

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR'S OFFICE
OF DRUG CONTROL POLICY
BILL)

A BILL FOR

1 An Act relating to the compilation of a presentence
2 investigation report in a criminal proceeding.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DRAFT

1 Section 1. Section 901.2, Code 2011, is amended to read as
2 follows:

3 **901.2 Presentence investigation.**

4 1. Upon a plea of guilty, a verdict of guilty, or a special
5 verdict upon which a judgment of conviction of a public offense
6 may be rendered, the court shall receive from the state, from
7 the judicial district department of correctional services,
8 and from the defendant any information which may be offered
9 which is relevant to the question of sentencing. The court may
10 consider information from other sources.

11 2. The court shall not order a presentence investigation
12 when the offense is a class "A" felony. If, however, the board
13 of parole determines that the Iowa medical and classification
14 center reception report for a class "A" felon is inadequate,
15 the board may request and shall be provided with additional
16 information from the appropriate judicial district department
17 of correctional services. The court shall order a presentence
18 investigation when the offense is any felony punishable under
19 section 902.9, subsection 1, or a class "B", class "C", or
20 class "D" felony. A presentence investigation for any felony
21 punishable under section 902.9, subsection 1, or a class "B",
22 class "C", or class "D" felony shall not be waived. The
23 court may order, with the consent of the defendant, that the
24 presentence investigation begin prior to the acceptance of a
25 plea of guilty, or prior to a verdict of guilty. The court
26 may order a presentence investigation when the offense is an
27 aggravated misdemeanor. The court may order a presentence
28 investigation when the offense is a serious misdemeanor only
29 upon a finding of exceptional circumstances warranting an
30 investigation. Notwithstanding section 901.3, a presentence
31 investigation ordered by the court for a serious misdemeanor
32 shall include information concerning only the following:

- 33 ~~1-~~ a. A brief personal and social history of the defendant.
34 ~~2-~~ b. The defendant's criminal record.
35 ~~3-~~ c. The harm to the victim, the victim's immediate

1 family, and the community, including any completed victim
2 impact statement or statements and restitution plan.

3 d. The results of a validated risk assessment that includes
4 a risk category taken from a model approved by the department
5 of corrections.

6 3. The court may withhold execution of any judgment or
7 sentence for such time as shall be reasonably necessary for an
8 investigation with respect to deferment of judgment, deferment
9 of sentence, or suspension of sentence and probation. The
10 investigation shall be made by the judicial district department
11 of correctional services.

12 4. The purpose of the report by the judicial district
13 department of correctional services is to provide the court
14 pertinent information for purposes of sentencing and to include
15 suggestions for correctional planning for use by correctional
16 authorities subsequent to sentencing.

17 Sec. 2. Section 901.3, Code Supplement 2011, is amended to
18 read as follows:

19 **901.3 Presentence investigation report.**

20 1. If a presentence investigation is ordered by the court,
21 the investigator shall promptly inquire into all of the
22 following:

23 ~~1-~~ a. The defendant's characteristics, family and financial
24 circumstances, needs, and potentialities.

25 ~~2-~~ b. The defendant's criminal record and social history.

26 ~~3-~~ c. The circumstances of the offense.

27 ~~4-~~ d. The time the defendant has been in detention.

28 ~~5-~~ e. The harm to the victim, the victim's immediate
29 family, and the community. Additionally, the presentence
30 investigator shall provide a victim impact statement form to
31 each victim, if one has not already been provided, and shall
32 file the completed statement or statements with the presentence
33 investigation report.

34 ~~6-~~ f. The defendant's potential as a candidate for the
35 community service sentence program established pursuant to

1 section 907.13.

2 ~~7.~~ g. Any mitigating circumstances relating to the offense
3 and the defendant's potential as a candidate for deferred
4 judgment, deferred sentencing, a suspended sentence, or
5 probation, if the defendant is charged with or convicted of
6 assisting suicide pursuant to section 707A.2.

7 ~~8.~~ h. Whether the defendant has a history of mental
8 health or substance abuse problems. If so, the investigator
9 shall inquire into the treatment options available in both the
10 community of the defendant and the correctional system.

11 2. The presentence investigation report shall contain the
12 results of a validated risk assessment that includes a risk
13 category taken from a model approved by the department of
14 corrections.

15 3. All local and state mental and correctional
16 institutions, courts, and police agencies shall furnish to
17 the investigator on request the defendant's criminal record
18 and other relevant information. The originating source of
19 specific mental health or substance abuse information including
20 the histories, treatment, and use of medications shall
21 not be released to the presentence investigator unless the
22 defendant authorizes the release of such information. If the
23 defendant refuses to release the information, the presentence
24 investigator may note the defendant's refusal to release mental
25 health or substance abuse information in the presentence
26 investigation report and rely upon other mental health or
27 substance abuse information available to the presentence
28 investigator. With the approval of the court, a physical
29 examination or psychiatric evaluation of the defendant may be
30 ordered, or the defendant may be committed to an inpatient
31 or outpatient psychiatric facility for an evaluation of the
32 defendant's personality and mental health. The results of any
33 such examination or evaluation shall be included in the report
34 of the investigator.

35

EXPLANATION

1 This bill relates to the compilation of a presentence
2 investigation report in a criminal proceeding.

3 The bill requires a presentence investigation report
4 to contain the results of a validated risk assessment that
5 includes a risk category taken from a model approved by the
6 department of corrections.

7 A presentence investigation report details the background of
8 a defendant and is reviewed by the court prior to sentencing.

DRAFT