

# 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:

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

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

7 § 2. Subdivision 5 of section 216.05 of the criminal procedure law, as  
8 amended by chapter 67 of the laws of 2016, is amended to read as  
9 follows:

10 5. (a) The defendant shall agree on the record or in writing to abide  
11 by the release conditions set by the court, which, shall include:  
12 participation in a specified period of alcohol or substance abuse treat-  
13 ment at a specified program or programs identified by the court, which  
14 may include periods of detoxification, residential or outpatient treat-  
15 ment, or both, as determined after taking into account the views of the  
16 health care professional who conducted the alcohol and substance abuse  
17 evaluation and any health care professionals responsible for providing  
18 such treatment or monitoring the defendant's progress in such treatment;  
19 and may include: (i) periodic court appearances, which may include peri-  
20 odic urinalysis; (ii) a requirement that the defendant refrain from  
21 engaging in criminal behaviors; (iii) if the defendant needs treatment  
22 for opioid abuse or dependence, that he or she may participate in and  
23 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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1 care professional licensed or certified under title eight of the educa-  
2 tion law, acting within his or her lawful scope of practice, provided  
3 that no court shall require the use of any specified type or brand of  
4 drug during the course of medically prescribed drug treatments.

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

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

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

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