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**DIVISION OF CRIMINAL JUSTICE SERVICES**  
**OFFICE OF PROBATION AND CORRECTIONAL ALTERNATIVES**  
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Michael Breslin  
Albany County Executive  
Albany County Office Building  
112 State Street  
Room 200  
Albany, NY 12207

July 15, 2010

Dear County Executive Breslin:

On November 18, 2009, Governor David A. Paterson signed into law the Child Passenger Protection Act or Chapter 496 of the Laws of 2009, referred to as "Leandra's Law". As you are aware, this important new law will help reduce drunken driving in New York State and promote traffic and community safety. "Leandra's Law" charged the NYS Division of Probation and Correctional Alternatives with the responsibility to promulgate regulations governing the monitoring of compliance by persons ordered to install and maintain ignition interlock devices on vehicles they own or operate. These regulations were promulgated as emergency regulations on April 23, 2010. Section 358.4 of these regulations requires that every County establish an ignition interlock program plan with respect to usage of ignition interlock devices and monitoring the compliance of an operator subject to installation of an ignition interlock device as directed by the sentencing court.

In order to facilitate this process, the Office of Probation and Correctional Alternatives (OPCA) prepared a simple plan document, which was largely prescriptive in format to ease preparation and submission. OPCA has received your plan and very much appreciates its timely submission. We have carefully reviewed and hereby approve your plan. I would like to take this opportunity to compliment you on its thoroughness and the extensive level of cooperation you received in its preparation. Your plan indicates that Albany County will be well-positioned to implement the new law on August 15<sup>th</sup>.

I would like to take this opportunity to make a few observations regarding the new statewide ignition interlock initiative and the newly promulgated regulations. In the process of crafting the new regulations the workgroup learned that first time offenders have a relatively low recidivism rate and are not likely to need the higher levels of technology and scrutiny offered by Class III devices. Additionally, there was a lot of feedback from counties concerning the cost of the

devices and what they perceived would be high rates of “unaffordability”. Given these factors the workgroup crafted regulations that allow for different levels of devices with different levels of costs so that monitors can match risk with appropriate devices. Higher risk cases can receive higher Class devices and lower risk cases can receive lower Class devices. The selection of all Class III devices for both probation and conditional discharge cases could inflate the cost to operators and increase the number of waivers granted by the court due to the increased cost of the devices, without providing the commensurate increase in public safety. As counties move forward with the implementation of the interlock initiative, OPCA recommends that the monitors of both the probation and conditional discharge cases be allowed the flexibility to choose the Class of device for each operator so they can align the risk of the operator with the appropriate level of device.

OPCA looks forward to our continued work together as we implement this new public safety measure. Should you have any questions please feel free to call or e-mail Walter Cogswell at 518-485-5168 or [Walter.Cogswell@dpc.state.ny.us](mailto:Walter.Cogswell@dpc.state.ny.us).

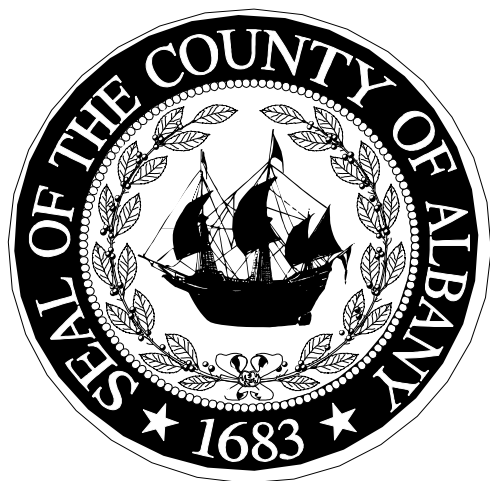
Sincerely,



Robert M. Maccarone  
Deputy Commissioner and Director

- c Patrica Aikens, Probation Director  
Leonard Crouch, Coordinator, STOP-DWI Program

**ALBANY COUNTY**  
**IGNITION INTERLOCK PROGRAM PLAN**



**Michael G. Breslin**  
**Albany County Executive**

**Plan Approved by:** \_\_\_\_\_  
**Michael G. Breslin, Albany County Executive**

## Albany County Ignition Interlock Program Plan

On November 18, 2009, Governor David A. Paterson signed into law the Child Passenger Protection Act, specifically Chapter 496 of the Laws of 2009, referred to as Leandra's Law. This law increases penalties for persons convicted of certain driving while intoxicated crimes while having a child younger than 16 years of age in their motor vehicle. This law also requires that operators of motor vehicles who are convicted of DWI Misdemeanor or Felony offenses, and who are sentenced on/or after August 15, 2010, for an offense committed on or after November 18, 2009, have installed an ignition interlock device on the motor vehicles that they own or operate.

According to NYS Division of Probation and Correctional Alternatives Rules and Regulations 9 NYCRR Section 358.4, every county and the City of New York shall establish an ignition interlock program plan with respect to the usage of ignition interlock devices and monitoring compliance of any operator subject to the condition of an ignition interlock device as directed by the sentencing court.

To comply with the county plan requirement, Albany County submits the following as their plan to the NYS Division of Probation and Correctional Alternatives.

### Section 1.

#### Albany County Ignition Interlock Workgroup

A workgroup was established of the following representatives to help with the development of Albany's plan:

Deidre Brodie	Policy Analyst, Albany County Executive's Office
Mary Tanner-Richter	Assistant District Attorney
Cheryl K. Fowler	Assistant District Attorney
James Campbell	Albany County Sheriff
Patrica Aikens	Probation Director
William Connor	Principal Probation Officer
Lori Haggerty	Probation Supervisor
John M. Wemple	Information Services
Leonard Crouch	STOP-DWI Coordinator
Hon. Thomas Breslin	County Court Judge

### Section 2.

#### Probation Sentenced Interlock Cases

The Albany County Department of Probation is designated as the monitor where the operator is subject to a period of probation.

### Section 3.

#### Conditional Discharged Sentenced Interlock Cases

Albany County STOP-DWI Program will be responsible for the monitoring of those individuals sentenced to a conditional discharge with the interlock condition:

The contact information for STOP-DWI Program will be as follows:

Agency: STOP-DWI Program  
Contact: Leonard Crouch, Coordinator  
Phone: 720-8100  
Email: [Leonard.crouch@albanycounty.com](mailto:Leonard.crouch@albanycounty.com)  
Address: 75 Remsen Street, Cohoes, NY 12047  
Fax: 720-8009

#### Section 4.

##### Class and Features of Interlock Device (Probation Cases)

The Albany County Probation Department selects the use of Class III interlock device specifically with the real time reporting, and photograph features for those individuals sentenced to probation with the interlock condition. The operator may select the model of ignition interlock device from within the class from a qualified manufacturer in the operators region of residence.

#### Section 5.

##### Class and Features of Interlock Device (Conditional Discharge Cases)

The Albany County District Attorney and the STOP-DWI Coordinator will require the use of the Class III interlock device for those individuals sentenced to a conditional discharge with the interlock condition. The operator may select the model of the ignition interlock device from within the Class from a qualified manufacturer in the operator's region of residence.

#### Section 6.

##### Inability to Afford: Procedures for Manufacturer

In the event that more than one manufacturer of interlock devices is doing business in Albany County, each will be equally/proportionately responsible for providing ignition interlock devices without cost to those operators who have been issued a waiver of the fee by the sentencing court, because the device is unaffordable to them. The Monitor will maintain a listing of operators being serviced by each individual manufacturer. The list will maintain a running total of operators serviced by each manufacturer. As unaffordable (waiver) cases are identified the manufacturers on the list shall get cases assigned proportionately to the number of paid devices they are responsible for. For example, if a manufacturer gets 100%of the affordable cases than they must take on 100% of the unaffordable cases.

#### Section 7.

##### Funding – Distribution Formula

Any funding available to Albany County to offset the costs of monitoring and supervising Leandra's Law cases, shall be equitably distributed among each

monitoring/supervising county department depending on the number of cases each becomes responsible for under this provision of Law.

## Section 8.

### Notification by Courts and Installers

Albany County Criminal Courts will notify the Probation Department and/or the designated employee of the STOP-DWI Program regarding any cases sentenced with the interlock condition to Probation or Conditional Discharge. Courts shall fax the information after sentencing to the proper agency within a five business day timeframe, as required by the new Leandra's Law regulations.

The Office of Court Administration will notate the Interlock Requirement on each sentence of probation resulting from an enumerated crime and the probation department will monitor installation compliance. The Office of Court Administration will also notate the Interlock Requirement upon each CD sentence sheet resulting from an enumerated crime and forward to both the NYS Department of Motor Vehicles, consistent with current practice, and further forward to the designated CD monitor. Additionally, each sentence including an Ignition Interlock provision will be accompanied by an order on a form to be created in conjunction with the Department of Probation and the CD Monitor specifying all specific conditions and requirements.

Upon receipt of the application for a waiver it is to be reviewed by the Court, District Attorney Representative and Defense Representative with final determination of unaffordability made by the Court. Consideration will not be given to those who "need to drive to work," but for those who have proof from an employer that the use of a vehicle is necessary. All defendants who have access to public transportation will be encouraged to use public transportation as an energy saving method. Further, the above notification will include any fee waiver and include a copy of the application for fee waiver and the fee waiver given to the operator within five business days after sentencing. Additionally, the Office of Court Administration will instruct the operator to contact the designated monitor to determine the supplying manufacturer.

The ignition interlock installer shall notify the Probation Department on probation cases and the STOP-DWI Program monitor designee on Conditional Discharge cases that the interlock device was installed on the vehicle of the operator.

Albany County Probation will handle those with interstate transfer of Probation cases and the intra/interstate cases for both probation/conditional discharge cases that may occur. The Vine System will be utilized to determine release dates where local or state incarceration sentences were imposed.

## Section 9.

### Failure to Report/Violation Notifications

The Albany County Probation Department currently has an established policy to handle non-compliance with the interlock condition.

The designated monitor shall require all operators to install a Class III Ignition Interlock with real time reporting. The designated monitor shall require all operators to appear in person for installation of the Ignition Interlock. Upon installation, both the operator and the installation service provider are required to notify the designated monitor of the date of the successful installation or any facts and circumstances of an unsuccessful installation. The designated monitor shall also require all operators to submit in person with the interlock equipped vehicle to a service visit every thirty days from initial installation to allow the "installer/service provider" to inspect, monitor, download, recalibrate, and maintain the Ignition Interlock. Upon data download, every installation service provider will electronically forward all downloaded data from each Interlock Device to the designated monitor. The data will contain a summary sheet listing any start up test, startup retest, rolling test, or rolling retest that detected alcohol above the instrument set point as described in the DPCA Regulations or missed rolling test or missed rolling retest. Additionally the summary sheet will list any lock out event described in the DPCA regulations as follows: An ignition interlock device shall enter into a lockout mode upon the following events: one failed start-up retest, one missed start-up re-test, one failed rolling re-test or one missed rolling re-test within a service period, or one missed service visit. Additionally the summary sheet will list any observed tampering or attempt at circumvention of the device and any other information known by the installer/service provider that would reasonably affect the operator's successful completion of the sentenced interlock period. The Probation Department monitor will notify the sentencing court, the district attorney, the operator's alcohol treatment provider where applicable and the drinking driver program, where applicable under and according to DPCA guidelines. The designated CD monitor will notify the sentencing court, the district attorney, the operator's alcohol treatment provider where applicable and the drinking driver program, where applicable upon the following events and circumstances:

- 1) Failure to install an ignition interlock, unless from the facts and circumstances related, the monitor believes the operator is attempting to complete installation and the circumstances would appear to allow installation to be completed within a reasonable time not to exceed 10 business days from sentence.
- 2) Three unsuccessful start up tests, two unsuccessful rolling tests or any listed lock out triggering occurrence including one failed start-up retest, one missed start-up re-test, one failed rolling re-test or one missed rolling re-test where the BAC is .05 or greater within a service period.
- 3) Any known observed tampering or attempt at circumvention of the device and any other information related by the installer/service provider or otherwise known to the monitor that would seriously jeopardize the the operator's successful completion of the sentenced interlock period. The designated CD monitor will notify the above recipients within 3 business days of receipt of such information. The monitor will notify a designated individual within each county's court system and District Attorney's office electronically and maintain records of all notifications made and all interlocks monitored. Upon successful completion of the operator's Ignition Interlock sentence the monitor will provide a certificate of completion and transmit such certificate to the operator, the installer/service provider, the Court and the District Attorney. Such certificate will direct the installer/service provider to remove the Ignition Interlock from the operator's vehicle.