STATE OF NEW YORK

7313

2021-2022 Regular Sessions

IN SENATE

August 4, 2021

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the criminal procedure law and the penal law, in relation to requiring written notice to a defendant of his or her right to complete court ordered alcohol or substance abuse treatment in a nonreligious treatment program

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

Section 1. Section 216.00 of the criminal procedure law is amended by adding a new subdivision 3 to read as follows:

3. "Treatment" means any alcohol or substance abuse recovery program or programs, which may include detoxification, medically assisted treatment, residential treatment, outpatient treatment, and recovery-oriented care and recovery support, including peer-based support.

§ 2. 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. **(a)** 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

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

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

(b) Prior to specifying an alcohol or substance abuse program, the court shall inquire, on the record, whether the defendant has an objection to any religious element of that program. If the defendant objects to a religious element of the program, the court shall identify an alternative equivalent program to which the defendant has no religious objection, and the defendant shall confirm on the record.

§ 3. Paragraph (e) of subdivision 2 of section 65.10 of the penal law, as amended by chapter 742 of the laws of 1981, is amended to read as follows:

(e) Participate in an alcohol or substance abuse program or an intervention program approved by the court after consultation with the local probation department having jurisdiction, or such other public or private agency as the court determines to be appropriate**, except that the court shall first determine whether the defendant has an objection to any religious element of that program. If the defendant objects to a religious element of the program, the court shall approve an alternative equivalent program to which the defendant has no religious objection**;

§ 4. This act shall take effect on the sixtieth day after it shall have become a law.