



STATE OF NEW YORK
DIVISION OF CRIMINAL JUSTICE SERVICES
OFFICE OF PROBATION AND CORRECTIONAL ALTERNATIVES
80 Wolf Road
Albany, New York 12205
<http://criminaljustice.state.ny.us>

SEAN M. BYRNE
ACTING COMMISSIONER

ROBERT M. MACCARONE
DEPUTY COMMISSIONER
AND DIRECTOR
(518) 485-7692
(518) 485-5140 FAX

Honorable Thomas J. Santulli
Chemung County Executive
John H. Hazlett Building
203 Lake Street
P.O. Box 588
Elmira, New York 14902-0588

July 6, 2010

Dear County Executive Santulli:

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 the preparation of the plan. Your plan indicates that Chemung County will be well-positioned to implement the new law on August 15th. It should be noted that in all CD monitoring cases, including those transferred, the monitor chooses only the Class of the device, not the features.

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.

Sincerely,

A handwritten signature in cursive script, reading "Robert M. Maccarone".

Robert M. Maccarone
Deputy Commissioner and Director

c. Sandra J. Mentuck, Probation Director
Colleen Grebleski, STOP-DWI Coordinator



New York State
Division of Probation and Correctional Alternatives (DPCA)

IGNITION INTERLOCK PROGRAM PLAN

DAVID A. PATERSON
GOVERNOR



ROBERT MACCARONE
STATE DIRECTOR

CHEMUNG COUNTY IGNITION INTERLOCK PROGRAM PLAN

INSTRUCTIONS: In accordance with New York State Division of Probation and Correctional Alternatives (DPCA) 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 a sentencing court. Such plan shall be approved, as applicable, by the county executive, county administrator, etc., and in cities with a population of one million or more, the mayor, and become effective on or before August 15, 2010. **The plan shall be filed with DPCA no later than June 15, 2010.** Where a plan has been amended by the county/city, it shall be promptly filed with DPCA in advance of its new effective date. Please complete all portions of the attached plan and return **no later than June 15, 2010** to:

**Walter Cogswell
Community Corrections Representative III
NYS Division of Probation and Correctional Alternatives
80 Wolf Road – Suite 501
Albany, New York 12205**

Or E-Mail
Applications2010@dpca.state.ny.us

NOTE: This plan form has been prepared so that you may check appropriate boxes and type responses into expanding text boxes.

Plan prepared by:

Name: Sandra J. Mentuck
Title: Director of Probation
Phone Number: 607 737 2800
E-Mail: smentuck@co.chemung.ny.us
Address: Street: 203-209 William St.
City: Elmira
Zip Code: 14901

Questions about plan should be directed to:

Same as above

Or

Name Colleen Grebleski
Phone 607-737 2060
E-Mail cgrebleski@co.chemung.ny.us

1. Every county/city shall develop a plan in consultation with the county/city's probation director, district attorney, and in New York City the district attorney from each of the five boroughs, sheriff or Police Commissioner where applicable, STOP-DWI Coordinator, a representative of its drinking driver program where applicable and where more than one program exists in the county, a representative designated by the county executive, a superior and local criminal court judge designated by the administrative judge for the county, and in New York City a superior and local criminal court judge designated by the deputy chief administrative judge, a representative of an agency providing legal services to those unable to afford counsel in criminal cases designated by the county executive. A county/city may consult with other persons or entities as the county executive deems appropriate with respect to development of its plan. Indicate those consulted in the preparation of this plan. Check all that apply:

- District Attorney and in NYC the District Attorney from each of the five boroughs
- Drinking Driver Program Representative
- Local Criminal Court Judge
- Police Chiefs (Specify: City of Elmira, Town of Elmira, Village of Elmira Heights, Village of Horseheads, New York State Police)
- Probation Director
- Representative of Legal Services for Indigent
- Sheriff
- STOP-DWI Coordinator
- Superior Court Judge
- Other (Specify _____)
- Other (Specify _____)

2. Every plan shall specify monitoring by the probation department where the operator is subject to a period of probation supervision.

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

3. Every plan shall specify the persons or entities responsible for monitoring where an ignition interlock device has been imposed pursuant to a conditional discharge. The following are designated to monitor conditional discharge cases:

- District Attorney
- Drinking Driver Program
- Police Commissioner (Specify Department _____)
- Probation
- Sheriff
- STOP-DWI Coordinator
- TASC
- Traffic Safety Board Representative
- Other Agency or Organization* (Specify: _____)

*Must be similar individual, agency or organization; cannot be a qualified manufacturer and/or installation/service provider.

Comments: (Provide any additional comments, if any, regarding the monitoring of conditional discharge cases here) **The Stop DWI program will monitor CD's for the IID condition only.**

Provide contact information for your designated monitors: (attach additional pages if necessary)

Department/Agency: Chemung County Probation Contact Name: Sandra Mentuck Phone Number: 607-737-2800 E-Mail: smentuck@co.chemung.ny.us Address: Street: 203-209 William St. City: Elmira, NY Zip Code: 14901	Department/Agency: Chemung County Stop DWI Contact Name: Colleen Grebleski Phone Number: 607-737-2060 E-Mail: cgrebleski@co.chemung.ny.us Address: Street: City: Elmira, NY Zip Code: 14901
Department/Agency: Contact Name: Phone Number: E-Mail: Address: Street: City: Zip Code:	Department/Agency: Contact Name: Phone Number: E-Mail: Address: Street: City: Zip Code:

4. Every plan shall establish that where an operator is under probation supervision, the department selects the specific class and features of the interlock device from a qualified manufacturer in its region. The operator may select the model of the ignition interlock device, meeting the specific class and features selected by the probation department from a qualified manufacturer in the operator's region of residence.

This plan establishes that where an operator is under probation supervision, the department selects the specific class and features of the interlock device from a qualified manufacturer in its region. The operator may select the model of the ignition interlock device, meeting the specific class and features selected by the probation department from a qualified manufacturer in the operator's region of residence.

- **Special features required in Chemung County are: A Class III monitoring system.**

5. Every plan shall establish that where an operator has received a sentence of conditional discharge, the monitor shall select the class of ignition interlock device available from a qualified manufacturer in its region for any such operator. The operator may select the model of the ignition interlock device from within the class designated by the monitor from a qualified manufacturer in the operator's region of residence.

☒ This plan establishes that where an operator has received a sentence of conditional discharge, the monitor shall select the class of ignition interlock device available from a qualified manufacturer in its region for any such operator. The operator may select the model of the ignition interlock device from within the class designated by the monitor from a qualified manufacturer in the operator's region of residence.

- **Special features required in Chemung County are: A Class III monitoring system.**

6. In the event more than one qualified manufacturer does business within its region, the county/city shall establish an equitable procedure for manufacturers to provide ignition interlock devices without costs where an operator has been determined financially unable to afford the costs and has received a waiver (waiver cases) from the sentencing court. The equitable procedure should be based upon the proportion of ignition interlock devices paid to each qualified manufacturer by operators in the county/city.

Describe the procedure that the county/city will utilize to ensure the equitable distribution of waiver cases among manufacturers operating in the county/city. This will require coordination between the courts and monitors.

- **Courts will forward waivers and the Financial Disclosure Form to the Stop-DWI coordinator within one business day to assure the documents reach the Stop DWI office within 5 business days.**
- **The Defendant will call the DWI coordinator within 2 business days to notify the coordinator of the need for an IID and to establish a contact number for the Defendant.**
- **The Stop DWI coordinator will assign the Defendant to a manufacturer operating in Chemung County based on the proportion of devices utilized by each manufacturer.**
- **The Stop-DWI coordinator will notify the Defendant and Probation within 2 business days of receipt of the signed waiver from the Court, of the assigned manufacturer.**
- **If the Defendant does not contact the Stop DWI coordinator within 5 business days of sentencing, the case will be returned to the Court for prompt action.**
- **Chemung County will not be held responsible for any financial obligation for waivers granted by the sentencing Court. This applies to any sentence that includes Ignition Interlock.**
- **It is recommended that waivers be faxed or electronically transmitted to the Stop DWI office within the above time frames.**

7. Every plan shall establish a distribution formula for any available funding earmarked for probation supervision and/or monitoring purposes associated with 9 NYCRR Part 358 (Handling of Ignition Interlock Cases Involving Certain Criminal Offenders).

Describe the distribution formula that the county/city will utilize for any funding specifically provided for probation supervision and/or monitoring purposes associated with DPCA Rules and Regulations 9 NYCRR Part 358. Counties may choose to distribute funds according to the percentage of cases handled by each monitoring entity. Probation 50%, Stop DWI 50%

Provide contact information for fiscal officer:

Name: Steven Hoover

Title: Budget Director

Phone Number: 607 737 2041

E-Mail: shoover@co.chemung.ny.us

Address: Street: 203 Lake St.

City: Elmira

Zip Code: 14901

8. Every plan shall establish a procedure whereby the probation department and any other monitor will be notified no later than five (5) business days from the date an ignition interlock condition is imposed by the sentencing court, any waiver of the cost of the device granted by the sentencing court, and of any intrastate transfer of probation or interstate transfer of any case which either has responsibility to monitor. Such procedure shall also establish a mechanism for advance notification as to date of release where local or state imprisonment is imposed.

- a. Describe the procedure the county/city will utilize to ensure the probation department and any other monitor will be notified of the ignition interlock condition no later than five (5) business days from the date an ignition interlock condition is imposed by the sentencing court.

- **The Defendant will be given a list of certified manufacturers and installers at the time of sentence.**
- **The Defendant will contact a manufacturer and have the IID installed within 10 business days of sentencing.**
- **The Sentencing Court will transmit the Orders and Conditions of Probation to the Chemung County Probation Department by any means that guarantees delivery to the Probation Department within the 5 business day time frame.**
- **Conditional Discharges will be forwarded to the Stop DWI coordinator by the same means.**
- **It is recommended that Orders be faxed or electronically transmitted to the respective agency within the above time frames.**
- **It is the responsibility of the defendant to have the IID installed on any vehicle they own or operate within 10 business days of the condition being imposed.**

- b. Describe the procedure the county/city will utilize to ensure the probation department and any other monitor will be notified no later than five (5) business days from the date an ignition interlock condition is imposed by the sentencing court of any waiver of the cost of the device granted by the sentencing court.

- **The Defendant having completed the Ignition Interlock Device Program Financial Disclosure Form and the request meeting the satisfaction of the Court, the court will forward the Waiver to the supervising agency with Orders as prescribed above.**

- **The defendant will contact the Stop DWI coordinator within 2 business days to be assigned a manufacturer.**
 - **The Stop DWI coordinator will notify the Defendant and the probation department within two business days, the manufacturer that will be supporting the IID**
- c. Describe the procedure the county/city will utilize to ensure the probation department and any other monitor will be notified no later than five (5) business days from the date an ignition interlock condition is imposed by the sentencing court of any intrastate transfer of probation or interstate transfer of any case which either has responsibility to monitor.
- a. **Orders will be forwarded to the Probation Department as stated above.**
 - b. **For an Intrastate Transfer at disposition, the Chemung County Probation Department will forward by fax (followed by hard copy), the Orders authorizing IID within 2 business days to the receiving county. The receiving county will determine the class and features of IID and will handle waivers per their Plan.**
 - c. **Intrastate cases being sent to Chemung County will be handled according to the Chemung County Plan.**
 - d. **For an Intrastate Transfer after sentencing, the device shall be installed within 10 business days of relocation**
 - e. **All intrastate transfers of probation shall be in accordance with Part 349.**
 - f. **Orders will be forwarded to the Stop DWI program as stated above.**
 - g. **A CD being transferred from Chemung County to another county in NY, the Stop DWI coordinator will fax the Orders to the agency in the receiving county that is providing CD monitoring services, within 2 business days of receipt.**
 - h. **The receiving county's monitor will select the class and features of IID.**
 - i. **The receiving County shall perform monitor services and the sentencing court retains jurisdiction.**
 - j. **An operator subject to probation supervision and resides out of state or desires to reside out of state, will be subject to the rules of the Interstate Compact. The governing rules of the compact shall control.**
 - k. **A probationer, who is granted reporting instructions and/or acceptance by the receiving state, will abide by the sending county's IID's policy. The device shall be installed prior to relocation where feasible. It is the responsibility of the qualified manufacturer to ensure monitoring in the receiving state.**
 - l. **A defendant not subject to interstate compact rules and regulations, and has been given permission to relocate by the sentencing court or monitor, the device shall be installed prior to relocation or return. The sending county will be responsible for monitoring the defendant.**

d. Describe the procedure the county/city will utilize for advance notification as to date of release where local or state imprisonment is imposed. Jurisdictions may wish to utilize the VINE network.

- **The Probation Department has access to the Chemung County Jail's data system. Upon receipt of notification of Disposition, the Probation Officer will look up the Defendant's date of release. Upon release, the Defendant will have the IID installed within 10 days of release. If a waiver is received while the defendant is in jail, the Stop DWI coordinator should be notified of the waiver and when the defendant will be released from jail.**
- **If unable to secure release date, the Probation Department will access VINE.**
- **For a Conditional Discharge, the Stop DWI coordinator will access VINE.**
- **All DOCS cases will be logged into VINE.**

9. Every plan shall establish a procedure governing failure report recipients, including method and timeframe with respect to specific notification and circumstances. Failure report recipients are all persons or entities required to receive a report from the monitor of an operator's failed tasks or failed tests pursuant to a county/city's plan which may include, but is not limited to the sentencing court, district attorney, operator's alcohol treatment provider, and the drinking driver program, where applicable. At a minimum, the procedure shall be consistent with the provisions of DPCA Rules and Regulations Section 358.7(d) with respect to sentencing court and district attorney notification of specific failed tasks and failed tests reports.

Describe the county/city plan to report operator's failed tasks or failed tests to failure report recipients. Identify report recipients, method of reporting, events to be reported, and reporting time frames.

- **When the monitoring agency receives notification that a defendant has failed to have the IID installed within 10 business days, the operator has not complied w/ service visits, any reported tampering of the IID, a report of lock out mode, and/or any report of a failed test or re-test where the BAC is .05 percent or higher, the monitor shall at a minimum notify the appropriate court and district attorney within 3 business days, using form DPCA-133.**
- **Any probation supervision case shall adhere to Part 352 (Violation of Probation).**
- **The monitor may recommend modifications of the operator's conditions to the court up to and including revocation of the defendant's sentence.**

Acknowledgement

This Ignition Interlock Program Plan has been developed in accordance with NYS Division of Probation and Correctional Alternatives Rules and Regulations Part 358.

County Executive Signature: _____

Title of County Executive: Thomas J. Santulli

Date : 6/8/2010