

Proposed Amendment of Rule 2 and Proposed Addition of Rule 21 of the Rules Concerning the State Bar of Michigan and Proposed Amendment of Rule 9.119 and Proposed Addition of Rule 9.1XX of the Michigan Court Rules

To read ADM File No. 2020-15, dated April 14, 2021; visit <http://courts.michigan.gov/courts/michigansupremecourt> and click “Administrative Matters & Court Rules” and “Proposed & Recently Adopted Orders on Admin Matters.”

Proposed Administrative Order No. 2021-X
Mandatory Submission of Case Data to the
Judicial Data Warehouse (Dated April 14, 2021)

On order of the Court, this is to advise that the Court is considering the adoption of an Administrative Order that would require mandatory submission of case data to the Judicial Data Warehouse. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

Administrative Order No. 2021-X —
Mandatory Submission of Case Data to the Judicial Warehouse

For two decades, the Judicial Data Warehouse has been an essential tool allowing users to locate trial court records from throughout the state, informing judicial decisions, enhancing court administration, improving public policy through data-driven research, and promoting transparency.

Nearly all trial courts provide a daily or weekly feed of case-level data to the JDW, but frequently, certain data elements are missing or reported inconsistently by different courts, and several courts do not participate at all, creating problematic data gaps. To address these problems, courts should be required to submit data in a uniform manner and across all courts. Doing so will ensure the JDW contains uniformly reported data that will be more useful to courts, law enforcement, researchers, and other users. In addition, a more complete database will relieve courts of the requirement to submit certain reports that are currently prepared manually or with special programming, and ultimately is intended to be a resource for the general public about how courts in Michigan operate.

Therefore, on order of the Court, pursuant to 1963 Const, Art VI, §4, which provides for the Supreme Court’s general superintending control over all state courts, all trial courts must submit all case data including nonpublic and financial records to the Judicial Data Warehouse in a format and frequency defined by the SCAO. This

order replaces all existing Memoranda of Understanding between SCAO and any trial courts regarding the JDW.

This order shall remain in effect until further order of the Court.

STAFF COMMENT: This administrative order would make it mandatory for all courts to submit case information to the Judicial Data Warehouse in a uniform manner as required by SCAO.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by August 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2021-14. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Proposed Amendments of Rules 6.302 and 6.310
of the Michigan Court Rules (Dated April 14, 2021)

On order of the Court, this is to advise that the Court is considering amendments of Rules 6.302 and 6.310 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 6.302 Pleas of Guilty and Nolo Contendere

(A) [Unchanged.]

(B) An Understanding Plea. Speaking directly to the defendant or defendants, the court must advise the defendant or defendants of the following and determine that each defendant understands:

(1) [Unchanged.]

(2) the maximum possible prison sentence for the offense, ~~including, if applicable, whether the law permits or requires consecutive sentences;~~ and any mandatory minimum sentence required by law, including a requirement for mandatory lifetime electronic monitoring under MCL 750.520b or 750.520c;

(3)–(5) [Unchanged.]

The requirements of subrules (B)(3) and (B)(5) may be satisfied by a writing on a form approved by the State Court Administrative Office. If a court uses a writing, the court shall address the defendant and obtain from the defendant orally on the record a statement that the rights were read and understood and

a waiver of those rights. The waiver may be obtained without repeating the individual rights.

(C)–(F) [Unchanged.]

Rule 6.310 Withdrawal or Vacation of Plea

(A) [Unchanged.]

(B) Withdrawal After Acceptance but Before Sentence. Except as provided in subsection (3), after acceptance but before sentence,

(1) [Unchanged.]

(2) the defendant is entitled to withdraw the plea if

(a) [Unchanged.]

(b) the plea involves a statement by the court that it will sentence to a specified term or within a specified range, and the court states that it is unable to sentence as stated; the trial court shall provide the defendant the opportunity to affirm or withdraw the plea, but shall not state the sentence it intends to impose; or

(c) a consecutive sentence will be imposed and the defendant was not advised at the time of his or her plea that the law permits or requires consecutive sentencing in his or her case.

(3) [Unchanged.]

(C)–(E) [Unchanged.]

STAFF COMMENT: The proposed amendment of MCR 6.302 would eliminate the Court's previously-adopted language requiring a trial court to advise defendant whether the law permits or requires the court to sentence defendant consecutively. This language was added following the Court's opinion in *People v Warren*. However, in considering the practical application of that language, it may be more appropriate to allow a defendant to withdraw a plea under MCR 6.310 if such advisement is not given rather than require an advisement in all cases. Thus, the proposal would add language providing for such an outcome in MCR 6.310 instead of imposing an advisement in all cases under MCR 6.302.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the

notifications specified in MCR 1.201. Comments on the amendment may be sent to the Supreme Court Clerk in writing or electronically by August 1, 2021, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2019-06. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

Amendment of Orders Entered on March 10, 2021 and April 1, 2021 (Dated April 14, 2021)

On order of the Court, the orders entered on March 10, 2021 (Proposed Amendments of Rules 3.903, 3.966, 3.975, and 3.976 of the Michigan Court Rules) and April 1, 2021 (Proposed Amendment of Rule 3.945 and Proposed Addition of Rule 3.947 of the Michigan Court Rules) in ADM File No. 2020-36 are now effective immediately. The comment period will continue to run through July 1, 2021, and August 1, 2021, respectively, as previously ordered.

Appointment of Chief Judge of the 54B District Court (Dated April 14, 2021)

On order of the Court, effective June 1, 2021, the Honorable Richard D. Ball is appointed chief judge of the 54B District Court for the remainder of a term ending December 31, 2021.

Assignment of Judges to the Court of Claims and Reappointment of Chief Judge (Dated April 14, 2021)

On order of the Court, effective May 1, 2021, the following Court of Appeals judges are assigned to sit as judges of the Court of Claims for terms expiring December 31, 2021:

Hon. Christopher M. Murray

Hon. Cynthia D. Stephens

Hon. Colleen A. O'Brien

Hon. Elizabeth L. Gleicher

Upon further order of the Court, the Honorable Christopher M. Murray is reappointed as chief judge of the Court of Claims for a term ending December 31, 2021.