



Division of Criminal Justice Services

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**TO: New York State Qualified Ignition Interlock Manufacturers
Probation Directors
IID CD Monitors**

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

DATE: April 4, 2020

**RE: State Director's Memorandum #2020-4
Emergency Procedures – NYS Ignition Interlock Program
Effective Immediately**

As a result of the COVID-19 public health emergency, it is important to reduce social interaction and provide certain relief and flexibility to the requirements found in Division of Criminal Justice Services (DCJS) Regulations, Title 9 NYCRR Part 358, "Handling of Ignition Interlock Cases Involving Certain Criminal Offenders". The guidance and emergency procedures, outlined below, are effective immediately.

DCJS is suspending routine service visits required of operators for 30-calendar days, effective from the date of this memorandum. DCJS will continue to monitor the public health emergency and provide follow-up guidance, as necessary. Operators who fail Ignition Interlock Devices (IID) start-up and rolling retests, or where circumvention is detected and whose vehicles go into "lock-out" mode, will be granted an "unlock" code and must go to a service center within 72-hours.

IID Monitoring

Following, please find guidance to probation departments and IID CD monitors regarding IID monitoring during this period.

1. Although New York courts have limited services, as described in <https://www.nycourts.gov/whatsnew/pdf/Updated-Protocol-AttachmentA3.pdf>, notifications to the courts and District Attorney's offices must continue, as required by Title 9 NYCRR Part 358, "Handling of Ignition Interlock Cases Involving Certain Criminal Offenders". Probation departments and other monitoring agencies should check with courts/District Attorneys regarding any variations as to where or how IID related electronic notifications should be directed during this period.
2. As the result of local, county, and state orders, many probation departments and other IID monitoring agencies are closed to the public and staff are telecommuting.

Fortunately, the general IID monitoring functions can be accomplished through electronic means:

- a. Manufacturers' continue to email notices/alerts, required by regulation, to the monitors;
 - b. The manufacturers' portals are available, via the web, for monitors to access;
 - c. As necessary, monitoring agencies can establish alternate means of communicating notifications to courts/District Attorney's Offices. It should be noted that courts in New York State have dramatically curtailed business.
 - d. Communications with operators can occur via mail, phone, or electronic means (including video), as necessary.
3. If telecommuting/remote work is not available to a monitoring agency, particularly non-probation agencies, please contact Leonard Price at DCJS at Leonard.Price@dcjs.ny.gov.
 4. Monitors are reminded that NYS Department of Motor Vehicles local offices are closed; and that the staffing and resources of DMV's state offices have been re-prioritized. Accordingly, transactions and activities will be delayed. For more information on DMV's operations, please visit: www.dmv.ny.gov.
 5. Counties participating in the A4 Electronic Removal Pilot Project are reminded that due to DMV's staffing and re-prioritization of resources, removal of restrictions may be delayed. Please note that DMV still requires the signature of the Probation Officer/Monitor on the A4 Removal Pilot Project Certificate of Completion form, which can be emailed.

Qualified Manufacturers and Installation/Service Centers

6. New York State Qualified Manufacturers of Ignition Interlock Devices recognize the importance of continuing services in making available, to probation and monitors, the information associated with the more than 7,000 IIDs in New York. The manufacturers maintain networks of contracted, or company owned, installation/service centers which perform device installations, removals, routine service, and other services related to New York's Ignition Interlock Program. While some installation/service centers under contract with the Manufacturers may voluntarily close during this period, each Qualified Manufacturer has affirmed to DCJS that they will still be able to provide services in each region of the state in which they have been qualified, and contractually committed themselves to do business. In such circumstances, these services may be achieved by assigning operators to other service locations within a region, or by performing mobile service, where possible. In the event of any temporary or permanent closure of an installation/service center during this period, the qualified manufacturer must promptly notify DCJS via email to Leonard.Price@dcjs.ny.gov, and provide a plan for service via alternate locations, as appropriate. The qualified manufacturer must further provide notice to any affected operators and to the agencies which monitor/supervise them.
7. DCJS recognizes the importance of offering certain relief from regulatory requirements in order to manage shop workloads and minimize personal contact, thereby limiting exposure to shop staff, operators, and others. Table 1 captures certain sections of Title 9 NYCRR Part 358 and the temporary relief granted by DCJS during this public health emergency.

Table 1: Emergency Procedures

Part 358 Language	Temporary Relief
<p>358.7(c)(2)(a) submit to service visits within thirty (30) calendar days of initial installation(s) and subsequent service visits every thirty (30) calendar days where the device does not automatically transmit data directly to the monitor; and submit to service visits within thirty (30) calendar days of initial installation(s) and subsequent service visits every sixty (60) calendar days where the device automatically transmits data directly to the monitor or the device head is required to be sent to the qualified manufacturer every thirty (30) calendar days. However, an operator shall never remove the device head or any of the component parts of an ignition interlock device.</p> <p>358.7(c)(6) <i>Similarly covers the operator’s responsibilities with respect to these requirements.</i></p>	<p>For ALL three classes of ignition interlock device, NO routine service visits shall occur within 30-days of the date of this memorandum. This period may be extended by DCJS, as deemed necessary. This relief does not apply to operators’ whose vehicles have entered “lockout mode” due to any of the events enumerated in Part 358.</p> <p>This relief shall not extend beyond the calibration stability for a particular device installed in an operator’s vehicle. Where feasible, during this period, a qualified manufacturer may ship a replacement device head to an operator to swap with that installed in his/her vehicle, in lieu of bringing a vehicle in for service.</p>
<p>358.5(c)(5) agree to service every county within a region and ensure that there shall be an installation/service provider located in New York State within 50 miles from the operator’s residence or location where the vehicle is parked or garaged, whichever is closest and ensure repair or replacement of a defective ignition interlock device shall be made available within the same 50 mile radius by a fixed or mobile installation/service provider, or through a qualified manufacturer sending a replacement, within 48 hours of receipt of a complaint, or within 72 hours where an intervening weekend or holiday. Mobile servicing may be permissible provided that the above facility requirements are met and a specific mobile servicing unit with regular hours is indicated;</p>	<p>Where an installation/service provider has temporarily or permanently closed during this period, resulting in a qualified manufacturer no longer having such provider within 50 miles of an operator’s residence or location, mobile servicing is permissible to accomplish both routine and lockout related services.</p>
<p>358.7(c)(2)(b) submit to a scheduled service visit within two (2) hours of an unlock code having been issued by a qualified manufacturer.</p> <p>358.7(c)(22) <i>Similarly covers the manufacturer’s responsibilities with respect to these requirements.</i></p>	<p>With respect to providing “unlock codes” to operators, a qualified manufacturer agrees to only provide an unlock code to an operator within seventy-two (72) hours of a scheduled service visit. The unlock code shall be a unique one-time code and only functional for seventy-two (72) hours immediately preceding the service visit scheduled, as a result of a vehicle being rendered inoperable due to a lockout mode.</p>

8. Within five business days of the date of this letter, each Qualified Manufacturer of Ignition Interlock Devices shall provide a simple written statement describing how it will implement regulatory and contractual requirements during this period, considering the temporary relief granted herein.

These emergency procedures are subject to change, at the discretion of DCJS, and as the situation dictates. DCJS believes these emergency procedures and guidance will provide some relief to Qualified Manufacturers, operators, and probation departments/CD monitors during this difficult time. Should you have any questions, please contact Michele Melendez by email at Michele.Melendez-McKearin@dcjs.ny.gov or Leonard Price by email at Leonard.Price@dcjs.ny.gov.

Thank you for your continued commitment to traffic and public safety.