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 November 1, 2024. Comments may be sent in writing to Christopher M. 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 .

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PROPOSED

The Committee proposes two new instructions, M Crim JI 33.3 (Assaulting or Harassing a Service Animal) and 33.3a (Interfering with a Service Animal Performing Its Duties), for the offenses found at MCL 750.50a. The instructions are entirely new.

[NEW]   **M Crim JI 33.3**   **Assaulting or Harassing a Service Animal**

(1)   The defendant is charged with the crime of assaulting or harassing a service animal. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2)   First, that the defendant intentionally assaulted, beat, harassed, injured, or attempted to assault, beat, harass, or injure a service animal.

A "service animal" means a dog or miniature horse that is individually trained to do work or perform tasks for the benefit of a person with a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by a service animal must be directly related to the person's disability.[1]

(3)   Second, that the defendant knew or should have known that the animal was a service animal.

(4)   Third, that the defendant knew or should have known that the service animal was used by a person with a disability. The prosecutor alleges that [*name complainant*] is a person with a disability.

> A person with a disability is an individual who has a physical or mental impairment that substantially limits one or more major life activities, including, but not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. This includes an armed services veteran who has been diagnosed with post-traumatic stress disorder, traumatic brain injury, or another service-related disability.[2]

(5)   Fourth, that when the defendant assaulted, beat, harassed, or injured the service animal, or attempted to so, [he / she] did so maliciously.

> "Maliciously" means that
>
> [*Provide any that may apply*:]
>> (a) the defendant knew that [he / she] was assaulting, beating, harassing, or injuring the service animal, or the defendant intended to do so, or
>>
>> (b) the defendant knew that [his / her] conduct would or be likely to disturb, endanger, or cause emotional distress to [*name complainant*], or the defendant intended to do so.

(6)   You may, but you do not have to, infer that the defendant acted maliciously if you find that [*name complainant*] asked the defendant to avoid or to quit assaulting or harassing the service animal but the defendant continued to do so.

> You should weigh all of the evidence in this case in determining whether the defendant acted maliciously, including this inference, if you choose to make it. The prosecutor still bears the burden of proving all of the elements beyond a reasonable doubt.

Use Note

1.   See the Code of Federal Regulations, 28 CFR 36.104, stating:
> *Service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic,

trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. *The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.* (Emphasis added.)

2. This sentence does not need to be read where the person with a disability is not a veteran.

[NEW]　　　　**M Crim JI 33.3a**　　　**Interfering with a Service Animal Performing Its Duties**

(1)　The defendant is charged with the crime of interfering with a service animal performing its duties. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2)　First, that [*name complainant*] was a person with disability who used a service animal for work or tasks directly related to [his / her] disability.

> A person with a disability is an individual who has a physical or mental impairment that substantially limits one or more major life activities, including, but not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. This includes an armed services veteran who has been diagnosed with post-traumatic stress disorder, traumatic brain injury, or another service-related disability.[1]

> A "service animal" means a dog or miniature horse that is individually trained to do work or perform tasks for the benefit of a person with a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by a service animal must be directly related to the person's disability.[2]

(3)　Second, that the service animal was performing duties for [*name complainant*].

(4)　Third, that the defendant knew or should have known that the animal was a service animal being used by [*name complainant*].

(5)　Fourth, that the defendant intentionally impeded or interfered with the service animal when it was performing its duties or attempted to impede or interfere with the animal when it was performing its duties.

(6)　Fifth, that when the defendant impeded or interfered with the service animal's duties, or attempted to so, [he / she] did so maliciously.

> "Maliciously" means that
> [*Provide any that may apply*:]

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(a) the defendant knew that [he / she] was impeding or interfering with duties performed by the service animal, or the defendant intended to do so, or

(b) the defendant knew that [his / her] conduct would or be likely to disturb, endanger, or cause emotional distress to [*name complainant*], or the defendant intended to do so.

(7)   You may, but you do not have to, infer that the defendant acted maliciously if you find that [*name complainant*] asked the defendant to avoid or to quit impeding or interfering with the service animal as it was performing its duties, but the defendant continued to do so.

You should weigh all of the evidence in this case in determining whether the defendant acted maliciously, including this inference, if you choose to make it. The prosecutor still bears the burden of proving all of the elements beyond a reasonable doubt.

Use Note

1.   This sentence does not need to be read where the person with a disability is not a veteran.

2.   See the Code of Federal Regulations, 28 CFR 36.104, stating:
Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or

interrupting impulsive or destructive behaviors. *The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.* (Emphasis added.)