performing sexual conduct in the presence of a minor) [IC 35-42-4-5\*]}  
   {or}  
   {child solicitation [IC 35-42-4-6\*]}  
   {or}  
   {child seduction [IC 35-42-4-7\*]}  
   {or}  
   {sexual misconduct with a minor as a Level 2, Level 4, or Level 5 felony [IC 35-42-4-9\*]}  
   unless  
     • the person is convicted of sexual misconduct with a minor as a Level 6 felony, and  
     • the person is not more than  
       ◦ four years older than the victim if the offense was committed after June 30, 2007, and  
       or  
       ◦ five years older than the victim if the offense was committed before July 1, 2007, and  
     • the sentencing court finds that the person should not be required to register as a sex offender]  
   {or}  
   {incest [IC 35-46-1-3\*]}  
   {or}  
   {sexual battery [IC 35-42-4-8\*]}  
   {or}  
   {kidnapping [IC 35-42-3-2\*], if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian}  
   {or}  
   {criminal confinement [IC 35-42-3-3\*], if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian}  
   {or}  
   {possession of child pornography [IC 35-42-4-4(c)\*]}  
   {or}  
   {promoting prostitution [IC 35-45-4-4\*] as a Level 4 felony}  
   {or}  
   {promotion of human trafficking [IC 35-42-3.5-1(a)(2)\*] if the victim is less than eighteen (18) years of age}  
   {or}  
   {sexual trafficking of a minor [IC 35-42-3.5-1(b)\*]}

{or}  
{human trafficking [IC 35-42-3.5-1(c)(3)\*] if the victim is less than eighteen  
(18) years of age}  
{or}  
{sexual misconduct by a service provider with a detained child [IC 35-44-1-  
5(c)]}

if committed by an adult

and

had been found by a court by clear and convincing evidence to be likely to repeat  
an act which if committed by an adult would be:

[committing]  
[or]  
[attempting to commit]  
[or]  
[conspiring to commit]  
{rape [IC 35-42-4-1\*]}  
{or}  
{criminal deviate conduct [IC 35-42-4-2\*]}  
{or}  
{child molesting [IC 35-42-4-2\*]}  
{or}  
{child exploitation [IC 35-42-4-4(b)\*]}  
{or}  
{vicarious sexual gratification (including performing sexual conduct in the  
presence of a minor) [IC 35-42-4-5\*]}  
{or}  
{child solicitation [IC 35-42-4-6\*]}  
{or}  
{child seduction [IC 35-42-4-7\*]}  
{or}  
{sexual misconduct with a minor as a Level 2, Level 4, or Level 5 felony [IC 35-  
42-4-9\*]}  
unless  
• the person is convicted of sexual misconduct with a minor as a Level 6  
felony, and  
• the person is not more than  
◦ four years older than the victim if the offense was committed after June  
30, 2007, and  
or  
◦ five years older than the victim if the offense was committed before July  
1, 2007, and  
• the sentencing court finds that the person should not be required to register  
as a sex offender]  
{or}  
{incest [IC 35-46-1-3\*]}  
{or}  
{sexual battery [IC 35-42-4-8\*]}  
{or}

{kidnapping [IC 35-42-3-2\*], if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian}  
{or}  
{criminal confinement [IC 35-42-3-3\*], if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian}  
{or}  
{possession of child pornography [IC 35-42-4-4(c)\*]}  
{or}  
{promoting prostitution [IC 35-45-4-4\*] as a Level 4 felony}  
{or}  
{promotion of human trafficking [IC 35-42-3.5-1(a)(2)\*] if the victim is less than eighteen (18) years of age}  
{or}  
{sexual trafficking of a minor [IC 35-42-3.5-1(b)\*]}  
{or}  
{human trafficking [IC 35-42-3.5-1(c)(3)\*] if the victim is less than eighteen (18) years of age}  
{or}  
{sexual misconduct by a service provider with a detained child [IC 35-44-1-5(c)]}.)

Instruction No. 14.3780. "Offender Under I.C. 35-38-1-7.5" [Sexually Violent Predator] Based on an Evidentiary Hearing.

Instruction No. 14.3780. "Offender Under I.C. 35-38-1-7.5" [Sexually Violent Predator] Based on an Evidentiary Hearing.

I.C. 35-38-1-7.5(e).

A person is an offender under I.C. 35-38-1-7.5 if a court found him/her to be such an offender following an evidentiary hearing under IC 35-38-1-7.5(e).

Instruction No. 14.3800. Service Animal.

Instruction No. 14.3800. Service Animal.

I.C. 35-31.5-2-295.

The term "service animal" means an animal that a person who is impaired by:

[blindness or any other visual impairment]  
[deafness or any other aural impairment]  
[a physical disability]  
[a medical condition]

relies on for navigation, assistance in performing daily activities, or alert signals regarding the onset of the person's medical condition.

Instruction No. 14.3820. Shotgun.

Instruction No. 14.3820. Shotgun.

I.C. 35-31.5-2-305.

The word "shotgun" means a weapon designed or re-designed, made or remade, and intended to be fired from the shoulder and designed or re-designed and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

Instruction No. 14.3840. Social Networking Web Site.

Instruction No. 14.3840. Social Networking Web Site.

I.C. 35-31.5-2-307.

The term "social networking web site" means an Internet web site, an application, a computer program, or software that:

- facilitates the social introduction between two (2) or more persons
- and requires a person to register or create an account, a username, or a password to become a member of the web site and to communicate with other members
- and allows a member to create a web page or a personal profile
- and provides a member with the opportunity to communicate with another person.

The term does not include an electronic mail program or message board program.

Instruction No. 14.3860. Solicit.

Instruction No. 14.3860. Solicit.

The term “solicit” means to ask for, to try to obtain something from someone, or to get someone to do something.

Instruction No. 14.3880. Special Purpose Bus.

Instruction No. 14.3880. Special Purpose Bus.

#### I.C. 20-27-2-10.

The term “special purpose bus” is defined by law as follows:

“Special purpose bus” means a motor vehicle:

(1) that is designed and constructed for the accommodation of more than ten (10) passengers;

(2) that:

(A) meets the federal school bus safety requirements under [49 U.S.C. 30125](#) except the:

(i) stop signal arm required under federal motor vehicle safety standard (FMVSS) no. 131; and

(ii) flashing lamps required under federal motor vehicle safety standard (FMVSS) no. 108;

(B) when owned by a school corporation and used to transport students, complies with the Federal Motor Carrier Safety Regulations as prescribed by the United States Department of Transportation Federal Motor Carrier Safety Administration as set forth in 49 CFR Chapter III Subchapter B; or

(C) when owned by a school corporation and used to transport students, is a motor coach type bus with a capacity of at least thirty (30) passengers and a gross vehicle weight rating greater than twenty-six thousand (26,000) pounds; and  
(3) that is used by a school corporation for transportation purposes appropriate under [I.C. 20-27-9-5](#).



Instruction No. 14.3900. State or Federally Chartered or Federally Insured Financial Institution.

Instruction No. 14.3900. State or Federally Chartered or Federally Insured Financial Institution.

I.C. 35-31.5-2-312.

The term “state or federally chartered or federally insured financial institution” means:

- (1) a bank with deposits insured by the Federal Deposit Insurance Corporation;
- (2) an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;
- (3) a credit union with accounts insured by the National Credit Union Administration Board;
- (4) a federal home loan bank or a member, as defined in section 2 of the Federal Home Loan Bank Act ([12 U.S.C. § 1422](#)); or
- (5) a bank, banking association, loan bank, intermediate credit bank for cooperatives, production credit association, land bank association, mortgage association, trust company, savings bank, or other banking or financial institution organized or operating under the laws of the United States or of the state.

Instruction No. 14.3920. State or Local Public Benefit.

Instruction No. 14.3920. State or Local Public Benefit.

[I.C. 12-32-1-3.](#)

The term “state or local public benefit” means

(1) Except as provided in paragraphs (2) and (3), the term “State or local public benefit” means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or

by appropriated funds of a State or local government.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in [Public Law 99-239 or 99-658 \[48 USCS § 1681 nts.\]](#) (or a successor provision) is in effect;

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Secretary of State, after consultation with the Attorney General; or

(C) to the issuance of a professional license to, or the renewal of a professional license by, a foreign national not physically present in the United States.

(3) Such term does not include any Federal public benefit under section 401(c)[[8 USCS § 1611\(c\)](#)].

The term includes [a postsecondary education award, including a scholarship, a grant, or financial aid] [the resident tuition rate (as determined by the state educational institution)].

#### Instruction No. 14.3940. Stepparent.

#### Instruction No. 14.3940. Stepparent.

I.C. 35-31.5-2-313.

“Stepparent” means an individual who is married to a child’s custodial or noncustodial parent and is not the child’s adoptive parent.

#### Instruction No. 14.3960. Sudden Heat.

#### Instruction No. 14.3960. Sudden Heat.

The term “sudden heat” means a mental state which results from provocation sufficient to excite in the mind of the defendant such emotions as anger, rage, sudden resentment, jealousy, or terror sufficient to obscure the reason of an ordinary person, and as such prevents deliberation and premeditation, excludes malice, and renders the defendant incapable of cool reflection prior to acting.

Instruction No. 14.3980. Support.

Instruction No. 14.3980. Support.

I.C. 35-31.5-2-319.

The term “support” is defined by law as meaning food, clothing, shelter, or medical care.

Instruction No. 14.4000. Synthetic Identifying Information.

Instruction No. 14.4000. Synthetic Identifying Information.

I.C. 35-31.5-2-322.

The term “synthetic identifying information” means identifying information that identifies:

- (1) a false or fictitious person;
- (2) a person other than the person who is using the information; or
- (3) a combination of persons described under subdivisions (1) and (2).

Instruction No. 14.4020. Synthetic Drug Lookalike Substance.

Instruction No. 14.4020. Synthetic Drug Lookalike Substance.

I.C. 35-31.5-2-321.5.

- “Synthetic drug lookalike substance” means one (1) or more of the following:
- (1) A substance, other than a synthetic drug, which any of the factors listed in subsection (c) would lead a reasonable person to believe to be a synthetic drug.
  - (2) A substance, other than a synthetic drug:
    - (A) that a person knows or should have known was intended to be consumed; and
    - (B) the consumption of which the person knows or should have known to be intended to cause intoxication.

*[(use when there is an issue whether the substance is one of the following; then use the particular substance below which is pertinent) (b) The term “synthetic drug*

lookalike substance” does not include the following:

(1) Food and food ingredients (as defined in IC 6-2.5-1-20).

(2) Alcohol (as defined in IC 7.1-1-3-4).

(3) A legend drug (as defined in IC 16-18-2-199).

(4) Tobacco.

(5) A dietary supplement (as defined in IC 6-2.5-1-16).

(c) In determining whether a substance is a synthetic drug lookalike substance, the following factors may be considered:

(1) The overall appearance of a dosage unit of the substance, including its shape, color, size, markings or lack of markings, taste, consistency, and any other identifying physical characteristics.

(2) How the substance is packaged for sale or distribution, including the shape, color, size, markings or lack of markings, and any other identifying physical characteristics of the packaging.

(3) Any statement made by the owner or person in control of the substance concerning the substance’s nature, use, or effect.

(4) Any statement made to the buyer or recipient of the substance suggesting or implying that the substance is a synthetic drug.

(5) Any statement made to the buyer or recipient of the substance suggesting or implying that the substance may be resold for profit.

(6) The overall circumstances under which the substance is distributed, including whether:

(A) the distribution included an exchange of, or demand for, money or other property as consideration; and

(B) the amount of the consideration was substantially

greater than the reasonable retail market value of the substance the seller claims the substance to be.

Instruction No. 14.4040. Telecommunications Device.

Instruction No. 14.4040. Telecommunications Device.

I.C. 35-31.5-2-326.

The term “telecommunications device” means:

(1) a type of instrument, device, machine, or piece of equipment that is capable of transmitting or receiving telephonic, electronic, or radio communications;

(2) a part of an instrument, a device, a machine, or a piece of equipment that is capable of transmitting or receiving telephonic, electronic, or radio communications; or

(3) a computer circuit, a computer chip, an electronic mechanism, or any other component that is capable of facilitating the transmission or reception of telephonic, electronic, or radio communications.

Instruction No. 14.4060. Telecommunications Services.

Instruction No. 14.4060. Telecommunications Services.

I.C. 35-31.5-2-327.

The term “telecommunications services” means a service provided for a charge or compensation to facilitate the origination, transmission, emission, or reception of signs, signals, data, writings, images, sounds, or intelligence of any nature by:

- (1) telephone, including cellular or other wireless telephones;
- (2) wire;
- (3) radio; or
- (4) an electromagnetic, a photoelectronic, or a photo-optical system.

Instruction No. 14.4080. Telecommunications Service Provider.

Instruction No. 14.4080. Telecommunications Service Provider.

I.C. 35-31.5-2-328.

The term “telecommunications service provider” means a person or an entity:

- (1) providing telecommunications service, including a cellular, paging, or other wireless communications company; or
- (2) that, for a fee, supplies the facility, cell site, mobile telephone switching office, or other equipment for a telecommunications service.

Instruction No. 14.4100. Terrorism.

Instruction No. 14.4100. Terrorism.

I.C. 35-31.5-2-329.

“Terrorism” means the unlawful use of force or violence or the unlawful threat of force or violence to intimidate or coerce a government, or all or part of the civilian population.

Instruction No. 14.4120. Threat.

Instruction No. 14.4120. Threat.

I.C. 35-31.5-2-330.

The term “threat” is defined by law as meaning an expression, by words or action, of an intention to:

- (1) unlawfully injure the person threatened or another person, or damage property;
- (2) unlawfully subject a person to physical confinement or restraint;
- (3) commit a crime;
- (4) unlawfully withhold official action, or cause such withholding;
- (5) unlawfully withhold testimony or information with respect to another person’s legal claim or defense, except for a reasonable claim for witness fees or expenses;
- (6) expose the person threatened to hatred, contempt, disgrace, or ridicule;
- (7) falsely harm the credit or business reputation of the person threatened, or
- (8) cause the evacuation of a dwelling, a building, another structure, or a vehicle.

Instruction No. 14.4140. Threatens.

Instruction No. 14.4140. Threatens.

I.C. 35-31.5-2-330.3.

The term “threatens” includes a communication made with the intent to harm a person or the person’s property, or any other person or the property of another person.

Instruction No. 14.4160. Timber.

Instruction No. 14.4160. Timber.

I.C. 35-31.5-2-330.7.

The term “timber” includes standing or felled trees and logs that can be used for:

- (1) sawing or processing into lumber for building or structural purposes;
- (2) posts, poles, bolts, pulpwood, or cordwood; or
- (3) the manufacture of wood products.

Instruction No. 14.4180. Title Insurance Agent.

Instruction No. 14.4180. Title Insurance Agent.

I.C. 35-31.5-2-331.

As used in the statutes on conversion or misappropriation of title insurance escrow funds, I.C. 35-43-9, the term "title insurance agent" means a person who holds a limited insurance representative's license issued under IC 27-1-15.5-3(a)(4) and disburses funds from a title insurance escrow account to a party in connection with a residential real property transaction.

Instruction No. 14.4200. Title Insurance Escrow Account.

Instruction No. 14.4200. Title Insurance Escrow Account.

I.C. 35-31.5-2-332.

As used in the statutes on conversion or misappropriation of title insurance escrow funds, I.C. 35-43-9, the term "title insurance escrow account" means an account in which written instruments, money, or other items are deposited and held in escrow or trust for disbursement to a party in connection with a residential real property transaction upon the performance of a specified condition or the happening of a certain event.

Instruction No. 14.4220. Title Insurer.

Instruction No. 14.4220. Title Insurer.

I.C. 35-31.5-2-333.

As used in the statutes on conversion or misappropriation of title insurance escrow funds, I.C. 35-43-9, the term "title insurer" means a person holding a valid certificate of authority issued under IC 27-7-3-6.

Instruction No. 14.4240. Torture.

Instruction No. 14.4240. Torture.

I.C. 35-31.5-2-335.

The term “torture” means:

[to inflict extreme physical pain or injury on an animal with the intent of increasing or prolonging the animal’s pain]

[or]

[to administer poison to a domestic animal (as defined in IC 35-46-3-12(d)) or expose a domestic animal to a poisonous substance with the intent that the domestic animal ingest the substance and suffer harm, pain, or physical injury].

Instruction No. 14.4260. Tumultuous Conduct.

Instruction No. 14.4260. Tumultuous Conduct.

I.C. 35-31.5-2-338.

The term “tumultuous conduct” is defined by law as meaning conduct that results in, or is likely to result in, serious bodily injury to a person or substantial damage to property.

Instruction No. 14.4280. Ultimate User.

Instruction No. 14.4280. Ultimate User.

I.C. 35-31.5-2-239.

The term “ultimate user” means a person who lawfully possesses a controlled substance for the person’s own use, for the use of a member of the person’s household, or for administering to an animal owned by the person or by a member of the person’s household.

Instruction No. 14.4300. Unauthorized Control Over Property.

Instruction No. 14.4300. Unauthorized Control Over Property.



### I.C. 35-43-4-1.

As defined by law a person's control over the property of another person is "unauthorized" if it is exerted:

- (1) without the other person's consent;
- (2) in a manner or to an extent other than that to which the other person has consented;
- (3) by transferring or encumbering other property while failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of that other property;
- (4) by creating or confirming a false impression in the other person;
- (5) by failing to correct a false impression that the person knows is influencing the other person, if the person stands in a relationship of special trust to the other person;
- (6) by promising performance that the person knows will not be performed;
- (7) by expressing an intention to damage the property or impair the rights of any other person; or,
- (8) by transferring or reproducing recorded sounds, without consent of the owner of the master recording, with intent to distribute the reproductions for a profit.

Instruction No. 14.4320. Unconscionable Home Improvement Contract.

Instruction No. 14.4320. Unconscionable Home Improvement Contract.

### I.C. 35-43-6-8, I.C. 35-43-6-9.

A home improvement contract is "unconscionable" if an unreasonable difference exists between the fair market value of the services, materials, and work performed or to be performed and the home improvement contract price.

If you find that the home improvement contract price was more than four (4) times greater than the fair market value of the services, materials, or work performed or to be performed, you may consider this difference between contract price and fair market value as evidence that the home improvement contract was unconscionable.

Instruction No. 14.4340. Unlawful Assembly.

Instruction No. 14.4340. Unlawful Assembly.

### I.C. 35-31.5-2-341.

The term "unlawful assembly" is defined by law as meaning an assembly of five (5) or more persons whose common object is to commit an unlawful act, or a lawful act by unlawful means. Prior concert is not necessary to form an unlawful assembly.

Instruction No. 14.4360. Unlawful telecommunications device.

Instruction No. 14.4360. Unlawful telecommunications device.

I.C. 35-31.5-2-342.

The term “unlawful telecommunications device” means a telecommunications device that:

(1) is capable of; or

(2) has been altered, modified, programmed, or reprogrammed, alone or in conjunction with another access device or other equipment, to render the telecommunications device capable of,

acquiring or facilitating the acquisition of an electronic serial number, a mobile identification number, or a personal identification number of any telecommunications service without the consent of a telecommunications service provider.

Instruction No. 14.4380. Utter.

Instruction No. 14.4380. Utter.

I.C. 35-31.5-2-345.

The term “utter” is defined by law as meaning to issue, authenticate, transfer, publish, deliver, sell, transmit, present, or use.

Instruction No. 14.4400. Valuable Metal.

Instruction No. 14.4400. Valuable Metal.

I.C. 25-37.5-1-1.

The term “valuable metal” means any product made of metal that readily may be resold. The term includes metal bosses and small component motor vehicle parts. The term does not include a beverage can.

Instruction No. 14.4420. Vending Machine.

## Instruction No. 14.4420. Vending Machine.

I.C. 35-31.5-2-347.

The term “vending machine” is defined by law as meaning a mechanical or an electronic device or a receptacle designed:

- (1) To receive a coin, bill, or token made for that purpose; and
- (2) To automatically dispense goods, wares, merchandise, or other property in return for the insertion or deposit of a coin, bill, or token.

## Instruction No. 14.4440. Vehicle.

## Instruction No. 14.4440. Vehicle.

I.C. 9-13-2-196(f).

The term “vehicle” means a device for transportation by land or air.

## Instruction No. 14.4460. Victim.

## Instruction No. 14.4460. Victim.

I.C. 35-31.5-2-348(3).

The term “victim” is defined by law as meaning a person who is the object of stalking.

## Instruction No. 14.4480. Weapon of Mass Destruction.

## Instruction No. 14.4480. Weapon of Mass Destruction.

I.C. 35-31.5-2-354.

“Weapon of mass destruction” means any chemical device, biological device or organism, or radiological device that is capable of being used for terrorism.

Instruction No. 14.4500. Women-Owned Business Enterprise.

Instruction No. 14.4500. Women-Owned Business Enterprise.

I.C. 5-16-6.5-3.

The term “women-owned business enterprise” is defined by law as meaning a business that is at least fifty-one percent (51%) owned and controlled by a woman or women.

Instruction No. 14.4520. Written Instrument.

Instruction No. 14.4520. Written Instrument.

I.C. 35-31.5-2-356.

“Written instrument” means a paper, document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.

Instruction No. 14.4540. Youth Program Center.

Instruction No. 14.4540. Youth Program Center.

I.C. 35-31.5-2-357.

The term “youth program center” means a building or structure, or the real property on which it stands, which on a regular basis provides recreational, vocational, academic, social, or other programs or services for persons less than eighteen (18) years of age. The term does not include school property.

## CHAPTER 15 BIFURCATED TRIALS

### SYNOPSIS

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Instruction No. 15.6700. Prior Conviction Resulting in Serious Bodily Injury or Death. Operating a Vehicle With Eight-hundredths (0.08) Gram of Alcohol]. Operating a Vehicle With Fifteen-hundredths (0.15) Gram of Alcohol]. Operating a Vehicle With Controlled Substance or Metabolite]. Operating a Vehicle While Intoxicated. I.C. 9-30-5-3(b).

Instruction No. 15.6800. Failure to Act as Required After Accident Involving Injury or Leaving the Scene of an Accident.

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## Instruction No. 15.0020. PRELIMINARY INSTRUCTION No. 1: Life Imprisonment Without Parole/ Death Penalty.

## Instruction No. 15.0020. PRELIMINARY INSTRUCTION No. 1: Life Imprisonment Without Parole/ Death Penalty.

As to the first phase of this trial, the evidence has concluded and you have found the Defendant guilty of \_\_\_\_\_ (list convictions from guilt phase here). In this phase of the trial, the State of Indiana is seeking a recommendation from you that the Defendant [be sentenced to life imprisonment without parole] or [receive the death penalty]. In order to seek this penalty, the State of Indiana was required to file a separate Charging Information which requested a recommendation from the jury to the Judge that [the sentence of life imprisonment without parole] or [the death penalty] be imposed. The allegations contained in said charging Information are as follows:

\_\_\_\_\_*[Insert charging information facts and alleged aggravating circumstances here.]*

## Instruction No. 15.0060. PRELIMINARY INSTRUCTION No. 2: Life Imprisonment Without Parole/Death Penalty.

## Instruction No. 15.0060. PRELIMINARY INSTRUCTION No. 2: Life

### Imprisonment Without Parole/Death Penalty.

In the second phase of this trial, the burden is upon the State of Indiana to prove to each of you beyond a reasonable doubt at least one aggravating circumstance as set forth in the Charging Information wherein the State has requested a recommendation from you that the Defendant receive [the sentence of life imprisonment without parole] or [the death penalty]. You should consider both aggravating and mitigating circumstances and recommend to the Judge whether the Defendant should receive [life imprisonment without parole or be sentenced to a term of years as would be determined by the judge] or [the death penalty, life imprisonment without parole, or be sentenced to a term of years as would be determined by the judge].

You may consider all the evidence introduced during the first phase of the trial together with all evidence introduced during this phase of the trial in determining your recommendation. Do not consider any offered evidence that the Court did not allow into evidence or that the Court ordered stricken from the record. In fact, such matters are to be treated as if you had never heard of them.

You have previously been instructed by me as to the rules of law regarding the burden of proof, judging the credibility of witnesses, and the manner of weighing the testimony. You have also been instructed as to definitions, including the definition of reasonable doubt. Those rules and definitions also apply in this phase of the trial.

### Instruction No. 15.0100. PRELIMINARY INSTRUCTION No. 3: Life Imprisonment Without Parole/Death Penalty.

### Instruction No. 15.0100. PRELIMINARY INSTRUCTION No. 3: Life Imprisonment Without Parole/Death Penalty.

You are not permitted to consider any circumstances as weighing in favor of the sentence of [life imprisonment without parole] or [death or life imprisonment without parole] other than those specifically charged by the State of Indiana in the Charging Information. Again, the charged aggravating circumstances here are:

\_\_\_\_\_ *[List here all charged aggravating circumstances.]*

### Instruction No. 15.0140. PRELIMINARY INSTRUCTION No. 4: Life Imprisonment Without Parole/Death Penalty

### Instruction No. 15.0140. PRELIMINARY INSTRUCTION No. 4: Life Imprisonment Without Parole/Death Penalty.

(The Committee suggests that despite the last paragraph in Preliminary Instruction No. 2 that any definitional instructions be read at this time such as reasonable doubt, the culpability instruction, etc. as are applicable in the case)



**Instruction No. 15.0180. PRELIMINARY INSTRUCTION No. 5: Life  
Imprisonment Without Parole/Death Penalty.**

**Instruction No. 15.0180. PRELIMINARY INSTRUCTION No. 5: Life  
Imprisonment Without Parole/Death Penalty**

For any of you to find that a mitigating circumstance exists, you must find that it has been proven by a preponderance of the evidence. A preponderance of the evidence means that it is only necessary to prove that a fact is more probably true than not true.

**Instruction No. 15.0200. PRELIMINARY INSTRUCTION No. 6: Life  
Imprisonment Without Parole/Death Penalty.**

**Instruction No. 15.0200. PRELIMINARY INSTRUCTION No. 6: Life  
Imprisonment Without Parole/Death Penalty.**

A mitigating circumstance can be anything about the Defendant and/or the offense which any one of you believes should be taken into account in tending to support a sentence less than [life imprisonment without parole] or [death or life imprisonment without parole]. Mitigating circumstances are not being offered as an excuse or justification for the crime you have found that the Defendant committed. Instead, they are circumstances relating to the Defendant's age, character, education, environment, mental state, life, and background, and/or any aspect of the offense itself and the Defendant's involvement in it, which any one of you believes weighs against a sentence of [life imprisonment without parole] or [death or life imprisonment without parole].

Mitigating circumstances are different than aggravating circumstances in a number of ways. First, mitigating circumstances need not be proven beyond a reasonable doubt like aggravating circumstances must be. Second, your finding that any mitigating circumstance exists does not have to be unanimous. Each juror must consider and weigh any mitigating facts he or she finds to exist without regard to whether other jurors agree with that determination. Lastly, unlike aggravating circumstances, there are no limits on what facts any of you may find as mitigating. Mitigating circumstances may be established by any evidence introduced in the first or second phase of the trial by the State or the defense.

**Instruction No. 15.0240. PRELIMINARY INSTRUCTION NO. 7: Life  
Imprisonment Without Parole/Death Penalty.**

**Instruction No. 15.0240. PRELIMINARY INSTRUCTION NO. 7: Life  
Imprisonment Without Parole/Death Penalty.**

You may recommend the sentence of [life imprisonment without parole] or [death or life imprisonment without parole] only if you unanimously find:

1. That the State of Indiana has proven beyond a reasonable doubt that at least one of the charged aggravating circumstances exists; and
2. That any mitigating circumstance or circumstances that exist are outweighed by the charged and proven aggravating circumstance or circumstances.

Instruction No. 15.0280. PRELIMINARY INSTRUCTION No. 8: Life Imprisonment Without Parole/Death Penalty.

Instruction No. 15.0280. PRELIMINARY INSTRUCTION No. 8: Life Imprisonment Without Parole/Death Penalty.

Your recommendation is an important part of the sentencing process. The Judge must follow your sentencing recommendation.

Instruction No. 15.0320. PRELIMINARY INSTRUCTION No. 9: Life Imprisonment Without Parole/Death Penalty.

Instruction No. 15.0320. PRELIMINARY INSTRUCTION No. 9: Life Imprisonment Without Parole/Death Penalty.

Nothing that I say or do during this phase of the trial is intended as a suggestion of what facts you should find or what your recommendation for sentencing should be. Each of you must determine the facts and make your sentencing recommendation accordingly.

Instruction No. 15.0360. FINAL INSTRUCTION No. 1: Life Imprisonment Without Parole/Death Penalty.

Instruction No. 15.0360. FINAL INSTRUCTION No. 1: Life Imprisonment Without Parole/Death Penalty.

You are to consider all the instructions as a whole and are to regard each with the other instructions given to you by the Court. Do not single out any certain sentence, or any individual point or instruction and ignore the others.

Instruction No. 15.0400. FINAL INSTRUCTION No. 2: Life Imprisonment without Parole/Death Penalty.

Instruction No. 15.0400. FINAL INSTRUCTION No. 2: Life Imprisonment without Parole/Death Penalty.

Under the Constitution of Indiana the jury is given the right to decide both the law and the facts. In fulfilling this duty, you are to apply the law as you actually find it and you are not to disregard it for any reason. The instructions from the Judge are your best source in determining what the law is.

Instruction No. 15.0440. FINAL INSTRUCTION No. 3: Life Imprisonment  
Without Parole/Death Penalty.

Instruction No. 15.0440. FINAL INSTRUCTION No. 3: Life Imprisonment  
Without Parole/Death Penalty.

Before you may consider recommending [life imprisonment without parole] or [death or life imprisonment without parole], you must unanimously find that the State has proven beyond a reasonable doubt:

1. \_\_\_\_\_[*recite first aggravating circumstance*], or
2. \_\_\_\_\_[*recite second aggravating circumstance*], or

[*continue to enumerate each alleged aggravator joined by the word "or"*]

If you do not so unanimously find, you must recommend against [life imprisonment without parole] or [death or life imprisonment without parole].

You are not permitted to consider any circumstances as weighing in favor of the sentence of [life imprisonment without parole] or [death or life imprisonment without parole] other than the aggravating circumstances specifically charged by the State in the Charging Information.

The Court will provide to you verdict forms as to each aggravating circumstance and you must sign each form to which there is unanimous agreement.

Instruction No. 15.0480. FINAL INSTRUCTION No. 4: Life Imprisonment  
Without Parole/Death Penalty.

Instruction No. 15.0480. FINAL INSTRUCTION No. 4: Life Imprisonment  
Without Parole/Death Penalty.

If you unanimously find at least one charged aggravating circumstance has been proven beyond a reasonable doubt, you must next consider the mitigating circumstances and then weigh the aggravating circumstance(s) against the mitigating circumstance(s). You may only consider recommending the sentence of [life imprisonment without parole] [or] [death or life imprisonment without parole] if you unanimously find that the aggravating circumstance(s) outweigh the mitigating circumstance(s).

Even if you unanimously find that the State has met its burden of proof as to the existence of at least one charged aggravating circumstance and that the aggravating circumstance(s) outweigh the mitigating circumstance(s), the law

allows you to recommend that the judge impose a term of years instead of the sentence of [life imprisonment without parole] or [death or life imprisonment without parole].

The court will provide you with a verdict form as to the finding that you must make in regard to whether the aggravating circumstance(s) outweigh(s) the mitigating circumstance(s). Further, the court will provide you with a verdict form to complete in regard to your sentencing recommendation.

Instruction No. 15.0520. FINAL INSTRUCTION No. 5: Life Imprisonment  
Without Parole/Death Penalty.

Instruction No. 15.0520. FINAL INSTRUCTION No. 5: Life Imprisonment  
Without Parole/Death Penalty.

(The Committee suggests that despite the last paragraph in Preliminary Instruction No. 2 that any definitional instructions be read at this time such as reasonable doubt, culpability instruction, etc., as are applicable in the case).

Instruction No. 15.0560. FINAL INSTRUCTION No. 6: Life Imprisonment  
Without Parole/Death Penalty.

Instruction No. 15.0560. FINAL INSTRUCTION No. 6: Life Imprisonment  
Without Parole/Death Penalty.

For any of you to find that a mitigating circumstance exists, you must find that it has been proven by a preponderance of the evidence. A preponderance of the evidence means that it is only necessary to prove that a fact is more probably true than not true.

Instruction No. 15.0600. FINAL INSTRUCTION No. 7: Life Imprisonment  
Without Parole/Death Penalty.

Instruction No. 15.0600. FINAL INSTRUCTION No. 7: Life Imprisonment  
Without Parole/Death Penalty.

The law allows you to consider both statutory and non-statutory mitigating circumstances. The applicable statutory mitigating circumstances in this case that the Defendant now asks you to consider are as follows:

[The Committee suggests that you allow the defense to state on the record exactly which statutory circumstances they want inserted here whether you agree or not that there is any evidence of that factor.]

You should consider these statutory circumstances as well as any non-statutory circumstances in determining the mitigating factors.

**Instruction No. 15.0640. FINAL INSTRUCTION No. 8: Life Imprisonment  
Without Parole/Death Penalty.**

**Instruction No. 15.0640. FINAL INSTRUCTION No. 8: Life Imprisonment  
Without Parole/Death Penalty.**

A mitigating circumstance can be anything about the Defendant and/or the offense which any one of you believes should be taken into account in tending to support a sentence less than [life imprisonment without parole] or [death or life imprisonment without parole]. Mitigating circumstances are not being offered as an excuse or justification for the crime you have found that the Defendant committed. Instead, they are circumstances relating to the Defendant's age, character, education, environment, mental state, life, and background, and/or any aspect of the offense itself and the Defendant's involvement in it, which any one of you believes weighs against a sentence of [life imprisonment without parole] or [death or life imprisonment without parole].

Mitigating circumstances are different than aggravating circumstances in a number of ways. First, mitigating circumstances need not be proven beyond a reasonable doubt like aggravating circumstances must be. Second, a finding of any mitigating circumstance need not be unanimous. Each juror must consider and weigh any mitigating facts he or she finds to exist without regard to whether other jurors agree with that determination. Lastly, unlike aggravating circumstances, there are no limits on what facts any of you may find as mitigating. Mitigating circumstances may be established by any evidence introduced in the first or second phase of the trial by the State or the defense.

**Instruction No. 15.0680. FINAL INSTRUCTION No. 9: Life Imprisonment  
Without Parole/Death Penalty.**

**Instruction No. 15.0680. FINAL INSTRUCTION No. 9: Life Imprisonment  
Without Parole/Death Penalty.**

You should use your individual judgment to determine if the State has proven that the aggravating circumstance(s) outweigh any mitigating circumstance(s). This is a weighing and balancing process for each individual juror. The State is not required to prove beyond a reasonable doubt that the aggravating circumstance(s) weigh greater to meet its burden. The Court will provide you with verdict forms.

Instruction No. 15.0720. FINAL INSTRUCTION NO 10: Life Imprisonment  
Without Parole/Death Penalty.

Instruction No. 15.0720. FINAL INSTRUCTION NO 10: Life Imprisonment  
Without Parole/Death Penalty.

[During the first phase of the trial, the Defendant was convicted of \_\_\_\_\_ (*list all murders and felony murders the Defendant was convicted of*). In Indiana, the murder [and felony murder] counts for the same victim will merge for the purposes of sentencing if a term of years is imposed.] If [life imprisonment without parole] or [the death penalty or life imprisonment without parole] is not imposed, the sentence for murder is a fixed sentence that ranges from forty-five (45) years to sixty-five (65) years.

In addition, during the first phase of the trial, the Defendant was also convicted of \_\_\_\_\_ (*list all other crimes*). At sentencing, the Judge must impose a specific number of years within the available ranges for each crime the Defendant was convicted of. The Judge can order that these sentences be served concurrently, meaning at the same time, or consecutively, meaning served one after the other. Based upon the statutory penalties for each crime the Defendant was convicted of, if a term of years is imposed, the Judge could impose a sentence on the Defendant ranging from a minimum of forty-five (45) years if the sentences are ordered served concurrently to a maximum of \_\_\_\_\_ years if the sentences are ordered served consecutively.

Instruction No. 15.0760. FINAL INSTRUCTION No. 11: Life Imprisonment  
Without Parole/Death Penalty.

Instruction No. 15.0760. FINAL INSTRUCTION No. 11: Life Imprisonment  
Without Parole/Death Penalty.

The current law in Indiana will allow the Defendant, if he is sentenced to a fixed term of years, to earn credit for good behavior to apply against his sentence, with a maximum allowable credit of fifty percent (50%) of the sentence imposed by the Judge.

Instruction No. 15.0800. FINAL INSTRUCTION No. 12: Life Imprisonment  
Without Parole/Death Penalty.

Instruction No. 15.0800. FINAL INSTRUCTION No. 12: Life Imprisonment  
Without Parole/Death Penalty.

In Indiana, if the Defendant is sentenced to life imprisonment without parole, he will not ever be eligible for parole or any form of credit time, and he will spend the rest of his life in prison.

Instruction No. 15.0840. FINAL INSTRUCTION NO 13: Life Imprisonment  
Without Parole/Death Penalty.

Instruction No. 15.0840. FINAL INSTRUCTION NO 13: Life Imprisonment  
Without Parole/Death Penalty.

The Governor of Indiana has the power, under the Indiana Constitution, to grant a reprieve, commutation, or pardon to a person convicted and sentenced for murder. A pardon completely eliminates a conviction and sentence. A commutation reduces the sentence, for example by changing a death sentence to one for life without parole or for a term of imprisonment. A reprieve is a temporary postponement of the execution of a sentence. The Indiana Constitution leaves it entirely up to the discretion of the Governor when and how to use this power.

Instruction No. 15.0880. FINAL INSTRUCTION No. 15: Life Imprisonment  
Without Parole/Death Penalty.

Instruction No. 15.0880. FINAL INSTRUCTION No. 15: Life Imprisonment  
Without Parole/Death Penalty.

You are to consider both aggravating and mitigating circumstances and recommend whether [life imprisonment without parole] or [the death penalty or life imprisonment without parole] or a term or years should be imposed. You may consider all the evidence introduced in the first phase of the trial together with all the evidence introduced in this phase in making your determination. The law requires that your sentencing recommendation must be followed by the Judge.

If you find that the State failed to prove beyond a reasonable doubt the existence of at least one charged aggravating circumstance, you must return the verdict form that so finds, and you must return the verdict form that recommends that the Judge impose a term of years at sentencing.

If you find that the State did prove beyond a reasonable doubt the existence of at least one charged aggravating circumstance, you must return the verdict form that so finds. However, if you further find that any mitigating circumstance(s) are not outweighed by the aggravating circumstance(s), you must return that verdict form, and you must return the verdict form that recommends that the Judge impose a term of years at sentencing.

If you find that the State did prove beyond a reasonable doubt the existence of at least one charged aggravating circumstance, you must return that verdict form. If you further find that any mitigating circumstances are outweighed by the aggravating circumstance(s), you must return that verdict form, and you may make one of [two] or \_\_\_\_\_[three] possible sentencing recommendations and you must return the verdict form that states your recommendation. You may return the verdict form recommendation that the Defendant be sentenced to [life imprisonment without parole or the verdict form recommendation that the judge impose a term of years at sentencing] or [the death penalty, the verdict form

recommendation that the defendant be sentenced to life imprisonment without parole, or the verdict form recommendation that the judge impose a term of years at sentencing].

Any findings you enter in a verdict form must be unanimous. Do not enter any findings or sign any verdict form to which there has not been a unanimous agreement.

**Instruction No. 15.0920. FINAL INSTRUCTION No. 16: Life Imprisonment Without Parole/Death Penalty.**

**Instruction No. 15.0920. FINAL INSTRUCTION No. 16: Life Imprisonment Without Parole/Death Penalty.**

To return a verdict, each of you must agree to it.

Each of you must decide the case for yourself, but only after considering the evidence with the other jurors. It is your duty to consult with each other. You should try to agree on a verdict, if you can do so without compromising your individual judgment. Do not hesitate to re-examine your own views and change your mind if you believe you are wrong. But do not give up your honest belief just because the other jurors may disagree, or just to end the deliberations. After the verdict is read in Court, you may be asked individually whether you agree with it.

When you begin, select one of your members as foreperson to manage the deliberations.

No one will be allowed to hear your discussions and no recording will be made of what you say. The bailiff is available to assist you with personal needs, but cannot answer any questions about the case.

Any question for [the Court] must be in writing and given to the bailiff. [The Court often is] not allowed to answer your questions, except by re-reading all of the jury instructions. Because [the Court has] given you those instructions, you may be able to answer your questions by reviewing them.

If there is a break in deliberations, do not talk about this case among yourselves or with anyone else.

[The Court is] submitting to you forms of possible verdicts you may return. When you retire to the jury room to begin your deliberations, the jury foreperson should preside over your deliberations and must sign and date the findings and recommendation to which you all agree. The foreperson must return all verdict forms, signed or unsigned. After you make your decision, you are under no obligation to discuss it or the reasons for it with anyone.

**Instruction No. 15.1000. Recidivist Preliminary and Final.**



## Instruction No. 15.1000. Recidivist Preliminary and Final.

### Preliminary:

Normally, after reaching a verdict, your duty as jurors would be over. However, in this case, the State has filed an additional count[s] alleging that the Defendant has [a] prior unrelated conviction[s].

Under Indiana law, you could not be told about the additional count[s] until now.

In this part of the trial the attorneys will again have an opportunity to make opening statements. Then witnesses will be called to testify. When the evidence is completed, the attorneys may make final statements. Then I will read final instructions.

You may consider all of the evidence presented in the first part of the trial [except evidence limited for a particular purpose].

You were instructed earlier about the burden of proof, reasonable doubt, the presumption of innocence, the credibility of witnesses, and how to evaluate the evidence. Those instructions apply here as well.

If you realize you know something about the case that did not come from this trial, or you know a witness or the Defendant, you must inform the bailiff privately at once.

### Final:

The Court has already instructed you about how to deliberate, the burden of proof, the credibility of witnesses, the issues for trial, and the manner of weighing the evidence.

These instructions will not be re-read to you, but you will keep them in mind, as well as all of the previous instructions given, during your deliberations.

## Instruction No. 15.1200. Habitual Offender—Definition—Phase II.

## Instruction No. 15.1200. Habitual Offender—Definition—Phase II.

### I.C. 35-50-2-8.

An additional count of the [information] [indictment] in this case charges the Defendant with being a habitual offender. This count reads as follows:

Instruction No. 15.1240. Habitual Offender—Elements—Phase II  
Level 1, 2, 3, or 4 Felony Principal Charge.

Instruction No. 15.1240. Habitual Offender—Elements—Phase II  
Level 1, 2, 3, or 4 Felony Principal Charge.

I.C. 35-50-2-8.

The State may seek to have a person sentenced as a habitual offender for a Level [1] [2] [3] [4] felony by proving that the person has accumulated two (2) prior unrelated felony convictions.

The Court instructs you that [*name first alleged prior, e.g. "burglary"*] and [*name second alleged prior*] are both felonies.

You may find the Defendant to be a habitual offender only if the State has proven each of the following facts beyond a reasonable doubt:

1. The Defendant:
2. committed and was convicted and sentenced for [*name alleged felony, e.g. "burglary"*], and;
3. later committed and was convicted and sentenced for [*name alleged second felony*], and;
4. later committed Count \_\_\_\_\_ [and/or Count \_\_\_\_\_ (name felony(s) of which Defendant was convicted in Phase I), a Level [1] [2] [3] [4] felony.

If the State failed to prove each of these facts beyond a reasonable doubt, you must find the Defendant is not a habitual offender.

Instruction No. 15.1260. Habitual Offender—Elements—Phase II –  
Level 5 Felony Principal Charge.

Instruction No. 15.1260. Habitual Offender—Elements—Phase II –  
Level 5 Felony Principal Charge.

I.C. 35-50-2-8.

The State may seek to have a person sentenced as a habitual offender for a Level 5 felony by proving that the person has accumulated two (2) prior unrelated felony convictions [(give following phrase only if one of the alleged priors was a Level 5, Level 6, Class C, or Class D felony) and not more than ten (10) years have elapsed between the time the person was released from imprisonment, probation, or parole (whichever is latest) and the time the person committed the current offense].

The Court instructs you that [name first alleged prior, e.g. “burglary”] and [name second alleged prior] are both felonies.

You may find the Defendant to be a habitual offender only if the State has proven each of the following facts beyond a reasonable doubt:

1. The Defendant
2. committed and was convicted and sentenced for [name alleged felony, e.g. “burglary”], and;
3. later committed and was convicted and sentenced for [name alleged second felony], and;
4. later committed Count \_\_\_\_\_ [and/or Count \_\_\_\_\_ (name felony(s) of which Defendant was convicted in Phase I), a Level 5 felony
5. (give if one prior was a Level 5 or 6 or Class C or D felony) and not more than ten years elapsed between the time the Defendant was released from imprisonment, probation or parole (whichever is latest) and the time the Defendant committed Count \_\_\_\_\_ [and/or Count \_\_\_\_\_] (name felony(s) of which Defendant was convicted in Phase I).

If the State failed to prove each of these facts beyond a reasonable doubt, you must find the Defendant is not a habitual offender.

Instruction No. 15.1280. Habitual Offender—Elements—Phase II –  
Level 6 Felony Principal Charge.

Instruction No. 15.1280. Habitual Offender—Elements—Phase II –  
Level 6 Felony Principal Charge.

I.C. 35-50-2-8.

The State may seek to have a person sentenced as a habitual offender for a

Level 6 felony by proving that the person has accumulated three (3) prior unrelated felony convictions [(give following phrase only if one of the alleged priors was a Level 5, Level 6, Class C, or Class D felony) and not more than ten (10) years have elapsed between the time the person was released from imprisonment, probation, or parole (whichever is latest) and the time the person committed the current offense].

The Court instructs you that [name first alleged prior, e.g. "burglary"] and [name second alleged prior] and [name alleged third prior] are all felonies.

You may find the Defendant to be a habitual offender only if the State has proven each of the following facts beyond a reasonable doubt

1. The Defendant
2. committed and was convicted and sentenced for [name alleged felony, e.g. "burglary"], and
3. later committed and was convicted and sentenced for [name alleged second felony], and
4. later committed and was convicted and sentenced for [name alleged third felony], and
5. later committed Count \_\_\_\_\_ [and/or Count \_\_\_\_\_ (name felony(s) of which Defendant was convicted in Phase I), a Level 6 felony
- [6. (give if one prior was a Level 5 or 6 or Class C or D felony) and not more than ten years elapsed between the time the Defendant was released from imprisonment, probation or parole (whichever is latest) and the time the Defendant committed Count \_\_\_\_\_ [and/or Count \_\_\_\_\_] (name felony(s) of which Defendant was convicted in Phase I)].

If the State failed to prove each of these facts beyond a reasonable doubt, you must find the Defendant is not a habitual offender.

Instruction No. 15.1400. Incorporation of Evidence.

Instruction No. 15.1400. Incorporation of Evidence.

You may consider all of the evidence presented in the first phase of the trial [except evidence limited for a particular purpose].

Instruction No. 15.1600. Habitual Offender—Pardon or Reversal.

Instruction No. 15.1600. Habitual Offender—Pardon or Reversal.

I.C. 35-50-2-8.

If you find that one of the felony convictions alleged has been set aside or you find that the Defendant was pardoned for one of the alleged convictions, you cannot consider that conviction in determining whether the Defendant is an habitual offender.

The Defendant has the burden to prove that a conviction has either been pardoned or set aside.

Instruction No. 15.1800. Repeat Sex Offender.

Instruction No. 15.1800. Repeat Sex Offender.

I.C. 35-50-2-14.

The State is seeking to have the Defendant sentenced as a repeat sexual offender by proving that the Defendant had accumulated one prior unrelated felony conviction [under I.C. 35-42-4-1 through I.C. 35-42-4-9 or I.C. 35-46-1-3] [for an offense committed in another jurisdiction that is substantially similar to a sex offense under I.C. 35-42-4-1 through I.C. 35-42-4-9 or IC 35-46-1-3] before the Defendant committed the offense of (*name Indiana offense*) in Count \_\_\_\_\_ of which the Defendant was convicted in Phase I of this trial.

You may find the Defendant to be a repeat sexual offender only if the State has proven each of the following facts beyond a reasonable doubt:

1. The Defendant;
2. was convicted and sentenced for  
[the Indiana felony sex offense of (*name alleged offense under I.C. 35-42-4-1 through I.C. 35-42-4-9 or I.C. 35-46-1-3*)]  
[or]  
[an attempt] [a conspiracy] to commit [the Indiana felony sex offense of (*name alleged offense under I.C. 35-42-4-1 through I.C. 35-42-4-9 or I.C. 35-46-1-3*)]

[or]

[the \_\_\_\_\_ (*name jurisdiction*) offense of \_\_\_\_\_ (*name alleged offense in the other jurisdiction*), an offense which the court instructs you was substantially similar to the Indiana offense under I.C. \_\_\_\_\_ (*insert statutory citation*) of \_\_\_\_\_ (*name Indiana sex offense*);  
3. and afterwards committed the (*name Indiana offense*) in Count \_\_\_\_\_ of which Defendant was convicted in Phase I of this trial.

If the State failed to prove each of these facts beyond a reasonable doubt, you must find the Defendant is not a repeat sexual offender.

Instruction No. 15.1900. Criminal Gang Enhancement.

Instruction No. 15.1900. Criminal Gang Enhancement.

#### I.C. 35-50-2-15.

An additional count of the information in this case charges the Defendant with criminal gang enhancement. This count reads as follows: \_\_\_\_\_ .

Instruction No. 15.1940. Criminal Gang Enhancement.

Instruction No. 15.1940. Criminal Gang Enhancement.

#### I.C. 35-50-2-15.

You may find the criminal gang enhancement only if the State has proven each of the following facts beyond a reasonable doubt:

The Defendant

1. knowingly or intentionally
2. committed a felony offense, [*name offense from Phase I*], and
3. was a member of a criminal gang while committing the felony offense, and
4. committed the felony offense

[at the direction of or in affiliation with a criminal gang]

[or]

[with the intent to benefit, promote, or further the interest of a criminal gang]

[or]

[for the purposes of increasing the Defendant's own standing or position with a criminal gang].

If the State failed to prove each of these facts beyond a reasonable doubt, you must find the State has not proven the facts necessary for criminal gang enhancement.

Instruction No. 15.2000. Termination of Human Pregnancy.

Instruction No. 15.2000. Termination of Human Pregnancy.

I.C. 35-50-2-16.

The State is seeking to have the Defendant sentenced as a person who terminated a human pregnancy while committing or attempting to commit murder.

You may find the Defendant to be a person who terminated a human pregnancy while committing or attempting to commit murder only if the State has proven each of the following facts beyond a reasonable doubt:

1. The Defendant
2. while \_\_\_\_\_[committing] [attempting to commit] murder
3. caused the termination of a human pregnancy.

The State does not have to prove that the Defendant had knowledge, or should have had knowledge, that the victim was pregnant or that the Defendant intended to cause the termination of a human pregnancy.

If the State failed to prove each of facts 1., 2. and 3. above beyond a reasonable doubt, you cannot find the Defendant terminated a human pregnancy while \_\_\_\_\_[committing] [attempting to commit] murder.

**Instruction No. 15.2200. Battery of Person—Second Offense—  
Elements Phase II.**

**Instruction No. 15.2200. Battery of Person—Second Offense—  
Elements Phase II.**

### I.C. 35-42-2-1(2)(D).

The State has filed an additional count alleging that the Defendant was previously convicted of a battery against [name], the same person on whom he/she committed the battery in Count \_\_\_\_\_. Battery is a Level 5 felony if it results in bodily injury to the other person and the person who commits the battery was previously convicted of a battery against the same person.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

1. The battery committed by the Defendant resulted in bodily injury to another person;; and
2. The Defendant had been previously convicted of battery of the same person, [name], before Defendant committed the battery charged in Count \_\_\_\_\_

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of battery of the person, a Level 5 felony.

## Instruction No. 15.2240. Domestic Battery.

## Instruction No. 15.2240. Domestic Battery.

### I.C. 35-42-2-1.3.

The State has filed an additional count alleging that the Defendant had been convicted of a [domestic battery], [an offense in (another state) (a military court) (*name jurisdiction*) substantially similar to domestic battery] before he/she committed the offense charged in Count \_\_\_\_\_. A person who commits domestic battery when he/she has a previous unrelated conviction [of domestic battery under I.C. (35-42-2-1.3) and (35-42-2-1(a) (2) before its repeal)] [in any other jurisdiction (including a military court) in which the elements of the crime for which the conviction was entered are substantially similar to the elements described in I.C. 35-42-2-1.3] commits a Level 6 felony.

[The Court instructs you that, as a matter of law, the (*name alleged other jurisdiction*) conviction of (*describe offense*) has elements which are substantially similar to the elements of the Indiana offense of domestic battery, under I.C. 35-42-2-1.3.]



You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

1. The Defendant;
2. had previously been convicted of an unrelated [domestic battery in Indiana under (I.C. 35-42-2-1.3)(I.C. 35-42-2-1(a) (2))]

or

[offense of \_\_\_\_\_ (*describe offense*) in \_\_\_\_\_ (*name alleged other jurisdiction*)];

3. and the previous conviction occurred before the Defendant committed the domestic battery charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of domestic battery, a Level 6 felony.

## **Instruction No. 15. 2400. Intimidation—Second Offense—Phase II.**

### **Instruction No. 15.2400. Intimidation—Second Offense—Phase II.**

#### **I.C. 35-45-2-1(c).**

The State has filed an additional count alleging that the Defendant had been convicted of intimidation concerning the same person before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits intimidation when he/she has a prior conviction of intimidation concerning the same person commits a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant was convicted of intimidation of the same person, [*victim's name*], before the Defendant committed the intimidation of [*victim's name*] charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of intimidation, a Level 6 felony.

## **Instruction No. 15.2500. Unlawful Employment Near Children.**

## **Instruction No. 15.2500. Unlawful Employment Near Children.**

### **I.C. 35-42-4-10.**

The State has filed an additional count alleging that at the time the Defendant committed the offense of unlawful employment near children the Defendant had a prior unrelated conviction based on Defendant's failure to comply with a requirement imposed on an offender under **I.C. 35-42-4**. A person who commits unlawful employment near children when the person has a prior unrelated conviction based on failure to comply with a requirement imposed on an offender under **I.C. 35-42-4** commits unlawful employment near children, a Level 5 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

1. The Defendant
2. had a prior unrelated conviction of (insert name of alleged prior)
3. when the Defendant committed the offense charged in Count \_\_\_\_\_, and
4. the Court instructs you that (insert name of alleged prior) is an offense which is based on failure to comply with a requirement imposed on an offender under **I.C. 35-42-4**.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of unlawful employment near children by a sexual predator, a Level 5 felony as charged in Count \_\_\_\_\_.

## **Instruction No. 15.2600. Child Solicitation—Victim Under Fourteen.**

## **Instruction No. 15.2600. Child Solicitation—Victim Under Fourteen.**

### **I.C. 35-42-4-6.**

The State has filed an additional count alleging that at the time the Defendant committed the offense of child solicitation by use of a computer network the Defendant had a previous unrelated conviction of child solicitation by use of a computer network. A person who commits child solicitation by use of a computer network when the person has a previous unrelated conviction of child solicitation

by use of a computer network commits child solicitation, a Level 4 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had a previous unrelated conviction of child solicitation by use of a computer network before the defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child solicitation, a Level 4 felony.

### **Instruction No. 15.2640. Child Solicitation—Victim Fourteen to Fifteen.**

### **Instruction No. 15.2640. Child Solicitation—Victim Fourteen to Fifteen.**

#### **I.C. 35-42-4-6.**

The State has filed an additional count alleging that at the time the Defendant committed the offense of solicitation of a child aged fourteen to fifteen by use of a computer network the Defendant had a previous unrelated conviction of solicitation of a child aged fourteen to fifteen by use of a computer network. A person who commits solicitation of a child aged fourteen to fifteen by use of a computer network when the person has a previous unrelated conviction of solicitation of a child aged fourteen to fifteen by use of a computer network commits child solicitation, a Level 4 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had a previous unrelated conviction of solicitation of a child aged fourteen to fifteen by use of a computer network before the defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of child solicitation, a Level 4 felony.

### **Instruction No. 15.2800. Sex Offender Internet Offense—Second Offense.**

### **Instruction No. 15.2800. Sex Offender Internet Offense—Second Offense.**

**I.C. 35-42-4-12.**

The State has filed an additional count alleging that at the time the Defendant committed the sex offender Internet offense the Defendant had a previous unrelated conviction of the sex offender Internet offense. A person who commits the sex offender Internet offense when the person has a previous unrelated conviction of the sex offender Internet offense commits the sex offender Internet offense, a Level 6 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had a previous unrelated conviction of the sex offender Internet offense before the defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of the sex offender Internet offense, a Level 6 felony.

**Instruction No. 15.2900. Inappropriate Communication With a Child.**

**Instruction No. 15.2900. Inappropriate Communication With a Child.**

**I.C. 35-42-4-13.**

The State has filed an additional count alleging that the Defendant had a previous judgment or conviction for inappropriate communication with a child before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits inappropriate communication with a child when the Defendant has a previous conviction of inappropriate communication with a child commits inappropriate communication with a child, a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had a previous conviction inappropriate communication with a child before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of inappropriate communication with a child, a Level 6 felony.

**Instruction No. 15.3000. Criminal Trespass—Phase II.**

**Instruction No. 15.3000. Criminal Trespass—Phase II.**

I.C. 35-43-2-2.

The State has filed an additional count alleging that the Defendant had been convicted of criminal trespass concerning the same property before he/she committed Count \_\_\_\_\_. A person who commits criminal trespass when he/she has a prior conviction for criminal trespass concerning the same property commits a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of criminal trespass concerning the same property before he/she committed Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of criminal trespass, a Level 6 felony.

**Instruction No. 15.3200. Dealing in Altered Property.**

**Instruction No. 15.3200. Dealing in Altered Property.**

I.C. 35-43-4-2.3.

The State has filed an additional count alleging that the Defendant had been convicted of a prior theft or conversion offense under IC 35-43-4 before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits dealing in altered property when the person has a prior unrelated conviction of theft or conversion commits a Level 6 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had a prior unrelated conviction of theft or conversion before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of dealing in altered property, a Level 6 felony.

Instruction No. 15.3400. Home Improvement Fraud—Phase II—Class B  
Misdemeanor Raised to Class A Misdemeanor.

Instruction No. 15.3400. Home Improvement Fraud—Phase II—Class B  
Misdemeanor Raised to Class A Misdemeanor.

I.C. 35-43-6-13(a)(2).

The State has filed an additional count alleging that the Defendant had been convicted of a home improvement fraud offense before he/she committed the offense charged in Count \_\_\_\_\_. A person who commits home improvement fraud when he/she has a prior conviction [of home improvement fraud in Indiana under I.C. 35-43-6] or [in another jurisdiction for an offense that is substantially similar to an Indiana home improvement fraud offense described in I.C. 35-43-6] commits a Class A misdemeanor.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted:

[of a home improvement fraud offense under I.C. 35-43-6]

[or]

[in (*name other jurisdiction*) for (*name the offense*), an offense which the court

instructs you was substantially similar to an Indiana home improvement fraud offense described in [I.C. 35-43-6](#)]

before he/she committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of home improvement fraud, a Class A misdemeanor.

### **Instruction No. 15.3600. Insurance Fraud.**

### **Instruction No. 15.3600. Insurance Fraud.**

#### **I.C. 35-43-5-4.5.**

The State has filed an additional count alleging that the Defendant had been convicted of insurance fraud before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits insurance fraud when the person has a prior conviction of insurance fraud commits a Level 5 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of insurance fraud before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of insurance fraud, a Level 5 felony.

### **Instruction No. 15.3800. Theft.**

### **Instruction No. 15.3800. Theft.**

#### **I.C. 35-43-4-2.**

The State has filed an additional count alleging that the Defendant had been convicted of a prior conviction of theft or criminal conversion before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits theft when the person has a prior unrelated conviction of theft (under IC 35-43-4-2) or criminal conversion (under IC 35-43-4-3) commits a Level 6 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had a prior unrelated conviction of theft or criminal conversion before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of theft, a Level 6 felony.

**Instruction No. 15.3900. Auto Theft and Receiving Stolen Auto Parts—  
Elements—Phase II.**

**Instruction No. 15.3900. Auto Theft and Receiving Stolen Auto Parts—  
Elements—Phase II.**

I.C. 35-43-4-2.5(b).

I.C. 35-43-4-2.5(c).

The State has filed an additional count alleging that the Defendant had been convicted of [auto theft] [receiving stolen auto parts] before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits [auto theft] [receiving stolen auto parts] when [he] [she] has a prior unrelated conviction for [auto theft] [receiving stolen auto part] commits a Level 5 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of [auto theft] [receiving stolen auto parts] before [he] [she] committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of [auto theft] [receiving stolen auto parts], a Level 5 felony.



**Instruction No. 15.4000 Non-support of a Dependent Child.**

**Instruction No. 15.4000 Non-support of a Dependent Child.**

I.C. 35-46-1-5.

The State has filed an additional count alleging that the Defendant had a prior conviction of non-support of a dependent child before the Defendant committed the offense charged in Count \_\_\_\_\_.

A person who commits non-support of a dependent child when the person has a prior conviction of non-support of a dependent child commits non-support of a dependent child, a Level 5 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

When the Defendant committed the offense charged in Count \_\_\_\_\_ of non-support of a dependent child, the Defendant had a prior conviction of non-support of a dependent child.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of non-support of a dependent child, a Level 5 felony.

**Instruction No. 15.4100. Invasion of Privacy.**

**Instruction No. 15.4100. Invasion of Privacy.**

I.C. 35-46-1-15.1.

The State has filed an additional count alleging that the Defendant had a prior unrelated conviction of invasion of privacy before the Defendant committed the offense charged in Count \_\_\_\_\_.

A person who commits invasion of privacy when the person has a prior unrelated conviction of invasion of privacy commits invasion of privacy, a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

When the Defendant committed the offense charged in Count \_\_\_\_\_ of invasion of privacy, the Defendant had a prior unrelated conviction of invasion of privacy.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of invasion of privacy, a Level 6 felony.

### **Instruction No. 15.4180. Stalking—Level 4 Felony—Phase II.**

### **Instruction No. 15.4180. Stalking—Level 4 Felony—Phase II.**

#### **I.C. 35-45-10-5.**

The State has filed an additional count alleging that the Defendant had been convicted of stalking before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits stalking when the Defendant has a prior conviction of stalking commits a Level 4 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of stalking before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of stalking, a Level 4 felony.

### **Instruction No. 15.4200. Voyeurism.**

### **Instruction No. 15.4200. Voyeurism.**

I.C. 35-45-4-5.

The State has filed an additional count alleging that the Defendant had been convicted of [voyeurism in Indiana] [of an offense in another jurisdiction, including a military court, substantially similar to the Indiana offense of voyeurism] before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits voyeurism when the person has a [prior unrelated conviction of voyeurism in Indiana] [a prior unrelated conviction of a substantially similar offense in another jurisdiction, including a military court] commits a Level 6 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had a [prior unrelated conviction of voyeurism in Indiana] [a prior conviction of an offense in another jurisdiction, including a military court, substantially similar to the Indiana offense of voyeurism] before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of voyeurism, a Level 6 felony.

**Instruction No. 15.4240. Public Voyeurism.**

**Instruction No. 15.4240. Public Voyeurism.**

I.C. 35-45-4-5.

The State has filed an additional count alleging that the Defendant had been convicted of (public voyeurism in Indiana) (of an offense in another jurisdiction, including a military court, substantially similar to the Indiana offense of public voyeurism) before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits public voyeurism when the person has a (prior unrelated conviction of public voyeurism in Indiana) (a prior unrelated conviction of a offense in another jurisdiction, including a military court, substantially similar to the Indiana offense of public voyeurism) commits a Level 6 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had a [prior unrelated conviction of public voyeurism in Indiana]

[a prior conviction of an offense in another jurisdiction, including a military court, substantially similar to the Indiana offense of public voyeurism] before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of public voyeurism, a Level 6 felony.

### **Instruction No. 15.4300. Public Indecency.**

### **Instruction No. 15.4300. Public Indecency.**

#### **I.C. 35-45-4-1.**

The State has filed an additional count alleging that the Defendant had been convicted of (public indecency in Indiana) (of an offense in another jurisdiction, including a military court, substantially similar to the Indiana offense of public indecency) before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits public indecency when the person has a (prior unrelated conviction of public indecency in Indiana) (a prior unrelated conviction of a substantially similar offense in another jurisdiction, including a military court) commits a Level 6 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had a [prior unrelated conviction of public indecency in Indiana] [a prior conviction of an offense in another jurisdiction, including a military court, substantially similar to the Indiana offense of public indecency] before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of public indecency, a Level 6 felony.

### **Instruction No. 15.4340. Public Nudity.**

### **Instruction No. 15.4340. Public Nudity.**

**I.C. 35-45-4-1.5.**

The State has filed an additional count alleging that the Defendant had been convicted of a prior Class B or Class A public nudity offense before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits public nudity when the person has a prior unrelated conviction of public nudity commits a Level 6 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had a prior unrelated conviction of public nudity before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of public nudity, a Level 6 felony.

**Instruction No. 15.4500. Prostitution—Patronizing a Prostitute—Phase II.**

**Instruction No. 15.4500. Prostitution—Patronizing a Prostitute—Phase II.**

**I.C. 35-45-4-2, I.C. 35-45-4-3.**

The State has filed an additional count alleging that the Defendant had two prior convictions for [prostitution] [patronizing a prostitute] before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits [prostitution] [patronizing a prostitute] when the Defendant has two prior convictions for [prostitution] [patronizing a prostitute] commits a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had two prior convictions for \_\_\_\_\_[prostitution] [patronizing a prostitute] before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of \_\_\_\_\_[prostitution] [patronizing a prostitute], a Level 6 felony.

**Instruction No. 15.4600. Failure of Offender to Register.  
Registration Misstatement or Omission.  
Failure to Register in Person.  
Failure to Reside at Registered Location.**

**Instruction No. 15.4600. Failure of Offender to Register.  
Registration Misstatement or Omission.  
Failure to Register in Person.  
Failure to Reside at Registered Location.**

**I.C. 11-8-8-17.**

The State has filed an additional count alleging that the Defendant had been convicted of [failure of an offender to register] [registration misstatement or omission] [failure to register in person] [failure to reside at registered location] before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits [failure of an offender to register] [registration misstatement or omission] [failure to register in person] [failure to reside at registered location] when the person has a prior unrelated conviction of [failure of an offender to register] [registration misstatement or omission] [failure to register in person] [failure to reside at registered location] commits a Level 5 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had a prior unrelated conviction of [failure of an offender to register] [registration misstatement or omission] [failure to register in person] [failure to reside at registered location] before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of [failure of an offender to register] [registration misstatement or omission] [failure to register in person] [failure to reside at registered location], a Level 5 felony.

**Instruction No. 15.4640. Failure of an Offender to Possess Identification.**

**Instruction No. 15.4640. Failure of an Offender to Possess Identification.**

**I.C. 11-8-8-15.**

The State has filed an additional count alleging that the Defendant [had a prior unrelated conviction of (failure of an offender to possess identification) (an offender registration offense under **IC 11-8-8**) before the Defendant committed the offense charged in Count \_\_\_\_\_] or [had the legal status of a sexually violent predator when the Defendant committed the offense charged in Count \_\_\_\_\_].

A person who commits failure of an offender to possess identification when the person [has a prior unrelated conviction of (failure of an offender to possess identification) (an offender registration offense under **IC 11-8-8**)] [has the legal status of a sexually violent predator] commits failure of an offender to possess identification, a Level 6 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant [had a prior unrelated conviction of (failure of an offender to possess identification) (an offender registration offense under **IC 11-8-8**) before the Defendant committed the offense charged in Count \_\_\_\_\_] [had the legal status of a sexually violent predator when the Defendant committed the offense charged in Count \_\_\_\_\_].

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of failure of an offender to possess identification, a Level 6 felony.

**Instruction No. 15.4680. Lifetime Parole Violation—Contact with Child or Victim.**

## **Instruction No. 15.4680. Lifetime Parole Violation—Contact with Child or Victim.**

### **I.C. 35-44.1-3-9.**

The State has filed an additional count alleging that the Defendant had been convicted of the offense of lifetime parole violation—contact with child or victim before he/she committed the offense charged in Count \_\_\_\_\_. A person who commits lifetime parole violation—contact with child or victim when the person has a prior unrelated conviction of lifetime parole violation—contact with child or victim commits a Level 5 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had a prior unrelated conviction of lifetime parole violation—contact with child or victim before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of lifetime parole violation—contact with child or victim, a Level 5 felony as charged in Count \_\_\_\_\_.

## **Instruction No. 15.4800. Professional Gambling.**

## **Instruction No. 15.4800. Professional Gambling.**

### **I.C. 35-45-5-3(a).**

The State has filed an additional count alleging that the Defendant had a prior unrelated conviction under this subsection before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits the crime of professional gambling commits a Level 5 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:



The Defendant had a prior unrelated conviction of professional gambling before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of maintaining a professional gambling site, a Level 5 felony.

### **Instruction No. 15.4840. Maintaining a Professional Gambling Site.**

### **Instruction No. 15.4840. Maintaining a Professional Gambling Site.**

#### **I.C. 35-45-5-3.5.**

The State has filed an additional count alleging that the Defendant had been convicted of maintaining a professional gambling site before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits maintaining a professional gambling site when the person has a prior unrelated conviction of maintaining a professional gambling site commits a Level 5 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had a prior unrelated conviction of maintaining a professional gambling site before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of maintaining a professional gambling site, a Level 5 felony.

### **Instruction No. 15.4880. Promoting Professional Gambling.**

### **Instruction No. 15.4880. Promoting Professional Gambling.**

#### **I.C. 35-45-5-4.**

The State has filed an additional count alleging that the Defendant had been convicted of promoting professional gambling before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits promoting professional gambling when the person has a prior unrelated conviction of promoting professional gambling commits a Level 5 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had a prior unrelated conviction of promoting professional gambling before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of promoting professional gambling, a Level 5 felony.

## **Instruction No. 15.5000. Dealing in Cocaine or a Narcotic Drug.**

## **Instruction No. 15.5000. Dealing in Cocaine or a Narcotic Drug.**

### **I.C. 35-48-4-1.**

The State has filed an additional count alleging that the Defendant had been convicted of dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, before the Defendant committed the offense charged in Count \_\_\_\_\_.

[A person

1. who commits dealing in (cocaine) (a narcotic drug) when the

amount of the drug involved is less than one gram

2. and the person has a prior conviction, in any jurisdiction, for

dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in (cocaine) (a narcotic drug), a Level 4 felony.]

[A person

1. who commits dealing in (cocaine) (a narcotic drug) when the  
amount of the drug involved is at least one [1] gram but less than five [5] grams
2. and the person has a prior conviction, in any jurisdiction, for dealing in a  
controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or  
a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in (cocaine) (a narcotic drug), a Level 3 felony.]

[A person

1. who commits dealing in (cocaine) (a narcotic drug) when the  
amount of the drug involved was at least five [5] grams but less than ten [10]  
grams
2. and the person has a prior conviction, in any jurisdiction, for dealing in a  
controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or  
a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in (cocaine) (a narcotic drug), a Level 2 felony.]

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

- [1. (for *Level 4 felony*) the Defendant committed dealing in  
methamphetamine when the amount of the drug involved was less than one gram
2. and when the Defendant had a prior conviction, in any jurisdiction,  
for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

- [1. (for *Level 3 felony*) the Defendant committed dealing in  
methamphetamine when the amount of the drug involved was at least one [1] gram but less than five [5]) grams
2. and when the Defendant had a prior conviction, in any jurisdiction,  
for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

- [1. (for *Level 2 felony*) the Defendant committed dealing in  
methamphetamine when the amount of the drug involved was at least five [5] grams but less than ten [10] grams
2. and when the Defendant had a prior conviction, in any jurisdiction,  
for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of dealing in (cocaine) (a narcotic drug), a Level 4/3/2 felony.

**Instruction No. 15.5040. Dealing in Methamphetamine.**

**Instruction No. 15.5040. Dealing in Methamphetamine.**

**I.C. 35-48-4-1.1.**

The State has filed an additional count alleging that the Defendant had been convicted of dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug before the Defendant committed the offense charged in Count \_\_\_\_\_ .

[A person

1. who commits dealing in methamphetamine when the amount  
of the drug involved is less than one gram
2. and the person has a prior conviction, in any jurisdiction,  
for dealing in a controlled substance that is not marijuana, hashish, hash  
oil, salvia divinorum, or a synthetic drug, including an attempt or  
conspiracy to commit the offense

commits dealing in methamphetamine, a Level 4 felony.]

[A person

1. who commits dealing in methamphetamine when the amount  
of the drug involved is at least one [1] gram but less than five [5] grams
2. and the person has a prior conviction, in any jurisdiction,

for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in methamphetamine, a Level 3 felony.]

[A person

1. who commits dealing in methamphetamine when the amount of the drug involved was at least five [5] grams but less than ten [10] grams
2. and the person has a prior conviction, in any jurisdiction, for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in methamphetamine, a Level 2 felony.]

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

- [1. (*for Level 4 felony*) the Defendant committed dealing in methamphetamine when the amount of the drug involved was less than one gram
2. and when the Defendant had a prior conviction, in any jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

- [1. (for *Level 3 felony*) the Defendant committed dealing in methamphetamine when the amount of the drug involved was at least one [1] gram but less than five [5] grams
2. and when the Defendant had a prior conviction, in any jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

- [1. (for *Level 2 felony*) the Defendant committed dealing in methamphetamine when the amount of the drug involved was at least five [5] grams but less than ten [10] grams
2. and when the Defendant had a prior conviction, in any jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of dealing in methamphetamine, a Level 4/3/2 felony.

**Instruction No. 15.5080. Dealing in Schedule I, II, or III Controlled Substance.**

**Instruction No. 15.5080. Dealing in Schedule I, II, or III Controlled Substance.**

**I.C. 35-48-4-1.1.**

The State has filed an additional count alleging that the Defendant had been convicted of dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug before the Defendant committed the offense charged in Count \_\_\_\_\_ .

[A person

1. who commits dealing in a Schedule I, II, or III controlled substance when the amount of the drug involved is less than one gram
2. and the person has a prior conviction, in any jurisdiction, for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in a Schedule I, II, or III controlled substance, a Level 5 felony.]

[A person

1. who commits dealing in a Schedule I, II, or III controlled substance when the amount of the drug involved is at least one [1] gram but less than five [5]) grams
2. and the person has a prior conviction, in any jurisdiction, for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in a Schedule I, II, or III controlled substance, a Level 4 felony.]

[A person



1. who commits dealing in a Schedule I, II, or III controlled substance when the amount of the drug involved was at least five [5] grams but less than ten [10] grams
2. and the person has a prior conviction, in any jurisdiction, for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in a Schedule I, II, or III controlled substance, a Level 3 felony.]

[A person

1. who commits dealing in a Schedule I, II, or III controlled substance when the amount of the drug involved was at least ten [10] grams but less than twenty-eight [28] grams
2. and the person has a prior conviction, in any jurisdiction, for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in a Schedule I, II, or III controlled substance, a Level 2 felony.]

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

- [1. (*for Level 5 felony*) the Defendant committed dealing in a Schedule I, II, or III controlled substance when the amount of the drug involved was less than one gram

2. and when the Defendant had a prior conviction, in any jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

- [1. (*for Level 4 felony*) the Defendant committed dealing in a Schedule I, II, or III controlled substance when the amount of the drug involved was at least one [1] gram but less than five [5] grams

2. and when the Defendant had a prior conviction, in any jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

- [1. (*for Level 3 felony*) the Defendant committed dealing in a Schedule I, II, or III controlled substance when the amount of the drug involved was at least five [5] grams but less than ten [10] grams

2. and when the Defendant had a prior conviction, in any jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

- [1. (*for Level 2 felony*) the Defendant committed dealing in a Schedule I, II, or III controlled substance when the amount of the drug involved was at least ten [10] grams but less than twenty-eight [28] grams

2. and when the Defendant had a prior conviction, in any jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of dealing in a Schedule I, II, or III controlled substance, a Level 5/4/3/2 felony.

**Instruction No. 15.5120. Dealing in a Schedule IV Controlled Substance.**

**Instruction No. 15.5120. Dealing in a Schedule IV Controlled Substance.**

**I.C. 35-48-4-2.**

The State has filed an additional count alleging that the Defendant had been convicted of dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug before the Defendant committed the offense charged in Count \_\_\_\_\_ .

[A person

1. who commits dealing in a Schedule IV controlled substance  
when the amount of the drug involved is less than one gram
2. and the person has a prior conviction, in any jurisdiction, for

dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in a Schedule IV controlled substance, a Level 6 felony.]

[A person

1. who commits dealing in a Schedule IV controlled substance  
when the amount of the drug involved is at least one [1] gram but less than five [5] grams
2. and the person has a prior conviction, in any jurisdiction, for  
dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in a Schedule IV controlled substance, a Level 5 felony.]

[A person

1. who commits dealing in a Schedule IV controlled substance  
when the amount of the drug involved was at least five [5] grams but less than ten [10] grams
2. and the person has a prior conviction, in any jurisdiction,  
for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in a Schedule IV controlled substance, a Level 4 felony.]

[A person

1. who commits dealing in a Schedule IV controlled substance  
when the amount of the drug involved was at least ten [10] grams but less than twenty-eight [28] grams
2. and the person has a prior conviction, in any jurisdiction,  
for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in a Schedule IV controlled substance, a Level 3 felony.]

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

- [1. (*for Level 6 felony*) the Defendant committed dealing in a  
Schedule IV controlled substance when the amount of the drug involved was less than one gram
2. and when the Defendant had a prior conviction, in any  
jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

- [1. (*for Level 5 felony*) the Defendant committed dealing in a  
Schedule IV controlled substance when the amount of the drug involved was at least one [1] gram but less than five [5] grams
2. and when the Defendant had a prior conviction, in any

jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

- [1. (for *Level 4 felony*) the Defendant committed dealing in  
a Schedule IV controlled substance when the amount of the drug involved was at least five [5] grams but less than ten [10] grams
2. and when the Defendant had a prior conviction, in any  
jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

- [1. (for *Level 3 felony*) the Defendant committed dealing in  
a Schedule IV controlled substance when the amount of the drug involved was at least ten [10] grams but less than twenty-eight [28] grams
2. and when the Defendant had a prior conviction, in  
any jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of dealing in a Schedule IV controlled substance, a Level 6/5/4/3 felony.

## **Instruction No. 15.5160. Dealing in a Schedule V Controlled**

## **Substance.**

### **Instruction No. 15.5160. Dealing in a Schedule V Controlled Substance.**

#### **I.C. 35-48-4-2.**

The State has filed an additional count alleging that the Defendant had been convicted of dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug before the Defendant committed the offense charged in Count \_\_\_\_\_ .

[A person

1. who commits dealing in a Schedule V controlled substance when the amount of the drug involved is less than one gram
2. and the person has a prior conviction, in any jurisdiction, for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in a Schedule V controlled substance, a Class A misdemeanor.]

[A person

1. who commits dealing in a Schedule V controlled substance when the amount of the drug involved is at least one [1] gram but less than five [5]) grams
2. and the person has a prior conviction, in any jurisdiction,

for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in a Schedule V controlled substance, a Level 6 felony.]

[A person

1. who commits dealing in a Schedule V controlled substance  
when the amount of the drug involved was at least five [5] grams but less than ten [10] grams
2. and the person has a prior conviction, in any jurisdiction,  
for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in a Schedule V controlled substance, a Level 5 felony.]

[A person

1. who commits dealing in a Schedule V controlled substance  
when the amount of the drug involved was at least ten [10] grams but less than twenty-eight [28] grams
2. and the person has a prior conviction, in any jurisdiction, for  
dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits dealing in a Schedule V controlled substance, a Level 4 felony.]



You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

- [1. (for *Class A misdemeanor*) the Defendant committed  
  
dealing in a Schedule V controlled substance when the amount of the drug involved was less than one gram
  2. and when the Defendant had a prior conviction, in any  
  
jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]
- 
- [1. (for *Level 6 felony*) the Defendant committed dealing in a  
  
Schedule V controlled substance when the amount of the drug involved was at least one [1] gram but less than five [5] grams
  2. and when the Defendant had a prior conviction, in  
  
any jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]
- 
- [1. (for *Level 5 felony*) the Defendant committed dealing in  
  
a Schedule V controlled substance when the amount of the drug involved was at least five [5] grams but less than ten [10] grams
  2. and when the Defendant had a prior conviction, in any  
  
jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

- [1. (for Level 4 felony) the Defendant committed dealing in a Schedule V controlled substance when the amount of the drug involved was at least ten [10] grams but less than twenty-eight [28] grams
2. and when the Defendant had a prior conviction, in any jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of dealing in a Schedule V controlled substance, a (Class A misdemeanor) (Level 6/5/4 felony).

**Instruction No. 15.5200. Possession of Cocaine or a Narcotic Drug.**

**Instruction No. 15.5200. Possession of Cocaine or a Narcotic Drug.**

**I.C. 35-48-4-6.**

The State has filed an additional count alleging that the Defendant had been convicted of dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense, before the Defendant committed the offense charged in Count

---

[A person

1. who commits possession of (cocaine) (a narcotic drug) when the amount of the drug involved is less than five (5) grams
2. and the person has a prior conviction, in any jurisdiction, for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits possession of (cocaine) (a narcotic drug), a Level 5 felony.]

[A person

1. who commits possession of (cocaine) (a narcotic drug) when the amount of the drug involved is at least five (5) grams but less than ten (10) grams
2. and the person has a prior conviction, in any jurisdiction, for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits possession of (cocaine) (a narcotic drug), a Level 4 felony.]

[A person

1. who commits possession of (cocaine) (a narcotic drug) when the amount of the drug involved is at least ten (10) grams but less than twenty-eight (28) grams
2. and the person has a prior conviction, in any jurisdiction,

for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits possession of (cocaine) (a narcotic drug), a Level 3 felony.]

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

[1. (for Level 5 felony) the Defendant committed possession of (cocaine) (a narcotic drug) when the amount of the drug involved was less than five (5) grams

2. and when the Defendant had a prior conviction, in any jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

[1. (for Level 4 felony) the Defendant committed possession of (cocaine) (a narcotic drug) when the amount of the drug involved was at least five (5) grams but less than ten (10) grams

2. and when the Defendant had a prior conviction, in any jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

[1. (for Level 3 felony) the Defendant committed possession

of (cocaine) (a narcotic drug) when the amount of the drug involved was at least ten (10) grams but less than twenty-eight (28) grams

2. and when the Defendant had a prior conviction, in any jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of possession of (cocaine) (a narcotic drug), a Level 5/4/3 felony.

### **Instruction No. 15.5240. Possession of Methamphetamine.**

### **Instruction No. 15.5240. Possession of Methamphetamine.**

#### **I.C. 35-48-4-6.1.**

The State has filed an additional count alleging that the Defendant had been convicted of dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense, before the Defendant committed the offense charged in Count

---

[A person

1. who commits possession of methamphetamine when the amount of the drug involved is less than five (5) grams
2. and the person has a prior conviction, in any jurisdiction,

for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits possession of methamphetamine, a Level 5 felony.]

[A person

1. who commits possession of methamphetamine) when  
the amount of the drug involved is at least five (5) grams but less than ten (10) grams
2. and the person has a prior conviction, in any jurisdiction, for  
dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits possession of methamphetamine, a Level 4 felony.]

[A person

1. who commits possession of methamphetamine when  
the amount of the drug involved is at least ten (10) grams but less than twenty-eight (28) grams
2. and the person has a prior conviction, in any jurisdiction,  
for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits possession of (cocaine) (a narcotic drug), a Level 3 felony.]

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

- [1. (for *Level 5 felony*) the Defendant committed possession  
of methamphetamine when the amount of the drug involved was less than five (5) grams
2. and when the Defendant had a prior conviction, in any  
jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

- [1. (for *Level 4 felony*) the Defendant committed possession of  
methamphetamine when the amount of the drug involved was at least five (5) grams but less than ten (10) grams
2. and when the Defendant had a prior conviction, in any  
jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

- [1. (for *Level 3 felony*) the Defendant committed possession  
of methamphetamine when the amount of the drug involved was at least ten (10) grams but less than twenty-eight (28) grams
2. and when the Defendant had a prior conviction, in any  
jurisdiction, for dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense.]

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of possession of methamphetamine, a Level 5/4/3 felony.

**Instruction No. 15.5280. Possession of Controlled Substance.**

**Instruction No. 15.5280. Possession of Controlled Substance.**

**I.C. 35-48-4-7.**

The State has filed an additional count alleging that the Defendant had been convicted of dealing in a controlled substance that was not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense, before the Defendant committed the offense charged in Count

---

A person

1. who commits possession of a controlled substance
2. when the person has a prior conviction, in any jurisdiction,

for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, including an attempt or conspiracy to commit the offense

commits possession of a controlled substance, a Level 6 felony.]



You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

1. the Defendant committed possession of a controlled substance
2. when the Defendant had a prior conviction, in any jurisdiction,  
for dealing in a controlled substance that was not marijuana, hashish,  
hash oil, salvia divinorum, or a synthetic drug, including an attempt or  
conspiracy to commit the offense.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of possession of a controlled substance, a Level 6 felony.

### **Instruction No. 15.5400. Manufacture of Paraphernalia--Phase II.**

### **Instruction No. 15.5400. Manufacture of Paraphernalia--Phase II.**

#### **I.C. 35-48-4-8.1.**

The State has filed an additional count alleging that the Defendant had a previous judgment or conviction for manufacture of paraphernalia before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits manufacture of paraphernalia when the Defendant has a previous judgment or conviction for manufacture of paraphernalia commits a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had a previous judgment or conviction for manufacture of paraphernalia before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the

Defendant not guilty of the crime of manufacture of paraphernalia, a Level 6 felony.

**Instruction No. 15.5440. Dealing in Paraphernalia--Phase II.**

**Instruction No. 15.5440. Dealing in Paraphernalia--Phase II.**

**I.C. 35-48-4-8.5.**

The State has filed an additional count alleging that the Defendant had a previous judgment or conviction for dealing in paraphernalia before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits dealing in paraphernalia when the Defendant has a previous judgment or conviction for dealing in paraphernalia commits a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had a previous judgment or conviction for dealing in paraphernalia before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of dealing in paraphernalia, a Level 6 felony.

**Instruction No. 15.5480. Possession of Paraphernalia – Phase II.**

**Instruction No. 15.5480. Possession of Paraphernalia – Phase II.**

**I.C. 35-48-4-8.3.**

The State has filed an additional count alleging that the Defendant had a previous judgment or conviction for possession of paraphernalia before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who

commits possession of paraphernalia when the Defendant has a previous judgment or conviction for possession of paraphernalia commits a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had a previous judgment or conviction for possession of paraphernalia before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of possession of paraphernalia, a Level 6 felony.

**Instruction No. 15.5600. Dealing in Marijuana, Hash Oil, Hashish, or Salvia.**

**Instruction No. 15.5600. Dealing in Marijuana, Hash Oil, Hashish, or Salvia.**

I.C. 35-48-4-11.

The State has filed an additional count alleging that the Defendant had a previous

conviction of a felony or misdemeanor involving the production, delivery, sale or possession of a controlled substance before the Defendant committed the offense charged in Count \_\_\_\_\_.

[A person who commits dealing in (marijuana) (hash oil) (hashish) (salvia) when (the amount of marijuana involved is less than thirty {30} grams) (the amount of {hash oil} {hashish} {salvia} involved is less than five {5} grams) and the person has a previous conviction of a felony or misdemeanor involving the production, delivery, sale or possession of a controlled substance commits a Level 6 felony.]

[A person who commits dealing in (marijuana) (hash oil) (hashish) (salvia) when (the amount of marijuana involved is at least thirty {30} grams but less than ten {10} pounds) (the amount of {hash oil} {hashish} {salvia} involved is at least five {5} grams but less than three hundred {300} grams) and the person has a previous conviction of a felony or misdemeanor involving the production, delivery, sale or possession of a controlled substance commits a Level 5 felony.]

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

[(*For Level 6 felony*) When the Defendant committed the offense charged in  
Count \_\_\_\_\_

1. the amount of  
  
                    (marijuana involved was less than thirty {30} grams)  
  
                    (or)  
  
                    ({hash oil} {hashish} {salvia} involved was less than five {5} grams),  
                    and
2. Defendant had a previous conviction of a felony or misdemeanor  
  
involving the production, delivery, sale or possession of a controlled  
substance.]

[(*For Level 5 felony*) When the Defendant committed the offense charged in  
Count \_\_\_\_\_

1. the amount of  
  
                    (marijuana involved was at least thirty {30} grams but less than ten  
                    {10} pounds)  
  
                    (or)  
  
                    ({hash oil} {hashish} {salvia} involved was at least five {5} grams but  
                    less than three hundred {300} grams), and
2. Defendant had a previous conviction of a felony or misdemeanor  
  
involving the production, delivery, sale or possession of a controlled  
substance.]

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of dealing in (marijuana) (hash oil) (hashish) (salvia), a Level 6/5 felony.

**Instruction No. 15.5640. Dealing in a Synthetic Drug or Synthetic Drug Lookalike Substance – Prior Same Offense.**

**Instruction No. 15.5640. Dealing in a Synthetic Drug or Synthetic Drug Lookalike Substance – Prior Same Offense.**

**I.C. 35-48-4-10.5(a).**

The State has filed an additional count alleging that the Defendant had a prior unrelated conviction of dealing in a synthetic drug or synthetic drug lookalike substance before the Defendant committed the offense charged in Count

\_\_\_\_\_.

A person who commits dealing in a synthetic drug or synthetic drug lookalike substance when the person has a prior unrelated conviction of dealing in a synthetic drug or synthetic drug lookalike substance commits dealing in a synthetic drug or synthetic drug lookalike substance, a Level 6 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

When the Defendant committed the offense charged in Count \_\_\_\_\_ the Defendant had a prior unrelated conviction of dealing in a synthetic drug or synthetic drug lookalike substance.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of dealing in a synthetic drug or synthetic drug lookalike substance, a Level 6 felony.

**Instruction No. 15.5680. Dealing in a Synthetic Drug or Synthetic Drug Lookalike Substance – Prior Involving.**

**Instruction No. 15.5680. Dealing in a Synthetic Drug or Synthetic Drug Lookalike Substance – Prior Involving.**

**I.C. 35-48-4-10.5(e).**

The State has filed an additional count alleging that the Defendant had a prior conviction of an offense involving a synthetic drug or synthetic drug lookalike substance before the Defendant committed the offense charged in Count

\_\_\_\_\_.

A person who commits dealing in a synthetic drug or synthetic drug lookalike substance when the person has a prior conviction of an offense involving a synthetic drug or synthetic drug lookalike substance commits dealing in a synthetic drug or synthetic drug lookalike substance, a Level 6 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

When the Defendant committed the offense charged in Count \_\_\_\_\_ the Defendant had a prior conviction of an offense involving a synthetic drug or synthetic drug lookalike substance.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of dealing in a synthetic drug or synthetic drug lookalike substance, a Level 6 felony.

**Instruction No. 15.5720. Possession of Marijuana, Hash Oil, Hashish, or Salvia.**

**Instruction No. 15.5720. Possession of Marijuana, Hash Oil, Hashish, or Salvia.**

I.C. 35-48-4-11.

The State has filed an additional count alleging that the Defendant had a previous

conviction of a felony or misdemeanor involving the production, delivery, sale or possession of a controlled substance before the Defendant committed the offense charged in Count \_\_\_\_\_.

[A person who commits possession of (marijuana) (hash oil) (hashish) (salvia) when the person has a previous conviction of a felony or misdemeanor involving the production, delivery, sale or possession of a controlled substance commits a Class A misdemeanor.]

[A person who commits possession of marijuana in an amount of at least thirty (30) grams of marijuana when the person has a previous conviction of a felony or misdemeanor involving the production, delivery, sale or possession of a controlled substance commits a Level 6 felony.]

[A person who commits possession of (hash oil) (hashish) (salvia) when the amount of (hash oil) (hashish) (salvia) was at least five (5) grams commits possession of (hash oil)

(hashish) (salvia), a Level 6 felony.]

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

[(*For Class A misdemeanor*) The Defendant had a previous conviction of a felony or misdemeanor involving the production, delivery, sale or possession of a controlled substance before the Defendant committed the offense charged in Count \_\_\_\_\_.]

[(*For Level 6 felony*) When the Defendant committed the offense charged in Count \_\_\_\_\_]

1. Defendant possessed at least thirty (30) grams of marijuana, and
2. Defendant had a previous conviction of a felony or misdemeanor involving the production, delivery, sale or possession of a controlled substance.]

[(*For Level 6 felony*) When the Defendant committed the offense charged in Count \_\_\_\_\_]

1. Defendant possessed at least five (5) grams of (hash oil) (hashish) (salvia) and
2. Defendant had a previous conviction of a felony or misdemeanor involving the production, delivery, sale or possession of a controlled substance.]

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of possession of (marijuana) (hash oil) (hashish) (salvia), a (Class A misdemeanor) (Level 6 felony) .



**Instruction No. 15.5760. Possession of a Synthetic Drug or Synthetic Drug Lookalike Substance – Prior Same Offense or Dealing.**

**Instruction No. 15.5760. Possession of a Synthetic Drug or Synthetic Drug Lookalike Substance – Prior Same Offense or Dealing.**

**I.C. 35-48-4-11.5(a).**

The State has filed an additional count alleging that the Defendant had a prior unrelated conviction of possession of or dealing in a synthetic drug or synthetic drug lookalike substance before the Defendant committed the offense charged in Count \_\_\_\_\_.

A person who commits possession of a synthetic drug or synthetic drug lookalike substance when the person has a prior unrelated conviction of possession of or dealing in a synthetic drug or synthetic drug lookalike substance commits possession of a synthetic drug or synthetic drug lookalike substance, a Level 6 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

When the Defendant committed the offense charged in Count \_\_\_\_\_ the Defendant had a prior unrelated conviction of possession of or dealing in a synthetic drug or synthetic drug lookalike substance.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of possession of a synthetic drug or synthetic drug lookalike substance, a Level 6 felony.

**Instruction No. 15.5800. Taking Child or Endangered Adult to Nuisance.**

**Instruction No. 15.5800. Taking Child or Endangered Adult to Nuisance.**

**I.C. 35-48-4-13.3.**

The State has filed an additional count alleging that the Defendant had a prior conviction of taking (a person less than eighteen [18] years of age) (an endangered adult) into a nuisance before the Defendant committed the offense charged in Count \_\_\_\_\_.

A person who commits taking (a person less than eighteen [18] years of age) (an endangered adult) into a nuisance when the person has a prior conviction of taking (a person less than eighteen [18] years of age) (an endangered adult) into a nuisance commits taking (a person less than eighteen [18] years of age) (an endangered adult) into a nuisance, a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

When the Defendant committed the offense charged in Count \_\_\_\_\_ of taking (a person less than eighteen [18] years of age) (an endangered adult) into a nuisance, the Defendant had a prior conviction of taking (a person less than eighteen [18] years of age) (an endangered adult) into a nuisance.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of taking (a person less than eighteen [18] years of age) (an endangered adult) into a nuisance, a Level 6 felony.

**Instruction No. 15.5900. Acquiring Possession of a Controlled Substance by Misrepresentation—Phase II.**

**Instruction No. 15.5900. Acquiring Possession of a Controlled Substance by Misrepresentation—Phase II.**

I.C. 35-48-4-14(c).

The State has filed an additional count alleging that the Defendant had been convicted of the crime of acquiring possession of a controlled substance by  
[misrepresentation]

[fraud]

[forgery]

[deception]

[subterfuge]

[alteration of a prescription order]

[concealment of a material fact]

[use of a false name or false address]

before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits acquiring possession of a controlled substance by  
[misrepresentation]

[fraud]

[forgery]

[deception]

[subterfuge]

[alteration of a prescription order]

[concealment of a material fact]

[use of a false name or false address]

when the Defendant has a prior conviction of acquiring possession of a controlled substance by

[misrepresentation]

[fraud]

[forgery]

[deception]

[subterfuge]

[alteration of a prescription order]

[concealment of a material fact]

[use of a false name or false address]

commits a Level 5 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of acquiring possession of a controlled substance by

[misrepresentation]

[fraud]

[forgery]

[deception]

[subterfuge]

[alteration of a prescription order]

[concealment of a material fact]

[use of a false name or false address]

before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of acquiring possession of a controlled substance by

[misrepresentation]

[fraud]

[forgery]

[deception]

[subterfuge]

[alteration of a prescription order]

[concealment of a material fact]

[use of a false name or false address]

, a Level 5 felony.

**Instruction No. 15.5940. False Labeling of a Controlled Substance—  
Phase II.**

**Instruction No. 15.5940. False Labeling of a Controlled Substance—  
Phase II.**

I.C. 35-48-4-14(d).

The State has filed an additional count alleging that the Defendant had been convicted of the crime of false labeling of a controlled substance before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits false labeling of a controlled substance when the Defendant has a prior conviction of false labeling of a controlled substance commits a Level 5 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of false labeling of a controlled substance before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of false labeling of a controlled substance, a Level 5 felony.

**Instruction No. 15.5980. Unlawful Duplication of Prescription Pads—  
Phase II.**

**Instruction No. 15.5980. Unlawful Duplication of Prescription Pads—  
Phase II.**

I.C. 35-48-4-14(e).

The State has filed an additional count alleging that the Defendant had been convicted of the crime of unlawful duplication of prescription pads or forms before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits unlawful duplication of prescription pads or forms when the Defendant has a previous judgment or conviction for unlawful duplication of prescription pads or forms commits a Level 5 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had a previous conviction for unlawful duplication of prescription pads or forms before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of unlawful duplication of prescription pads or forms, a Level 5 felony.

**Instruction No. 15.6100. Operating With Eight-hundredths Gram of  
Alcohol, Fifteen-hundredths Gram of Alcohol, Operating With  
Controlled Substance, or Operating While Intoxicated, Level 6  
Felony—Previous Conviction of Operating While Intoxicated—Phase  
II.**

**Instruction No. 15.6100. Operating With Eight-hundredths Gram of  
Alcohol, Fifteen-hundredths Gram of Alcohol, Operating With**

**Controlled Substance, or Operating While Intoxicated, Level 6  
Felony—Previous Conviction of Operating While Intoxicated—Phase  
II.**

I.C. 9-30-5-1; I.C. 9-30-5-2.

The State has filed an additional count alleging that the Defendant had been convicted of the crime of:

[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body]

[operating a vehicle while intoxicated]

[the offense in the State of \_\_\_\_\_ having elements substantially similar to those in the Indiana offense of (*indicate offense listed above*)]

and that this conviction occurred within the five year period before he/she committed the offense charged in Count \_\_\_\_\_.

A person who commits:

[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body]

[operating a vehicle while intoxicated]

when he/she has a previous conviction within the preceding five years of:

[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body]

[operating a vehicle while intoxicated]

[the offense in the State of \_\_\_\_\_ having elements substantially similar to those to those in the Indiana offense of (*indicate offense listed above*)]

commits a Level 6 felony.

You may convict the Defendant on this additional count only if the State has proven

beyond a reasonable doubt:

The Defendant

1. had been convicted of:

[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body]

[operating a vehicle while intoxicated]

[the offense in the State of \_\_\_\_\_ having elements substantially similar to those in the Indiana offense of (*indicate offense listed above*)]

before he/she committed the offense charged in Count \_\_\_\_\_, and

2. the previous conviction occurred within the five (5) years immediately before Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of:

[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body]

[operating a vehicle while intoxicated],

a Level 6 felony.

**Instruction No. 15.6300. Operating With Eight-hundredths Gram of Alcohol, Fifteen-hundredths Gram of Alcohol, Operating With Controlled Substance, or Operating While Intoxicated, Level 5 Felony for Serious Bodily Injury or Death With Prior Conviction.**

**Instruction No. 15.6300. Operating With Eight-hundredths Gram of Alcohol, Fifteen-hundredths Gram of Alcohol, Operating With Controlled Substance, or Operating While Intoxicated, Level 5 Felony for Serious Bodily Injury or Death With Prior Conviction.**

I.C. 9-30-5-4; I.C. 9-30-5-5.

The State has filed an additional count alleging that the Defendant had been convicted of the crime of:

[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100



milliliters of the blood) (in 210 liters of the breath)]  
[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]  
[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body]  
[operating a vehicle while intoxicated]  
[the offense in the State of \_\_\_\_\_ having elements substantially similar to those to those in the Indiana offense of (*indicate offense listed above*)]

and that this conviction occurred within the five year period before he/she committed the offense charged in Count \_\_\_\_\_. A person who commits:  
[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]  
[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]  
[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body]  
[operating a vehicle while intoxicated]

causing [serious bodily injury] [death] when he/she has a previous conviction within the preceding five years of:  
[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]  
[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]  
[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body]  
[operating a vehicle while intoxicated]  
[the offense in the State of \_\_\_\_\_ having elements substantially similar to those to those in the Indiana offense of (*indicate offense listed above*)]

commits a Level [5 (serious bodily injury)] [4 (death)] felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant

1. had been convicted of:

[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]  
[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]  
[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body]  
[operating a vehicle while intoxicated]  
[the offense in the State of \_\_\_\_\_ having elements substantially similar to those in the Indiana offense of (*indicate offense listed above*)]  
before he/she committed the offense charged in Count \_\_\_\_\_, and  
2. the previous conviction occurred within the five (5) years immediately before Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of:

[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body]

[operating a vehicle while intoxicated],

a Level [5 (serious bodily injury)] [4 (death)] felony.

**Instruction No. 15.6500. Operating with Eight-hundredths Gram of Alcohol, Fifteen-hundredths Gram of Alcohol, Operating with Controlled Substance, or Operating While Intoxicated, Level 4 Felony for Death While Suspended for Prior Conviction.**

**Instruction No. 15.6500. Operating With Eight-hundredths Gram of Alcohol, Fifteen-hundredths Gram of Alcohol, Operating with Controlled Substance, or Operating While Intoxicated, Level 4 Felony for Death While Suspended for Prior Conviction.**

I.C. 9-30-5-4; I.C. 9-30-5-5.

The State has filed an additional count alleging that the Defendant had his/her [driver's license] [driving privilege] [driving permit] (suspended) (revoked) for a previous conviction of:

[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]

[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body]

[operating a vehicle while intoxicated]

[the offense in the State of \_\_\_\_\_ having elements substantially similar to those in the Indiana offense of (*indicate offense listed above*)]

when he/she committed the offense charged in Count \_\_\_\_\_. A person who commits

[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath) causing death of another person]  
[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath) causing death of another person]  
[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body, causing death of another person]  
[operating a vehicle while intoxicated, causing death of another person]

when the person knows that the person's [driver's license] [driving privilege] [driving permit] was (suspended) (revoked) for a previous conviction of:  
[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]  
[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]  
[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body]  
[operating a vehicle while intoxicated]  
[the offense in the State of \_\_\_\_\_ having elements substantially similar to those in the Indiana offense of (*indicate offense listed above*)]

commits a Level 4 felony.

Before you may convict the Defendant on this additional count, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant knew that the Defendant's [driver's license] [driving privilege] [driving permit]
2. was [suspended] [revoked]
3. for a previous conviction of  
[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]  
[or]  
[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath)]  
[or]  
[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body]  
[or]  
[operating a vehicle while intoxicated]  
[or]  
[the offense in the State of \_\_\_\_\_ having elements substantially similar to those in the Indiana offense of (*indicate offense listed above*)]
4. when he/she committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of:

[operating a vehicle with at least eight-hundredths (0.08) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath) causing death of another person]  
[operating a vehicle with at least fifteen-hundredths (0.15) gram of alcohol (in 100 milliliters of the blood) (in 210 liters of the breath) causing death of another person]  
[operating a vehicle with a controlled substance listed in Schedule I or II, or its metabolite, in the body, causing death of another person]

[operating a vehicle while intoxicated, causing death of another person]

with knowledge of [driver's license] [driving privilege] [driving permit] (suspended) (revoked) for a previous conviction, a Level 4 felony.

**Instruction No. 15.6700. Prior Conviction Resulting in Death:  
[Operating a Vehicle With Eight-hundredths (0.08) Gram of Alcohol];  
[Operating a Vehicle With Fifteen-hundredths (0.15) Gram of Alcohol];  
[Operating a Vehicle With Controlled Substance or Metabolite];  
[Operating a Vehicle While Intoxicated]. I.C. 9-30-5-3(b).**

**Instruction No. 15.6700. Prior Conviction Resulting in Death:  
[Operating a Vehicle With Eight-hundredths (0.08) Gram of Alcohol];  
[Operating a Vehicle With Fifteen-hundredths (0.15) Gram of Alcohol];  
[Operating a Vehicle With Controlled Substance or Metabolite];  
[Operating a Vehicle While Intoxicated]. I.C. 9-30-5-3(b).**

The State has filed an additional count alleging that at the time the Defendant committed [operating a vehicle with eight-hundredths (0.08) gram of alcohol] [operating a vehicle with Fifteen-hundredths (0.15) gram of alcohol] [operating a vehicle with controlled substance or metabolite] [operating a vehicle while intoxicated] the Defendant had a previous unrelated conviction of operating while intoxicated [causing serious bodily injury] [causing death]. A person who commits [operating a vehicle with eight-hundredths (0.08) gram of alcohol] [operating a vehicle with Fifteen-hundredths (0.15) gram of alcohol] [operating a vehicle with controlled substance or metabolite] [operating a vehicle while intoxicated] when the person has a previous unrelated conviction of operating while intoxicated [causing serious bodily injury] [causing death] commits [operating a vehicle with eight-hundredths (0.08) gram of alcohol] [operating a vehicle with Fifteen-hundredths (0.15) gram of alcohol] [operating a vehicle with controlled substance or metabolite] [operating a vehicle while intoxicated], a Level 5 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

- The Defendant had a previous unrelated conviction of
- [operating a vehicle with eight-hundredths (0.08) gram of alcohol]
  - [operating a vehicle with Fifteen-hundredths (0.15) gram of alcohol]
  - [operating a vehicle with controlled substance or metabolite]
  - [operating a vehicle while intoxicated] \_\_\_\_\_

[resulting in death] [resulting in serious bodily injury] before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of [operating a vehicle with eight-hundredths (0.08) gram of alcohol] [operating a vehicle with Fifteen-hundredths (0.15) gram of alcohol] [operating a vehicle with controlled substance or metabolite] [operating a vehicle while intoxicated], a Level 5 felony.

**Instruction No. 15.6800. Failure to Act as Required After Accident Involving Injury and Leaving the Scene of an Accident.**

**Instruction No. 15.6800. Failure to Act as Required After Accident Involving Injury and Leaving the Scene of an Accident.**

I.C. 9-26-1-8, I.C. 9-26-1-1.1.

The State has filed an additional count alleging that the Defendant had been convicted of

- [reckless homicide resulting from the operation of a motor vehicle]
- [or]
- [voluntary manslaughter resulting from the operation of a motor vehicle]
- [or]
- [involuntary manslaughter resulting from the operation of a motor vehicle]
- [or]
- [failure of the driver of a motor vehicle involved in an accident involving (death) (injury) to any person to stop at the scene of the accident and give the required information and assistance]
- [or]
- [operation of a vehicle while intoxicated resulting in death]
- [or]
- [operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood resulting in death]
- [or]
- [operation of a vehicle with at least ten-hundredths (0.10) gram of alcohol per (one hundred (100) milliliters of the blood) (two hundred ten (210) liters of the breath) resulting in death]

[or]

- [operation of a vehicle with at least eight-hundredths (0.08) gram of alcohol per (one hundred (100) milliliters of the blood) (two hundred ten (210) liters of the breath) resulting in death]

within the five (5) years preceding the commission of the offense charged in Count

\_\_\_\_\_,

A person who commits [failure to act as required after an accident involving injury] [leaving the scene of an accident] when the person has a conviction of

- [reckless homicide resulting from the operation of a motor vehicle]

[or]

- [voluntary manslaughter resulting from the operation of a motor vehicle]

[or]

- [involuntary manslaughter resulting from the operation of a motor vehicle]

[or]

- [failure of the driver of a motor vehicle involved in an accident involving (death) (injury) to any person to stop at the scene of the accident and give the required information and assistance]

[or]

- [operation of a vehicle while intoxicated resulting in death]

[or]

- [operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood resulting in death] [operation of a vehicle with at least ten-hundredths (0.10) gram of alcohol per (one hundred (100) milliliters of the blood) (two hundred ten (210) liters of the breath) resulting in death]

[or]

- [operation of a vehicle with at least eight-hundredths (0.08) gram of alcohol per (one hundred (100) milliliters of the blood) (two hundred ten (210) liters of the breath) resulting in death]

within the five (5) years preceding the commission of [failure to act as required after an accident involving bodily injury] [leaving the scene of an accident commits [failure to act as required after an accident involving bodily injury] [leaving the scene of an accident], a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

1. The Defendant

2. had been convicted of

[reckless homicide resulting from the operation of a motor vehicle]

[or]

[voluntary manslaughter resulting from the operation of a motor vehicle]

[or]

[involuntary manslaughter resulting from the operation of a motor vehicle]

[or]

[failure of the driver of a motor vehicle involved in an accident involving (death) (injury) to any person to stop at the scene of the accident and give the required information and assistance]

[or]

[operation of a vehicle while intoxicated resulting in death]

[or]

[operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood resulting in death] [operation of a vehicle with at least ten-hundredths (0.10) gram of alcohol per (one hundred (100) milliliters of the blood) (two hundred ten (210) liters of the breath) resulting in death]

[or]

[operation of a vehicle with at least eight-hundredths (0.08) gram of alcohol per (one hundred (100) milliliters of the blood) (two hundred ten (210) liters of the breath) resulting in death]

3. and the conviction in 2. above was within the five (5) years preceding (insert date of conviction on Count \_\_\_\_\_), the date on which the Defendant committed the crime of [failure to act as required after an accident involving bodily injury] [leaving the scene of an accident] in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of [failure to act as required after an accident involving bodily injury] [leaving the scene of an accident], a Level 6 felony.

### **Instruction No. 15.6900. Operating a Motorboat While Intoxicated— Phase II.**

### **Instruction No. 15.6900. Operating a Motorboat While Intoxicated— Phase II.**

I.C. 35-46-9-6.

I.C. 35-46-9-2.

I.C. 35-46-9-3.

The State has filed an additional count alleging that the Defendant had a previous conviction of operating a motorboat while intoxicated before the Defendant committed the offense charged in Count \_\_\_\_\_.

A person who commits operating a motorboat while intoxicated when the person has a previous conviction of operating a motorboat while intoxicated commits operating a motorboat while intoxicated, a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

When the Defendant committed the offense charged in Count \_\_\_\_\_ of operating a motorboat while intoxicated, the Defendant had a previous conviction of operating a motorboat while intoxicated.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of operating a motorboat while intoxicated, a Level 6 felony.

## **Instruction No. 15.7100. Dangerous Possession of a Firearm—Phase II.**

## **Instruction No. 15.7100. Dangerous Possession of a Firearm—Phase II.**

### **I.C. 35-47-10-5.**

The State has filed an additional count alleging that the Defendant had been convicted of the crime of dangerous possession of a firearm before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits dangerous possession of a firearm when the Defendant has a prior conviction of dangerous possession of a firearm commits a Level 5 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of the crime of dangerous possession of a firearm before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of dangerous possession of a firearm, a Level 5 felony.



**Instruction No. 15.7200. Dangerous Control of a Firearm—Phase II.**

**Instruction No. 15.7200. Dangerous Control of a Firearm—Phase II.**

**I.C. 35-47-10-6.**

The State has filed an additional count alleging that the Defendant had been convicted of the crime of dangerous control of a firearm before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits dangerous control of a firearm when the Defendant has a prior conviction of dangerous control of a firearm commits a Level 4 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of the crime of dangerous control of a firearm before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of dangerous control of a firearm, a Level 4 felony.

**Instruction No. 15.7300. Dangerous Control of a Child—Phase II.**

**Instruction No. 15.7300. Dangerous Control of a Child—Phase II.**

**I.C. 35-47-10-7.**

The State has filed an additional count alleging that the Defendant had been convicted of the crime of dangerous control of a child before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits dangerous control of a child when the Defendant has a prior conviction of dangerous control of a child commits a Level 4 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of the crime of dangerous control of a child before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the

Defendant not guilty of the crime of dangerous control of a child, a Level 4 felony.

**Instruction No. 15.7400. Carrying Handgun Without a License—Level 5 Felony—Phase II.**

**Instruction No. 15.7400. Carrying Handgun Without a License—Level 5 Felony—Phase II.**

**I.C. 35-47-2-1**

The State has filed an additional count alleging that the Defendant had been  
[convicted of carrying a handgun without a license before]

[convicted of using or attempting to use a false or altered handgun license  
before]

[convicted of a felony within fifteen (15) years of the time]

the Defendant committed the offense charged in Count \_\_\_\_\_. A person  
who commits carrying a handgun without a license when he/she has a prior  
conviction of

[carrying a handgun without a license]

[using or attempting to use a false or altered handgun license]

[a felony within fifteen (15) years of the time he/she committed carrying a  
handgun without a license]

commits a Level 5 felony.

You may convict the Defendant on this additional count, only if the State has  
proven beyond a reasonable doubt:

The Defendant had been

[convicted of carrying a handgun without a license before]

[convicted of using or attempting to use a false or altered handgun license  
before]

[convicted of a felony within fifteen (15) years of the time]

the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the  
Defendant not guilty of carrying a handgun without a license, a Level 5 felony.

## **Instruction No. 15.7500. Possession of Regulated Explosive.**

## **Instruction No. 15.7500. Possession of Regulated Explosive.**

### **I.C. 35-47.5-5-3.**

The State has filed an additional count alleging that the Defendant had been convicted of [possession] [manufacture] [transportation] [distribution] [possession with intent to distribute] [offering to distribute] a regulated explosive by a felon before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits [possession] [manufacture] [transportation] [distribution] [possession with intent to distribute] [offering to distribute] a regulated explosive by a felon when the Defendant has a prior felony conviction of [possession] [manufacture] [transportation] [distribution] [possession with intent to distribute] [offering to distribute] a regulated explosive by a felon commits a Level 5 felony.

You may convict the Defendant on this additional count only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of [possession] [manufacture] [transportation] [distribution] [possession with intent to distribute] [offering to distribute] a regulated explosive by a felon before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of [possession] [manufacture] [transportation] [distribution] [possession with intent to distribute] [offering to distribute] a regulated explosive by a felon, a Level 5 felony.

## **Instruction No. 15.7600. Use of Overpressure Device.**

## **Instruction No. 15.7600. Use of Overpressure Device.**

### **I.C. 35-47.5-5-9.**

The State has filed an additional count alleging that the Defendant had been convicted of use of an overpressure device before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits use of an overpressure device when the Defendant has a prior conviction of use of an overpressure device commits a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of use of an overpressure device before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of use of an overpressure device, a Level 6 felony.

### **Instruction No. 15.7700. Possession of a Knife at School.**

### **Instruction No. 15.7700. Possession of a Knife at School.**

#### **I.C. 35-47-5-2.5.**

The State has filed an additional count alleging that the Defendant had been convicted of possession of a knife at school before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits possession of a knife at school when the person has a prior conviction of possession of a knife at school commits a Class A misdemeanor.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of possession of a knife at school before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of possession of a knife at school, a Class A misdemeanor as charged in Count \_\_\_\_\_.

**Instruction No. 15.8100. Failure to Restrain a Dog—B Misdemeanor  
I.C. 15-5-12-3. Phase II.**

**Instruction No. 15.8100). Failure to Restrain a Dog—B Misdemeanor  
I.C. 15-5-12-3. Phase II.**

The State has filed an additional count alleging that the Defendant had been convicted of the crime of failure to restrain a dog before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits failure to restrain a dog when the Defendant has a prior conviction of failure to restrain a dog commits a Class B misdemeanor.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of the crime of failure to restrain a dog before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of failure to restrain a dog, a Class B misdemeanor.

**Instruction No. 15.8200. Failure to Restrain a Dog—Class A  
Misdemeanor—Phase II.**

**Instruction No. 15.8200. Failure to Restrain a Dog—Class A  
Misdemeanor—Phase II.**

**I.C. 15-5-12-3.**

The State has filed an additional count alleging that the Defendant had been convicted of more than one (1) previous unrelated violation of failure to restrain a dog before the Defendant committed the offense charged in Count \_\_\_\_\_. A person who commits failure to restrain a dog when the Defendant has been convicted of more than one (1) previous unrelated violation of failure to restrain a dog commits a Class A misdemeanor.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of more than one (1) previous unrelated violation of failure to restrain a dog before the Defendant committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of failure to restrain a dog, a Class A

misdemeanor.

**Instruction No. 15.8300. Beating a Vertebrate Animal—Phase II.**

**Instruction No. 15.8300. Beating a Vertebrate Animal—Phase II.**

**I.C. 35-46-3-12.**

The State has filed an additional count alleging that the Defendant had been convicted of the crime of \_\_\_\_\_[*describe the prior I.C. 35-46-3-12 conviction alleged*] before he/she committed the offense charged in Count \_\_\_\_\_. A person who commits beating a vertebrate animal when he/she has a prior conviction of [beating a vertebrate] [torturing or mutilating a vertebrate] animal commits a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of \_\_\_\_\_[*describe the prior I.C. 35-46-3-12 conviction alleged*] before he/she committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of beating a vertebrate animal, a Level 6 felony.

**Instruction No. 15.8400. Neglect or Abandonment of an Animal—  
Phase II.**

**Attendance at Fighting Contest—Phase II.**

**Instruction No. 15.8400. Neglect or Abandonment of an Animal—  
Phase II.**

**Attendance at Fighting Contest—Phase II.**

**I.C. 35-46-3-7.**

**I.C. 35-46-3-10.**

The State has filed an additional count alleging that the Defendant had been

convicted of the crime of \_\_\_\_\_ [*describe alleged offense under I.C. 35-46-3*] before he/she committed the offense charged in Count \_\_\_\_\_. A person who commits \_\_\_\_\_ [neglect or abandonment of an animal] [attending an animal fighting contest] when he/she has a prior conviction of \_\_\_\_\_ [*insert alleged prior conviction of the particular offense in I.C. 35-46-3*] commits a Level 6 felony.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of the crime of \_\_\_\_\_ [*insert alleged prior conviction of the particular offense in I.C. 35-46-3*] before he/she committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of \_\_\_\_\_ [abandonment or neglect of an animal] [attending an animal fighting contest], a Level 6 felony.

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## **Instruction No. 15.8700. Possession of Animal Fighting Paraphernalia.**

## **Instruction No. 15.8700. Possession of Animal Fighting Paraphernalia.**

### **I.C. 35-46-3-8.5.**

The State has filed an additional count alleging that the Defendant had been convicted of the crime of possession of animal fighting paraphernalia before he/she committed the offense charged in Count \_\_\_\_\_. A person who commits possession of animal fighting paraphernalia when he/she has a prior conviction of possession of animal fighting paraphernalia commits a Class A misdemeanor.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of the crime of possession of animal fighting paraphernalia before he/she committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of possession of animal fighting paraphernalia, a Class A misdemeanor.

**Instruction No. 15.8740. Attending Animal Fighting Contest.**

**Instruction No. 15.8740. Attending Animal Fighting Contest.**

**I.C. 35-46-3-10.**

The State has filed an additional count alleging that the Defendant had been convicted of an unrelated offense in I.C. 35-46-3 relating to animals before he/she committed the offense charged in Count \_\_\_\_\_. A person who commits attending an animal fight when he/she has a prior conviction of an offense relating to animals commits a Class A misdemeanor.

You may convict the Defendant on this additional count, only if the State has proven beyond a reasonable doubt:

The Defendant had been convicted of the crime of an offense against animals before he/she committed the offense charged in Count \_\_\_\_\_.

If the State failed to prove this beyond a reasonable doubt, you must find the Defendant not guilty of the crime of attending an animal fight, a Class A misdemeanor.



## CHAPTER 16 VERDICTS

### SYNOPSIS

No. 16.0100. Guilty.  
No. 16.0300. Guilty — Mentally Ill.  
No. 16.0500. Not Guilty.  
No. 16.0700. Not Guilty — Insanity.  
No. 16.0900. Habitual Offender — General Verdict.  
No. 16.1100. Habitual Offender — Specific Findings and Verdict When Three or More Priors Are Alleged.  
No. 16.1200. Repeat Sex Offender — Separate Findings and Verdict When More Than One Prior is Alleged.  
No. 16.1300. Not an Habitual Offender.  
No. 16.1500. Verdict Form — Aggravating Circumstance Found.  
No. 16.1600. Verdict Form — Aggravating Circumstance Not Found.  
No. 16.1700. Verdict Form — Aggravating Circumstances and Mitigating Circumstances Balance.  
No. 16.1800. Verdict Form — Recommending a Sentence.

#### Instruction No. 16.0100. Guilty.

##### Instruction No. 16.0100. Guilty.

We, the jury, find the Defendant guilty of \_\_\_\_\_, a Class  
\_\_\_\_\_ [misdemeanor] \_\_\_\_\_ [felony].

_____
Date
_____
Foreperson

#### Instruction No. 16.0300. Guilty — Mentally Ill.

##### Instruction No. 16.0300. Guilty — Mentally Ill.

We, the jury, find the Defendant, \_\_\_\_\_, guilty, but mentally ill at  
the time of the offense.

_____
Date
_____
Foreperson

#### Instruction No. 16.0500. Not Guilty.

Instruction No. 16.0500. Not Guilty.

We, the jury, find the Defendant, not guilty.

_____
Date
_____
Foreperson

Instruction No. 16.0700. Not Guilty — Insanity.

Instruction No. 16.0700. Not Guilty — Insanity.

We, the jury, find the Defendant, not responsible by reason of insanity at the time of the offense.

_____
Date
_____
Foreperson

Instruction No. 16.0900. Habitual Offender — General Verdict.

Instruction No. 16.0900. Habitual Offender — General Verdict.

We, the jury, find the Defendant, to be an habitual offender.

_____
Date
_____
Foreperson

Instruction No. 16.1100. Habitual Offender — Specific Findings and Verdict  
When Extra Priors Are Alleged.

Instruction No. 16.1100. Habitual Offender — Specific Findings and Verdict  
When Extra Priors Are Alleged.

Specific Findings:

We, the jury, find that the Defendant has the following prior convictions:

1. \_\_\_\_\_ [*Here set out first conviction alleged in habitual information*].  
[Jurors, indicate “yes” Defendant has conviction 1. or “no” Defendant does not have conviction 1.]
2. \_\_\_\_\_ [*Here set out second conviction alleged in habitual information*].  
[Jurors, indicate “yes” Defendant has conviction 2. or “no” Defendant does not have conviction 2.]

3. \_\_\_\_\_ [Here set out conviction reached in Phase 1]  
[Jurors, indicate “yes” Defendant has conviction 3. or “no” Defendant does not have conviction 3.] **Note to Judge — provide on verdict form for a jury finding on all priors alleged by the State.**

Verdict:

**We, the jury, find that the Defendant**

**[ ] is**

**[ ] is not**

**an habitual offender.**

_____
Date
_____
Foreperson

**Instruction No. 16.1200. Repeat Sex Offender — Separate Finding and Verdict When More Than One Prior Is Alleged.**

**Instruction No. 16.1200. Repeat Sex Offender — Separate Finding and Verdict When More Than One Prior Is Alleged.**

Specific Findings:

1. We, the jury, find that the Defendant has the following prior conviction:  
[Here set out first conviction alleged in repeat sexual offender information].

[Jurors, indicate (“yes” Defendant has conviction 1). or (“no” Defendant does not have conviction 1).]

We the jury, further find [yes, that this conviction occurred before the offense of (name offense in Count \_\_\_\_\_) in Count \_\_\_\_\_ was committed]  
[no, that this conviction did not occur before the offense of (name offense in Count \_\_\_\_\_) in Count \_\_\_\_\_ was committed].

2. We, the jury, find that the Defendant has the following prior conviction:  
[Here set out second prior conviction alleged in repeat sexual offender information].

[Jurors, indicate (yes Defendant has conviction 1). or (no Defendant does not have conviction 1).]

We the jury, further find [yes, that this conviction occurred before the offense of

(*name offense in Count* \_\_\_\_\_) in Count \_\_\_\_\_ was committed]  
[no, that this conviction did not occur before the offense of (*name offense in Count*  
\_\_\_\_\_) in Count \_\_\_\_\_ was committed].

*Note to Judge — continue here to provide for a jury finding on all priors alleged by the State.*

Verdict:

We, the jury, find that the Defendant

[yes, is]

[no, is not]

a repeat sexual offender.

_____
Date
_____
Foreperson

Instruction No. 16.1300. Not an Habitual Offender.

Instruction No. 16.1300. Not an Habitual Offender.

We, the jury, find that the Defendant is not an habitual offender.

_____
Date
_____
Foreperson

Instruction No. 16.1500. Verdict Form — Aggravating Circumstance Found.

Instruction No. 16.1500. Verdict Form — Aggravating Circumstance Found.

[For each alleged aggravating circumstance, the Committee recommends that you provide the following form:]

VERDICT FORM IA

VERDICT FORM FOR CHARGED  
CIRCUMSTANCE NUMBER \_\_\_\_\_

We, the Jury, find that the State of Indiana has proven beyond a reasonable doubt the charged aggravating circumstance that [*state aggravating circumstance alleged here*].

Date: \_\_\_\_\_

\_\_\_\_\_

Signature of ForePerson

Instruction No. 16.1600. Verdict Form — Aggravating Circumstance Not Found.

Instruction No. 16.1600. Verdict Form — Aggravating Circumstance Not Found.

[For each alleged aggravating circumstance, the Committee recommends that you provide the following form:]

VERDICT FORM IB

VERDICT FORM FOR CHARGED  
CIRCUMSTANCE NUMBER \_\_\_\_\_

We, the Jury, find that the State of Indiana has not proven beyond a reasonable doubt the charged aggravating circumstance that [*state aggravating circumstance alleged here*].

Date: \_\_\_\_\_

\_\_\_\_\_

Signature of Foreperson

Instruction No. 16.1700. Verdict Form — Aggravating Circumstances and Mitigating Circumstances Balance.

Instruction No. 16.1700. Verdict Form—Aggravating Circumstances and Mitigating Circumstances Balance.

VERDICT FORM II

We, the Jury, find that the charged aggravating circumstance(s) that exist do not outweigh any mitigating circumstances herein.

Date: \_\_\_\_\_

\_\_\_\_\_

Signature of Foreperson

We, the Jury, find that the charged aggravating circumstance(s) that exist outweigh any mitigating circumstances herein.

Date: \_\_\_\_\_

\_\_\_\_\_

Signature of Foreperson

### Comments

It has been held that the determination that the aggravating factor or factors outweigh the mitigating factors does not have to be made beyond a reasonable doubt. *Covington v. State*, 842 N.E.2d 345, 351 (Ind. 2006).

Instruction No. 16.1800. Verdict Form — Recommending a Sentence.

Instruction No. 16.1800. Verdict Form — Recommending a Sentence.

#### VERDICT FORM FOR RECOMMENDING A TERM OF YEARS

We, the Jury, recommend a sentence of a term of years for Defendant

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

Signature of Foreperson

-OR-

#### VERDICT FORM RECOMMENDING LIFE IMPRISONMENT WITHOUT PAROLE

We, the Jury, recommend a sentence of life imprisonment without parole for Defendant \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

Signature of Foreperson

-OR-

**VERDICT FORM RECOMMENDING THE DEATH PENALTY**

We, the Jury, recommend a sentence of death for Defendant

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

Signature of Foreperson