



**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](mailto:MCrimJI@courts.mi.gov).

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**PROPOSED**

The Committee proposes a new instruction, M Crim JI 42.1 (Misconduct in Office) for the common law crime of misfeasance or malfeasance in office, punishable under MCL 750.505. The instruction is entirely new.

**[NEW]      M Crim JI 42.1      Misconduct in Office**

- (1) The defendant is charged with the crime of misconduct in office. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:
- (2) First, that the defendant was [a / an / the] [*identify public office held by the defendant*] [on / between] [*date(s) of offense*].
- (3) Second, that the defendant [*describe wrongful conduct alleged by the prosecutor*].
- (4) Third, that the defendant's conduct was [malfeasance / misfeasance]. [Malfeasance is illegal or wrongful conduct / Misfeasance is a legal act but done in an illegal or wrongful manner].
- (5) Fourth, that the defendant was performing [his / her] duties as [a / an / the] [*identify public office held by the defendant*] or was acting under the color of [his / her] office. "Acting under the color of office" means that the defendant performed the acts in [his / her] role as a public officer or official, or was able to perform the acts because being a public officer or official gave the defendant the opportunity to perform the acts.
- (6) Fifth, that the defendant acted with corrupt intent.

The word “corrupt” is defined as depraved, perverse, or tainted.<sup>1</sup> Corrupt intent includes intentional or purposeful misbehavior related to the requirements or duties of the defendant as a public officer, contrary to the powers and privileges granted to the defendant as a public officer, or against the trust placed in the defendant to perform as expected as a public officer. Corrupt intent does not include erroneous acts made in good faith or honest mistakes committed or made in the discharge of duties, and it does not require that the defendant receive money or property in profit for the conduct.

*Use Note*

1. These three terms are further defined in *People v Coutu (On Remand)*, 235 Mich App 695, 706-707; 599 NW2d 556 (1999).