

§ 7A-773.1. Who may request plans; disposition of plans; contents of plans.

(a) A judge presiding over a case in which the offender meets the criteria set forth in G.S. 7A-773(1) may request, at any time prior to the imposition of sentence, that the sentencing services program provide a sentencing plan. The court may also request, at any time prior to the imposition of sentence, that the program provide a sentencing plan in misdemeanor cases in which the class of offense is Class A1 or Class 1 and the prior conviction level is Level III, if the court determines that the preparation of such a plan is in the interest of justice. In addition, in cases in which the offender meets the criteria set forth in G.S. 7A-773, the defendant or a prosecutor, at any time before the court has accepted a guilty plea or received a guilty verdict, may request that the program provide a plan. However, prior to an adjudication of guilt, a defendant may decline to participate in the preparation of a plan within a reasonable time after the request is made. In that case, no plan shall be prepared or presented to the court by the sentencing services program prior to an adjudication of guilt. A defendant's decision not to participate shall be made in writing and filed with the court. The comprehensive sentencing services program plan prepared pursuant to G.S. 7A-774 shall define what constitutes a reasonable time within the meaning of this subsection.

(b) Any sentencing plan prepared by a sentencing services program shall be presented to the court, the defendant, and the State in an appropriate manner.

(c) Sentencing plans prepared by sentencing services programs may include recommendations for use of any treatment or correctional resources available, unless the sentencing court instructs otherwise. Sentencing plans that identify an offender's needs for education, treatment, control, or other services shall, to the extent feasible, also identify resources to meet those needs. Plans may report that no intermediate punishment is appropriate under the circumstances of the case.

(d) To the extent allowed by law, the sentencing services program shall develop procedures to ensure that the program staff may work with offenders before a plea is entered. To that end, information obtained in the course of preparing a sentencing plan may not be used by the State for any purpose at trial and is subject to the provisions of G.S. 15A-1333. (1999-306, s. 1; 2000-67, s. 15.9(b).)