

MICHIGAN SUPREME COURT



Office of Public Information

contact: Marcia McBrien | (517) 373-0129

FOR IMMEDIATE RELEASE

DEFENDANTS PLEADING GUILTY WOULD BE WARNED THAT SENTENCES COULD BE LONGER IF THEY ARE FOUND TO BE HABITUAL OFFENDERS, UNDER PROPOSED RULE CHANGE ON JANUARY 25 PUBLIC HEARING AGENDA

LANSING, MI, January 18, 2012 – Judges taking guilty pleas in criminal cases would have to advise offenders that their sentences could be longer if they are deemed to be habitual offenders, under a proposed court rule change being mulled by the Michigan Supreme Court. The proposal is on the Court’s January 25 [public administrative hearing agenda](#).

If the Supreme Court adopts the proposed change, Michigan Court Rule 6.302, “Pleas of Guilty and Nolo Contendere,” would require judges to “advise the defendant or defendants ... that if the defendant has been previously convicted of a felony, the defendant may be charged as a habitual offender and the maximum possible sentence may be increased” [ADM File No. 2010-20](#).

Michigan’s Code of Criminal Procedure allows prosecutors to seek an enhanced sentence for habitual offenders; under [MCL 769.13\(3\)](#), the prosecutor may notify the defendant that the prosecutor will request the enhanced sentence after the defendant is convicted or pleads guilty. The proposed rule change is aimed at ensuring that defendants understand that they could serve longer sentences as habitual offenders.

The Michigan Judges Association, State Bar of Michigan, and State Appellate Defender Office, among others, have [commented](#) on the proposal, which was published for public comment in September 2011.

Also on the Court’s hearing agenda is a proposed change to MCR 6.005 ([ADM File No. 2010-15](#)), which spells out certain responsibilities for trial attorneys in criminal cases. The proposal states that, “when an appellate lawyer has been appointed or retained, [trial counsel must promptly make] the defendant’s file, including all discovery material obtained, available for copying” at the appellate lawyer’s request. The trial attorney would be required to keep the file for at least five years. The Court received reports that some appellate attorneys were having difficulty obtaining trial materials, according to a staff comment on the proposed amendment. The proposal is supported by the State Bar’s Appellate Practice Section, the State Appellate Defender Office, the Michigan Judges Association, and others.

The remaining agenda proposal ([ADM File No. 2004-55](#)) would eliminate the requirement that the Supreme Court must approve changes to uniform court forms for child and spousal support orders. The current rule, MCR 3.211, provides that “Any provisions regarding

child support or spousal support must be prepared on the latest version of the Uniform Support Order drafted by the state court administrative office and approved by the Supreme Court.” The proposed revision would allow the State Court Administrative Office to update the uniform support forms without the Supreme Court’s explicit approval, just as SCAO regularly updates other court forms. The proposal is supported by the State Bar of Michigan and the Michigan Judges Association.

All public hearing items and related comments are available online at <http://www.courts.michigan.gov/supremecourt/Resources/Administrative/index.htm#proposed>.

The public hearing, which begins at 9:30 a.m., will take place in the Supreme Court courtroom on the sixth floor of the Michigan Hall of Justice in Lansing. Anyone wishing to address the Court on agenda items should contact the Clerk of the Court in writing at P.O. Box 30052, Lansing, MI 48909 or by e-mail at MSC_clerk@courts.mi.gov, no later than January 23, 2012 to reserve a place on the agenda. Speakers will have three minutes each to present their views and may be questioned by the justices.

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