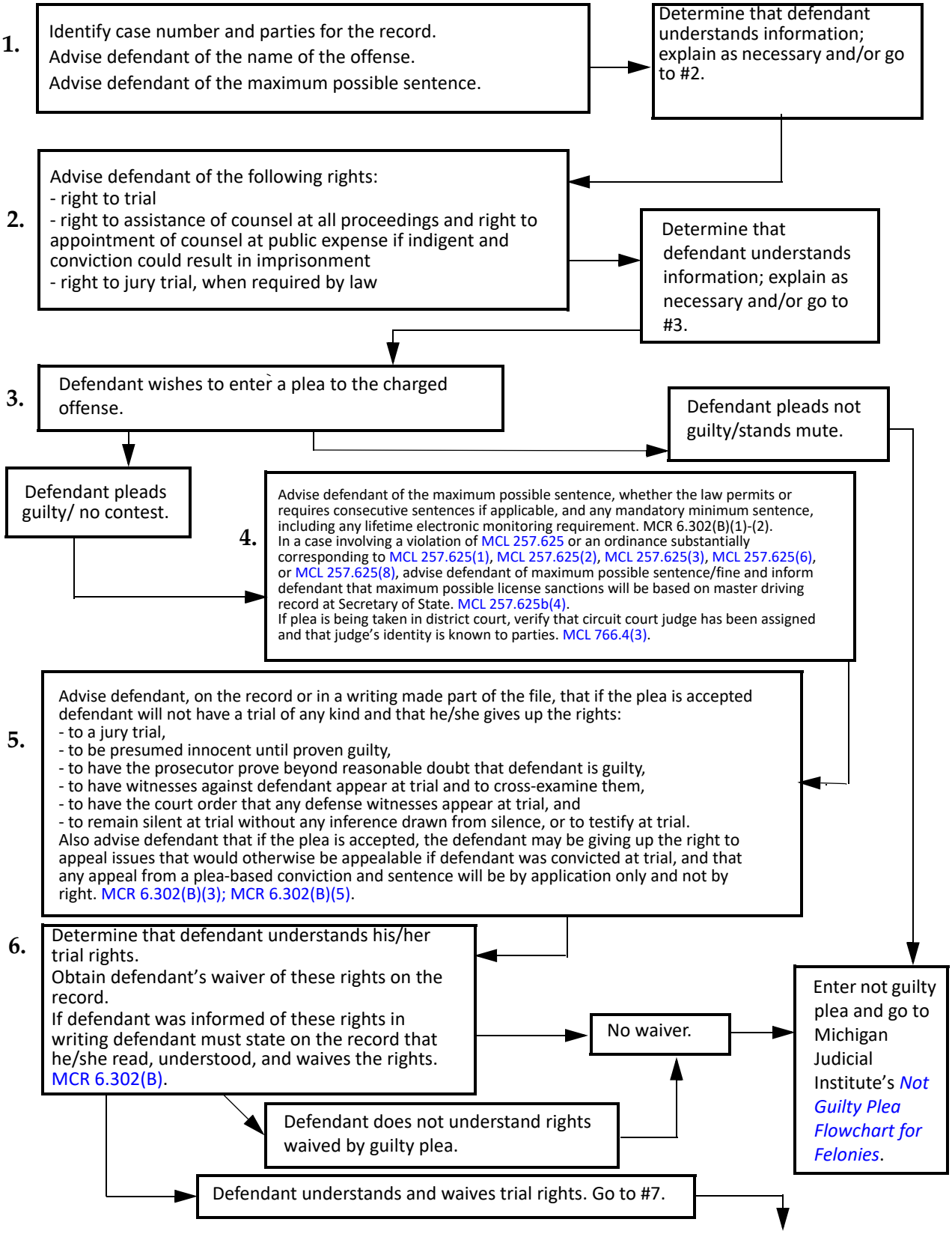
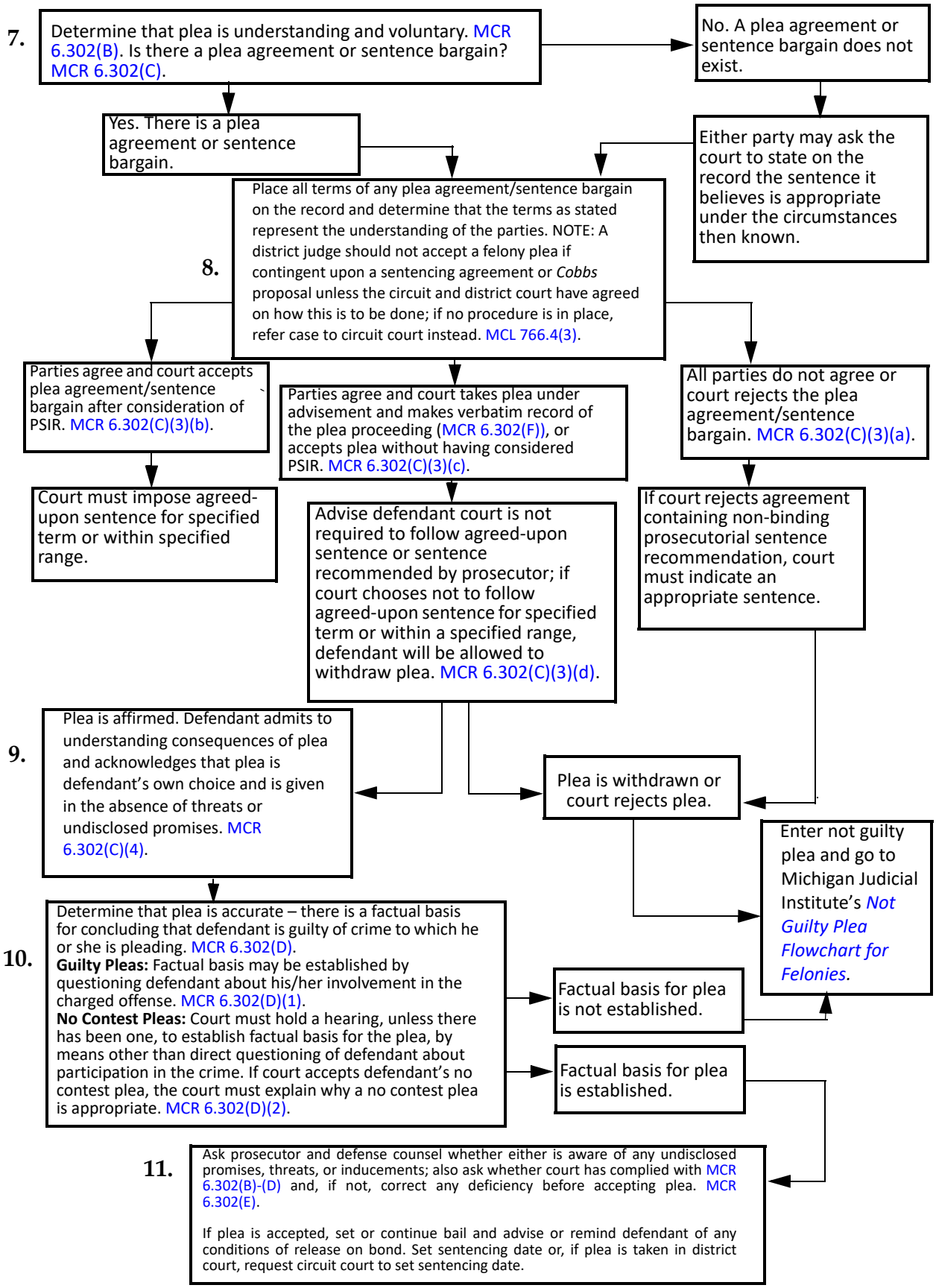
Guilty and No Contest Plea Flowchart for Felonies[1]

If defendant's plea immediately follows his or her arraignment, begin with #3 below.



[1] For more detailed information on this topic, see the Michigan Judicial Institute's *Criminal Proceedings Benchbook, Vol. 1*.


7.
Determine that plea is understanding and voluntary. MCR 6.302(B). Is there a plea agreement or sentence bargain? MCR 6.302(C).
No. A plea agreement or sentence bargain does not exist.
Yes. There is a plea agreement or sentence bargain.
Either party may ask the court to state on the record the sentence it believes is appropriate under the circumstances then known.
8.
Place all terms of any plea agreement/sentence bargain on the record and determine that the terms as stated represent the understanding of the parties. NOTE: A district judge should not accept a felony plea if contingent upon a sentencing agreement or *Cobbs* proposal unless the circuit and district court have agreed on how this is to be done; if no procedure is in place, refer case to circuit court instead. MCL 766.4(3).
Parties agree and court accepts plea agreement/sentence bargain after consideration of PSIR. MCR 6.302(C)(3)(b).
Parties agree and court takes plea under advisement and makes verbatim record of the plea proceeding (MCR 6.302(F)), or accepts plea without having considered PSIR. MCR 6.302(C)(3)(c).
All parties do not agree or court rejects the plea agreement/sentence bargain. MCR 6.302(C)(3)(a).
Court must impose agreed-upon sentence for specified term or within specified range.
Advise defendant court is not required to follow agreed-upon sentence or sentence recommended by prosecutor; if court chooses not to follow agreed-upon sentence for specified term or within a specified range, defendant will be allowed to withdraw plea. MCR 6.302(C)(3)(d).
If court rejects agreement containing non-binding prosecutorial sentence recommendation, court must indicate an appropriate sentence.
9.
Plea is affirmed. Defendant admits to understanding consequences of plea and acknowledges that plea is defendant's own choice and is given in the absence of threats or undisclosed promises. MCR 6.302(C)(4).
Plea is withdrawn or court rejects plea.
Enter not guilty plea and go to Michigan Judicial Institute's *Not Guilty Plea Flowchart for Felonies*.
10.
Determine that plea is accurate – there is a factual basis for concluding that defendant is guilty of crime to which he or she is pleading. MCR 6.302(D).
Guilty Pleas: Factual basis may be established by questioning defendant about his/her involvement in the charged offense. MCR 6.302(D)(1).
No Contest Pleas: Court must hold a hearing, unless there has been one, to establish factual basis for the plea, by means other than direct questioning of defendant about participation in the crime. If court accepts defendant's no contest plea, the court must explain why a no contest plea is appropriate. MCR 6.302(D)(2).
Factual basis for plea is not established.
Factual basis for plea is established.
11.
Ask prosecutor and defense counsel whether either is aware of any undisclosed promises, threats, or inducements; also ask whether court has complied with MCR 6.302(B)-(D) and, if not, correct any deficiency before accepting plea. MCR 6.302(E).
If plea is accepted, set or continue bail and advise or remind defendant of any conditions of release on bond. Set sentencing date or, if plea is taken in district court, request circuit court to set sentencing date.