



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 Floyd S. Dubben Jr.
Chairman, Otsego County Board of Legislators
County Office Building
197 Main Street
Cooperstown, New York 13326-1129

June 17, 2010

Dear Chairman Dubben:

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, DPCA prepared a simple plan document, which was largely prescriptive in format to ease preparation and submission. DPCA 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. Your plan indicates that Otsego County will be well-positioned to implement the new law on August 15th.

DPCA 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@dca.state.ny.us.

Sincerely,

A handwritten signature in cursive script, reading "Robert M. Maccarone". The signature is written in dark ink on a light-colored, slightly textured background.

Robert M. Maccarone
State Director

c. Kristen Leahy, Probation Director



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

IGNITION INTERLOCK PROGRAM PLAN

DAVID A. PATERSON
GOVERNOR



ROBERT MACCARONE
STATE DIRECTOR

OTSEGO 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: Kristen Leahy
Title: Probation Director
Phone Number: 607-547-4216
E-Mail: leahyk@otsegocounty.com
Address: Street: 197 Main St.
City: Cooperstown
Zip Code: 13326

Questions about plan should be directed to:

Same as above
Or

Name
Phone
E-Mail

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 Commissioner (Specify Department)
- 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)

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

Department/Agency: Probation Contact Name: Kristen Leahy Phone Number: 607-547-4216 E-Mail: leahyk@otsegocounty.com Address: Street: 197 Main St. City: Cooperstown Zip Code: 13326	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:	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.

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.

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. The probation department will be monitoring all ignition interlock cases, therefore all waivers will be submitted to the probation department. The department will keep a running total of which manufacturer's devices have been paid for by the operators. When the department is notified a waiver has been approved by the court, the department will determine which manufacturer will provide the next device free of charge by the proportion of devices that have been paid among the manufacturers. At this time no computer program has been developed, therefore this will be accomplished manually.

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. Any funding earmarked for the monitoring of ignition interlock cases will go to the probation department. The funds will be utilized by the probation department to fund such budget lines as postage, materials and supplies, mileage, personal services, etc., since no additional funds have been added to the probation department's budget to support this new law. Once the funds are received from the state a budget modification would have to be completed to determine which budget lines the funds will be placed in.

Provide contact information for fiscal officer:

Name: Mr. Daniel Crowell

Title: Otsego County Treasurer

Phone Number: 607-547-4234

E-Mail: crowelld@otsegocounty.com

Address: Street: 197 Main Street

City: Cooperstown

Zip Code: 13326

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 courts may either fax the order or e-mail the Monitor Notification of Ignition Interlock Order (form provided by DPCA) and the conditions of probation or the conditions of a Conditional Discharge as an attachment to the Otsego County Probation Department in each case if there is a concern the order will not reach the probation department within five business days. The originals will need to be sent via mail.

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 courts will follow the same procedure as above (8a). The order has a section that will need to be filled out by the judge if a waiver for the fee of the device has been granted.

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. The court will follow the same procedure as above (8a). If the operator is under probation supervision the court will have to include transfer paperwork (DPCA-16) with the paperwork sent to the probation department.

The court will order the operator to report to the Otsego County Probation Department prior to the installation of the ignition interlock device(s) to provide information to the probation department in compliance with DPCA Rules and Regulations Section 358.7(c)(3).

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 court will send the probation department a Monitor Notification of Ignition Interlock Order, and conditions of probation or conditions of Conditional Discharge. The probation department will utilize the VINE system for notification of the operator's release from incarceration. The court will order the operator, upon release from incarceration, to report to the Otsego County Probation Department to provide information in compliance with DPCA Rules and Regulations Section 358.7(c)(3). The operator will have 10 business days to have the

ignition interlock installed in the vehicle(s) and an additional 3 days to make notification to the probation department of the installation of the ignition interlock device following his/her release from incarceration. If the operator fails to have the device installed in the vehicle(s) within the timeframe allotted the court will be notified.

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. If the operator is under probation supervision the probation department will inform the court, the operator (or his/her attorney if known), the District Attorney or the City of Oneonta Prosecutor (if the operator is sentenced to probation by a City of Oneonta Court Judge) of any failed task(s) or failed test(s) per DPCA Rules and Regulations Section 358.7(d). This will be accomplished by submitting a misconduct report or a Violation of Probation Petition to the court and copies made to the individuals stated above. It will be determined by the probation department when the violation(s) have reached a level where public safety has been compromised and a Violation of Probation Petition will be filed, rather than a misconduct report. Initial steps prior to a Violation of Probation Petition being filed with the court may include an Administrative Review with the Director of Probation, enhanced supervision, referral made for a higher level of substance abuse treatment, etc. The probation department will make notification via mail within three days of notification of failed task(s) or failed test(s).

If the operator has been sentenced to a Conditional Discharge the probation department will notify the court, the operator (or his/her attorney if known), the District Attorney or Oneonta City Prosecutor (if the defendant is sentenced to a Conditional Discharge by a City of Oneonta Court Judge) of all events listed in DPCA Rules and Regulations Section 358.7(d) (i-viii). The probation department will make notification via mail within three days of notification of failed task(s) of failed test(s).

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: Chairperson, Board of Legislators

Date