



**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, 2019. 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 set of jury instructions, M Crim JI 13.21, 13.22, 13.23, 13.24 and 13.25, where the prosecutor has charged offenses found in MCL 801.262 and 801.263 that involve bringing weapons or alcohol or drugs into jail, or possession of weapons or alcohol or drugs by prisoners. The instructions are entirely new.

**[NEW] M Crim JI 13.21 Bringing a Weapon into Jail**

(1) The defendant is charged with bringing a weapon into jail for a prisoner of the jail. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant possessed a weapon<sup>1</sup> or an item that could be used to injure another person, or used to assist an escape from a jail.

(3) Second, that the defendant brought the weapon or item into [*identify facility*] jail. This includes secondary buildings associated with the jail and the grounds around the jail that are used for jail purposes.

(4) Third, that the defendant brought the weapon into the jail for the use or benefit of a prisoner in the jail. It does not matter whether a prisoner actually obtained the weapon.

*Use Note*

1. If necessary, the jury could be provided an instruction on the definition of a weapon found in M Crim JI 11.19.

*Reference*

MCL 801.262(1)(a)

**[NEW] M Crim JI 13.22 Furnishing a Weapon to a Prisoner**

(1) The defendant is charged with providing a weapon to a prisoner or disposing of a weapon so that a prisoner could have access to it. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant possessed a weapon<sup>1</sup> or an item that could be used to injure another person, or used to assist an escape from a jail.

(3) Second, that the defendant sold or gave the weapon or item to [*identify prisoner*] when [he / she] was a prisoner in a jail, or the defendant disposed of the weapon or item in manner that allowed a prisoner to have access to the weapon or item.

*Use Note*

1. If necessary, the jury could be provided an instruction on the definition of a weapon found in M Crim JI 11.19.

*Reference*

MCL 801.262(1)(b)

**[NEW] M Crim JI 13.23 Possession of a Weapon by a Prisoner**

(1) The defendant is charged with possessing a weapon while a prisoner in jail. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was a prisoner in the [*identify facility*] jail.

(3) Second, that the defendant knowingly possessed a weapon<sup>1</sup> or an item that could be used to injure another person, or used to assist an escape from a jail.

*Use Note*

1. If necessary, the jury could be provided an instruction on the definition of a weapon found in M Crim JI 11.19.

*Reference*

MCL 801.262(2)

**[NEW] M Crim JI 13.24 Bringing Alcohol or a Controlled Substance into Jail**

(1) The defendant is charged with bringing [alcohol / a controlled substance] into jail. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant knowingly possessed [alcohol<sup>1</sup> / (*identify controlled substance*)], which is a controlled substance under Michigan law].

(3) Second, that the defendant brought the [alcohol / (*identify controlled substance*)] into [*identify facility*] jail, or provided the [alcohol / (*identify controlled substance*)] to [*identify prisoner*] when [he / she] was a prisoner in a jail, or the defendant disposed of the [alcohol / controlled substance] in manner that allowed a prisoner to have access to the [alcohol / controlled substance]. The jail includes secondary buildings associated with the jail and the grounds around the jail that are used for jail purposes.

*Use Note*

MCL 801.263 uses the term “alcoholic liquor.” That term is defined in MCL 801.261 as “any spiritous, vinous, malt, or fermented liquor, liquid, or compound whether or not medicated, containing 1/2 of 1% or more of alcohol by volume and which is or readily can be made suitable as a beverage.”

*Reference*

MCL 801.263(1).

**[NEW] M Crim JI 13.25 Possession of Alcohol or a Controlled Substance by a Prisoner**

(1) The defendant is charged with possessing [alcohol / a controlled substance] while a prisoner in jail. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was a prisoner in the [*identify facility*] jail.

(3) Second, that the defendant knowingly possessed [alcohol<sup>1</sup> / (*identify controlled substance*)], which is a controlled substance under Michigan law].

*Use Note*

MCL 801.263 uses the term “alcoholic liquor.” That term is defined in MCL 801.261 as “any spiritous, vinous, malt, or fermented liquor, liquid, or compound

whether or not medicated, containing 1/2 of 1% or more of alcohol by volume and which is or readily can be made suitable as a beverage.”

*Reference*

MCL 801.263(2).