§ 1198-a. Special procedures and disposition involving alcohol and substance abuse assessment and treatment. 1. Definitions. For purposes of this section, the following terms shall have the following meanings:

(a) "Alcohol and substance abuse professional" shall mean persons credentialed by the office of alcoholism and substance abuse services to provide alcohol and substance abuse services pursuant to the mental hygiene law and persons licensed by the state education department in an appropriate health field, including licensed clinical social worker, licensed master social worker, licensed mental health counselor, nurse practitioner, physician, physician's assistant, psychiatrist, psychologist, and registered nurse.

(b) "Licensed agency" shall mean an agency licensed by the office of alcoholism and substance abuse services to provide alcohol and substance abuse services pursuant to the mental hygiene law.

2. Procedure. (a) Mandatory screening; when authorized. Upon the arraignment of, or at the discretion of the court, prior to the sentencing of any person who (i) at arraignment is charged with or prior to sentencing convicted of a first violation of operating a motor vehicle in violation of subdivision one, two or three or paragraph (b) of subdivision two-a of section eleven hundred ninety-two of this article while such person has less than .15 of one per centum by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of this article, or in violation of subdivision four of such section eleven hundred ninety-two, or (ii) has refused to submit to a chemical test pursuant to section eleven hundred ninety-four of this article, the court shall order such person to submit to screening for alcohol or substance abuse and dependency using a standardized written screening instrument developed by the office of alcoholism and substance abuse services, to be administered by an alcohol or substance abuse professional.

(b) Mandatory assessment; when authorized. The court shall order a defendant to undergo a formal alcohol or substance abuse and dependency assessment by an alcohol or substance abuse professional or a licensed agency: (i) when the screening required by paragraph (a) of this subdivision indicates that a defendant is abusing or dependent upon

alcohol or drugs; (ii) following the arraignment of any person charged with or, at the discretion of the court, prior to the sentencing of any person convicted of a violation of subdivision one, two, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 of the penal law or of aggravated vehicular assault, as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 of the penal law or of aggravated vehicular homicide, as defined in section 125.14 of such law within the preceding five years or after having been convicted of a violation of any subdivision of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 of the penal law or of aggravated vehicular assault, as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 of the penal law or of aggravated vehicular homicide, as defined in section 125.14 of such law, two or more times within the preceding ten years; or (iii) following the arraignment of any person charged with or, at the discretion of the court, prior to the sentencing of any person convicted of operating a motor vehicle in violation of subdivision two or three or paragraph (b) of subdivision two-a of section eleven hundred ninety-two of this article while such person has .15 of one per centum or more by weight of alcohol in the person's blood as shown by a chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of this article or in violation of paragraph (a) of subdivision two-a of section eleven hundred ninety-two of this article.

(c) Mandatory assessment; procedure. The assessment ordered by a court pursuant to this section shall be performed by an alcohol or substance abuse professional or a licensed agency which shall forward the results, in writing, to the court and to the defendant or his or her counsel within thirty days of the date of such order.

3. Authorized disposition. When a sentence of probation or a

conditional discharge is imposed upon a person who has been required to undergo an alcohol or substance abuse and dependency assessment pursuant to subdivision two of this section and where such assessment indicates that such person is in need of treatment for alcohol or substance abuse or dependency, the court shall require, as a condition of such sentence, that such person participate in and successfully complete such treatment. Such treatment shall be provided by an alcohol or substance abuse professional or a licensed agency.

4. Any case wherein a court has accepted a plea pursuant to the provisions of subparagraph (ii) of paragraph (a) of subdivision ten of section eleven hundred ninety-two of this article and such plea includes as a condition thereof that the defendant attend and complete the alcohol and drug rehabilitation program established pursuant to section eleven hundred ninety-six of this article, including any assessment and treatment required thereby, shall be deemed to be in compliance with the provisions of this section.

5. The chief administrator of the office of court administration shall make available to all courts in this state with jurisdiction in criminal cases a list of alcohol and substance abuse professionals and licensed agencies as provided by the office of alcoholism and substance abuse services pursuant to subdivision (g) of section 19.07 of the mental hygiene law.

6. Confidentiality of records. (a) The records and content of all screenings, assessments and treatment conducted pursuant to this section, including the identity, diagnosis and prognosis of each individual who is the subject of such records, and including any statements or admissions of such individual made during the course of such screenings, assessments and treatment, shall be confidential, shall not be disclosed except as authorized by this subdivision, and shall not be entered or received as evidence at any civil, criminal or administrative trial, hearing or proceeding. No person, other than a defendant to whom such records are disclosed, may redisclose such records.

(b) Consistent with Section 290 dd-2 of Title 42 of the United States

Code, as such law may, from time to time, be amended, such records and content may only be disclosed as follows:

(i) to a court for the sole purpose of requiring a defendant charged with or convicted of a violation of subdivision one, two, two-a, three, four or four-a of section eleven hundred ninety-two of this article to undergo alcohol or substance abuse or dependency assessment or treatment;

(ii) to the defendant or his or her authorized representative; and

(iii) to medical personnel to the extent necessary to meet a bona fide medical emergency.

7. Effect of completion of treatment. Except as provided in subparagraph nine of paragraph (b) of subdivision two of section eleven hundred ninety-three or in subparagraph three of paragraph (d) of subdivision two of section eleven hundred ninety-four of this article, upon successful completion of treatment ordered pursuant to this section as certified by the alcohol or substance abuse professional or licensed agency which provided such treatment, the defendant may apply to the commissioner on a form provided for that purpose, for the termination of the suspension or revocation order issued as a result of the defendant's conviction. In the exercise of discretion, upon receipt of such application, and upon payment of any civil penalties for which the defendant may be liable, the commissioner is authorized to terminate such order or orders and return the defendant's license or reinstate the privilege of operating a motor vehicle in this state. However, the commissioner shall not issue any new license nor restore any license where said issuance or restoration is prohibited by subdivision two of section eleven hundred ninety-three of this article.