

IN THE SUPREME COURT OF ALABAMA
April 16, 2010

ORDER

IT IS ORDERED that the first paragraph of the Committee Comments to Rule 26.3, Alabama Rules of Criminal Procedure, is amended to read in accordance with the appendix to this order;

IT IS FURTHER ORDERED that this amendment is effective immediately;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow the Committee Comments to Rule 26.3:

"Note from the reporter of decisions: The order amending the Committee Comments to Rule 26.3, Alabama Rules of Criminal Procedure, effective April 16, 2010, is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 3d."

Cobb, C.J., and Lyons, Woodall, Stuart, Smith, Bolin, Parker, Murdock, and Shaw, JJ., concur.

APPENDIX

Committee Comments

Rule 26.3 expands on the provisions of Ala. Code 1975, § 13A-5-5, relating to presentence investigation reports. This rule refers to the filing, contents, and availability of presentence (as opposed to postsentence) investigation reports and is consistent with the provisions of § 13A-5-5 requiring a presentence investigation prior to sentencing a convicted felon if requested by written motion of either party or by the court's own motion. Section 13A-5-5, as amended by Act No. 2006-218, effective March 10, 2006, contains these same provisions for the availability of presentence investigation reports, but also requires that either a presentence or postsentence investigation report be completed and on file for every convicted felon and that these reports must be in electronic format (referred to as E-PSIs). A fundamental principle that underlies sentencing is that "rational and consistent sentencing decisions cannot be achieved without a reliable information base that provides the sentencing court with both an accurate and a relatively uniform volume of information about all offenders." Comment to ABA Standards for Criminal Justice, Sentencing Alternatives and Procedures 18-5.1 (2d ed. 1986). The sentencing process is crucial in the criminal process. "[E]very lawyer engaged in defending criminal cases knows that often a finding of guilt is a foregone conclusion, and that the real issue centers about the severity of the punishment." Smith v. United States, 233 F.2d 750, 754 (5th Cir. 1955). In jurisdictions which have used the presentence investigation report, it has proven to be a thorough and efficient method of compiling most of the information that is essential to an informed sentencing decision. § 7.07, Comment to Model Penal Code (Tent. Draft No. 2, 1954).