



STATE OF NEW YORK  
DIVISION OF CRIMINAL JUSTICE SERVICES  
Alfred E. Smith Office Building  
80 South Swan Street  
Albany, New York 12210  
<http://criminaljustice.ny.gov>

MICHAEL C. GREEN  
EXECUTIVE DEPUTY COMMISSIONER

ROBERT M. MACCARONE  
DEPUTY COMMISSIONER AND DIRECTOR

**STATE DIRECTOR'S MEMORANDUM # 2014-2**

**TO:** County Executives

**FROM:** Robert M. Maccarone, Deputy Commissioner and *R.M.M.*  
Director, Office of Probation and Correctional Alternatives

**RE:** "Leandra's Law" — Reform and Ignition Interlock Program Plan Updates

**DATE:** April 14, 2014

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As you may be aware, on July 26, 2013, Governor Andrew Cuomo signed into law Chapter 169 of the Laws of 2013, to strengthen "Leandra's Law" and establish new safeguards to keep drunken drivers off New York State roads. This Chapter law took effect November 1, 2013 and applies to those violations committed on and after such date. Among its provisions are as follows:

- Extending the period of interlock restriction to a minimum of 12 months (from 6 months) for individuals convicted of DWI and/or other alcohol-related offenses. This change will function as a disincentive to any operator, who previously would have been inclined to "wait out" the minimum period. This installation requirement will terminate upon submission of proof from the offender of installation and maintenance of an Ignition Interlock Device (IID) for at least 6 months, unless the court has ordered a longer duration of installation.
- Authorizes imposition of IIDs to be installed prior to sentencing as a preventive measure. The period of IID restriction will commence from the earlier of the sentencing date, or installation date in advance of sentencing. A court, however, may not authorize the operation of a motor vehicle by any individual whose license or privilege to operate a motor vehicle has been revoked.
- Establishing that a court can waive the installation of an IID only where the defendant asserts under oath that he/she is not the owner of any motor vehicle and that he/she will not operate any motor vehicle during the period of interlock restrictions, except as may be otherwise authorized pursuant to law.
- Ensuring that youth adjudicated as Youthful Offenders of DWI and/or other alcohol related offenses will be subject to Leandra's Law provisions, including the IID requirement.

- Expanding upon the Class E felony, Aggravated Unlicensed Operation 1<sup>st</sup> Degree to capture operators who were given the benefit of a conditional license after a DWI and/or alcohol-related offense and then drive impaired again.
- Clarifies that operators provide proof of installation compliance with the IID requirement to the court and the probation department or other monitor where such person is under probation or conditional discharge supervision.

As a result of the new pre-sentencing features, courts have started ordering monitors to oversee compliance of these IID cases and recently the Division of Criminal Justice Services (DCJS) *has obtained funding approval from the Governor's Traffic Safety Committee to reimburse monitors for such pre-sentence Leandra's Law cases*, similarly to that which is reimbursed for monitoring Leandra's Law probation or conditional discharge cases.

Additionally, DCJS has entered into new three-year agreements with four Ignition Interlock Manufacturers, which include a revised IID classification schedule. Class 1, 2 and 3 IIDs in New York State must now include a camera or integrated facial recognition technology to confirm the identity of the driver/operator who is taking the IID test. IIDs installed prior to the implementation of the new classification system, November 1, 2013, will not have to be upgraded.

In light of these recent changes, DCJS believes that it is important that all jurisdictions re-examine the contents of their original Ignition Interlock Program Plan submitted in 2010 to DCJS' Office of Probation and Correctional Alternatives (OPCA) and update the plan. *As a reminder, DCJS' ignition interlock rule, specifically 9 NYCRR Section 358.4(a) requires that where a plan has been amended, it shall be "promptly filed" with DCJS "in advance of its effective date."*

Attached is a copy of Chapter 169 of the Laws of 2013 and a new Ignition Interlock Program plan application. It is recommended that this updated plan be done in consultation with those individuals who were required to be consulted in developing and finalizing the original plan as it will foster better understanding of issues in this area and ensure coordination of appropriate procedures with respect to these Leandra's Law cases.

Please complete a new Ignition Interlock Program Plan for your jurisdiction and return **no later than June 17, 2014** to [dcjsopcaiidreports@dcjs.ny.gov](mailto:dcjsopcaiidreports@dcjs.ny.gov). Localities may access or view their county plan at <http://www.criminaljustice.ny.gov/opca/ignition.htm>. Should you have any questions pertaining to this memorandum, please contact DCJS' OPCA Community Corrections Representative II, Shaina Kern at [Shaina.kern@dcjs.ny.gov](mailto:Shaina.kern@dcjs.ny.gov) or by phone at (518) 485-8855.

Attachments:

- 1) County IID Plan Template
- 2) Chapter 169 of the Laws of 2013 – Leandra's Law Reform
- 3) NYS IID Program Inception to Date (August 15, 2010-December 31, 2013)

cc: District Attorneys  
 Probation Directors/Commissioners  
 IID CD Monitors (Conditional Discharges)  
 Administrative Judges