**T.P.I. – CRIM. 10.24**

**CONTINUOUS SEXUAL ABUSE OF A CHILD**

Any person who commits continuous sexual abuse of a child 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:

[PART A:

(1)(a) that the defendant engaged in three (3) or more incidents of sexual abuse of a child involving the same minor child on separate occasions;

or

(b) that the defendant engaged in at least one (1) incident of sexual abuse of a child upon three (3) or more different minor children on separate occasions;

and

(2) that these acts were committed over a period of ninety (90) days or more in duration;

and

(3)(a) that the alleged victim(s) of the incidents of sexual abuse of a child shared distinctive, common characteristics, qualities or circumstances with respect to *[each other] [the defendant]*;

or

(b) that there were common methods or characteristics in the commission of the offense, allowing otherwise individual offenses to merge into a single continuing offense involving a pattern of criminal activity against similar victims;

and

(4) that the defendant acted either intentionally, knowingly or recklessly.]

or

[Part B:

(1) that the defendant engaged in five (5) or more incidents of sexual abuse of a child involving two (2) or more different minor children on separate occasions;

and

(2) that these acts were committed over a period of less than ninety (90) days in duration;

and

(3)(a) that the alleged victims of the incidents of sexual abuse of a child shared distinctive, common characteristics, qualities or circumstances with respect to *[each other] [the defendant]*;

or

(b) that there were common methods or characteristics in the commission of the offense, allowing otherwise individual offenses to merge into a single continuing offense involving a pattern of criminal activity against similar victims;

and

(4) that the defendant acted either intentionally, knowingly or recklessly.]

[“Common characteristics, qualities or circumstances” include, but are not limited to:

1. The victim(s) *[was] [were]* related to the defendant by blood or marriage;
2. The victim(s) resided with the defendant; or
3. The defendant was an authority figure to the victims, in that at the time of the offense the defendant *[was in a position of trust] [had supervisory or disciplinary power over the victims by virtue of the defendant’s legal, professional or occupational status] [had parental or custodial authority over the victims]* and used the position of *[trust] [power] [authority]* to accomplish the sexual contact, and the victims knew each other. “Sexual contact” includes the intentional touching of the 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 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. “Intimate parts” includes semen, vaginal fluid, the primary genital area, groin, inner thigh, buttock or breast of a human being.]

“Minor” means any person under eighteen (18) years of age.

“Sexual abuse of a child” means to commit an act upon a minor child that is a violation of:

[(A) T.C.A. § 39-13-502 [Aggravated Rape], if the child is more than thirteen (13) but less than eighteen (18) years of age;]

[(B) T.C.A. § 39-13-503 [Rape], if the child is more than thirteen (13) but less than eighteen (18) years of age;]

[(C) T.C.A. § 39-13-504 [Aggravated Sexual Battery];]

[(D) T.C.A. § 39-13-522 [Rape of a Child];]

[(E) T.C.A. § 39-13-527 [Sexual Battery by an Authority Figure];]

[(F) T.C.A. § 39-13-529(a) [Soliciting Sexual Exploitation of a Minor];]

[(G) T.C.A. § 39-13-531 [Aggravated Rape of a Child];] or

[(H) T.C.A. § 39-13-532 [Statutory Rape by an Authority Figure]].

[If the elements of the offense(s) listed above are not set out elsewhere in the instructions for the jury, the trial judge should set out the elements for those offenses here.]

“Victim” means the person alleged to have been subjected to criminal sexual conduct [and includes the spouse of the defendant].

"Recklessly" means that a person acts recklessly with respect to circumstances surrounding the conduct or the result of the conduct when the person is aware of, but consciously disregards, a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person's standpoint.

"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.

"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.