



BACKGROUND MATERIAL

AZSOMB ADULT GUIDLINES AND STANDARDS SUBCOMMITTEE

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UTAH SOMAC UPDATE

BY

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AZ SOMB Adult Guidelines and Standards Subcommittee

UTAH SEX OFFENSE MANAGEMENT ADVISORY COMMITTEE (SOMAC)

DETAILS

- Currently waiting to receive collateral from the Utah SOMAC Director, Michele Leslie, Psy.D.
- Pre-Sentence Investigations (PSIs) are written by “PSI Writers” who are employees of the Utah Department of Corrections
 - Not all offenders get a PSI. It depends on the offense and plea
 - If there are standards or guidelines, this would be a DOC policy or expectation
- However, Utah statute 77-18-103 notes that “the court may,
 - (a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or law enforcement agency, or information from any other source about the defendant; and
 - (b) if the defendant is convicted for a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.”
 - (3) If a presentence investigation report is required under Subsection (2) or the standards established by the department described in Section 77-18-109, the presentence investigation report under Subsection (1) shall include:
 - (a) any impact statement provided by a victim as described in 77-38b-203(3)(c);
 - (b) information on restitution as described in Subsection 77-38b-203(a) and (b);
 - (c) recommendations for treatment for the defendant; and
 - (d) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section 17-72-402.”
- No guidelines or standards for pre-sentence psychosexual evaluations
- Individuals are sentenced to Utah DOC for an indeterminate sentence. Utah SOMAC has recommended all individuals convicted of a sexual offense obtain a psychosexual evaluation during their prison sentence prior to their first hearing for release to ensure evidence based, risk-based decisions regarding release.

Effective 11/6/2025

77-18-103 Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.

- (1) Before the imposition of a sentence, the court may:
 - (a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or a law enforcement agency, or information from any other source about the defendant; and
 - (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.
- (2)
 - (a) Notwithstanding Subsection (1), if a defendant is convicted of an offense and the defendant is a habitual offender, the prosecuting attorney shall notify the court that the defendant is a habitual offender.
 - (b) Upon a notification under Subsection (2)(a), the court may not impose a sentence for the conviction without ordering and obtaining a presentence investigation report, unless the court finds good cause to proceed with sentencing without the presentence investigation report.
- (3) If a presentence investigation report is required under Subsection (2) or the standards established by the department described in Section 77-18-109, the presentence investigation report under Subsection (1) shall include:
 - (a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);
 - (b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);
 - (c) recommendations for treatment for the defendant; and
 - (d) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section 17-72-402.
- (4) The department or law enforcement agency shall provide the presentence investigation report to the defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting attorney, and the court for review within three working days before the day on which the defendant is sentenced.
- (5)
 - (a)
 - (i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department or law enforcement agency before sentencing:
 - (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and
 - (B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.
 - (ii) If the court does not grant additional time under Subsection (5)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:
 - (A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and
 - (B) provide the written finding to the department or the law enforcement agency.
 - (b) The department shall attach the written finding to the presentence investigation report as an addendum.

- (c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.
- (6) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department or law enforcement agency.
- (7)
 - (a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.
 - (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the director of the State Records Office, created in Section 63A-12-202, may not order the disclosure of a presentence investigation report.
- (8) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:
 - (a) ordered by the court in accordance with Subsection 63G-2-202(7);
 - (b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;
 - (c) requested by the board;
 - (d) requested by the subject of the presentence investigation report or the subject's authorized representative;
 - (e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:
 - (i) statements or materials provided by the victim;
 - (ii) the circumstances of the offense, including statements by the defendant; or
 - (iii) the impact of the offense on the victim or the victim's household; or
 - (f) requested by a sex offender treatment provider:
 - (i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(2);
 - (ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and
 - (iii) who provides written assurance to the department that the report:
 - (A) is necessary for the treatment of the defendant;
 - (B) will be used solely for the treatment of the defendant; and
 - (C) will not be disclosed to an individual or entity other than the defendant.
- (9)
 - (a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.
 - (b) Testimony, evidence, or information under Subsection (9)(a) shall be presented in open court on record and in the presence of the defendant.
- (10) The court may not rely solely on an algorithm or a risk assessment tool score in determining the appropriate sentence for a defendant.

Amended by Chapter 17, 2025 Special Session 1