



**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 Frederick H. Monroe  
Chairman, Warren County Board of Supervisors  
Warren County Municipal Center  
1340 State Route 9  
Lake George, New York 12845

July 1, 2010

Dear Chairman Monroe:

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 Warren County will be well-positioned to implement the new law on August 15<sup>th</sup>. In reference to Section 9 of the plan, it is noted that although probation utilizes Part 352 Graduated Sanctions and Violations rule in response to interlock failures, it must notify the Court and District Attorney of any of the mandatory report items listed in Section 358.7(d) of the new ignition interlock rule.

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,

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  
Deputy Commissioner and Director

c. Robert F. Iusi, Jr., Probation Director



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

# **IGNITION INTERLOCK PROGRAM PLAN**

**DAVID A. PATERSON**  
**GOVERNOR**



**ROBERT MACCARONE**  
**STATE DIRECTOR**



**WARREN 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](mailto: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.

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Plan prepared by:  
Name: Robert F. Iusi, Jr.  
Title: Director of Probation  
Phone Number: 518-761-6444  
E-Mail: iusir@co.warren.ny.us  
Address: Street: 1340 State Route 9  
City: Lake George, NY  
Zip Code: 12845

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 Chief Joseph Bethel, Glens Falls Police 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: Warren County Probation Department Contact Name: Robert F. Iusi, Jr. Phone Number: 518-761-6444 E-Mail: iusir@co.warren.ny.us Address: Street: 1340 State Route 9 City: Lake George Zip Code: 12845	Department/Agency: Warren County District Attorney's Office Contact Name: Kathleen B. Hogan Phone Number: 518-761-6405 E-Mail: hogank@co.warren.ny.us Address: Street: 1340 State Route 9 City: Lake George Zip Code: 12845
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 Warren County Probation Department and Warren County District Attorney's Office will develop of spread sheet to record all defendants that are placed under probation supervision or who receive a conditional discharge. The spread sheet will also include the level of DWI (Misdemeanor or Felony) , the manufacturer that is providing service to the defendant and the payment status. This procedure will allow Warren County to document all offenders subject to this legislation , record the manufacturer that is serving the offender and to have a list of the number of interlocks provided by a given manufacturer.

The aforementioned spread sheet will be provided to the courts in Warren County and the manufacturers on a monthly basis as well as being provided to the Assistant District Attorney who cover the respective courts. When a court determines that an offender is financially unable to afford the costs and receives a waiver, the District Attorney's Office and/or the Probation Department will check the spread sheet to see what manufacturer should provide the interlock based on the number of paid devices to each manufacturer.

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. Warren County's distribution formula is the following; 50% Warren County Probation Department and 50% Warren County District Attorney's Office,

Provide contact information for fiscal officer:

Name: Francis O'Keefe

Title: County Treasurer

Phone Number: 518-761-6379  
E-Mail: okeefef@co.warren.ny.us  
Address: Street: 1340 State Route 9  
City: Lake George, NY  
Zip Code: 12845

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. Historically the Probation Department has received Order and Conditions of Probation from the courts within five (5) business days. The Probation Department further is present in Warren County Court and has Probation Officers that take office reports in several of our local court buildings . Consequently, Order and Conditions of Probation are delivered from the courts to the Probation Department the same day an offender is sentenced to Probation Supervision.

With respect to Conditional Discharges, the District Attorney's office has support personnel in Warren County Court and two of the county's larger local courts, Glens Falls City Court and Queensbury Town Court. This presence by the District Attorney's Office will ensure that Conditional Discharge cases from our two largest local courts will be received at the time of sentencing.

Regarding the other local courts we have confidence that these courts will transmit Conditional Discharge notifications in the same manner that Order and Conditions are sent to the Probation Department. We also plan to send an informational notification early in July to all courts in our county of this new law , the obligations associated with same, and sample ignition interlock forms. At the very least courts will be instructed to fax notification to either the Probation Department or District Attorney's Office that an offender has been ordered to have an ignition interlock device installed on their vehicle(s) immediately after the court session has been completed.

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. We believe the procedure described above will be sufficient for this requirement.

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. Please see the information detailed in question 8 (a). Further an Order of Interstate Transfer of Probation Supervision is submitted to the courts by this department along with the Order and Conditions of Probation at the time we submit our Pre-Sentence Investigation to the court.

The Probation Department further complies with the Interstate Compact with respect to the out of state transfer of probationers and makes this information known in our Pre-Sentence Investigations along with the requirements of interstate transfer.

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 Warren County Probation Department currently utilizes the VINE network in connection to defendants that are sentenced to State Prison and required to pay restitution. This system has worked well for our state prison restitution cases and we plan to utilize the VINE network with respect to the local or state prison DWI cases.

It should be noted that Warren County feels this is a poor component of this piece of legislation.

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. Both the Warren County Probation Department and the Warren County District Attorney's Office response to reported operator's failed tasks or failed tests will be consistent with public safety.

The Warren County Probation Department will adhere to DPCA Part 352 Graduated Sanctions and Violations of Probation Rules and Regulations for any offender under Probation Supervision.

As the Warren County District Attorney's Office will be the monitor of the Conditional Discharge cases they will be notified by the manufacturer that an operator has failed to have installed the ignition interlock device on his/her vehicle, failed to comply with a service visit requirement, tampered with or circumvented an ignition interlock device, any report of a lock-out mode, and/or any report of failed test or re-test where the BAC is .05 percent or higher. The

DA Investigator assigned to monitor the Conditional Discharge case will investigate the allegations of misconduct promptly and then report the findings of the investigation in writing to the court within five (5) business days.

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 Supervisors

Date