



**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 three new instructions on election-related crimes. M Crim JI 43.5 (Election Official Destroying, Falsifying, or Removing Ballots or Election Records) addresses the crime set forth in MCL 168.932(c). M Crim JI 43.6 (Disclosing Elector's Vote) and M Crim JI 43.6a (Obstructing an Elector While Attempting to Vote) address the crimes set forth in MCL 168.932(d). These instructions are entirely new.

**[NEW] M Crim JI 43.5 Election Official Destroying, Falsifying, or Removing Ballots or Election Records**

(1) The defendant is charged with the crime of destroying, falsifying, or removing ballots or election records. 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 election official position*]<sup>1</sup> for [*identify political entity*] for the [primary / general / special] election of [*provide election date*].

(3) Second, that the defendant had custody of the [ballots / (*describe election documents alleged*)]<sup>2</sup> for that election.

(4) Third, that the defendant [destroyed / mutilated / defaced / falsified / removed / hid / altered / erased] all or part of the [ballots / (*describe election documents alleged*)] or allowed another person to do so.

(5) Fourth, that when the defendant [destroyed / mutilated / defaced / falsified / removed / hid / altered / erased] all or part of the [ballots / (*describe election documents alleged*)] or allowed another person to do so, [he / she] did so willfully [and with the intent to cheat or deceive]<sup>3</sup> rather than by accident or mistake.

### *Use Notes*

1. MCL 168.932(c) describes several election officials: “An inspector of election, clerk, or other officer or person having custody.” Whether the alleged office or position fits within that statutory wording appears to be a question of law for the trial court to resolve. Whether the defendant held that office or position at the time alleged is the question of fact for the jury.

2. MCL 168.932(c) lists several kinds of election documents: “any record, election list of voters, affidavit, return, statement of votes, certificates, poll book, or . . . any paper, document, or vote of any description, which pursuant to this act is directed to be made, filed, or preserved.” Whether an election document fits within this wording appears to be a question of law for the trial court. Whether the defendant had custody over that document and destroyed, damaged, falsified, or removed it at the time alleged are the questions of fact for the jury.

3. Only some of the acts prohibited by MCL 168.932(c) require an intent to defraud. Accordingly, the bracketed language requiring an intent to cheat or deceive should be read only when it is alleged that the defendant or someone else “fraudulently remove[d] or secrete[d]” election documents or “fraudulently ma[d]e any entry, erasure, or alteration.” See MCL 168.932(c). For purposes of this statute, the term *fraudulently* means “the specific intent to cheat or deceive.” *People v Hawkins*, 340 Mich App 155, 175-176; 985 NW2d 853 (2022) (quoting *People v Miller*, 326 Mich App 719, 739; 929 NW2d 821 (2019)).

### **[NEW] M Crim JI 43.6 Disclosing Elector’s Vote**

(1) The defendant is charged with the crime of disclosing an elector’s vote. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [*name targeted elector*] was an elector<sup>1</sup> who had a right to vote in [*identify location where the targeted elector would be voting*]<sup>2</sup> in the [*date of election*] election. To be qualified as an elector, a person must be a citizen of the United States, at least 18 years of age, a resident of the state of Michigan for at least

6 months, and a resident of [*identify location where the targeted elector would be voting*] for at least 30 days.<sup>3</sup>

(3) Second, that [*name elector*] filled out a ballot to vote in [*identify location where the targeted elector voted*]<sup>2</sup> in the [*date of election*] election.

(4) Third, that the defendant saw [*name targeted elector*]'s ballot.

(5) Fourth, that the defendant told another person who [*name targeted elector*] voted for or how [*name targeted elector*] voted on a ballot question.

#### *Use Notes*

1. In MCL 168.10 of the Michigan Election Law Act, the phrase *qualified elector* means “a person who possesses the qualifications of an elector as prescribed in section 1 of article II of the state constitution of 1963 and who has resided in the city or township 30 days.” Mich Const 1963 art 2, §1, defines *elector* as “[e]very citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law.” US Const amend XXVI, §1, provides, “The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.”

2. E.g., “the City of Detroit” or “Ada Township.”

3. Add any other requirements of local residence provided by law per Mich Const 1963 art 2, §1, if there are any such requirements.

### **[NEW] M Crim JI 43.6a Obstructing an Elector While Attempting to Vote**

(1) The defendant is charged with the crime of obstructing an elector while attempting to vote. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [*name targeted elector*] was an elector<sup>1</sup> who had a right to vote in [*identify location where the targeted elector would be voting*]<sup>2</sup> in the [*date of election*] election. To be qualified as an elector, a person must be a citizen of the United States, at least 18 years of age, a resident of the state of Michigan for at least 6 months, and a resident of [*identify location where the targeted elector would be voting*] for at least 30 days.<sup>3</sup>

(3) Second, that the defendant [obstructed / tried to obstruct] [*name targeted elector*] from voting or attempting to vote by [*describe alleged obstructive conduct*].

*Use Notes*

1. In MCL 168.10 of the Michigan Election Law Act, the phrase *qualified elector* means “a person who possesses the qualifications of an elector as prescribed in section 1 of article II of the state constitution of 1963 and who has resided in the city or township 30 days.” Mich Const 1963 art 2, §1, defines *elector* as “[e]very citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law.” US Const amend XXVI, §1, provides, “The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.”

2. E.g., “the City of Detroit” or “Ada Township.”

3. Add any other requirements of local residence provided by law per Mich Const 1963 art 2, §1, if there are any such requirements.