

# MICHIGAN SUPREME COURT



## Office of Public Information

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### Guilty plea rules on agenda for Supreme Court's May 29 administrative hearing

LANSING, MI, May 28, 2013 – Defendants who plead guilty to criminal charges would be barred from withdrawing their guilty pleas in cases where a judge imposes a longer sentence than the prosecutor recommends as part of the plea deal, under an administrative proposal on the agenda for the Michigan Supreme Court's public administrative hearing tomorrow.

The proposal ([ADM File No. 2011-19](#)) would amend Michigan Court Rule 6.302 to add that "A judge's decision not to follow the sentence recommendation does not entitle the defendant to withdraw the defendant's plea." The court rule would continue to provide that, if the prosecutor and defendant agree to a specific sentence disposition, the defendant may withdraw the plea if the judge rejects the disposition.

In addition, the proposal would amend MCR 6.310 to provide that a defendant may forfeit the right to withdraw a plea – in *Cobbs* and *Killebrew* cases – for "misconduct" the defendant commits after the court accepts the plea but before sentencing. The proposed rule defines "misconduct" to include "absconding or failing to appear for sentencing, violating terms of conditions on bond or the terms of any sentencing or plea agreement, or otherwise failing to comply with an order of the court pending sentencing."

The hearing will take place in the Michigan Supreme Court courtroom on the sixth floor of the Michigan Hall of Justice, 925 W. Ottawa Street, Lansing; the hearing will begin at 9:30 a.m. and adjourn no later than 11:30 a.m.

The hearing is open to the public and will also be streamed live on the Court's web site at <http://www.courts.mi.gov/courts/michigansupremecourt/clerks/oral-arguments/pages/live-streaming.aspx>.

Public administrative hearings are part of the Supreme Court's rule-making process. Proposed changes to the Michigan Court Rules, Michigan Rules of Evidence, attorney and judicial ethics rules, and other court administrative matters, and related comments, are online at <http://www.courts.mi.gov/Courts/MichiganSupremeCourt/rules/court-rules-admin-matters/Pages/default.aspx>. Proposals are published for public input before being placed on an administrative hearing agenda.

Also on the Supreme Court's agenda:

- [ADM File No. 2011-25](#), proposed amendment of MCR 3.101, "Garnishment After Judgment." The Court is considering whether to retain amendments that it adopted on

October 24, 2012. The staff comment accompanying the rule states that the amendments were “adopted to reflect recent statutory changes enacted in MCL 600.4012(1) in which the effective period for a periodic garnishment of wages, salary, and other earnings was extended from 91 days to 182 days. The amendments of MCR 3.101(B) and (E) change the effective period for *all* periodic garnishments to 182 days. (The amendments do not limit the 182-day effective period to periodic garnishments that only involve wages, salary, and other earnings.)”

- [ADM File No. 2012-18](#), proposed amendment of MCR 2.512, “Instructions to Jury.” The amendment would require trial judges to use model jury instructions in criminal cases, as courts are already required to do in civil cases.
- [ADM File No. 2012-19](#), proposed amendment of MCR 3.913, 3.963, 3.965, and 3.974, rules that govern child protective proceedings. Among other matters, the rules set procedures for removing a child from a home where the child is “at substantial risk of harm or is in surroundings that present an imminent risk of harm and the child’s immediate removal from those surroundings is necessary to protect the child’s health and safety.”
- [ADM File No. 2012-27](#), proposed amendment of MCR 8.110, “Chief Judge Rule.” In addition to other changes, the proposal would revise the rule – which now requires the Supreme Court to “select a judge of each trial court to serve as chief judge” – to state that the Court “shall select a judge to serve as chief judge of each trial court.” The revisions are consistent with the Court’s recent practice of appointing chief judges to oversee more than one trial court. Other changes clarify which probate judge is required to fulfill the statutory “chief” probate judge obligations.
- [ADM File No. 2012-28](#), proposed amendment of MCR 7.203, “Jurisdiction of the Court of Appeals.” The revision would clarify that the decision to assign a case to the business court may not be appealed to the Court of Appeals.
- [ADM File No. 2012-35](#), proposed amendment of MCR 8.111, “Assignment of Cases.” The proposal would clarify that, “[i]f a judge is reassigned under a concurrent jurisdiction plan or a family court plan, the successor judge will be assigned all cases filed after the date of reassignment, as well as any pending matters or postjudgment matters that relate to disposed cases.”
- [ADM File No. 2012-36](#), proposed amendment of MCR 2.112, “Pleading Special Matters,” and proposed administrative order regarding business court proceedings. These proposals would govern proceedings in Michigan’s new [business courts](#).

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