

Order

Michigan Supreme Court
Lansing, Michigan

April 20, 2023

Elizabeth T. Clement,
Chief Justice

ADM File No. 2022-26

Proposed Amendment of
Rule 6.425 of the Michigan
Court Rules

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

On order of the Court, this is to advise that the Court is considering an amendment of Rule 6.425 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 will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the [Public Administrative Hearings](#) 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 6.425 Sentencing; Appointment of Appellate Counsel

(A)-(C) [Unchanged.]

(D) Sentencing Procedure.

(1) The court must sentence the defendant within a reasonably prompt time after the plea or verdict unless the court delays sentencing as provided by law. At sentencing, the court must, on the record:

(a)-(b) [Unchanged.]

(c) before imposing sentence

(i) provide the defendant's attorney an opportunity to speak on the defendant's behalf,

- (ii) address the defendant personally in order to permit the defendant to speak or present any information to mitigate the sentence,
- (iii) provide the prosecutor an opportunity to speak equivalent to that of the defendant’s attorney, and
- (iv) address any victim of the crime who is present at sentencing and permit the victim to be reasonably heard,
- (e) ~~give the defendant, the defendant’s lawyer, the prosecutor, and the victim an opportunity to advise the court of any circumstances they believe the court should consider in imposing sentence,~~

(d)-(f) [Unchanged.]

(2)-(3) [Unchanged.]

(E)-(H) [Unchanged.]

Staff Comment (ADM File No. 2022-26): The proposed amendment of MCR 6.425(D)(1)(c) would require a trial court, on the record before sentencing, to personally address the defendant regarding his or her allocution rights and to address any victim who is present and allow the victim to be reasonably heard, similar to FR Crim P 32(i)(4).

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 submitted by August 1, 2023 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2022-26. Your comments and the comments of others will be posted under the chapter affected by this proposal.



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.

April 20, 2023

Clerk