

By Senator Bracy

11-00694-18

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1 A bill to be entitled
2 An act relating to presentence information; amending
3 ss. 921.231 and 948.015, F.S.; requiring the
4 Department of Corrections to report specified
5 sentencing information regarding first-time offenders
6 in a presentence report; amending s. 948.08, F.S.;
7 making a clarifying technical change; reenacting s.
8 944.17(5), F.S., relating to commitments,
9 classifications, and transfers to the state
10 correctional system, to incorporate the amendment made
11 to s. 921.231, F.S., in a reference thereto; providing
12 an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Subsection (1) of section 921.231, Florida
17 Statutes, is amended to read:

18 921.231 Presentence investigation reports.—

19 (1) Any circuit court of the state, when the defendant in a
20 criminal case has been found guilty or has entered a plea of
21 nolo contendere or guilty, may refer the case to the Department
22 of Corrections for investigation and recommendation. Upon
23 request of the court, it shall be the duty of the department to
24 make either or both of the following reports in writing to the
25 circuit court at a specified time prior to sentencing, depending
26 upon the circumstances of the offender and the offense. The full
27 report shall include:

28 (a) A complete description of the situation surrounding the
29 criminal activity with which the offender has been charged,

11-00694-18

2018868__

30 including a synopsis of the trial transcript, if one has been
31 made; nature of the plea agreement including the number of
32 counts waived, the pleas agreed upon, the sentence agreed upon,
33 and additional terms of agreement; and, at the offender's
34 discretion, his or her version and explanation of the act.

35 (b) The offender's sentencing status, including whether the
36 offender is a first-time ~~first~~ offender, habitual offender, or
37 youthful offender or is currently on probation.

38 (c) The offender's prior record of arrests and convictions.

39 (d) The offender's educational background.

40 (e) The offender's employment background, including any
41 military record, his or her present employment status, and his
42 or her occupational capabilities.

43 (f) The offender's financial status, including total
44 monthly income and estimated total debts.

45 (g) The social history of the offender, including his or
46 her family relationships, marital status, interests, and related
47 activities.

48 (h) The residence history of the offender.

49 (i) The offender's medical history and, as appropriate, a
50 psychological or psychiatric evaluation.

51 (j) Information about the environments to which the
52 offender might return or to which the offender could be sent
53 should a sentence of nonincarceration or community supervision
54 be imposed by the court and consideration of the offender's plan
55 concerning employment supervision and treatment.

56 (k) Information about any resources available to assist the
57 offender, such as:

58 1. Treatment centers.

11-00694-18

2018868__

- 59 2. Residential facilities.
60 3. Vocational training programs.
61 4. Special education programs.
62 5. Services that may preclude or supplement commitment to
63 the department.

64 (1) The views of the person preparing the report as to the
65 offender's motivations and ambitions and an assessment of the
66 offender's explanations for his or her criminal activity.

67 (m) An explanation of the offender's criminal record, if
68 any, including his or her version and explanation of any
69 previous offenses.

70 (n) A statement regarding the extent of the victim's loss
71 or injury.

72 (o) A recommendation as to disposition by the court. It
73 shall be the duty of the department to make a written
74 determination as to the reasons for its recommendation. The
75 department shall include an evaluation of the following factors:

76 1. The appropriateness or inappropriateness of community
77 facilities, programs, or services for treatment or supervision.

78 2. The ability or inability of the department to provide an
79 adequate level of supervision for the offender in the community
80 and a statement of what constitutes an adequate level of
81 supervision.

82 3. The existence of other treatment modalities which the
83 offender could use but which do not exist at present in the
84 community.

85 (p) The statewide mean sentence for first-time offenders
86 convicted of the offender's primary offense. If applicable, the
87 department shall report that the statewide mean sentence for the

11-00694-18

2018868__

88 primary offense is a nonstate prison sanction or that sentencing
89 data is unavailable. If sentencing data indicates that the
90 statewide mean sentence for the primary offense is a state
91 prison sentence, the department shall report the statewide mean
92 prison sentence in months. Sentencing information required to be
93 provided pursuant to this paragraph shall be based on sentencing
94 data regarding first-time offenders for the year preceding the
95 year in which the offender is to be sentenced for his or her
96 primary offense.

97
98 If requested by the court, the department shall also provide to
99 the court a summary report designed to expeditiously give the
100 court information critical to its approval of any plea. The
101 summary report shall include the information required by
102 paragraphs (a), (b), (c), (j), (m), (n), ~~and (o)~~, and (p).

103 Section 2. Section 948.015, Florida Statutes, is amended to
104 read:

105 948.015 Presentence investigation reports.—The circuit
106 court, when the defendant in a criminal case has been found
107 guilty or has entered a plea of nolo contendere or guilty and
108 has a lowest permissible sentence under the Criminal Punishment
109 Code of any nonstate prison sanction, may refer the case to the
110 department for investigation or recommendation. Upon such
111 referral, the department shall make the following report in
112 writing at a time specified by the court prior to sentencing.
113 The full report shall include:

114 (1) A complete description of the situation surrounding the
115 criminal activity with which the offender has been charged,
116 including a synopsis of the trial transcript, if one has been

11-00694-18

2018868__

117 made; nature of the plea agreement, including the number of
118 counts waived, the pleas agreed upon, the sentence agreed upon,
119 and any additional terms of agreement; and, at the offender's
120 discretion, his or her version and explanation of the criminal
121 activity.

122 (2) The offender's sentencing status, including whether the
123 offender is a first-time ~~first~~ offender, a habitual or violent
124 offender, a youthful offender, or is currently on probation.

125 (3) The offender's prior record of arrests and convictions.

126 (4) The offender's educational background.

127 (5) The offender's employment background, including any
128 military record, present employment status, and occupational
129 capabilities.

130 (6) The offender's financial status, including total
131 monthly income and estimated total debts.

132 (7) The social history of the offender, including his or
133 her family relationships, marital status, interests, and
134 activities.

135 (8) The residence history of the offender.

136 (9) The offender's medical history and, as appropriate, a
137 psychological or psychiatric evaluation.

138 (10) Information about the environments to which the
139 offender might return or to which the offender could be sent
140 should a sentence of nonincarceration or community supervision
141 be imposed by the court, and consideration of the offender's
142 plan concerning employment supervision and treatment.

143 (11) Information about any resources available to assist
144 the offender, such as:

145 (a) Treatment centers.

11-00694-18

2018868__

- 146 (b) Residential facilities.
- 147 (c) Career training programs.
- 148 (d) Special education programs.
- 149 (e) Services that may preclude or supplement commitment to
150 the department.
- 151 (12) The views of the person preparing the report as to the
152 offender's motivations and ambitions and an assessment of the
153 offender's explanations for his or her criminal activity.
- 154 (13) An explanation of the offender's criminal record, if
155 any, including his or her version and explanation of any
156 previous offenses.
- 157 (14) A statement regarding the extent of any victim's loss
158 or injury.
- 159 (15) A recommendation as to disposition by the court. The
160 department shall make a written determination as to the reasons
161 for its recommendation, and shall include an evaluation of the
162 following factors:
- 163 (a) The appropriateness or inappropriateness of community
164 facilities, programs, or services for treatment or supervision
165 for the offender.
- 166 (b) The ability or inability of the department to provide
167 an adequate level of supervision for the offender in the
168 community and a statement of what constitutes an adequate level
169 of supervision.
- 170 (c) The existence of other treatment modalities which the
171 offender could use but which do not exist at present in the
172 community.
- 173 (16) The statewide mean sentence for first-time offenders
174 convicted of the offender's primary offense. If applicable, the

11-00694-18

2018868__

175 department shall report that the statewide mean sentence for the
176 primary offense is a nonstate prison sanction or that sentencing
177 data is unavailable. If sentencing data indicates that the
178 statewide mean sentence for the primary offense is a state
179 prison sentence, the department shall report the statewide mean
180 prison sentence in months. Sentencing information required to be
181 provided pursuant to this subsection shall be based on
182 sentencing data regarding first-time offenders for the year
183 preceding the year in which the offender is to be sentenced for
184 his or her primary offense.

185 Section 3. Subsection (2) of section 948.08, Florida
186 Statutes, is amended to read:

187 948.08 Pretrial intervention program.—

188 (2) A first-time ~~Any first~~ offender, or a ~~any~~ person
189 previously convicted of not more than one nonviolent
190 misdemeanor, who is charged with any misdemeanor or felony of
191 the third degree is eligible for release to the pretrial
192 intervention program on the approval of the administrator of the
193 program and the consent of the victim, the state attorney, and
194 the judge who presided at the initial appearance hearing of the
195 offender. However, the defendant may not be released to the
196 pretrial intervention program unless, after consultation with
197 his or her attorney, he or she has voluntarily agreed to such
198 program and has knowingly and intelligently waived his or her
199 right to a speedy trial for the period of his or her diversion.
200 The defendant or the defendant's immediate family may not
201 personally contact the victim or the victim's immediate family
202 to acquire the victim's consent under this section.

203 Section 4. For the purpose of incorporating the amendments

11-00694-18

2018868__

204 made by this act to section 921.231, Florida Statutes, in a
205 reference thereto, subsection (5) of section 944.17, Florida
206 Statutes, is reenacted to read:

207 944.17 Commitments and classification; transfers.—

208 (5) The department shall also refuse to accept a person
209 into the state correctional system unless the following
210 documents are presented in a completed form by the sheriff or
211 chief correctional officer, or a designated representative, to
212 the officer in charge of the reception process. The department
213 may, at its discretion, receive such documents electronically:

214 (a) The uniform commitment and judgment and sentence forms
215 as described in subsection (4).

216 (b) The sheriff's certificate as described in s. 921.161.

217 (c) A certified copy of the indictment or information
218 relating to the offense for which the person was convicted.

219 (d) A copy of the probable cause affidavit for each offense
220 identified in the current indictment or information.

221 (e) A copy of the Criminal Punishment Code scoresheet and
222 any attachments thereto prepared pursuant to Rule 3.701, Rule
223 3.702, or Rule 3.703, Florida Rules of Criminal Procedure, or
224 any other rule pertaining to the preparation of felony
225 sentencing scoresheets.

226 (f) A copy of the restitution order or the reasons by the
227 court for not requiring restitution pursuant to s. 775.089(1).

228 (g) The name and address of any victim, if available.

229 (h) A printout of a current criminal history record as
230 provided through an FCIC/NCIC printer.

231 (i) Any available health assessments including medical,
232 mental health, and dental, including laboratory or test

11-00694-18

2018868__

233 findings; custody classification; disciplinary and adjustment;
234 and substance abuse assessment and treatment information which
235 may have been developed during the period of incarceration
236 before the transfer of the person to the department's custody.
237 Available information shall be transmitted on standard forms
238 developed by the department.

239

240 In addition, the sheriff or other officer having such person in
241 charge shall also deliver with the foregoing documents any
242 available presentence investigation reports as described in s.
243 921.231 and any attached documents. After a prisoner is admitted
244 into the state correctional system, the department may request
245 such additional records relating to the prisoner as it considers
246 necessary from the clerk of the court, the Department of
247 Children and Families, or any other state or county agency for
248 the purpose of determining the prisoner's proper custody
249 classification, gain-time eligibility, or eligibility for early
250 release programs. An agency that receives such a request from
251 the department must provide the information requested. The
252 department may, at its discretion, receive such information
253 electronically.

254 Section 5. This act shall take effect July 1, 2018.