

STATE OF NEW YORK

5797

2023-2024 Regular Sessions

IN SENATE

March 16, 2023

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Substance Use Disorders

AN ACT to amend the criminal procedure law, in relation to the privacy and confidentiality of urine test results performed pursuant to a judicial diversion program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 5 of section 216.05 of the criminal procedure
2 law, as amended by chapter 435 of the laws of 2021, is amended to read
3 as follows:

4 5. The defendant shall agree on the record or in writing to abide by
5 the release conditions set by the court, which, shall include: partic-
6 ipation in a specified period of alcohol or substance use treatment at a
7 specified program or programs identified by the court, which may include
8 periods of detoxification, residential or outpatient treatment, or both,
9 as determined after taking into account the views of the health care
10 professional who conducted the alcohol and substance use evaluation and
11 any health care professionals responsible for providing such treatment
12 or monitoring the defendant's progress in such treatment; and may
13 include: (i) periodic court appearances, which may include periodic
14 urinalysis, provided that the results of any such urinalysis, as well as
15 any other information acquired as part of the urinalysis process, shall
16 be deemed private and confidential and shall not be disclosed to any
17 individual or entity other than the tested individual without the writ-
18 ten consent of such individual who was tested, nor shall any urine test
19 result that indicates the use of a non-prescribed substance be used as
20 evidence in a criminal action against the individual whose urine was
21 tested; (ii) a requirement that the defendant refrain from engaging in
22 criminal behaviors; (iii) if the defendant needs treatment for opioid
23 use, that he or she may participate in and receive medically prescribed

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 drug treatments under the care of a health care professional licensed or
2 certified under title eight of the education law, acting within his or
3 her lawful scope of practice, provided that no court shall require the
4 use of any specified type or brand of drug during the course of
5 medically prescribed drug treatments.

6 § 2. This act shall take effect immediately.