

4239

2015-2016 Regular Sessions

I N S E N A T E

March 11, 2015

Introduced by Sens. MURPHY, AMEDORE, ORTT, BOYLE -- 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 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, A REQUIREMENT THAT HE OR SHE PARTICIPATE IN AND
17 RECEIVE MEDICALLY PRESCRIBED DRUG TREATMENTS UNDER THE CARE OF AN
18 AUTHORIZED AND QUALIFIED PHYSICIAN.

19 (a) If at any time during the defendant's participation in the judi-
20 cial diversion program, the court has reasonable grounds to believe that
21 the defendant has violated a release condition or has failed to appear
22 before the court as requested, the court shall direct the defendant to

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

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1 appear or issue a bench warrant to a police officer or an appropriate
2 peace officer directing him or her to take the defendant into custody
3 and bring the defendant before the court without unnecessary delay;
4 PROVIDED, HOWEVER, THAT UNDER NO CIRCUMSTANCES SHALL A DEFENDANT WHO
5 REQUIRES TREATMENT FOR OPIOID ABUSE OR DEPENDENCE BE DEEMED TO HAVE
6 VIOLATED A RELEASE CONDITION ON THE BASIS OF HIS OR HER PARTICIPATION IN
7 MEDICALLY PRESCRIBED DRUG TREATMENTS UNDER THE CARE OF AN AUTHORIZED AND
8 QUALIFIED PHYSICIAN. The provisions of subdivision one of section 530.60
9 of this chapter relating to revocation of recognizance or bail shall
10 apply to such proceedings under this subdivision.
11 S 2. This act shall take effect immediately.