**T.P.I.-- CRIM. 29.19**

**Sexual exploitation of [an elderly] [a vulnerable] adult**

Any person who commits sexual exploitation of *[an elderly] [a vulnerable]* adult is guilty of a crime.

For you to find the defendant guilty of this offense, the state must have proven beyond a reasonable doubt the existence of the following essential elements:

(1) that the defendant sexually exploited *[an elderly] [a vulnerable]* adult;

and

(2) that the defendant acted knowingly.

[“Effective consent” means assent in fact, whether express or apparent, including assent by one legally authorized to act for another. Consent is not effective when:

[(a) induced by deception or coercion *[the trial judge should include in the instruction applicable language from the statutory definitions for deception or coercion if fairly raised in the proof]*;] or

[(b) given by a person the defendant knows is not authorized to act as an agent;] or

[(c) given by a person who, by reason of youth, mental disease or defect, or intoxication, is known by the defendant to be unable to make reasonable decisions regarding the subject matter;] or

[(d) given solely to detect the commission of an offense].]

[“Elderly adult” means a person seventy (70) years of age or older.]

["Sexual contact" means the intentional touching of the alleged victim's, the defendant's, or any other person's intimate parts, or the intentional touching of the clothing covering the immediate area of the alleged victim's, the defendant's, or any other person's intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification.]

"Sexual exploitation" means an act committed upon or in the presence of *[an elderly] [a vulnerable]* adult, without that adult's effective consent, for purposes of sexual gratification. "Sexual exploitation" includes, but is not limited to, **[only for offenses committed prior to 10/1/21:** fondling**] [only for offenses committed on or after 10/1/21:** sexual contact]; exposure of genitals to *[an elderly] [a vulnerable]* adult; exposure of sexual acts to *[an elderly] [a vulnerable]* adult; exposure of *[an elderly] [a vulnerable]* adult's sexual organs; an intentional act or statement by a person intended to shame, degrade, humiliate, or otherwise harm the personal dignity of  *[an elderly] [a vulnerable]* adult; or an act or statement by a person who knew or should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of *[an elderly] [a vulnerable]* adult. "Sexual exploitation" does not include any act intended for a valid medical purpose, or any act reasonably intended to be a normal caregiving act, such as bathing by appropriate persons at appropriate times.

[“Vulnerable adult” means a person eighteen (18) years of age or older who, because of intellectual disability or physical dysfunction, is unable to fully manage the person's own resources, carry out all or a portion of the activities of daily living, or fully protect against neglect, exploitation, or hazardous or abusive situations without assistance from others.]

"Knowingly" means that a person acts knowingly with respect to the conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly with respect to a result of the person's conduct when the person is aware that the conduct is reasonably certain to cause the result.

The requirement of “knowingly” is also established if it is shown that the defendant acted intentionally.

"Intentionally" means that a person acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person's conscious objective or desire to engage in the conduct or cause the result.