# Alternative #4 (Short form)

This brings the rule up to date with statute for the seven day timing in providing the PSIR to parties, while adding a seven day window to request the seven day advance PSIR. It deletes the requirement for probation to be in writing on forms provided by the court. It does not substantially amend the waiver section from its current form. It follows alternative #3's proposed re-organization. And, it does not include the laundry list of inclusions for the PSIR content.

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 § 16-11-102(1)(b).

(2) Application for Probation. A person who has been convicted of an offense, other than a class one felony or class 2 petty offense, may apply for probation.

(3) 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 within 7 days of 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 7 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 7 days after the probation department provides the report copies.