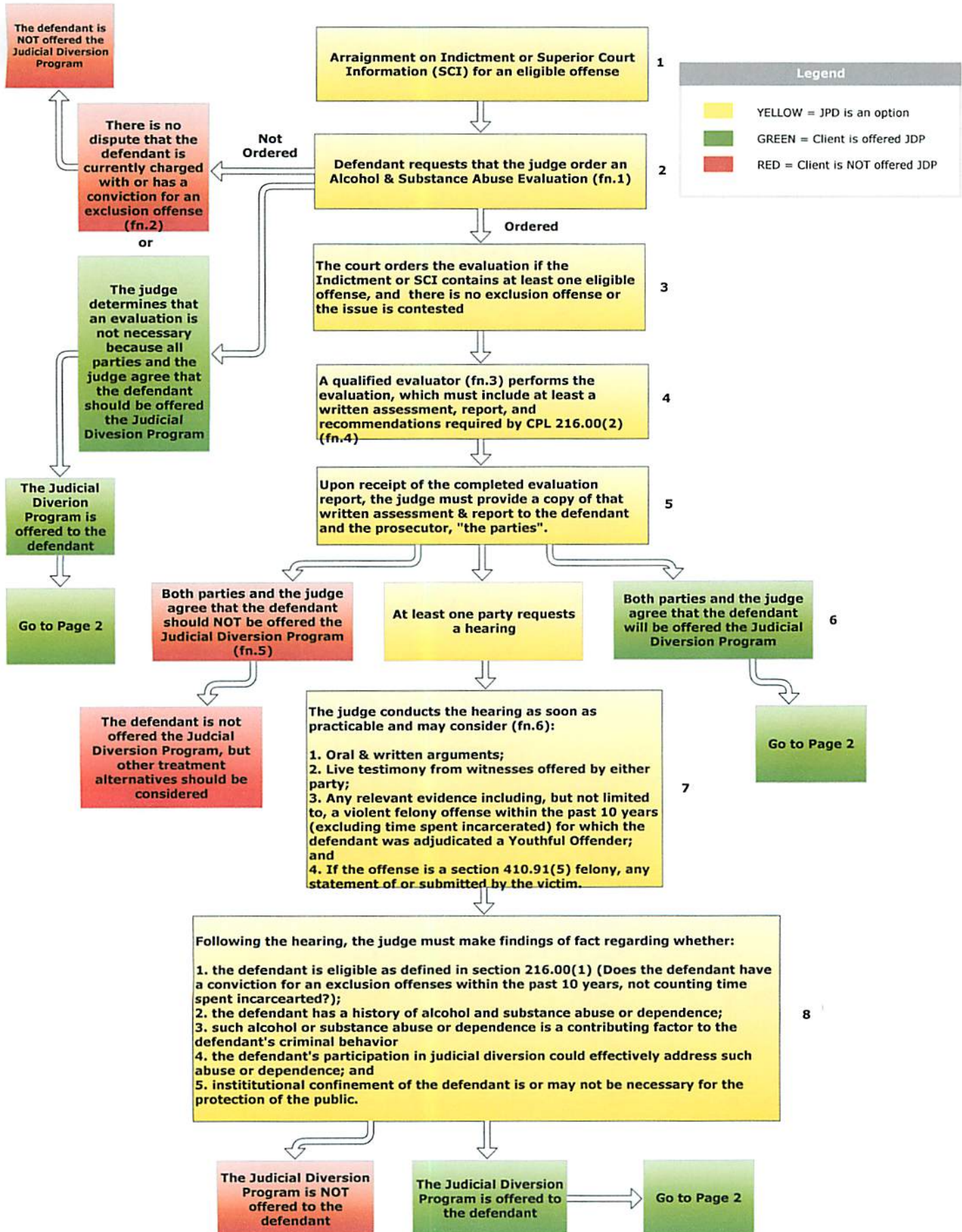
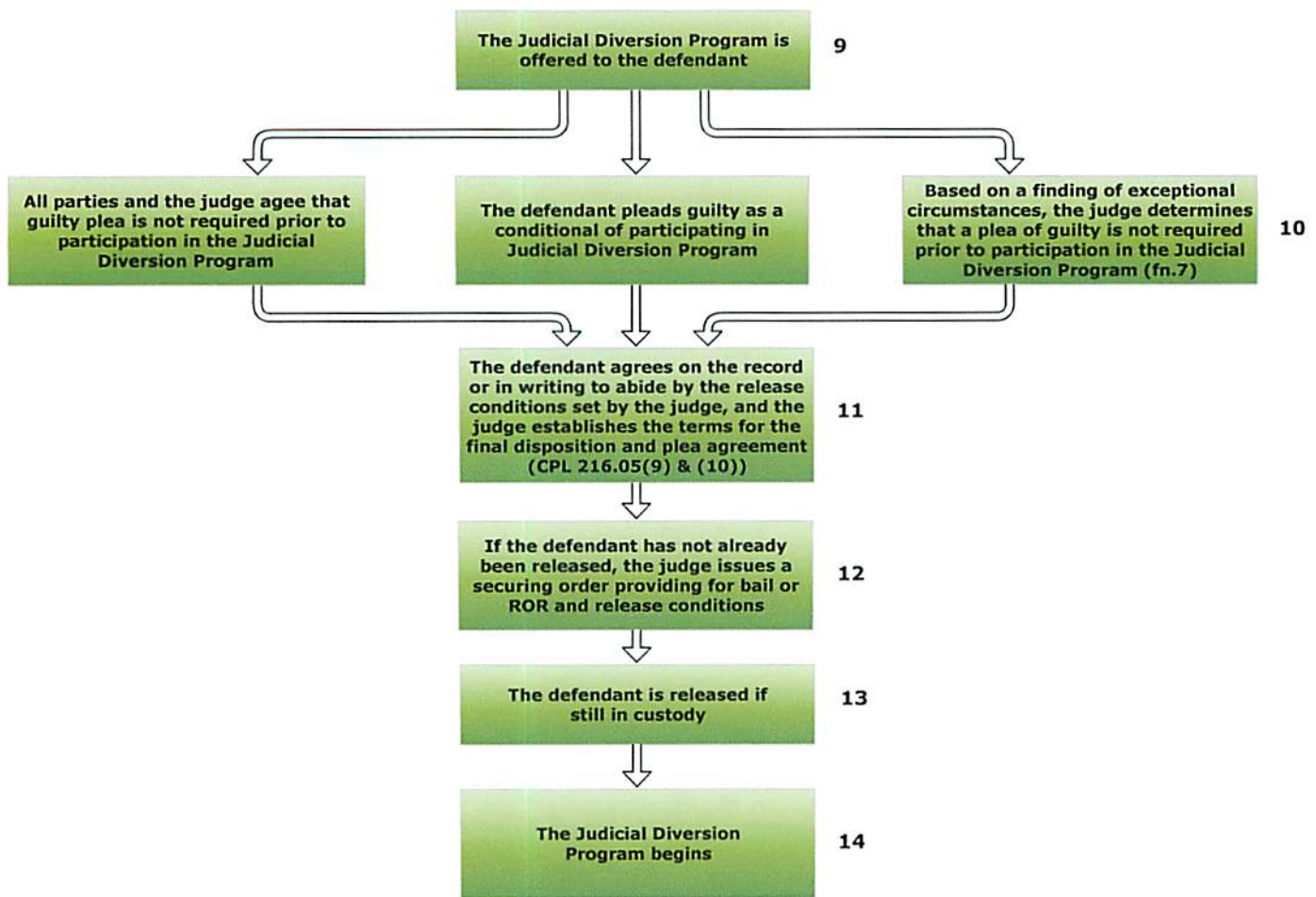




Judicial Diversion Program Under New York CPL Article 216: Flowchart





Footnotes

1. The defendant may decline to participate in the evaluation, but doing so will likely be treated as a decision not to participate in the Judicial Diversion Program.

2. Excluded persons may become eligible upon consent of the District Attorney. (CPL 216.00(1)(b))

3. "Evaluator" means a court-approved entity or licensed health care professional experienced in the treatment of alcohol and substance abuse, or an addiction and substance abuse counselor credentialed by the office of alcoholism and substance abuse services pursuant to section 19.07 of the mental hygiene law.

4. In accordance with CPL 216.00(2), the alcohol and substance abuse evaluation means a written assessment and report and must include:

- a. An evaluation as to whether the defendant has a history of alcohol or substance abuse or alcohol or substance dependence;
- b. A recommendation as to whether the defendant's alcohol or substance abuse or dependence, if any, could be effectively addressed by judicial diversion in accordance with this article;
- c. A recommendation as to the treatment modality, level of care and length of any proposed treatment to effectively address the defendant's alcohol or substance abuse or dependence and any co-occurring mental disorder or illness; and
- d. Any other information, factor, circumstance, or recommendation deemed relevant by the assessing entity or specifically requested by the court.

The alcohol and substance abuse evaluation must be a written assessment and report by a court-approved entity or licensed health care professional experienced in the treatment of alcohol and substance abuse counselor credentialed by the office of alcoholism and substance abuse services.

5. If the Judicial Diversion Program is not offered to the defendant, advocates should be aware of the other treatment alternatives that may be available including:

- a. Shock Incarceration Program
- b. Willard Drug Treatment Center
- c. CASAT
- d. Probation or a Conditional Discharge to include Court ordered treatment

6. The hearing should be held, "...as soon as practicable so as to facilitate early intervention in the event that the defendant is found to need alcohol or substance abuse treatment...". (CPL 216.05(3)(a))

7. Exceptional Circumstances exist when, "...regardless of the ultimate disposition of the case, the entry of a plea of guilty is likely to result in severe collateral consequences." (CPL 216.05(4)(b))