

Order

Michigan Supreme Court
Lansing, Michigan

September 21, 2016

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2013-39

Stephen J. Markman
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen,
Justices

Amendment of Rule 6.112
of the Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rule 6.112 of the Michigan Court Rules are adopted, effective January 1, 2017.

[The present language is amended as indicated below by underlining for new text and strikeover for text that has been deleted.]

Rule 6.112 The Information or Indictment

(A)-(F)[Unchanged.]

(G) Harmless Error. Absent a timely objection and a showing of prejudice, a court may not dismiss an information or reverse a conviction because of an untimely filing or because of an incorrectly cited statute or a variance between the information and proof regarding time, place, the manner in which the offense was committed, or other factual detail relating to the alleged offense.—~~This provision does not apply to the untimely filing of a notice of intent to seek an enhanced sentence.~~

(H) Amendment of Information or Notice of Intent to Seek Enhanced Sentence. The court before, during, or after trial may permit the prosecutor to amend the information or the notice of intent to seek enhanced sentence unless the proposed amendment would unfairly surprise or prejudice the defendant. On motion, the court must strike unnecessary allegations from the information.

Staff Comment: The amendments of MCR 6.112 clarify the procedure for amending a notice of intent to seek an enhanced sentence by requiring such amendment to be approved by the court, and eliminate the provision that makes the harmless-error

standard inapplicable when a notice of intent to seek an enhanced sentence is not filed timely.

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.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 21, 2016


Clerk