

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 Assem-
bly, do enact as follows:

1 Section 1. Subdivision 5 of section 216.05 of the criminal procedure
2 law, as amended by chapter 67 of the laws of 2016, is amended to read as
3 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) upon the discretion of the court, may be accompanied by
15 the requirement that the defendant submit to the use of a continual
16 electronic monitoring device in accordance with the provisions of subdi-
17 vision four of section 65.10 of the penal law; [~~(ii)~~] (iii) a require-
18 ment that the defendant refrain from engaging in criminal behaviors;
19 [~~(iii)~~] (iv) if the defendant needs treatment for opioid abuse or
20 dependence, that he or she may participate in and receive medically
21 prescribed drug treatments under the care of a health care professional
22 licensed or certified under title eight of the education law, acting
23 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.

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1 require the use of any specified type or brand of drug during the course
2 of medically prescribed drug treatments.
3 § 2. This act shall take effect immediately and shall apply to all
4 agreements entered into on and after such date.