

INTRODUCTION

The Criminal Jury Instruction Commission has prepared, edited, revised and updated the 1999 edition of the pattern criminal jury instructions in response to legislative enactments and Supreme Court decisions. The instructions were formally adopted by the commission on June 23, 2009.

The computerized format of this edition is designed to lessen the amount of formatting that needs to be done before being offered. The source and comment material is contained on a separate page so it need not be printed when the instructions are being prepared for trial. The bolded language is generally included to denote the need for deletion before printing, and for identification purposes. In this edition, the instructions were numbered sequentially to avoid the confusion incurred when instruction numbers correspond to statute numbers, and statutory numbers are subsequently changed by legislative enactment. Counsel should examine each instruction carefully before submitting it in trial to assure absence of errors in construction or citation.

At the time these instructions were formally adopted, the enactments of the 2009 legislative assembly had not been codified, so in some cases there are references to chapter numbers rather than statutes. Also, some changes, although signed into law, were not effective at the time of adoption, so the body of the instructions were not changed; there is, however, reference to the change at the beginning of the chapter. See the introduction to Chapter 6.

These instructions are intended to reflect current law at the time of enactment. However, they are suggested instructions only and have not been promulgated or adopted by any court. In this regard it should be noted that there are two sitting district court judges on the Commission; neither drafted nor passed on the validity of any of these instructions. Their role was advisory only. The Commission is comprised of criminal defense lawyers, prosecutors, appellate attorneys, district judges and a law professor. The instructions in this publication were adopted by majority vote of the commission and not all of the commission members agree on the content or structure of the instructions. There are dissenting comments of the Montana Association of Criminal Defense Lawyers and others posted on the Office of Public Defender website.

It is up to counsel to analyze proposed instructions in the context of a particular case. Legal challenges should be made where counsel deems it

appropriate, and counsel should offer new or supplemental instructions in the appropriate case so as to preserve the issue for appellate review.

As with prior publication of the Montana Criminal Jury Instructions, not all offenses are included. The commission attempted to address those offenses most commonly prosecuted, leaving to the litigants and the courts the task of formulating instructions for other offenses not listed.