



**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 a new instruction, M Crim JI 20.38d (Child Sexually Abusive Activity - Causing or Allowing Without Producing Materials) to address violations of MCL 750.145c that do not involve possessing, creating, or distributing child sexually abusive material. *See People v Willis*, 322 Mich App 579 (2018), lv den 504 Mich 905 (2019). This instruction is entirely new.

**[NEW] M Crim JI 20.38d Child Sexually Abusive Activity – Arranging
for Without Producing Materials**

(1) The defendant is charged with the crime of arranging for a child to engage in sexually abusive activity. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant [arranged for / financed] a child under 18 years old to engage in child sexually abusive activity [or (attempted / prepared / conspired) to do so].¹

(3) Child sexually abusive activity includes

*[Choose any of the following that apply:]*²

- (a) sexual intercourse, which is genital-genital, oral-genital, anal-genital, or oral-anal penetration, whether the intercourse is real or simulated, and whether it is between persons of the same or opposite sex, or between a person and an animal, or with an artificial genital, [and / or]

- (b) erotic fondling, which is the touching of a person's clothed or unclothed genitals, pubic area, buttocks, female breasts, or the developing or undeveloped breast area of a child for the purpose of sexual gratification or stimulation of any person involved, but does not include other types of touching, even if affectionate, [and / or]
- (c) sadomasochistic abuse, which is restraining or binding a person with rope, chains, or any other kind of binding material; whipping; or torturing for purposes of sexual gratification or stimulation, [and / or]
- (d) masturbation, which is stimulation by hand or by an object of a person's clothed or unclothed genitals, pubic area, buttocks, female breasts, or the developing or undeveloped breast area of a child for sexual gratification or stimulation, [and / or]
- (e) passive sexual involvement, which is watching, drawing attention to, or exposing someone to persons who are performing real or simulated sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, sexual excitement, or erotic nudity for the purpose of sexual gratification or stimulation of any person involved, [and / or]
- (f) sexual excitement, which is the display of someone's genitals in a state of stimulation or arousal, [and / or]
- (g) erotic nudity, which is showing the genital, pubic, or rectal area of someone in a way that tends to produce lewd or lustful emotions.

(4) Second, that the defendant knew or reasonably should have known that the person was less than 18 years old or failed to take reasonable precautions to determine whether the person was less than 18 years old.³

*[Add the following paragraph if appropriate:]*⁴

(5) Third, that the child sexually abusive activity involved

[Choose any of the following that apply:]

- (a) a child who has not yet reached puberty, or

- (b) sadomasochistic abuse, which [I have already defined / is restraining or binding a person with rope, chains, or any other kind of binding material; whipping; or torturing for purposes of sexual gratification or stimulation], or
- (c) sexual acts between a person and an animal,⁵ or
- (d) a video or more than 100 images of child sexually abusive material.

Use Notes

1. Use bracketed language only where the defendant is charged with “attempt[ing] or prepar[ing] or conspir[ing] to arrange for . . . or finance any child sexually abusive activity” See MCL 750.145c(2).

2. The statute prohibits both real and simulated sexual acts. Where the acts are simulated, the instructions should be modified accordingly.

3. The statute lists several alternatives for this element of the offense in MCL 750.145c(2), (3), and (4):

. . . if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child.

Generally, the language of the instruction will suffice. However, in appropriate cases, the court may select some or all of the other statutory language for this element.

4. Paragraph (5) applies when the prosecution seeks the enhanced sentence set forth in MCL 750.145c(2)(b). It need not be given when sadomasochistic abuse is the only type of child sexually abusive activity being alleged because, in that scenario, the jury will have already found the facts pertaining to the sentence enhancement.

5. MCL 750.145c uses the term *bestiality* but does not define it. In *People v Carrier*, 74 Mich App 161, 165-166; 254 NW2d 35 (1977), the Michigan Court of Appeals indicated that bestiality encompasses sexual acts between a man or woman and an animal. These acts are not limited to anal copulation.