

**Report on Public Policy Position****Name of section:**

Criminal Law Section

**Contact person:**

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This proposal would require a sentencing judge to prepare and include with the case record a form in which the judge outlines the reason or reasons for departure from the sentencing guidelines. The duty to do so would be in addition to the obligation to state such reasons on the record. The proposal is designed to provide litigants and appellate courts a clear and unambiguous recitation of the reasons for departure by the sentencing court.

**Date position was adopted:**

January 18, 2011

**Process used to take the ideological position:**

Position adopted after discussion and vote at a scheduled meeting.

**Number of members in the decision-making body:**

15

**Number who voted in favor and opposed to the position:**

15 Voted for position

0 Voted against position

0 Abstained from vote

0 Did not vote

**Position:**

Oppose

**Explanation of the position, including any recommended amendments:**

CLS opposes both MCR 6.425 and 7.210 as the sentencing departure form should be filled out on the record in open court so that objections may be placed on the record regarding the departure at the time of the departure, instead of allowing reasons for the departure going unchallenged at a later time.

Section does not believe the judge should be stating reasons in a form which will become part of the record at a later date. Rather, the court should place its reasons for departure on the record at the time of sentencing so that objections may be placed on the record if needed.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report. <http://courts.michigan.gov/supremecourt/Resources/Administrative/2008-10-11-23-10.pdf>