



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

David P. Fanslau
Sullivan County Manager
100 North Street, PO Box 5012
Monticello, NY 12701-5012

June 17, 2010

Dear Mr. Fanslau,

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, and the willingness of Sullivan County officials to share important monitoring information with Drinking Driver Programs. We also commend you on your requirement for operators to sign an acknowledgement at the time of sentencing concerning their obligation to have the ignition interlock device installed within ten days. These approaches can only increase public safety in Sullivan County. Your plan indicates that Sullivan 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 background.

Robert M. Maccarone
State Director

c. Thomas M. Fogarty, Probation Director



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

IGNITION INTERLOCK PROGRAM PLAN

DAVID A. PATERSON
GOVERNOR



ROBERT MACCARONE
STATE DIRECTOR

SULLIVAN 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: Thomas M. Fogarty
Title: Probation Director
Phone Number: 845-807-0351
E-Mail: thomas.fogarty@co.sullivan.ny.us
Address: Street: 100 North Street
City: Monticello, NY
Zip Code: 12701

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 County Manager)
- Other (Specify County Attorney's Office)

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: Sullivan County Probation Contact Name: Thomas M. Fogarty Phone Number: 845-807-0351 E-Mail: thomas.fogarty@co.sullivan.ny.us Address: Street: 100 North Street City: Monticello, NY Zip Code: 12701	Department/Agency: Contact Name: Phone Number: E-Mail: Address: Street: City: Zip Code:
Department/Agency: Sullivan County District Attorney's Office Contact Name: James R. Farrell Phone Number: 845-794-3344 E-Mail: james.farrell@co.sullivan.ny.us Address: Street: LHC, Court House 414 Broadway City: Monticello, NY Zip Code: 12701	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.

In the event that there is more than one qualified manufacturer doing business in the County, the Supreme Court/local Justice Courts (clerks) will forward (fax/mail) an order/financial waiver to the District Attorney's Office. The District Attorney's Office will ensure the equitable distribution of waivers among the manufacturers. Procedure to be used will be based upon percentage of the market each vendor maintains.

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 specifically provided for probation supervision and monitoring of conditional discharge cases (pursuant to 9NYCRR Part 358) will be prorated based on the number of cases that each agency (Probation/District Attorney) is monitoring.

Provide contact information for fiscal officer:

Name: Joshua Potosek

Title: Deputy County Manager/Commissioner of Management & Budget

Phone Number: 845-807-0450

E-Mail: joshua.potosek@co.sullivan.ny.us

Address: Street: 100 North Street

City: Monticello, NY

Zip Code: 12701

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.

To ensure that the ignition interlock monitors (Probation/District Attorney) are notified of the conditions, financial waivers and intrastate/interstate transfer of probation, the Assistant District Attorneys that are assigned specific courts/cases will fax or forward a written copy of the names and contact information of the operators to the appropriate monitor within five (5) business days. In addition, the various court clerks will forward (fax/mail) orders (conditions/financial waivers, interstate/intrastate transfer) of probation within five (5) business days. All individuals who are sentenced in the various courts in Sullivan County will sign an acknowledgement at the time of sentencing concerning their obligation to have ignition interlock device installed in the vehicle within ten (10) days of sentencing, or ten days from their release from incarceration.

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.

To ensure that the ignition interlock monitors (Probation/District Attorney) are notified of the conditions, financial waivers and intrastate/interstate transfer of probation, the Assistant District Attorneys that are assigned specific courts/cases will fax or forward a written copy of the names and contact information of the operators to the appropriate monitor within five (5) business days. In addition, the various court clerks will forward (fax/mail) orders (conditions/financial waivers, interstate/intrastate transfer) of probation within five (5) business days. All individuals who are sentenced in the various courts in Sullivan County will sign an acknowledgement at the time of sentencing concerning their obligation to have ignition interlock device installed in the vehicle within ten (10) days of sentencing, or ten days from their release from incarceration.

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.

To ensure that the ignition interlock monitors (Probation/District Attorney) are notified of the conditions, financial waivers and intrastate/interstate transfer of probation, the Assistant District Attorneys that are assigned specific courts/cases will fax or forward a written copy of the names

and contact information of the operators to the appropriate monitor within five (5) business days. In addition, the various court clerks will forward (fax/mail) orders (conditions/financial waivers, interstate/intrastate transfer) of probation within five (5) business days. All individuals who are sentenced in the various courts in Sullivan County will sign an acknowledgement at the time of sentencing concerning their obligation to have ignition interlock device installed in the vehicle within ten (10) days of sentencing, or ten days from their release from incarceration.

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.

1. The County has agreed with the State Division of Parole as follows: the Senior Parole Officer, who has jurisdiction for Sullivan County (Poughkeepsie Office) will send a written (fax/mail) report to the District Attorney's Office (on all parolees names/contact information that are subject to this part) who will be released from state incarceration, with the intention of maintaining a residence in Sullivan County, said notice shall be made at a minimum of two (2) weeks to a maximum of two (2) months prior to their release from state incarceration.

2. The Sullivan County Jail Administration will identify all jail inmates (that are subject to this part) two (2) weeks prior to their release date and forward in writing (fax) the names/contract information to the District Attorney's Office.

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.

Upon the monitors (Probation/District Attorney) learning that an operator has failed to comply with any of the following events:

- i. that the operator has failed to have installed the ignition interlock device on his/her own vehicle(s) or vehicle(s) which he/she operates;
- ii. that the operator has not complied with service visits required;

- iii. a report of alleged tampering with or circumventing an ignition interlock device or an attempt thereof;
- iv. a report of a failed start-up re-test;
- v. a report of a missed start-up re-test;
- vi. a report of a failed rolling re-test;
- vii. a report of a missed rolling re-test; and/or
- viii. a report of a lockout mode;

The appropriate monitor will notify (fax, email, written correspondence) the sentencing court, District Attorney's Office, NYS Division of Parole (if applicable) and the Drinking Driving Program (if applicable) of an operator's failure to comply with events (i through viii) within three (3) business days.

Where an operator is under probation supervision, the Probation Department shall adhere to Part 352 of title 9 NYCRR and file a court notification/violation of probation with the conditions that the operator is in violation of a condition of probation within three (3) business days of learning of the violation.

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: Other
Date