§ 390.20 Requirement of pre-sentence report.

1. Requirement for felonies. In any case where a person is convicted of a felony, the court must order a pre-sentence investigation of the defendant and it may not pronounce sentence until it has received a written report of such investigation.

2. Requirement for misdemeanors. Where a person is convicted of a misdemeanor a pre-sentence report is not required, but the court may not pronounce any of the following sentences unless it has ordered a pre-sentence investigation of the defendant and has received a written report thereof:

(a) A sentence of probation except where the provisions of subparagraph (ii) of paragraph (a) of subdivision four of this section apply;

(b) A sentence of imprisonment for a term in excess of one hundred eighty days;

(c) Consecutive sentences of imprisonment with terms aggregating more than ninety days.

3. Permissible in any case. For purposes of sentence, the court may, in its discretion, order a pre-sentence investigation and report in any case, irrespective of whether such investigation and report is required by subdivision one or two.

4. Waiver. (a) Notwithstanding the provisions of subdivision one or two of this section, a pre-sentence investigation of the defendant and a written report thereon may be waived by the mutual consent of the parties and with consent of the judge, stated on the record or in writing, whenever:

(i) A sentence of imprisonment has been agreed upon by the parties and will be satisfied by the time served, or

(ii) A sentence of probation or conditional discharge has been agreed upon by the parties and will be imposed, or

(iii) A report has been prepared in the preceding twelve months, or

(iv) A sentence of probation is revoked.

* Provided, however, a pre-sentence investigation of the defendant and

a written report thereon shall not be waived if an indeterminate or determinate sentence of imprisonment is to be imposed.

* NB Effective until September 1, 2027

* Provided, however, a pre-sentence investigation of the defendant and a written report thereon shall not be waived if an indeterminate sentence of imprisonment is to be imposed.

* NB Effective September 1, 2027

(b) Whenever a pre-sentence investigation and report has been waived pursuant to subparagraph (i), (ii) or (iii) of paragraph (a) of this subdivision and the court determines that such information would be relevant to the court disposition, a victim impact statement shall be provided in accordance with this section.

5. Negotiated sentence of imprisonment. In any city having a population of one million or more and notwithstanding the provisions of subdivision one or two of this section, a pre-sentence investigation and written report thereon shall not be required where a negotiated sentence of imprisonment for a term of three hundred sixty-five days or less has been mutually agreed upon by the parties with consent of the judge, as a result of a conviction or revocation of a sentence of probation.