

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

HOUSE BILL 2025

4
5 By: Representative Stewart

For An Act To Be Entitled

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7
8 AN ACT TO CLARIFY THE AUTHORITY OF A COURT TO
9 CONSIDER A DEFENDANT'S CURRENT OR PRIOR MILITARY
10 SERVICE AND ANY RELATED MENTAL HEALTH ISSUES FOR
11 PRESENTENCING INVESTIGATIONS AND REPORTS SO THAT
12 COURTS HAVE ADEQUATE INFORMATION TO MAKE SENTENCING
13 DECISIONS; AND FOR OTHER PURPOSES.

Subtitle

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16 TO CLARIFY THE AUTHORITY OF A COURT TO
17 CONSIDER A DEFENDANT'S CURRENT OR PRIOR
18 MILITARY SERVICE.

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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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24 SECTION 1. Arkansas Code § 5-4-102 is amended to read as follows:
25 5-4-102. Presentence investigation.

26 (a) If punishment is fixed by the court, the court may order a
27 presentence investigation before imposing sentence.

28 (b)(1) The presentence investigation should be conducted by a
29 presentence officer or another person designated by the court and should
30 include an analysis of:

31 (A) The circumstances surrounding the commission of the
32 offense;

33 (B) The defendant's history of delinquency or criminality,
34 physical and mental condition, family situation and background, economic
35 status, education, occupation, and personal habits; and

36 (C) Any other matter that the investigator deems relevant



1 or the court directs to be included.

2 (2) In a case involving a violation of § 5-11-106 in which a
3 minor was unlawfully detained, restrained, taken, enticed, or kept, the
4 presentence investigation shall include ascertaining the expenses incurred by
5 a law enforcement agency, the Department of ~~Health and~~ Human Services, and
6 the lawful custodian in searching for and returning the minor to the lawful
7 custodian.

8 (c)(1) If the court orders a presentence investigation, the
9 presentence investigation shall include an inquiry into whether the defendant
10 is currently serving in or is a veteran of the armed forces of the United
11 States.

12 (2) If the defendant is currently serving in or is a veteran of
13 the armed forces of the United States and the defendant has been diagnosed as
14 having a mental illness by a qualified psychiatrist, clinical psychologist,
15 or physician, the court may:

16 (A) Order the presentence officer to consult with the
17 United States Department of Veterans Affairs or another agency or person with
18 similar knowledge or experience to provide the court with information
19 regarding treatment options available to the defendant to include without
20 limitation federal, state, or local programs for treatment; or

21 (B) Consider the treatment recommendations of any
22 diagnosing or treating mental health professional combined with the treatment
23 options available to the defendant when imposing sentence.

24 ~~(e)(1)~~(d)(1) Before imposing sentence, the court may order the
25 defendant to submit to psychiatric examination and evaluation for a period
26 not to exceed thirty (30) days.

27 (2) The defendant may be remanded for psychiatric examination
28 and evaluation to the Arkansas State Hospital, or the court may appoint a
29 qualified psychiatrist to make the psychiatric examination and evaluation.

30 ~~(d)(1)~~(e)(1) Before imposing sentence, the court shall advise the
31 defendant or his or her counsel of the factual contents and conclusions of
32 any presentence investigation or psychiatric examination and evaluation and
33 afford fair opportunity, if the defendant so requests, to controvert the
34 factual contents and conclusions.

35 (2) A source of confidential information does not need to be
36 disclosed.

1 ~~(e)~~(f) If the defendant is sentenced to imprisonment, a copy of the
2 report of any presentence investigation or psychiatric examination or
3 evaluation shall be transmitted immediately to the Department of Correction
4 or, when the defendant is committed to the custody of a specific institution,
5 to that specific institution.

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