

# STATE OF NEW YORK

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5797--B

2023-2024 Regular Sessions

## IN SENATE

March 16, 2023

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Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Substance Use Disorders -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to the privacy and confidentiality of urine test results performed pursuant to a judicial diversion program

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

1 Section 1. Subdivision 5 of section 216.05 of the criminal procedure  
2 law, as amended by chapter 435 of the laws of 2021, is amended to read  
3 as 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 use treatment at a  
7 specified program or programs identified by the court, which may include  
8 periods of detoxification, residential or outpatient treatment, or both,  
9 as determined after taking into account the views of the health care  
10 professional who conducted the alcohol and substance use evaluation and  
11 any health care professionals responsible for providing such treatment  
12 or monitoring the defendant's progress in such treatment; and may  
13 include: (i) periodic court appearances, which may include periodic  
14 urinalysis, provided that the results of any such urinalysis, as well as  
15 any other information acquired as part of the urinalysis process, shall  
16 be deemed private and confidential and shall not be disclosed to the  
17 court or any adverse party unless the individual who was tested consents  
18 to such disclosure, nor shall any urine test result that indicates the  
19 use of a non-prescribed substance be used as evidence in a criminal

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

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1 action against the individual whose urine was tested; (ii) a requirement  
2 that the defendant refrain from engaging in criminal behaviors; (iii) if  
3 the defendant needs treatment for opioid use, that [~~he or she~~] they may  
4 participate in and receive medically prescribed drug treatments under  
5 the care of a health care professional licensed or certified under title  
6 eight of the education law, acting within [~~his or her~~] their lawful  
7 scope of practice, provided that no court shall require the use of any  
8 specified type or brand of drug during the course of medically  
9 prescribed drug treatments.  
10 § 2. This act shall take effect immediately.