



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

=====

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by March 1, 2025. 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).

=====

**PROPOSED**

The Committee proposes a new jury instruction, M Crim JI 41.4 (Making, Possessing, or Providing an Eavesdropping Device), for the crime of manufacturing, possessing, or transferring an eavesdropping device as set forth in MCL 750.539f. This instruction is entirely new.

**[NEW] M Crim JI 41.4 Making, Possessing, or Providing an Eavesdropping Device**

- (1) The defendant is charged with the crime of making, possessing, or providing an eavesdropping device. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:
- (2) First, that the defendant [made a device<sup>1</sup> / possessed a device / provided a device to (*identify recipient*)] that could overhear, record, amplify, or transmit the private discussion of other persons.
- (3) Second, that the defendant [intended to use the device / intended to allow the device to be used] to overhear, record, amplify, or transmit the private discussion of others without all persons' permission.<sup>2</sup>

[Persons can include individuals, partnerships, corporations, or associations.]<sup>3</sup>

[Use the following if the defendant is alleged to have provided the eavesdropping device to someone else:]

- (4) Third, that when the defendant provided the device, [he / she] knew that it was intended to be used to overhear, record, amplify, or transmit the private discussion of others without all persons' permission.

*Use Note*

1. MCL 750.539f provides “any device, contrivance, machine or apparatus designed or commonly used for eavesdropping.” The court may use any synonymous term.
2. This is the definition of *eavesdropping* found at MCL 750.539a(2).
3. MCL 750.539a(4) defines *person* as “any individual, partnership, corporation or association.” Use this definition where a complainant could be a partnership, corporation, or association.