



# DenverDA

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## MEMORANDUM

TO: Criminal Rules Committee  
FROM: Legislation subcommittee (Judge Martinez, Abe Hutt, Robin Whitley)  
SUBJECT: Crim. P. 32(a)(2) regarding PSIR timing, and suggested revamp of 32(a)  
DATE: 1/6/2014

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Senate Bill 13-229 altered the statutory deadline for providing a presentence investigation report (PSIR) to the parties. This raised questions of whether, and how, the corresponding procedural rule, Crim. P. 32(a)(2), ought to be changed in light of the recent enactment. This subcommittee was asked to address the questions.

The subcommittee's review of the statute and the rule uncovered a pre-existing discrepancy between the two. Before 1988, the statute (§ 16-11-102(1)) required copies of the PSIR to be provided to the parties "[w]ithin a reasonable time" before sentencing. The rule said the same. But in 1988 (with a correction in 1989), the statute was changed to set a specific deadline of **72 hours before sentencing**. The rule was never changed to match—it still specifies simply a reasonable time before sentencing.

Then the 2013 legislation added a second tier to the deadline, accelerating it to **7 days before sentencing** if either party so requests. This led the subcommittee to review the development of both statutory and rule requirements over the years. We learned the rule is way out of date, and is out of sync with the statute—not just as to timing but also as to content of the PSIR.

This raised additional questions. The following conveys the subcommittee's resolution of all the questions we encountered.

First, your subcommittee concluded that the rule and the statute ought to express the same PSIR-delivery deadlines. We believe the rule's current "within a reasonable time" deadline for PSIRs should be replaced with the specific deadlines

that actually control; otherwise the rule is misleading. Those specific deadlines are the ones now set in the amended section 16-11-102(1).

Next, the subcommittee noticed and addressed a significant omission in the recent legislation. The amended statute entitles the parties to 7-days' advance receipt of the PSIR, and bestows this entitlement "[u]pon request of either the defense or the district attorney." It even commands that the sentencing hearing be postponed if the request cannot otherwise be satisfied. But the statute does not specify when the request must be made. This leaves open the potential for very late demands, even as late as on the sentencing date, forcing delays and rescheduling that easily could be avoided. The subcommittee believes a timing requirement for the early-delivery request is very important. We recommend adopting one—namely, that the request be made at the time the court sets the sentencing date. Doing so is certainly within the domain of a rule: the statute itself specifies, "The report of the probation officer and the procedures to be followed at the time sentence is imposed and final judgment is entered shall be as required by the Colorado rules of criminal procedure." § 16-11-102(2).

The next issue concerned content of the report. Several content requirements have been added over the years by statute. The rule has not been similarly expanded. Yet the rule does have lots of substance about content. Indeed, it has the appearance of setting out all the content requirements—but then it omits many. The subcommittee believes the rule should be updated to incorporate all the current content requirements. Otherwise, the rule is not just useless (one cannot learn what must be in a PSIR by reading the rule) but misleading (it purports to tell what is required but does not).

With these objectives, the subcommittee undertook drafting a possible rule change. We submit for the Committee's considerations three alternatives, described below in turn. **We recommend Alternative #3.**

Alternative #1 addresses only the PSIR-delivery-deadline aspect of the rule. We do not recommend this alternative because it leaves the rule out of sync regarding required content. Even so, we provide this to the Committee because it is limited to the narrow issue initially contemplated, namely, addressing the particular change in SB 13-229.

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Alternative #2 goes further by adding currently missing content requirements. This would get the rule up-to-date. Substance-wise, the subcommittee endorses this notion. But we do not recommend this version. As the Committee will see, the result is a sentence that gets longer and longer, and harder and harder to follow. This stems from the fact that the core of the current rule's specification of items to be included in a PSIR is in a single sentence that lists the items in prose. This problem inspired the next alternative.

**Alternative #3** is, in substance, equal to #2. But it injects a structure and reorganization that makes for easier reading, easier understanding, and easier searching. It has some similarities to the organization and structure of the revamped federal rule on PSIRs, though the substance is necessarily quite different. In the appendices, this alternative is set out twice, once "clean" so the reader can easily see the end product of the proposal, and a second marked so as to reveal what substance is not even in our current rule. The subcommittee considers the reorganized structure of Alternative #3 preferable, because otherwise the rule is too hard to read and entices users to just skim over it.

For the Committee's reference, we also append the pertinent excerpt from SB 13-229, as well as the current version of Crim. P. 32(a) and of the statutes that correspond to that rule.

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**Alternative #1** Only addressing the PSIR-delivery deadline.

(2) Report. The presentence report shall include, but not be limited to, information as to the defendant's family background, educational history, employment record, and past criminal record, an evaluation of the alternative dispositions available for the defendant, and such other information as the court may require. In addition, the court, as it deems appropriate, may require the presentence report to include the findings and results of a professionally conducted mental and physical examination of the defendant. ~~Within a reasonable time~~ Not less than 72 hours prior to sentencing, copies of the presentence report, including any recommendations as to probation, shall be furnished to the prosecuting attorney and defense counsel or to the defendant if the defendant is unrepresented. Upon request of either the defense or the district attorney made at the time the court sets the date for the sentencing hearing, the probation department shall provide the presentence report at least seven days prior to the sentencing hearing. If the probation department informs the court it cannot provide the report at least seven days prior to the sentencing hearing, the court shall grant the probation department additional time to complete the report and shall reset the sentencing hearing so that the hearing is held at least seven days after the probation department provides the report. The report shall also include a statement showing the amount of time during which the defendant was confined prior to the imposition of sentence for the offense for which the defendant is being sentenced.

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Appendix B–Draft Alternative #2, Page 1

**Alternative #2** Addressing the PSIR-delivery deadline and bringing rule up to date with statutory content requirements.

(2) Report. The presentence report shall include, but not be limited to, information as to the defendant's family background, educational history, employment record, estate and financial circumstances for the purpose of determining whether the defendant has sufficient assets to pay all or part of the defendant's cost of care, and past criminal record; including, if the defendant has been convicted of unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S., any past juvenile delinquency record; a substance abuse assessment or evaluation made pursuant to article 11.5 of title 16, C.R.S.; the results of an actuarial assessment of the defendant's criminological risks and needs; regarding a sex offender the results of an evaluation and identification and the results of a risk assessment screening instrument when required by section 16-11-102(1)(b)(I) or (II), C.R.S.; regarding a youthful offender a determination by the warden of the youthful offender system whether the defendant is acceptable for sentencing to the youthful offender system when required by section 16-11-102(1.8), C.R.S., and requested by the prosecution or the defense at the time the court sets the date for the sentencing hearing; an evaluation of the alternative dispositions available for the defendant; and sufficient information to allow the court both to consider whether the defendant is a suitable candidate for a sentencing option or combination of sentencing options that does not involve incarceration and to consider the appropriate conditions to impose if the defendant is sentenced to probation, together with a description of the projected costs, if known, that are associated with each sentencing option that is available to the court; a statement of the purposes of the Colorado Criminal Code with respect to sentencing as described in section 18-1-102.5, C.R.S.; a victim impact statement; and such other information as the court may require. In addition, the court, as it deems appropriate, may require the presentence report to include the findings and results of a professionally conducted mental and physical examination of the defendant. ~~Within a reasonable time~~ Not less than 72 hours prior to sentencing, copies of the presentence report, including any recommendations as to probation, shall be furnished to the prosecuting attorney and defense counsel or to the defendant if the defendant is unrepresented. Upon request of either the defense or the district attorney made at the time the court sets the date for the sentencing hearing, the probation department shall provide the presentence report at least seven days prior to the sentencing hearing. If the probation department informs the

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court it cannot provide the report at least seven days prior to the sentencing hearing, the court shall grant the probation department additional time to complete the report and shall reset the sentencing hearing so that the hearing is held at least seven days after the probation department provides the report. The report shall also include a statement showing the amount of time during which the defendant was confined prior to the imposition of sentence for the offense for which the defendant is being sentenced.

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Appendix C–Draft Alternative #3 (Clean), Page 1

**Alternative #3** Overhaul; brings rule up to date with statute both timing- and content-wise. Rearranges/organizes to put related pieces together. Notice this involves also amending (a)(1).

## Rule 32. Sentence and Judgment

- (a) Presentence or Probation Investigation.
  - (1) When Investigation and Report Required.
    - (A) In General. The probation officer must make a presentence investigation and written report to the court before the imposition of sentence or granting of probation:
      - (i) in any case in which the defendant is to be sentenced for a felony and the court has discretion as to the punishment, or
      - (ii) when the court so orders in any case in which the defendant is to be sentenced for a misdemeanor.
    - (B) Waiver. The court, with the concurrence of the defendant and the prosecuting attorney, may dispense with the presentence investigation and report unless a presentence report is required by statute, including but not limited to the requirements of section 16-11-102(1)(b), C.R.S., but in every case restitution information as required by section 18-1.3-603(2), C.R.S. and a victim impact statement must be provided to the court.
  - (2) Application for Probation. An application for probation must be in writing upon forms furnished by the court, but when the defendant has been convicted of a misdemeanor or class 1 petty offense, the court, in its discretion, may waive the written application for probation.
  - (3) Contents of Report. The presentence report must include, but need not be limited to:
    - (A) information as to the defendant's:
      - (i) family background;
      - (ii) educational history;
      - (iii) employment record;
      - (iv) estate and financial circumstances, for the purpose of determining whether the defendant has sufficient assets to pay all or part of the defendant's cost of care; and
      - (v) past criminal record including the defendant's past juvenile delinquency record, if any, if the defendant has been convicted of unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S.,

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- (B) a substance abuse assessment or evaluation made pursuant to article 11.5 of title 16, C.R.S.;
- (C) the findings and results of a professionally conducted mental or physical examination, if the court, upon the request of the probation officer or otherwise, has ordered the defendant to submit to the examination;
- (D) the results of an actuarial assessment of the defendant's criminological risks and needs;
- (E) regarding a sex offender, the results of:
  - (i) an evaluation and identification, when required by section 16-11-102(1)(b)(I), C.R.S., or when otherwise ordered by the court;
  - (ii) a risk assessment screening instrument, when required by section 16-11-102(1)(b)(II), C.R.S.;
- (F) regarding a youthful offender, a determination by the warden of the youthful offender system whether the defendant is acceptable for sentencing to the youthful offender system, when required by section 16-11-102(1.8), C.R.S., and requested by the prosecution or the defense at the time the court sets the date for the sentencing hearing;
- (G) an evaluation of the alternative dispositions available for the defendant, and:
  - (i) sufficient information to allow the court to consider whether the defendant is a suitable candidate for a sentencing option, or combination of sentencing options, that does not involve incarceration;
  - (ii) sufficient information to allow the court to consider the appropriate conditions to impose if the defendant is sentenced to probation;
  - (iii) a description of the projected costs, if known, that are associated with each sentencing option that is available to the court; and
  - (iv) a statement of the purposes of the Colorado Criminal Code with respect to sentencing, as described in section 18-1-102.5, C.R.S.;
- (H) a victim impact statement;
- (I) a statement showing the amount of time during which the defendant was confined prior to the imposition of sentence for the offense for which the defendant is being sentenced; and
- (J) such other information as the court may require.

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- (4) Delivery of Report Copies. The probation officer must provide copies of the presentence report, including any recommendations as to probation, to the prosecuting attorney and to defense counsel or the defendant if unrepresented. The copies must be provided:
  - (A) at least 72 hours before the sentencing hearing, or
  - (B) at least 7 days before the sentencing hearing if either the prosecuting attorney, defense counsel, or the defendant if unrepresented, so requests at the time the court sets the date for the sentencing hearing. If the probation department informs the court it cannot provide the report copies at least seven days before the sentencing hearing, the court must grant the probation department additional time to complete the report and must reset the sentencing hearing so that it is held at least seven days after the probation department provides the report copies.

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### **Alternative #3 reprise**

To indicate which substance is not in the current rule.

#### Rule 32. Sentence and Judgment

- (a) Presentence or Probation Investigation.
  - (1) When Investigation and Report Required.
    - (A) In General. The probation officer must make a presentence investigation and written report to the court before the imposition of sentence or granting of probation:
      - (i) in any case in which the defendant is to be sentenced for a felony and the court has discretion as to the punishment, or
      - (ii) when the court so orders in any case in which the defendant is to be sentenced for a misdemeanor.
    - (B) Waiver. The court, with the concurrence of the defendant and the prosecuting attorney, may dispense with the presentence investigation and report unless a presentence report is required by statute, including but not limited to the requirements of section 16-11-102(1)(b), C.R.S., but in every case restitution information as required by section 18-1.3-603(2), C.R.S. and a victim impact statement must be provided to the court.
  - (2) Application for Probation. An application for probation must be in writing upon forms furnished by the court, but when the defendant has been convicted of a misdemeanor or class 1 petty offense, the court, in its discretion, may waive the written application for probation.
  - (3) Contents of Report. The presentence report must include, but need not be limited to:
    - (A) information as to the defendant's:
      - (i) family background;
      - (ii) educational history;
      - (iii) employment record;
      - (iv) estate and financial circumstances, for the purpose of determining whether the defendant has sufficient assets to pay all or part of the defendant's cost of care; and
      - (v) past criminal record including, if the defendant has been convicted of unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S., any juvenile delinquency record;
    - (B) a substance abuse assessment or evaluation made pursuant to article 11.5 of title 16, C.R.S.;

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- (C) the findings and results of a professionally conducted mental or physical examination, if the court, upon the request of the probation officer or otherwise, has ordered the defendant to submit to the examination;
  - (D) the results of an actuarial assessment of the defendant's criminological risks and needs;
  - (E) regarding a sex offender, the results of:
    - (i) an evaluation and identification, when required by section 16-11-102(1)(b)(I), C.R.S., or when otherwise ordered by the court;
    - (ii) a risk assessment screening instrument, when required by section 16-11-102(1)(b)(II), C.R.S.;
  - (F) regarding a youthful offender, a determination by the warden of the youthful offender system whether the defendant is acceptable for sentencing to the youthful offender system, when required by section 16-11-102(1.8), C.R.S., and requested by the prosecution or the defense at the time the court sets the date for the sentencing hearing;
  - (G) an evaluation of the alternative dispositions available for the defendant, and:
    - (i) sufficient information to allow the court to consider whether the defendant is a suitable candidate for a sentencing option, or combination of sentencing options, that does not involve incarceration;
    - (ii) sufficient information to allow the court to consider the appropriate conditions to impose if the defendant is sentenced to probation;
    - (iii) a description of the projected costs, if known, that are associated with each sentencing option that is available to the court; and
    - (iv) a statement of the purposes of the Colorado Criminal Code with respect to sentencing, as described in section 18-1-102.5, C.R.S.;
  - (H) a victim impact statement;
  - (I) a statement showing the amount of time during which the defendant was confined prior to the imposition of sentence for the offense for which the defendant is being sentenced; and
  - (J) such other information as the court may require.
- (4) Delivery of Report Copies. The probation officer must provide copies of the presentence report, including any recommendations as to probation, to

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the prosecuting attorney and to defense counsel or the defendant if unrepresented. The copies must be provided:

- (A) at least 72 hours before the sentencing hearing, or
- (B) at least 7 days before the sentencing hearing if either the prosecuting attorney, defense counsel, or the defendant if unrepresented, so requests at the time the court sets the date for the sentencing hearing. If the probation department informs the court it cannot provide the report copies at least seven days before the sentencing hearing, the court must grant the probation department additional time to complete the report and must reset the sentencing hearing so that it is held at least seven days after the probation department provides the report copies.

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the behavior that the proposed new crime, or changes to an existing crime, intends to address; AND

(e) A DESCRIPTION OF GENDER AND MINORITY DATA AS IT RELATES TO THE GENERAL COLORADO POPULATION AND AVAILABLE DATA ON GENDER AND MINORITY OFFENDER AND CRIME VICTIMS POPULATIONS POTENTIALLY AFFECTED BY THE PROPOSED MEASURE.

**SECTION 2.** In Colorado Revised Statutes, 16-1-104, **amend** (10) as follows:

**16-1-104. Definitions.** (10) "Felony complaint" means a written statement of the essential facts constituting the offense charged, ~~and shall be made upon oath before any person authorized to administer oaths within the state of Colorado~~ SIGNED BY THE PROSECUTOR, AND FILED IN THE COURT HAVING JURISDICTION OVER THE OFFENSE CHARGED.

**SECTION 3.** In Colorado Revised Statutes, 16-5-401, **amend** (4.5) (u) and (4.5) (v); and **add** (4.5) (w) as follows:

**16-5-401. Limitation for commencing criminal proceedings and juvenile delinquency proceedings.** (4.5) The period within which a prosecution must be commenced shall begin to run upon discovery of the criminal act or the delinquent act for:

(u) Criminal offenses relating to industrial banks, pursuant to section 11-108-801 (3), C.R.S.; ~~and~~

(v) Criminal offenses relating to savings and loan associations, pursuant to section 11-41-127, C.R.S.; AND

(w) CRIMINAL OFFENSES RELATING TO SECURITIES FRAUD, PURSUANT TO PART 5 OF ARTICLE 51 OF TITLE 11, C.R.S.

**SECTION 4.** In Colorado Revised Statutes, 16-11-102, **amend** (1) (a) and (1) (b) as follows:

**16-11-102. Presentence or probation investigation.** (1) (a) Following the return of a verdict of guilty of a felony, other than a class 1 felony, or following a finding of guilt on such charge where the

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issues were tried to the court, or on a plea of guilty or nolo contendere to such a charge, or upon order of the court in any misdemeanor conviction, the probation officer shall make an investigation and written report to the court before the imposition of sentence. Each presentence report shall include a substance abuse assessment or evaluation made pursuant to article 11.5 of this title and, unless waived by the court, shall include, but not be limited to, information as to the defendant's family background, educational history, employment record, and past criminal record, including the defendant's past juvenile delinquency record, if any, if the defendant has been convicted of unlawful sexual behavior as defined in section 16-22-102 (9), an evaluation of the alternative dispositions available for the defendant; the information required by the court pursuant to article 18.5 of this title; a victim impact statement; and such other information as the court may require. A victim impact statement shall be prepared by the district attorney's office on and after September 1, 1985. The department of human services shall provide the district attorney's office with the information necessary for the preparation of a victim impact statement. In addition, the court, in cases that it deems appropriate, may require the presentence report to include the findings and results of a professionally conducted psychiatric examination of the defendant. No less than seventy-two hours prior to the sentencing hearing, copies of the presentence report, including any recommendations as to probation, shall be furnished to the prosecuting attorney and defense counsel or to the defendant if he or she is unrepresented. UPON REQUEST OF EITHER THE DEFENSE OR THE DISTRICT ATTORNEY, THE PROBATION DEPARTMENT SHALL PROVIDE THE PRESENTENCE REPORT AT LEAST SEVEN DAYS PRIOR TO THE SENTENCING HEARING. IF THE PROBATION DEPARTMENT INFORMS THE COURT IT CANNOT PROVIDE THE REPORT AT LEAST SEVEN DAYS PRIOR TO THE SENTENCING HEARING, THE COURT SHALL GRANT THE PROBATION DEPARTMENT ADDITIONAL TIME TO COMPLETE THE REPORT AND SHALL RESET THE SENTENCING HEARING SO THAT THE HEARING IS HELD AT LEAST SEVEN DAYS AFTER THE PROBATION DEPARTMENT PROVIDES THE REPORT. A copy of the presentence report shall be transmitted to the department of corrections together with the mittimus.

(b) (I) Each presentence report prepared regarding a sex offender, as defined in section 16-11.7-102 (2), with respect to any offense committed on or after January 1, 1996, shall contain the results of an evaluation and identification conducted pursuant to article 11.7 of this title; except that:

(A) If the offense is a misdemeanor pursuant to the provisions of

## **Current Crim. P. 32(a)**

### Rule 32. Sentence and Judgment

#### (a) Presentence or Probation Investigation.

- (1) **When and How Made.** In any felony case where the court has discretion as to the punishment and on court order in any misdemeanor case, the probation officer shall make an investigation and written report to the court before the imposition of sentence or granting of probation.

An application for probation shall be in writing upon forms furnished by the court, but when the defendant has been convicted of a misdemeanor or class 1 petty offense, the court, in its discretion, may waive the written application for probation.

The court, upon its own motion or upon the petition of the probation officer, may order any defendant who is subject to presentence investigation or who has made application for probation to submit to a mental and physical examination.

The court, with the concurrence of the defendant and the prosecuting attorney, may dispense with the presentence examination and report unless a presentence report is required by statute, including but not limited to the requirements of section 16-11-102(1)(b).

- (2) **Report.** The presentence report shall include, but not be limited to, information as to the defendant's family background, educational history, employment record, and past criminal record, an evaluation of the alternative dispositions available for the defendant, and such other information as the court may require. In addition, the court, as it deems appropriate, may require the presentence report to include the findings and results of a professionally conducted mental and physical examination of the defendant. Within a reasonable time prior to sentencing, copies of the presentence report, including any recommendations as to probation, shall be furnished to the prosecuting attorney and defense counsel or to the defendant if the defendant is unrepresented. The report shall also include a statement showing the amount of time during which the defendant was confined prior to the imposition of sentence for the offense for which the defendant is being sentenced.

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Appendix G–Pertinent portions of current statute (§ 16-11-102), Page 1

### **Excerpt of current § 16-11-102**

#### § 16-11-102. Presentence or probation investigation

(1) (a) Following the return of a verdict of guilty of a felony, other than a class 1 felony, or following a finding of guilt on such charge where the issues were tried to the court, or on a plea of guilty or nolo contendere to such a charge, or upon order of the court in any misdemeanor conviction, the probation officer shall make an investigation and written report to the court before the imposition of sentence. Each presentence report shall include a substance abuse assessment or evaluation made pursuant to article 11.5 of this title and, unless waived by the court, shall include, but not be limited to, information as to the defendant's family background, educational history, employment record, and past criminal record, including the defendant's past juvenile delinquency record, if any, if the defendant has been convicted of unlawful sexual behavior as defined in section 16-22-102(9), an evaluation of the alternative dispositions available for the defendant; the information required by the court pursuant to article 18.5 of this title; a victim impact statement; and such other information as the court may require. A victim impact statement shall be prepared by the district attorney's office on and after September 1, 1985. The department of human services shall provide the district attorney's office with the information necessary for the preparation of a victim impact statement. In addition, the court, in cases that it deems appropriate, may require the presentence report to include the findings and results of a professionally conducted psychiatric examination of the defendant. No less than seventy-two hours prior to the sentencing hearing, copies of the presentence report, including any recommendations as to probation, shall be furnished to the prosecuting attorney and defense counsel or to the defendant if he or she is unrepresented. Upon request of either the defense or the district attorney, the probation department shall provide the presentence report at least seven days prior to the sentencing hearing. If the probation department informs the court it cannot provide the report at least seven days prior to the sentencing hearing, the court shall grant the probation department additional time to complete the report and shall reset the sentencing hearing so that the hearing is held at least seven days after the probation department provides the report. A copy of the presentence report shall be transmitted to the department of corrections together with the mittimus.

(b) (I) Each presentence report prepared regarding a sex offender, as defined in section 16-11.7-102(2), with respect to any offense

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committed on or after January 1, 1996, shall contain the results of an evaluation and identification conducted pursuant to article 11.7 of this title; except that:

- (A) If the offense is a misdemeanor pursuant to the provisions of section 18-3-412.6, C.R.S., an evaluation and identification conducted pursuant to article 11.7 of this title shall not be ordered by the court;
  - (B) If the offense is a misdemeanor pursuant to title 42, C.R.S., or the history of sex-offending behavior was a misdemeanor sex offense committed when the defendant was a juvenile, an evaluation and identification conducted pursuant to article 11.7 of this title is not required but may be ordered by the court; and
  - (C) If the court accepts a stipulation that the defendant will not be sentenced to probation or if the defendant is already serving a sentence in the department of corrections, an evaluation and identification conducted pursuant to article 11.7 of this title is not required but may be ordered by the court.
- (II) In addition, the presentence report shall include, when appropriate as provided in section 18-3-414.5, C.R.S., the results of the risk assessment screening instrument developed pursuant to section 16-11.7-103(4)(d). Notwithstanding the provisions of subsection (4) of this section, a presentence report shall be prepared for each person convicted as a sex offender, and the court may not dispense with the presentence evaluation, risk assessment, and report unless an evaluation and risk assessment has been completed within the last two years and there has been no material change that would affect the evaluation and risk assessment in the past two years.
- (c) (I) The state court administrator may implement a mental illness screening program to screen defendants for which the court has ordered an investigation pursuant to this section. If the state court administrator chooses to implement a mental illness screening program, the state court administrator shall use the standardized mental illness screening instrument developed pursuant to section 16-11.9-102 and conduct the screening in accordance with the procedures established pursuant to said section. The findings and results of any standardized mental illness screening conducted pursuant to this paragraph (c) shall be included in the written report to the court prepared and submitted pursuant to this subsection (1).

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- (II) Prior to implementation of a mental illness screening program pursuant to this paragraph (c), if implementation of the program would require an increase in appropriations, the state court administrator shall submit to the joint budget committee a request for funding in the amount necessary to implement the mental illness screening program. If implementation of the program would require an increase in appropriations, implementation of the mental illness screening program shall be conditional upon approval of the funding request.
- (1.1) Repealed by Laws 1994, S.B.94-143, § 5, eff. July 1, 1994.
- (1.5) A victim impact statement may include the following:
  - (a) An identification of the victim of the offense;
  - (b) An itemization of any economic loss suffered by the victim as a result of the offense, including any loss incurred after the offense and after criminal charges were filed formally against the defendant. The victim impact statement shall be prepared by the district attorney's office at the time the offense is filed and shall be updated to include any loss incurred by the victim after criminal charges were filed.
  - (c) An identification of any physical injury suffered by the victim as a result of the offense, including information on its seriousness and permanence;
  - (d) A description of any change in the victim's personal welfare or familial relationships as a result of the offense;
  - (e) An identification of any request for psychological services initiated by the victim or the victim's family as a result of the offense;
  - (e.5) An evaluation of the victim's and the victim's children's safety if probation is granted;
  - (f) Any other information related to the impact of the offense upon the victim that the court requires.
- (1.7) Each presentence report shall also include information from the offender and any other source available to the probation officer regarding the offender's estate, as defined in section 18-1.3-701(5)(b), C.R.S., and other pertinent financial information, for the purpose of determining whether such offender or juvenile has sufficient assets to pay all or part of such offender's or juvenile's cost of care, as defined in section 18-1.3-701(5)(a), C.R.S. The financial information obtained from the offender shall be submitted in writing and under oath.
- (1.8) Upon the request of either the prosecution or the defense, each presentence report prepared regarding a youthful offender, as defined in section 18-1.3-407, C.R.S., who is eligible for sentencing to the youthful offender system pursuant to section 18-1.3-407.5, 19-2-517 (6), or 19-2-518(1)(d)(II), C.R.S., shall include a

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determination by the warden of the youthful offender system whether the youthful offender is acceptable for sentencing to the youthful offender system. When making a determination, the warden shall consider the nature and circumstances of the crime, the circumstances and criminal history of the youthful offender, the available bed space in the youthful offender system, and any other appropriate considerations.

(1.9) Each presentence report shall also:

- (a) Include the results of an actuarial assessment of the offender's criminological risks and needs;
- (b) Provide sufficient information to allow the court to consider:
  - (I) Whether the offender is a suitable candidate for a sentencing option that does not involve incarceration or a combination of sentencing options that does not involve incarceration; and
  - (II) The appropriate conditions to impose if a defendant is sentenced to probation;
- (c) Describe the projected costs, if known, that are associated with each sentencing option that is available to the court; and
- (d) Set forth the purposes of title 18, C.R.S., with respect to sentencing, as such purposes are described in section 18-1-102.5, C.R.S.

(2) The report of the probation officer and the procedures to be followed at the time sentence is imposed and final judgment is entered shall be as required by the Colorado rules of criminal procedure. In addition to the requirements of such rules, the report shall include a statement showing the amount of time during which the defendant was imprisoned awaiting trial upon the charge resulting in conviction.