

4239--B

Cal. No. 585

2015-2016 Regular Sessions

I N S E N A T E

March 11, 2015

Introduced by Sens. MURPHY, AMEDORE, ORTT, BOYLE, HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Drug Abuse -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to amend the criminal procedure law, in relation to authorizing eligible defendants, in the judicial diversion program who need treatment for opioid abuse or dependence, to receive certain medically prescribed treatment therefor

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 5 and paragraph (a) of subdivision 9 of section  
2 216.05 of the criminal procedure law, as added by section 4 of part AAA  
3 of chapter 56 of the laws of 2009, are amended to read 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 abuse treatment at  
7 a specified program or programs identified by the court, which may  
8 include periods of detoxification, residential or outpatient treatment,  
9 or both, as determined after taking into account the views of the health  
10 care professional who conducted the alcohol and substance abuse evalu-  
11 ation and any health care professionals responsible for providing such  
12 treatment or monitoring the defendant's progress in such treatment; and  
13 may include: (i) periodic court appearances, which may include periodic  
14 urinalysis; (ii) a requirement that the defendant refrain from engaging  
15 in criminal behaviors; (III) IF THE DEFENDANT NEEDS TREATMENT FOR OPIOID  
16 ABUSE OR DEPENDENCE, THAT HE OR SHE MAY PARTICIPATE IN AND RECEIVE  
17 MEDICALLY PRESCRIBED DRUG TREATMENTS UNDER THE CARE OF A HEALTH CARE

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

LBD09425-05-5

1 PROFESSIONAL LICENSED OR CERTIFIED UNDER TITLE EIGHT OF THE EDUCATION  
2 LAW, ACTING WITHIN HIS OR HER LAWFUL SCOPE OF PRACTICE.

3 (a) If at any time during the defendant's participation in the judi-  
4 cial diversion program, the court has reasonable grounds to believe that  
5 the defendant has violated a release condition or has failed to appear  
6 before the court as requested, the court shall direct the defendant to  
7 appear or issue a bench warrant to a police officer or an appropriate  
8 peace officer directing him or her to take the defendant into custody  
9 and bring the defendant before the court without unnecessary delay;  
10 PROVIDED, HOWEVER, THAT UNDER NO CIRCUMSTANCES SHALL A DEFENDANT WHO  
11 REQUIRES TREATMENT FOR OPIOID ABUSE OR DEPENDENCE BE DEEMED TO HAVE  
12 VIOLATED A RELEASE CONDITION ON THE BASIS OF HIS OR HER PARTICIPATION IN  
13 MEDICALLY PRESCRIBED DRUG TREATMENTS UNDER THE CARE OF A HEALTH CARE  
14 PROFESSIONAL LICENSED OR CERTIFIED UNDER TITLE EIGHT OF THE EDUCATION  
15 LAW, ACTING WITHIN HIS OR HER LAWFUL SCOPE OF PRACTICE. The provisions  
16 of subdivision one of section 530.60 of this chapter relating to revoca-  
17 tion of recognizance or bail shall apply to such proceedings under this  
18 subdivision.

19 S 2. This act shall take effect immediately.