S T A T E O F N E W Y O R K

6874

I N S E N A T E

March 2, 2016

Introduced by Sen. MURPHY -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the criminal procedure law, in relation to participation in treatment for opioid abuse or dependence under the judicial diversion program

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

Section 1. Subdivision 5 of section 216.05 of the criminal procedure law, as amended by chapter 258 of the laws of 2015, is amended to read as follows:

5. (A) The defendant shall agree on the record or in writing to abide by the release conditions set by the court, which, shall include: participation in a specified period of alcohol or substance abuse treatment at a specified program or programs identified by the court, which may include periods of detoxification, residential or outpatient treatment, or both, as determined after taking into account the views of the health care professional who conducted the alcohol and substance abuse evaluation and any health care professionals responsible for providing such treatment or monitoring the defendant's progress in such treatment; and may include: (i) periodic court appearances, which may include periodic urinalysis; (ii) a requirement that the defendant refrain from engaging in criminal behaviors; (iii) if the defendant needs treatment for opioid abuse or dependence, that he or she may participate in and receive medically prescribed drug treatments under the care of a health care professional licensed or certified under title eight of the education law, acting within his or her lawful scope of practice.

(B) NO COURT SHALL BE AUTHORIZED, PURSUANT TO THIS SUBDIVISION, TO ESTABLISH ANY RELEASE CONDITION, FOR ANY DEFENDANT NEEDING TREATMENT FOR OPIOID ABUSE OR DEPENDENCE, WHICH REQUIRES USE OF ANY SPECIFIED TYPE OR BRAND OF DRUG DURING THE COURSE OF MEDICALLY PRESCRIBED DRUG TREATMENTS UNDER THE CARE OF A HEALTH CARE PROFESSIONAL.

S 2. Paragraph (a) of subdivision 9 of section 216.05 of the criminal procedure law, as amended by chapter 258 of the laws of 2015, is amended to read as follows:

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

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(a) If at any time during the defendant's participation in the judicial diversion program, the court has reasonable grounds to believe that the defendant has violated a release condition or has failed to appear before the court as requested, the court shall direct the defendant to appear or issue a bench warrant to a police officer or an appropriate peace officer directing him or her to take the defendant into custody and bring the defendant before the court without unnecessary delay; provided, however, that under no circumstances shall a defendant who requires treatment for opioid abuse or dependence be deemed to have violated a release condition on the basis of his or her participation in medically prescribed drug treatments under the care of a health care professional licensed or certified under title eight of the education law, acting within his or her lawful scope of practice, NOR SHALL ANY DEFENDANT BE DEEMED TO HAVE VIOLATED ANY RELEASE CONDITION WHICH THE COURT DID NOT HAVE THE AUTHORITY TO IMPOSE OR ESTABLISH PURSUANT TO SUBDIVISION FIVE OF THIS SECTION. The provisions of subdivision one of section 530.60 of this chapter relating to revocation of recognizance or bail shall apply to such proceedings under this subdivision.

S 3. This act shall take effect immediately and shall apply to every defendant applying for participation in or participating in a judicial diversion program, pursuant to article 216 of the criminal procedure law, on or after such date.