

# STATE OF NEW YORK

1604

2017-2018 Regular Sessions

## IN ASSEMBLY

January 12, 2017

Introduced by M. of A. MAGNARELLI -- read once and referred to the  
Committee on Codes

AN ACT to amend the criminal procedure law, in relation to the judicial  
diversion program for certain felony offenders

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

1 Section 1. Paragraph (c) of subdivision 2 of section 216.00 of the  
2 criminal procedure law, as added by section 4 of part AAA of chapter 56  
3 of the laws of 2009 is amended, paragraph (d) of such subdivision is  
4 relettered paragraph (e), and a new paragraph (d) is added to read as  
5 follows:

6 (c) a recommendation as to the treatment modality, level of care and  
7 length of any proposed treatment to effectively address the defendant's  
8 alcohol or substance abuse or dependence and any co-occurring mental  
9 disorder or illness; ~~and~~

10 (d) a complete description of the defendant's criminal history,  
11 including sealed cases, such as juvenile delinquency determinations,  
12 juvenile offender cases, youthful offender adjudications, and adjourn-  
13 ments in contemplation of dismissal, with the defendant's request for an  
14 alcohol and substance abuse evaluation being deemed a waiver of all  
15 sealing provisions and an authorization for release of all sealed  
16 records for purposes of the evaluation and the court's determination of  
17 the defendant's application to be offered alcohol or substance abuse  
18 treatment pursuant to this article; and

19 § 2. Subparagraphs (ii), (iii), (iv) and (v) of paragraph (b) of  
20 subdivision 3 of section 216.05 of the criminal procedure law are renum-  
21 bered subparagraphs (iii), (iv), (v) and (vi) and a new subparagraph  
22 (ii) is added to read as follows:

23 (ii) despite the defendant being an eligible defendant, the defend-  
24 ant's criminal history, including information contained in previously  
25 sealed records, indicates that the defendant should not be offered alco-  
26 hol or substance abuse treatment pursuant to this article;

27 § 3. This act shall take effect immediately.

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

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