STATE OF NEW YORK

241

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sen. DeFRANCISCO -- 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 judicial diversion program for certain felony offenders

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

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

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

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

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

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

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(ii) despite the defendant being an eligible defendant, the defendant's criminal history, including information contained in previously sealed records, indicates that the defendant should not be offered alcohol or substance abuse treatment pursuant to this article;

§ 3. This act shall take effect immediately.