§ 390.30 Scope of pre-sentence investigation and report.

1. The investigation. The pre-sentence investigation consists of the gathering of information with respect to the circumstances attending the commission of the offense, the defendant's history of delinquency or criminality, and the defendant's social history, employment history, family situation, economic status, education, and personal habits. Such investigation may also include any other matter which the agency conducting the investigation deems relevant to the question of sentence, and must include any matter the court directs to be included.

2. Physical and mental examinations. Whenever information is available with respect to the defendant's physical and mental condition, the pre-sentence investigation must include the gathering of such information. In the case of a felony or a class A misdemeanor, or in any case where a person under the age of twenty-one is convicted of a crime, the court may order that the defendant undergo a thorough physical or mental examination in a designated facility and may further order that the defendant remain in such facility for such purpose for a period not exceeding thirty days.

3. The report and victim impact statement. (a) The report of the pre-sentence investigation must contain an analysis of as much of the information gathered in the investigation as the agency that conducted the investigation deems relevant to the question of sentence. The report must also include any other imformation that the court directs to be included and the material required by paragraph (b) of this subdivision which shall be considered part of the report.

(b) The report shall also contain a victim impact statement, unless it appears that such information would be of no relevance to the recommendation or court disposition, which shall include an analysis of the victim's version of the offense, the extent of injury or economic loss and the actual out-of-pocket loss to the victim and the views of the victim relating to disposition including the amount of restitution and reparation sought by the victim after the victim has been informed of the right to seek restitution and reparation, subject to the availability of such information. In the case of a homicide or where the

victim is unable to assist in the preparation of the victim impact statement, the information may be acquired from the victim's family. The victim impact statement shall be made available to the victim by the prosecutor pursuant to subdivision two of section 390.50 of this article. Nothing contained in this section shall be interpreted to require that a victim supply information for the preparation of this report.

4. Abbreviated investigation and short form report. In lieu of the procedure set forth in subdivisions one, two and three of this section, where the conviction is of a misdemeanor the scope of the pre-sentence investigation may be abbreviated and a short form report may be made. The use of abbreviated investigations and short form reports, the matters to be covered therein and the form of the reports shall be in accordance with the general rules regulating methods and procedures in the administration of probation as adopted from time to time by the commissioner of the division of criminal justice services pursuant to the provisions of article twelve of the executive law. No such rule, however, shall be construed so as to relieve the agency conducting the investigation of the duty of investigating and reporting upon:

(a) the extent of the injury or economic loss and the actual out-of-pocket loss to the victim including the amount of restitution and reparation sought by the victim, after the victim has been informed of the right to seek restitution and reparation, or

(b) any matter relevant to the question of sentence that the court directs to be included in particular cases.

5. Information to be forwarded to the state office of probation and correctional alternatives. Investigating agencies under this article shall be responsible for the collection, and transmission to the state office of probation and correctional alternatives, of data on the number of victim impact statements prepared. Such information shall be transmitted annually to the office of victim services and included in the office's biennial report pursuant to subdivision twenty-one of section six hundred twenty-three of the executive law.

6. Interim probation supervision. (a) In any case where the court

determines that a defendant is eligible for a sentence of probation, the court, after consultation with the prosecutor and upon the consent of the defendant, may adjourn the sentencing to a specified date and order that the defendant be placed on interim probation supervision. In no event may the sentencing be adjourned for a period exceeding one year from the date the conviction is entered, except that upon good cause shown, the court may, upon the defendant's consent, extend the period for an additional one year where the defendant has agreed to and is still participating in a treatment program in connection with a court designated a treatment court by the chief administrator of the courts. When ordering that the defendant be placed on interim probation supervision, the court shall impose all of the conditions relating to supervision specified in subdivision three of section 65.10 of the penal law and the court may impose any or all of the conditions relating to conduct and rehabilitation specified in subdivisions two, four, five and five-a of section 65.10 of such law. The defendant must receive a written copy of any such conditions at the time he or she is placed on interim probation supervision. The defendant's record of compliance with such conditions, as well as any other relevant information, shall be included in the presentence report, or updated presentence report, prepared pursuant to this section, and the court must consider such record and information when pronouncing sentence. If a defendant satisfactorily completes a term of interim probation supervision, he or she shall receive credit for the time served under the period of interim probation supervision toward any probation sentence that is subsequently imposed in that case.

(b) In its discretion, the supervising probation department may utilize the provisions of sections 410.20, 410.30, 410.40, 410.50, 410.60 and 410.92 of this title, where applicable.