STATE OF NEW YORK

5797--B

2023-2024 Regular Sessions

IN SENATE

March 16, 2023

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:

Section 1. Subdivision 5 of section 216.05 of the criminal procedure law, as amended by chapter 435 of the laws of 2021, is amended to read as follows:

5. 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 use 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 use 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**, provided that the results of any such urinalysis, as well as any other information acquired as part of the urinalysis process, shall be deemed private and confidential and shall not be disclosed to the court or any adverse party unless the individual who was tested consents to such disclosure, nor shall any urine test result that indicates the 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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action against the individual whose urine was tested; (ii) a requirement that the defendant refrain from engaging in criminal behaviors; (iii) if the defendant needs treatment for opioid use, that [~~he or she~~] **they** may participate in and receive medically prescribed drug treatments under the care of a health care professional licensed or certified under title eight of the education law, acting within [~~his or her~~] **their** 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.

§ 2. This act shall take effect immediately.