



**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 February 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.

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PROPOSED

The Committee proposes amending two existing instructions, M Crim JI 11.38 (Felon Possessing Firearm or Ammunition: Nonspecified Felony) and M Crim JI 11.38a (Felon Possessing Firearm or Ammunition: Specified Felony), to account for recent legislative changes to MCL 750.224f. Deletions are in ~~strike through~~, and new language is underlined. The Committee also proposes creating M Crim JI 11.38b (Prohibited Person Possessing Firearm or Ammunition: Misdemeanor Involving Domestic Violence), an entirely new instruction based on the same statute.

**[AMENDED] M Crim JI 11.38 Felon Possessing Firearm or
Ammunition: Nonspecified Felony**

(1) The defendant is charged with possession of [a firearm / ammunition] after having been convicted of a felony. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(12) First, that the defendant knowingly [possessed / used / transported / sold / distributed / received / carried / shipped / purchased¹] [a firearm / ammunition²] in this state.³

(23) Second, that at that time, the defendant had previously been convicted of [*name felony*].⁴

[Use the following paragraph only if the defendant offers some evidence that more than three years had ~~has~~ passed since completion of the sentence on the underlying offense:]

(34) Third, that less than three years had passed since [all fines were paid / all imprisonment was served / all terms of (probation / parole) were successfully completed].⁵

Use Notes

1. “Purchase” or receipt of ammunition is not barred under the statute.
2. “~~Ammunition~~” *Ammunition* is defined in MCL 750.224f(910)(a) as “any projectile that, in its current state, may be ~~propelled~~ expelled from a firearm by an explosive.”
3. The prosecutor need not prove that the firearm was “operable.” *People v Peals*, 476 Mich 636, 656; 720 NW2d 196 (2006).
4. The judge, not the jury, determines whether the charged prior ~~felony offense~~ is a “felony” as defined in MCL 750.224f(910)(b), a “misdemeanor involving domestic violence” as defined in MCL 750.224f(10)(c), or a more serious “specified felony” as defined in MCL 750.224f(10)(d). The jury determines whether the defendant has in fact been convicted of that charged prior ~~felony offense~~. For prosecutions involving a “specified felony,” use M Crim JI 11.38a. For prosecutions involving a “misdemeanor involving domestic violence,” use M Crim JI 11.38b. The defendant may stipulate that he or she was convicted of a felony an offense to avoid the court identifying that specific ~~felony offense~~ and the prosecutor offering proof of that ~~felony offense~~. See *People v Swint*, 225 Mich App 353; 572 NW2d 666 (1997), (citing *Old Chief v United States*, 519 US 172 (1997)).
5. The judge’s determination of the character of the ~~felony offense~~ as explained in Use Note 4 will determine whether the prohibition extends for three years, ~~or five years, or eight years~~. Under subsections (1) and (3) of ~~the statute~~ MCL 750.224f, the three-year period applies to crimes defined in subsection (910)(b) as felonies; Under subsections (2) and (4), the five-year ban applies to crimes defined as “specified” felonies in subsection (10)(d). Under subsection (5), the eight-year ban applies to crimes defined in subsection (10)(c) as misdemeanors involving domestic violence.

**[AMENDED] M Crim JI 11.38a Felon Possessing Firearm or
Ammunition: Specified Felony**

(1) The defendant is charged with possession of [a firearm / ammunition] after having been convicted of a specified felony. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(12) First, that the defendant knowingly [possessed / used / sold / distributed / received / carried / shipped / transported / purchased¹] [a firearm / ammunition²] in this state.³

(23) Second, that at that time, the defendant had previously been convicted of [*name specified felony*].⁴

[Use the following paragraphs only if the defendant offers some evidence that more than five years ~~had~~~~has~~ passed since completion of the sentence on the underlying offense and that his or her firearm rights have been restored, MCL 28.424-:]

(34) Third, that less than five years had passed since [all fines were paid / all imprisonment was served / all terms of (probation / parole) were successfully completed].⁵

(45) Fourth, that the defendant's right to [possess / use / transport / sell / purchase / carry / ship / receive / distribute] [a firearm / ammunition] has not been restored pursuant to Michigan law.⁶

Use Notes

1. "Purchase" or receipt of ammunition is not barred under the statute.
2. "~~Ammunition~~" Ammunition is defined in MCL 750.224f(910)(a) as "any projectile that, in its current state, may be ~~propelled~~ expelled from a firearm by an explosive."
3. The prosecutor need not prove that the firearm was "operable." *People v Peals*, 476 Mich 636, 656; 720 NW2d 196 (2006).
4. The judge, not the jury, determines whether the charged prior ~~felony~~ offense is a "felony" as defined in MCL 750.224f(910)(b), a "misdemeanor involving domestic violence" as defined in MCL 750.224f(10)(c), or a more serious "specified felony" as defined in MCL 750.224f(10)(d). The jury determines whether the defendant has in fact been convicted of that charged prior ~~felony~~ offense. For

prosecutions involving a “nonspecified felony,” use M Crim JI 11.38. For prosecutions involving a “misdemeanor involving domestic violence,” use M Crim JI 11.38b. The defendant may stipulate that he or she was convicted of a felony-an offense to avoid the court identifying that specific felony-offense and the prosecutor offering proof of that felony-offense. *See People v Swint*, 225 Mich App 353; 572 NW2d 666 (1997), (citing *Old Chief v United States*, 519 US 172 (1997)).

5. The judge’s determination of the character of the felony-offense as explained in Use Note 4 will determine whether the prohibition extends for three years, ~~or five years, or eight years~~. Under subsections (1) and (3) of ~~the statute~~ MCL 750.224f, the three-year period applies to crimes defined in subsection (910)(b) as felonies; Under subsections (2) and (4), the five-year ban applies to crimes defined as “specified” felonies in subsection (10)(d). Under subsection (5), the eight-year ban applies to crimes defined in subsection (10)(c) as misdemeanors involving domestic violence.

6. This paragraph is to be given when the court determines that some evidence relating to restoration was admitted at trial. *See People v Henderson*, 391 Mich 612; 218 NW2d 2 (1974), (addressing the burden of going forward and the burden of proof where a defendant submits evidence that he or she was licensed to carry a concealed weapon).

[NEW]	M Crim JI 11.38b	Prohibited Firearm Misdemeanor Violence	Person or Involving	Possessing Ammunition: Domestic Violence
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(1) The defendant is charged with possession of [a firearm / ammunition] after having been convicted of a misdemeanor involving domestic violence. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant knowingly [possessed / used / sold / distributed / received/ carried / shipped / transported / purchased]¹ [a firearm / ammunition²] in this state.³

(3) Second, that at that time, the defendant had previously been convicted of [*name specified misdemeanor involving domestic violence*].⁴

[Use the following paragraph only if the defendant offers some evidence that more than eight years had passed since completion of the sentence on the underlying offense:]

(4) Third, that less than eight years had passed since [all fines were paid / all imprisonment was served / all terms of (probation / parole) were successfully completed].⁵

Use Notes

1. Although MCL 750.224f(5) prohibits the “purchase” or “receipt” of ammunition, MCL 750.224f(7) does not indicate the penalty for this conduct.

2. *Ammunition* is defined in MCL 750.224f(10)(a) as “any projectile that, in its current state, may be expelled from a firearm by an explosive.”

3. The prosecutor need not prove that the firearm was “operable.” *People v Peals*, 476 Mich 636, 656; 720 NW2d 196 (2006).

4. The judge, not the jury, determines whether the charged prior offense is a “felony” as defined in MCL 750.224f(10)(b), a “misdemeanor involving domestic violence” as defined in MCL 750.224f(10)(c), or a more serious “specified felony” as defined in MCL 750.224f(10)(d). The jury determines whether the defendant has in fact been convicted of that charged prior offense. For prosecutions involving a “nonspecified felony,” use M Crim JI 11.38. For prosecutions involving a “specified felony,” use M Crim JI 11.38a. The defendant may stipulate that he or she was convicted of an offense to avoid the court identifying that specific offense and the prosecutor offering proof of that offense. *See People v Swint*, 225 Mich App 353; 572 NW2d 666 (1997) (citing *Old Chief v United States*, 519 US 172 (1997)).

5. The judge’s determination of the character of the offense as explained in Use Note 4 will determine whether the prohibition extends for three years, five years, or eight years. Under subsections (1) and (3) of MCL 750.224f, the three-year period applies to crimes defined in subsection (10)(b) as felonies. Under subsections (2) and (4), the five-year ban applies to crimes defined as “specified” felonies in subsection (10)(d). Under subsection (5), the eight-year ban applies to crimes defined in subsection (10)(c) as misdemeanors involving domestic violence.