

RULE 3.710 | PRESENTENCE REPORT

(a) Cases In Which Court Has Discretion. In all cases in which the court has discretion as to what sentence may be imposed, the court may refer the case to the Department of Corrections for investigation and recommendation. No sentence or sentences other than probation shall be imposed on any defendant found guilty of a first felony offense or found guilty of a felony while under the age of 18 years, until after such investigation has first been made and the recommendations of the Department of Corrections received and considered by the sentencing judge.

(b) Capital Defendant Who Refuses To Present Mitigation Evidence. Should a defendant in a capital case choose not to challenge the death penalty and refuse to present mitigation evidence, the court shall refer the case to the Department of Corrections for the preparation of a presentence report. The report shall be comprehensive and should include information such as previous mental health problems (including hospitalizations), school records, and relevant family background.

Committee Notes

1972 Adoption. The rule provides for the utilization of a pre-sentence report as part of the sentencing process. While use of the report is discretionary in all cases, it is mandatory in two instances, the sentencing of a first felony offender and of a defendant under 18 years of age. Of course, no report is necessary where the specific sentence is mandatory, e.g., the sentence of death or life imprisonment in a verdict of first degree murder.

1988 Amendment. This amendment changes wording to conform with current responsibility of the Department of Corrections to prepare the presentence investigation and report.

2004 Amendment. The amendment adds subdivision (b). Section 948.015, Florida Statutes, is by its own terms inapplicable to those cases described in this new subdivision. Nonetheless, subdivision (b) requires a report that is “comprehensive.” Accordingly, the report should include, if reasonably available, in addition to those matters specifically listed in *Muhammad v. State*, 782 So.2d 343, 363 (Fla. 2000), a description of the status of all of the charges in the indictment as well as any other pending offenses; the defendant’s medical history; and those matters listed in sections 948.015 (3)–(8) and (13), Florida Statutes. The Department of Corrections should not recommend a sentence.

