



**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 May 1, 2026. 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 creating M Crim JI 20.16b (Mental Health Professional) for fourth-degree criminal sexual conduct arising out of a patient-therapist relationship. See MCL 750.520e(1)(e). This instruction is entirely new. The Committee also proposes amending M Crim JI 20.13 (Criminal Sexual Conduct in the Fourth Degree) to cross-reference the new instruction. Deletions are in ~~strikethrough~~, and new language is underlined.

**[NEW]                    M Crim JI 20.16b                    Mental Health Professional**

(1) Third, that the defendant was a mental health professional, that is, [he / she] was [a physician / a psychologist / authorized to engage in the practice of (nursing / social work at the master's level / counseling / marriage and family therapy)] and had training and experience in the area of mental illness or developmental disabilities.<sup>1</sup>

(2) Fourth, that the touching occurred during the time when [*name complainant*] was the defendant's [client / patient] or no more than two years after the end of their professional relationship.<sup>2</sup>

[(3) Fifth, that (*name complainant*) was not the defendant's spouse when the touching occurred.]<sup>3</sup>

(4) It does not matter whether [*name complainant*] gave consent when the defendant [touched (him / her) / made, permitted, or caused (*name complainant*) to touch (him / her)].

*Use Notes*

Use this instruction only in conjunction with M Crim JI 20.13, Criminal Sexual Conduct in the Fourth Degree.

1. MCL 750.520a(g) defines *mental health professional* by incorporating the definition found in MCL 330.1100b.

2. MCL 750.520e(1)(e) directs that “[a] prosecution under this subsection shall not be used as evidence that the victim is mentally incompetent.”

3. Use this paragraph only when there is a question of fact concerning whether the defendant and the complainant were married at the time of the alleged sexual contact.

**[AMENDED] M Crim JI 20.13 Criminal Sexual Conduct in the Fourth Degree**

(1) The defendant is charged with the crime of fourth-degree criminal sexual conduct. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant intentionally [touched (*name complainant*)’s / made, permitted, or caused (*name complainant*) to touch (his / her)] [genital area / groin / inner thigh / buttock / (or) breast] or the clothing covering that area.

(3) Second, that when the defendant [touched (*name complainant*) / made, permitted, or caused (*name complainant*) to touch (him / her)] it could reasonably be construed as being done for any of these reasons:

- (a) for sexual arousal or gratification,
- (b) for a sexual purpose, or
- (c) in a sexual manner for
  - (i) revenge or
  - (ii) to inflict humiliation or
  - (iii) out of anger.

(4) *[Follow this instruction with M Crim JI 20.14a, M Crim JI 20.14b, M Crim JI 20.14c, M Crim JI 20.14d, M Crim JI 20.15, M Crim JI 20.16, ~~or~~ M Crim JI 20.16a, or M Crim JI 20.16b as warranted by the charges and evidence.]*

*Use Note*

Use this instruction where the facts describe an offensive touching not included under criminal sexual conduct in the second degree.