

ADM File No. 2010-20, proposed amendment to MCR 6.302(2)

September 30, 2011

As part of the plea procedure, the proposed amendment would require the court to advise a defendant that he/she may be charged as an habitual offender and the maximum sentence may be increased. In my almost 38 years as an attorney (27 as a judge) it has always been my experience that a defendant was already charged as an habitual offender if it was going to apply to the sentence. In fact, there was a time when a second trial was held on any habitual offender allegations. That requirement was done away with many years ago. I have never known of a case where the habitual offender act applied without it actually being present at the time of a plea. If it is done differently in some other counties, I am not aware of it. This amendment seems unnecessary.

Michael W. LaBeau
Chief Circuit Judge
38th Judicial Circuit