



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

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The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by August 1, 2024. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov).

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**PROPOSED**

The Committee proposes a new instruction, M Crim JI 5.14a (screening of witness) where the court has permitted a witness to be screened from viewing the defendant at trial. The instruction is entirely new.

**[NEW]            M Crim JI 5.14a            Screening of Witness**

You [will hear / are about to hear / have heard] testimony from a witness who [will testify / has testified] with the use of a screen. The use of a screen in this manner is authorized by law, and you must disregard it when deciding this case. Your decision must be based solely on the evidence presented. You may not consider the witness's testimony to be any more or less credible because of the screen. You must not allow it to influence your decision in any way.

*Use Note*

By adopting this jury instruction, the Committee on Model Criminal Jury Instructions does not take any position whether the use of a screen outside of the provisions of MCL 600.2163a is authorized. (Where the court determines that procedures under MCL 600.2163a are allowed, this instruction would be unnecessary because there would be no change in the courtroom setup between witnesses pursuant to (19)(b) of the statute.) Some Michigan cases appear to implicitly permit the use of a screen. See *People v Rose*, 289 Mich App 499; 808 NW2d 301 (2010), finding no Confrontation Clause or Due Process Clause constitutional bar to the use of a screen, and allowing the use

of a screen under the court's inherent ability to control courtroom proceedings. However, no case involving the use of a screen has discussed MCL 763.1, the last phrase of which could be considered as prohibiting the use of a screen between a witness and a defendant (“ . . . the party accused shall be allowed to . . . meet the witnesses who are produced against him face to face.”).