

# Order

Michigan Supreme Court  
Lansing, Michigan

March 23, 2016

Robert P. Young, Jr.,  
Chief Justice

ADM File No. 2013-39

Stephen J. Markman  
Brian K. Zahra

Proposed Amendment  
of Rule 6.112 of the  
Michigan Court Rules

Bridget M. McCormack  
David F. Viviano  
Richard H. Bernstein  
Joan L. Larsen,  
Justices

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On order of the Court, this is to advise that the Court is considering an amendment of Rule 6.112 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](#).

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.

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

## 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 ~~an~~ original notice of intent to seek an enhanced sentence, but may apply when the notice has been amended in accordance with subrule (H) and there is no showing that the amendment would result in unfair surprise or prejudice to the defendant.

- (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 proposed amendments of MCR 6.112 would provide clarification to the procedure for amending a notice of intent to seek an enhanced sentence.

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 Office of Administrative Counsel in writing or electronically by July 1, 2016, at P.O. Box 30052, Lansing, MI 48909, or [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When filing a comment, please refer to ADM File No. 2013-39. 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](#).



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.

March 23, 2016

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk