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

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:

Section 1. Subdivision 5 and paragraph (a) of subdivision 9 of section 216.05 of the criminal procedure law, as added by section 4 of part AAA of chapter 56 of the laws of 2009, are amended to read as follows:

5. 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

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

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

(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. 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 2. This act shall take effect immediately.