STATE OF NEW YORK

1568

2017-2018 Regular Sessions

IN SENATE

January 10, 2017

Introduced by Sens. AVELLA, AKSHAR -- 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 the use of electronic monitoring for certain participants in judicial diversion programs

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 67 of the laws of 2016, is 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) upon the discretion of the court, may be accompanied by the requirement that the defendant submit to the use of a continual electronic monitoring device in accordance with the provisions of subdivision four of section 65.10 of the penal law**; [~~(ii)~~] **(iii)** a requirement that the defendant refrain from engaging in criminal behaviors; [~~(iii)~~] **(iv)** 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, provided that no court shall

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

LBD01275-01-7

require the use of any specified type or brand of drug during the course of medically prescribed drug treatments.

§ 2. This act shall take effect immediately and shall apply to all agreements entered into on and after such date.