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TO: Assignment Judges
Trial Court Administrators

FROM: Glenn A. Grant, J.A.D. 

SUBJECT: Municipal – DWI – New Law Regarding Ignition
Interlock Device (L. 2023, c. 191) – Rescinds and
Supersedes Directive #25-19

DATE: March 28, 2024

Directive #04-24
Supersedes Directive #25-19

This Directive highlights a recent law (L. 2023, c. 191) regarding the ignition interlock device (interlock) that affects defendants charged with some violations of New Jersey's driving while intoxicated (DWI) law. An interlock requires a driver to pass a breath alcohol content test (by blowing into the device) before they can start their vehicle. This Directive rescinds and supersedes Directive #25-19 ("Implementation of New DWI Law...", issued December 5, 2019).

L. 2023, c. 191, signed into law on December 21, 2023, has two effective dates for different provisions. The information below provides several broad highlights; the legislation is attached and should be consulted for details and guidance.

- The enactment extended the expiration date of the interlock law (L. 2019, c. 248) until January 1, 2029.
- Effective February 19, 2024, the law provides that someone arrested for certain DWI offenses may – after arrest and before any conviction – voluntarily install an interlock in one motor vehicle they own, lease, or principally operate. N.J.S.A. 39:4-50.
 - This voluntary installation of the interlock after arrest and before conviction may, upon conviction, eliminate the fine and reduce the

period of a driver's license suspension. The law requires that such a defendant must possess a valid New Jersey driver's license in good standing at the time of the offense and maintain that license in good standing until the date of conviction. The law also considers whether the violation resulted in serious bodily injury to another person.

- The New Jersey Motor Vehicle Commission is required by N.J.S.A. 39:4-50.21 to designate facilities where ignition devices may be installed. A list is posted on MVC's website.
- Once an interlock is installed, the person can then present the necessary documents, as set forth in the statute, to the Motor Vehicle Commission to request a driver's license with a notation stating that the person is not to operate a motor vehicle unless it is equipped with an interlock.
- An order from the Municipal Court is not required for this voluntary, pre-conviction process.

Note: Defendants who do not voluntarily install an interlock prior to sentencing must have their license suspended indefinitely by the court upon conviction, until they install an interlock device.

- Also effective February 19, 2024, the law modifies certain penalty provisions, including the length of driver's license suspension for convictions of DWI and refusing to submit to a breathalyzer test, and increases the time period for which an interlock is required for such offenses. These modifications also will expire January 1, 2029.

Questions regarding this directive may be directed to the Administrative Office of the Courts, Municipal Court Services Division, by phone at 609-815-2900, ext. 54850 or via email at MunicipalCtSvs.Mbx@njcourts.gov.

Attachment (L. 2023, c. 191)

cc: Chief Justice Stuart Rabner
Municipal Court-Presiding Judges
Municipal Court Judges
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Special Assistants to the Administrative Director
Julie A. Higgs, Esq., Chief
Rhonda Crimi, Chief
Municipal Division Managers and Assistants
Municipal Court Directors and Administrators

CHAPTER 191
CORRECTED COPY

AN ACT concerning certain drunk driving offenses, amending various sections of the statutory law, and supplementing Title 39 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 7 of P.L.2019, c.248 is amended to read as follows:

7. This act shall take effect on the first day of the fourth month after enactment and shall apply to any offense occurring on or after that date; the amendments to R.S.39:4-50 enacted by P.L.2019, c.248; section 2 of P.L.1981, c.512 (C.39:4-50.4a) enacted by P.L.2019, c.248; section 2 of P.L.1999, c.417 (C.39:4-50.17) enacted by P.L.2019, c.248; section 3 of P.L.1999, c.417 (C.39:4-50.18) enacted by P.L.2019, c.248; and supplemental sections 1 and 6 enacted by P.L.2019, c.248 shall expire on the first day of the tenth year next following the effective date. The Chief Administrator of the New Jersey Motor Vehicle Commission may take any anticipatory administrative action in advance of the date as shall be necessary to implement the provisions of this act.

2. R.S.39:4-50 is amended to read as follows:

Driving while intoxicated.

39:4-50. (a) A person who operates a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or operates a motor vehicle with a blood alcohol concentration of 0.08 percent or more by weight of alcohol in the defendant's blood or permits another person who is under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle the person owns or which is in the person's custody or control or permits another to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or more by weight of alcohol in the defendant's blood shall be subject:

(1) For the first offense:

(i) if the person's blood alcohol concentration is 0.08 percent or higher but less than 0.10 percent, or the person operates a motor vehicle while under the influence of intoxicating liquor, or the person permits another person who is under the influence of intoxicating liquor to operate a motor vehicle owned by him or in his custody or control or permits another person with a blood alcohol concentration of 0.08 percent or higher but less than 0.10 percent to operate a motor vehicle, to a fine of not less than \$250 nor more than \$400 and a period of detainment of not less than 12 hours nor more than 48 hours spent during two consecutive days of not less than six hours each day and served as prescribed by the program requirements of the Intoxicated Driver Resource Centers established under subsection (f) of this section and, in the discretion of the court, a term of imprisonment of not more than 30 days. In addition, the court shall order the person to forfeit the right to operate a motor vehicle over the highways of this State until the person installs an ignition interlock device in one motor vehicle the person owns, leases, or principally operates, whichever the person most often operates, for the purpose of complying with the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.). A person who has been arrested for a violation of this section whose blood alcohol concentration was at least 0.08 percent but less than 0.10 percent or who was otherwise under the influence of intoxicating liquor may, upon arrest and prior to any conviction, voluntarily install an ignition interlock device in one motor vehicle the person owns, leases, or principally operates,

whichever the person most often operates, and request from the New Jersey Motor Vehicle Commission a driver's license with a notation stating that the person shall not operate a motor vehicle unless it is equipped with an ignition interlock device pursuant to subsection b. of section 3 of P.L.1999, c.417 (C.39:4-50.18). The request shall include a copy of the interlock installer's certification and documentation of pending charges as determined by the Chief Administrator of the Motor Vehicle Commission to be submitted no later than seven days after receipt of the documentation. A person who installs an ignition interlock device and obtains a driver's license with the appropriate notation pursuant to this subparagraph shall not be subject to a fine pursuant to this subparagraph if the person possessed a valid New Jersey driver's license in good standing at the time of the offense and maintained a license in good standing until the date of conviction;

(ii) if the person's blood alcohol concentration is 0.10 percent or higher, or the person operates a motor vehicle while under the influence of a narcotic, hallucinogenic or habit-producing drug, or the person permits another person who is under the influence of a narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle owned by him or in his custody or control, or permits another person with a blood alcohol concentration of 0.10 percent or more to operate a motor vehicle, to a fine of not less than \$300 nor more than \$500 and a period of detainment of not less than 12 hours nor more than 48 hours spent during two consecutive days of not less than six hours each day and served as prescribed by the program requirements of the Intoxicated Driver Resource Centers established under subsection (f) of this section and, in the discretion of the court, a term of imprisonment of not more than 30 days. A person who has been arrested for a violation of this section whose blood alcohol concentration was 0.10 percent or higher may, upon arrest and prior to any conviction, voluntarily install an ignition interlock device in one motor vehicle the person owns, leases, or principally operates, whichever the person most often operates, and request from the Motor Vehicle Commission a driver's license with a notation stating that the person shall not operate a motor vehicle unless it is equipped with an ignition interlock device pursuant to subsection b. of section 3 of P.L.1999, c.417 (C.39:4-50.18). The request shall include a copy of the interlock installer's certification and documentation of pending charges as determined by the Chief Administrator of the New Jersey Motor Vehicle Commission to be submitted no later than seven days after receipt of the documentation. A person who installs an ignition interlock device and obtains a driver's license with the appropriate notation pursuant to this subparagraph shall not be subject to a fine pursuant to this subparagraph if the person possessed a valid New Jersey driver's license in good standing at the time of the offense and maintained a license in good standing until the date of conviction;

in the case of a person who is convicted of operating a motor vehicle while under the influence of a narcotic, hallucinogenic or habit-producing drug or permitting another person who is under the influence of a narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle owned by the person or under the person's custody or control, the person shall forfeit the right to operate a motor vehicle over the highways of this State for a period of not less than seven months nor more than one year;

in the case of a person whose blood alcohol concentration is 0.10 percent or higher but less than 0.15 percent, the person shall forfeit the right to operate a motor vehicle over the highways of this State until the person installs an ignition interlock device in one motor vehicle the person owns, leases, or principally operates, whichever the person most often operates, for the purpose of complying with the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.);

in the case of a person whose blood alcohol concentration is 0.15 percent or higher, the person shall forfeit the right to operate a motor vehicle over the highways of this State for a period of three months following installation of an ignition interlock device in one motor vehicle the person owns, leases, or principally operates, whichever the person most often operates, for the purpose of complying with the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.). A person who has been arrested for a violation of this section whose blood alcohol concentration was 0.15 percent or higher may, upon arrest and prior to any conviction, voluntarily install an ignition interlock device in one motor vehicle the person owns, leases, or principally operates, whichever the person most often operates, and request from the Motor Vehicle Commission a driver's license with a notation stating that the person shall not operate a motor vehicle unless it is equipped with an ignition interlock device pursuant to subsection b. of section 3 of P.L.1999, c.417 (C.39:4-50.18). The request shall include a copy of the interlock installer's certification and documentation of pending charges as determined by the Chief Administrator of the New Jersey Motor Vehicle Commission to be submitted no later than seven days after receipt of the documentation. A person who installs an ignition interlock device and obtains a driver's license with the appropriate notation pursuant to this subparagraph shall receive a one-day credit against the period that the person is required to forfeit the right to operate a motor vehicle over the highways of this State pursuant to this subparagraph for every two days that the person has an ignition interlock device installed and a driver's license with the appropriate notation and shall not be subject to a fine pursuant to this subparagraph if the person possessed a valid New Jersey driver's license in good standing at the time of the offense and maintained a license in good standing until the date of conviction. A person shall not be entitled to a credit against the period that the person is required to forfeit the right to operate a motor vehicle over the highways of this State pursuant to this subparagraph if the violation of this section resulted in serious bodily injury as defined in N.J.S.2C:11-1 to another person;

(iii) (Deleted by amendment, P.L.2019, c.248)

(2) For a second violation, a person shall be subject to a fine of not less than \$500 nor more than \$1,000, and shall be ordered by the court to perform community service for a period of 30 days, which shall be of such form and on terms the court shall deem appropriate under the circumstances, and shall be sentenced to imprisonment for a term of not less than 48 consecutive hours, which shall not be suspended or served on probation, or more than 90 days, and shall forfeit the right to operate a motor vehicle over the highways of this State for a period of not less than one year or more than two years upon conviction. A person who has been arrested for a second violation of this section may, upon arrest and prior to any conviction, voluntarily install an ignition interlock device in one motor vehicle the person owns, leases, or principally operates, whichever the person most often operates, and request from the Motor Vehicle Commission a driver's license with a notation stating that the person shall not operate a motor vehicle unless it is equipped with an ignition interlock device pursuant to subsection b. of section 3 of P.L.1999, c.417 (C.39:4-50.18). The request shall include a copy of the interlock installer's certification and documentation of pending charges as determined by the Chief Administrator of the New Jersey Motor Vehicle Commission to be submitted no later than seven days after receipt of the documentation. A person who installs an ignition interlock device and obtains a driver's license with the appropriate notation pursuant to this paragraph shall receive a one-day credit against the period that the person is required to forfeit the right to operate a motor vehicle over the highways of this State pursuant to this paragraph for every two days that the person has an ignition interlock device installed and a driver's license with

the appropriate notation and shall not be subject to a fine pursuant to this paragraph if the person possessed a valid New Jersey driver's license in good standing at the time of the offense and maintained a license in good standing until the date of conviction. A person shall not be entitled to a credit against the period that the person is required to forfeit the right to operate a motor vehicle over the highways of this State pursuant to this paragraph if the violation of this section resulted in serious bodily injury as defined in N.J.S.2C:11-1 to another person.

After the expiration of the license forfeiture period, the person may make application to the Chief Administrator of the New Jersey Motor Vehicle Commission for a license to operate a motor vehicle, which application may be granted at the discretion of the chief administrator, consistent with subsection (b) of this section. For a second violation, a person also shall be required to install an ignition interlock device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

(3) For a third or subsequent violation, a person shall be subject to a fine of \$1,000, and shall be sentenced to imprisonment for a term of not less than 180 days in a county jail or workhouse, except that the court may lower such term for each day, not exceeding 90 days, served participating in a substance use disorder inpatient rehabilitation program approved by the Intoxicated Driver Resource Center and shall thereafter forfeit the right to operate a motor vehicle over the highways of this State for eight years. A person who has been arrested for a third or subsequent violation of this section may, upon arrest and prior to any conviction, voluntarily install an ignition interlock device in one motor vehicle the person owns, leases, or principally operates, whichever the person most often operates, and request from the Motor Vehicle Commission a driver's license with a notation stating that the person shall not operate a motor vehicle unless it is equipped with an ignition interlock device pursuant to subsection b. of section 3 of P.L.1999, c.417 (C.39:4-50.18). The request shall include a copy of the interlock installer's certification and documentation of pending charges as determined by the Chief Administrator of the New Jersey Motor Vehicle Commission to be submitted no later than seven days after receipt of the documentation. A person who installs an ignition interlock device and obtains a driver's license with the appropriate notation pursuant to this paragraph shall receive a one-day credit against the period that the person is required to forfeit the right to operate a motor vehicle over the highways of this State pursuant to this paragraph for every two days that the person has an ignition interlock device installed and a driver's license with the appropriate notation and shall not be subject to a fine pursuant to this paragraph if the person possessed a valid New Jersey driver's license in good standing at the time of the offense and maintained a license in good standing until the date of conviction. A person shall not be entitled to a credit against the period that the person is required to forfeit the right to operate a motor vehicle over the highways of this State pursuant to this paragraph if the violation of this section resulted in serious bodily injury as defined in N.J.S.2C:11-1 to another person.

For a third or subsequent violation, a person also shall be required to install an ignition interlock device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

Notwithstanding any judicial directive to the contrary, upon recommendation by the prosecutor, a plea agreement under this section is authorized under the appropriate factual basis consistent with any other violation of Title 39 of the Revised Statutes or offense under Title 2C of the New Jersey Statutes; provided, however, that if a person is convicted of operating a motor vehicle while under the influence of a narcotic, hallucinogenic, or habit-producing drug or permitting another person who is under the influence of a narcotic, hallucinogenic, or habit-producing drug to operate a motor vehicle owned by the person or under the person's custody or control pursuant to the provisions of R.S.39:4-50 or a person is convicted of operating a

commercial motor vehicle under the influence of a controlled substance pursuant to section 5 of P.L.1990, c.103 (C.39:3-10.13), the person shall forfeit the right to operate a motor vehicle over the highways of this State for a period of not less than six months.

As used in this section, the phrase "narcotic, hallucinogenic or habit-producing drug" includes an inhalant or other substance containing a chemical capable of releasing any toxic vapors or fumes for the purpose of inducing a condition of intoxication, such as any glue, cement or any other substance containing one or more of the following chemical compounds: acetone and acetate, amyl nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite, butyl nitrate or their isomers, ethyl acetate, ethyl alcohol, ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol or isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous oxide, n-propyl alcohol, phencyclidine, petroleum ether, propyl nitrite or propyl nitrate or their isomers, toluene, toluol or xylene or any other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance.

Whenever an operator of a motor vehicle has been involved in an accident resulting in death, bodily injury or property damage, a police officer shall consider that fact along with all other facts and circumstances in determining whether there are reasonable grounds to believe that person was operating a motor vehicle in violation of this section.

A conviction of a violation of a law of a substantially similar nature in another jurisdiction, regardless of whether that jurisdiction is a signatory to the Interstate Driver License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction under this subsection unless the defendant can demonstrate by clear and convincing evidence that the conviction in the other jurisdiction was based exclusively upon a violation of a proscribed blood alcohol concentration of less than 0.08 percent.

If the driving privilege of any person is under revocation or suspension for a violation of any provision of this Title or Title 2C of the New Jersey Statutes at the time of any conviction for a violation of this section, the revocation or suspension period imposed shall commence as of the date of termination of the existing revocation or suspension period. In the case of any person who at the time of the imposition of sentence is less than 17 years of age, the forfeiture, suspension or revocation of the driving privilege imposed by the court under this section shall commence immediately, run through the offender's 17th birthday and continue from that date for the period set by the court pursuant to paragraphs (1) through (3) of this subsection. A court that imposes a term of imprisonment for a first or second offense under this section may sentence the person so convicted to the county jail, to the workhouse of the county wherein the offense was committed, to an inpatient rehabilitation program or to an Intoxicated Driver Resource Center or other facility approved by the chief of the Intoxicated Driving Program in the Division of Mental Health and Addiction Services in the Department of Human Services. For a third or subsequent offense a person shall not serve a term of imprisonment at an Intoxicated Driver Resource Center as provided in subsection (f) of this section.

A person who has been convicted of a previous violation of this section need not be charged as a second or subsequent offender in the complaint made against the person in order to render the person liable to the punishment imposed by this section on a second or subsequent offender, but if the second offense occurs more than 10 years after the first offense, the court shall treat the second conviction as a first offense for sentencing purposes and if a third offense occurs more than 10 years after the second offense, the court shall treat the third conviction as a second offense for sentencing purposes.

(b) A person convicted under this section must satisfy the screening, evaluation, referral, program and fee requirements of the Division of Mental Health and Addiction Services' Intoxicated Driving Program, and of the Intoxicated Driver Resource Centers and a program of substance use disorder education and highway safety, as prescribed by the chief administrator. The sentencing court shall inform the person convicted that failure to satisfy such requirements shall result in a mandatory two-day term of imprisonment in a county jail and a driver license revocation or suspension and continuation of revocation or suspension until such requirements are satisfied, unless stayed by court order in accordance with the Rules Governing the Courts of the State of New Jersey, or R.S.39:5-22. Upon sentencing, the court shall forward to the Division of Mental Health and Addiction Services' Intoxicated Driving Program a copy of a person's conviction record. A fee of \$100 shall be payable to the Alcohol Education, Rehabilitation and Enforcement Fund established pursuant to section 3 of P.L.1983, c.531 (C.26:2B-32) to support the Intoxicated Driving Program.

(c) Upon conviction of a violation of this section, the court shall collect forthwith the New Jersey driver's license or licenses of the person so convicted and forward such license or licenses to the chief administrator. The court shall inform the person convicted that if the person is convicted of personally operating a motor vehicle during the period of license suspension imposed pursuant to subsection (a) of this section, the person shall, upon conviction, be subject to the penalties established in R.S.39:3-40. The person convicted shall be informed orally and in writing. A person shall be required to acknowledge receipt of that written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40. In the event that a person convicted under this section is the holder of any out-of-State driver's license, the court shall not collect the license but shall notify forthwith the chief administrator, who shall, in turn, notify appropriate officials in the licensing jurisdiction. The court shall, however, revoke the nonresident's driving privilege to operate a motor vehicle in this State, in accordance with this section. Upon conviction of a violation of this section, the court shall notify the person convicted, orally and in writing, of the penalties for a second, third or subsequent violation of this section. A person shall be required to acknowledge receipt of that written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of this section.

(d) The chief administrator shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in order to establish a program of alcohol education and highway safety, as prescribed by this act.

(e) Any person accused of a violation of this section who is liable to punishment imposed by this section as a second or subsequent offender shall be entitled to the same rights of discovery as allowed defendants pursuant to the Rules Governing the Courts of the State of New Jersey.

(f) The counties, in cooperation with the Division of Mental Health and Addiction Services and the commission, but subject to the approval of the Division of Mental Health and Addiction Services, shall designate and establish on a county or regional basis Intoxicated Driver Resource Centers. These centers shall have the capability of serving as community treatment referral centers and as court monitors of a person's compliance with the ordered treatment, service alternative or community service. All centers established pursuant to this subsection shall be administered by a counselor certified by the Addiction Professionals Certification Board of New Jersey or other professional with a minimum of five years' experience in the

treatment of alcohol use disorder. All centers shall be required to develop individualized treatment plans for all persons attending the centers; provided that the duration of any ordered treatment or referral shall not exceed one year. It shall be the center's responsibility to establish networks with the community substance use disorder education, treatment and rehabilitation resources and to receive monthly reports from the referral agencies regarding a person's participation and compliance with the program. Nothing in this subsection shall bar these centers from developing their own education and treatment programs; provided that they are approved by the Division of Mental Health and Addiction Services.

Upon a person's failure to report to the initial screening or any subsequent ordered referral, the Intoxicated Driver Resource Center shall promptly notify the sentencing court of the person's failure to comply.

Required detention periods at the Intoxicated Driver Resource Centers shall be determined according to the individual treatment classification assigned by the Intoxicated Driving Program. Upon attendance at an Intoxicated Driver Resource Center, a person shall be required to pay a per diem fee of \$75 for the first offender program or a per diem fee of \$100 for the second offender program, as appropriate. Any increases in the per diem fees after the first full year shall be determined pursuant to rules and regulations adopted by the Commissioner of Human Services in consultation with the Governor's Council on Substance Use Disorder Abuse pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

The centers shall conduct a program of substance use disorder education and highway safety, as prescribed by the chief administrator.

The Commissioner of Human Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in order to effectuate the purposes of this subsection.

(g) (Deleted by amendment, P.L.2019, c.248)

(h) A court also may order a person convicted pursuant to subsection (a) of this section, to participate in a supervised visitation program as either a condition of probation or a form of community service, giving preference to those who were under the age of 21 at the time of the offense. Prior to ordering a person to participate in such a program, the court may consult with any person who may provide useful information on the defendant's physical, emotional and mental suitability for the visit to ensure that it will not cause any injury to the defendant. The court also may order that the defendant participate in a counseling session under the supervision of the Intoxicated Driving Program prior to participating in the supervised visitation program. The supervised visitation program shall be at one or more of the following facilities which have agreed to participate in the program under the supervision of the facility's personnel and the probation department:

(1) a trauma center, critical care center or acute care hospital having basic emergency services, which receives victims of motor vehicle accidents for the purpose of observing appropriate victims of drunk drivers and victims who are, themselves, drunk drivers;

(2) a facility which cares for persons with advanced substance use disorder, to observe persons in the advanced stages of substance use disorder; or

(3) if approved by a county medical examiner, the office of the county medical examiner or a public morgue to observe appropriate victims of vehicle accidents involving drunk drivers.

As used in this section, "appropriate victim" means a victim whose condition is determined by the facility's supervisory personnel and the probation officer to be appropriate for demonstrating the results of accidents involving drunk drivers without being unnecessarily gruesome or traumatic to the defendant.

If at any time before or during a visitation the facility's supervisory personnel and the probation officer determine that the visitation may be or is traumatic or otherwise inappropriate for that defendant, the visitation shall be terminated without prejudice to the defendant. The program may include a personal conference after the visitation, which may include the sentencing judge or the judge who coordinates the program for the court, the defendant, defendant's counsel, and, if available, the defendant's parents to discuss the visitation and its effect on the defendant's future conduct. If a personal conference is not practicable because of the defendant's absence from the jurisdiction, conflicting time schedules, or any other reason, the court shall require the defendant to submit a written report concerning the visitation experience and its impact on the defendant. The county, a court, any facility visited pursuant to the program, any agents, employees, or independent contractors of the court, county, or facility visited pursuant to the program, and any person supervising a defendant during the visitation, are not liable for any civil damages resulting from injury to the defendant, or for civil damages associated with the visitation which are caused by the defendant, except for willful or grossly negligent acts intended to, or reasonably expected to result in, that injury or damage.

The Supreme Court may adopt court rules or directives to effectuate the purposes of this subsection.

(i) In addition to any other fine, fee, or other charge imposed pursuant to law, the court shall assess a person convicted of a violation of the provisions of this section a surcharge of \$125, of which amount \$50 shall be payable to the municipality in which the conviction was obtained, \$50 shall be payable to the Treasurer of the State of New Jersey for deposit into the General Fund, and \$25 which shall be payable as follows: in a matter where the summons was issued by a municipality's law enforcement agency, to that municipality to be used for the cost of equipping police vehicles with mobile video recording systems pursuant to the provisions of section 1 of P.L.2014, c.54 (C.40A:14-118.1); in a matter where the summons was issued by a county's law enforcement agency, to that county; and in a matter where the summons was issued by a State law enforcement agency, to the General Fund.

3. Section 2 of P.L.1999, c.417 (C.39:4-50.17) is amended to read as follows:

C.39:4-50.17 Sentencing drunk driving offenders; use of ignition interlock device required.

2. a. (1) Except as provided in paragraph (2) of this subsection, (a) in sentencing a first offender under subparagraph (i) of paragraph (1) of subsection (a) of R.S.39:4-50, whose blood alcohol concentration was at least 0.08% but less than 0.10%, or who was otherwise under the influence of intoxicating liquor, the court shall order, in addition to any other penalty imposed by that section, the installation of an ignition interlock device in one motor vehicle owned, leased, or principally operated by the offender, whichever the offender most often operates, which shall remain installed for three months.

(b) In sentencing a first offender under subparagraph (ii) of paragraph (1) of subsection (a) of R.S.39:4-50 whose blood alcohol concentration was 0.10% or higher, but less than 0.15%, the court shall order, in addition to any other penalty imposed, the installation of an ignition interlock device in one motor vehicle owned, leased, or principally operated by the offender, whichever the offender most often operates, which shall remain installed for not less than seven months or more than one year.

(2) If the first offender's blood alcohol concentration is 0.15% or higher, or the offender violated section 2 of P.L.1981, c.512 (C.39:4-50.4a), the court shall order, in addition to any other penalty imposed under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the

installation of an ignition interlock device in one motor vehicle owned, leased, or principally operated by the offender, whichever the offender most often operates, during and following the expiration of the period of license forfeiture imposed under those sections. In addition to installation during the period of license suspension, the device shall remain installed for not less than 12 months or more than 15 months in the case of a first offender whose blood alcohol concentration is 0.15% or higher and shall remain installed for not less than nine months or more than 15 months in the case of an offender who violated section 2 of P.L.1981, c.512 (C.39:4-50.4a), commencing immediately upon installation of the device and the return of the offender's driver's license pursuant to section 3 of P.L.1999, c.417 (C.39:4-50.18) after the required period of forfeiture has been served.

b. In sentencing a second or subsequent offender under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the court shall order, in addition to any other penalty imposed by that section, the installation of an ignition interlock device in the motor vehicle principally operated by the offender during and following the expiration of the period of license forfeiture imposed under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a). In addition to installation during the period of license forfeiture, the device shall remain installed for not less than two years or more than four years, commencing immediately upon installation of the device and the return of the offender's driver's license pursuant to section 3 of P.L.1999, c.417 (C.39:4-50.18) after the required period of forfeiture has been served.

c. The court shall require that, for the duration of its order, an offender shall not drive any vehicle other than one in which an ignition interlock device has been installed pursuant to the order.

The offender shall provide to the court information identifying the motor vehicle on which the ignition interlock is to be installed, and any other information deemed relevant by the court, including, but not limited to, the offender's complete name, address, date of birth, eye color, and gender. An offender who does not own, lease, or operate a motor vehicle shall attest to this to the court. A violation of this provision shall constitute perjury pursuant to N.J.S.2C:28-1. An offender immediately shall notify the court of the purchase, lease, or access to operation of a motor vehicle and install an ignition interlock device in the vehicle.

The driver's license of an offender who attests to not owning, leasing, or operating a motor vehicle shall be forfeited for the ignition interlock installation period required pursuant to subsections a. and b. of this section.

d. As used in P.L.1999, c.417 (C.39:4-50.16 et al.), "ignition interlock device" or "device" means a blood alcohol equivalence measuring device which will prevent a motor vehicle from starting if the operator's blood alcohol concentration exceeds a predetermined level when the operator blows into the device.

e. The provisions of P.L.1999, c.417 (C.39:4-50.16 et al.) and any amendments and supplements thereto shall be applicable only to violations of R.S.39:4-50 and section 2 of P.L.1981, c.512 (C.39:4-50.4a).

f. A person who does not possess a valid driver's license issued by this State at the time of the imposition of a sentence pursuant to this section shall be prohibited from obtaining a driver's license for the duration of that sentence. Upon obtaining a driver's license, the person shall be sentenced to a period of ignition interlock device installation pursuant to the provisions of this section.

4. Section 3 of P.L.1999, c.417 (C.39:4-50.18) is amended to read as follows:

C.39:4-50.18 Notification to NJMVC of ignition interlock device installation.

3. a. The court shall notify the Chief Administrator of the New Jersey Motor Vehicle Commission when a person has been ordered to install an ignition interlock device in a vehicle pursuant to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.). The commission shall require that the device be installed before restoration of the person's driver's license that has been forfeited pursuant to R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a).

A vendor may, without a court order, install an ignition interlock device in a vehicle that a person owns, leases, or principally operates if requested by a person who has been arrested for a violation of R.S.39:4-50 as set forth in R.S.39:4-50. Upon proof that the ignition interlock device has been installed, the commission, upon request of the licensee, shall imprint a notation on the person's driver's license pursuant to subsection b. of this section. The licensee's request shall include a copy of the interlock installer's certification and documentation of the pending charges as determined by the Chief Administrator of the New Jersey Motor Vehicle Commission to be submitted no later than seven days after receipt of the documentation.

b. The commission shall imprint a notation on the driver's license stating that the person shall not operate a motor vehicle unless it is equipped with an ignition interlock device and shall enter this requirement in the person's driving record. The expiration date of the device requirement shall not be imprinted on the license.

c. Notwithstanding the provisions of section 2 of P.L.1999, c.417 (C.39:4-50.17), an ignition interlock device shall be removed on the date the person completes the installation period only if the person submits to the chief administrator a certification from the vendor that:

(1) during the final 30 days of the installation period there was not more than one failure to take or pass a test with a blood alcohol concentration of 0.08% or higher unless a re-test conducted within five minutes of the initial test indicates a blood alcohol concentration of less than 0.08%; and

(2) the person complied with all required maintenance, repair, calibration, monitoring, and inspection requirements related to the device.

d. If the vendor does not issue a certification to the person because there were two or more violations of paragraph (1) of subsection c. of this section, the vendor shall forward the violation information to the chief administrator and the court. The court shall decide whether to extend the period of ignition interlock device installation for up to 90 days or issue the certification to the chief administrator.

5. Section 12 of P.L.1990, c.103 (C.39:3-10.20) is amended to read as follows:

C.39:3-10.20 Suspension of commercial motor vehicle driving privilege.

12. a. In addition to the imposition of any other penalty provided by law, the chief administrator shall suspend for not less than one year nor more than three years the commercial motor vehicle driving privilege of a person convicted for a first violation of:

(1) R.S.39:4-50 if the motor vehicle was a commercial motor vehicle or section 5 of P.L.1990, c.103 (C.39:3-10.13).

(2) R.S.39:4-129 if the motor vehicle was a commercial motor vehicle operated by the person.

(3) Using a commercial motor vehicle in the commission of any "crime" as defined in subsection a., c., or d. of N.J.S.2C:1-4, except in circumstances where harsher penalties are provided by this section.

(4) Refusal to submit to a chemical test under section 2 of P.L.1966, c.142 (C.39:4-50.2) or section 16 of P.L.1990, c.103 (C.39:3-10.24) if the motor vehicle was a commercial motor vehicle.

(5) Paragraph (1) of subsection b. of section 10 of P.L.1990, c.103 (C.39:3-10.18).

(6) A violation, arising in connection with a fatal accident, of State or local law relating to motor vehicle traffic control, other than a parking violation, regardless of whether the motor vehicle operated by the person was a commercial motor vehicle or a non-commercial motor vehicle.

b. If a first violation of any of the violations specified in subsection a. of this section takes place while transporting hazardous material or takes place in a vehicle displaying a hazardous material placard, the chief administrator shall suspend the commercial motor vehicle driving privilege of the person for three years.

c. Subject to the provisions of subsection d. of this section, the chief administrator shall revoke for life the commercial motor vehicle driving privilege of a person for a second or subsequent violation of any of the offenses specified in subsections a. and j. of this section or any combination of those offenses arising from two or more separate incidents.

d. The chief administrator may issue rules and regulations establishing guidelines, including conditions under which a revocation of commercial motor vehicle driving privilege for life under subsection c. may be reduced to a period of not less than 10 years.

e. Notwithstanding any other provision of law to the contrary, the chief administrator shall revoke for life the commercial motor vehicle driving privilege of a person who uses a commercial motor vehicle or a non-commercial motor vehicle in the commission of a crime involving the manufacture, distribution, or dispensing of a controlled substance or controlled substance analog, or possession with intent to manufacture, distribute, or dispense a controlled substance or controlled substance analog.

Notwithstanding any other provision of law to the contrary, the chief administrator shall revoke for life the commercial motor vehicle driving privilege of a person who is convicted of a crime involving an act or practice described in section 1 of P.L.2005, c.77 (C.2C:13-8) or involving an act or practice of one or more of the severe forms of trafficking in persons as described in paragraph (11) of 22 U.S.C. S.7102, the federal "Trafficking Victims Protection Act of 2000."

A revocation under this subsection shall not be subject to reduction in accordance with subsection d. of this section.

f. (1) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 60 days if the person is convicted of a serious traffic violation, other than a violation arising in connection with a fatal accident as set forth in paragraph (6) of subsection a. of this section, and that conviction constitutes the second serious traffic violation committed in a commercial motor vehicle or non-commercial motor vehicle in this or any other state arising from separate incidents occurring within a three-year period. The chief administrator shall suspend the commercial motor vehicle driving privilege for 120 days if the conviction constitutes the third or subsequent serious traffic violation, other than a violation arising in connection with a fatal accident as set forth in paragraph (6) of subsection a. of this section, committed in a commercial motor vehicle or non-commercial motor vehicle in this or any other state arising from separate incidents occurring within a three-year period.

(2) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 60 days if the person is convicted of a violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); or section 10 of P.L.2005, c.147 (C.39:4-128.11). The chief administrator shall suspend the commercial motor vehicle driving privilege for not less than 120 days if the conviction constitutes the second violation of

R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section 10 of P.L.2005, c.147 (C.39:4-128.11) or any combination of such violations in this or any other state arising from separate incidents occurring within a three-year period. The chief administrator shall suspend the commercial motor vehicle driving privilege for not less than one year if the conviction constitutes the third or subsequent violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section 10 of P.L.2005, c.147 (C.39:4-128.11) or any combination of such violations in this or any other state arising from separate incidents occurring within the past three years.

(3) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 180 days or more than one year if the person is convicted of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials. The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than two years or more than five years if the conviction constitutes the second conviction in a separate incident in this or any other state within a 10-year period of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials. The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than three years or more than five years if the conviction constitutes the third or subsequent conviction in a separate incident in this or any other state within a 10-year period of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials.

(4) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 180 days or more than two years if the person is convicted of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting hazardous materials required to be placarded under Subpart F of 49 C.F.R. s.172, or while operating a vehicle designed to transport 16 or more passengers, including the driver. The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than three years or more than five years if the conviction constitutes a second or subsequent conviction in a separate incident within a 10-year period in this or any other state of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting hazardous materials required to be placarded under Subpart F of 49 C.F.R. s.172, or while operating a vehicle designed to transport 16 or more passengers, including the driver.

g. A court shall make a report to the chief administrator within three days in such form as the chief administrator may require concerning conviction for any violation or crime listed or described in P.L.1990, c.103 (C.39:3-10.9 et seq.). The chief administrator shall notify the Commercial Driver License Information System of the suspension, revocation, or cancellation. In the case of non-residents, the chief administrator also shall notify the licensing authority of the state which issued the commercial driver license or the state where the person is domiciled. The chief administrator shall provide these notices within 10 days after the suspension, revocation, cancellation, or disqualification.

h. The chief administrator shall in accordance with this section suspend a commercial motor vehicle driving privilege of a person holding, or required to hold, a commercial driver license issued by this State if the person is convicted in another state or foreign jurisdiction of

an offense of a substantially similar nature to the offenses specified in subsection a., e., f., g., h., i. or j. of this section. For purposes of this section, a violation such as driving while intoxicated, driving under the influence, or driving while ability is impaired shall be considered substantially similar offenses. For purposes of this section, a violation committed in another state but substantially similar to those enumerated in subsection a., e., f., g., h., i. or j. of this section committed in this State shall be included.

i. Notwithstanding any other provision of law to the contrary, a conviction under this section, or section 5 or 16 of P.L.1990, c.103 (C.39:3-10.13 or C.39:3-10.24), shall not merge with a conviction for a violation of R.S.39:4-50 or section 2 of P.L.1966, c.142 (C.39:4-50.2).

j. In addition to any other penalty provided by law, the chief administrator shall suspend for one year the commercial motor vehicle driving privilege of a person for a first violation of:

(1) R.S.39:4-50 while operating a non-commercial motor vehicle;

(2) R.S.39:4-129 while operating a non-commercial motor vehicle;

(3) Refusing to submit to a chemical test under section 2 of P.L.1966, c.142 (C.39:4-50.2) while operating a non-commercial motor vehicle; or

(4) Using a non-commercial motor vehicle in the commission of any "crime" as defined in subsection a., c., or d. of N.J.S.2C:1-4.

k. The chief administrator shall in accordance with this section suspend the commercial motor vehicle driving privilege of a person holding, or required to hold, a commercial driver license issued by this State if that person has been disqualified from operating a commercial motor vehicle by the Federal Motor Carrier Safety Administration pursuant to 49 C.F.R. s.383.52 because that person's driving has been determined to constitute an imminent hazard.

l. The New Jersey Motor Vehicle Commission shall maintain records of accidents, convictions, and disqualification for persons holding, or required to hold, a commercial driver license in accordance with 49 C.F.R. s.384.225 and the AAMVAnet, Inc.'s "Commercial Driver License Information System State Procedures," as amended and supplemented.

m. Any driver who is found to be in violation of the provisions of paragraph (a) or (b) of 49 C.F.R. s.392.5, relating to the use of alcohol, being under the influence of alcohol, having any measured alcohol concentration or detected presence of alcohol, or possessing alcohol, shall be placed out-of-service immediately for a period of 24 hours.

n. In sentencing a person convicted of a first violation of section 5 of P.L.1990, c.103 (C.39:3-10.13) whose blood alcohol concentration was at least 0.04% but less than 0.08%, the court shall not suspend the person's basic driver's license, but shall order the installation of an ignition interlock device in one non-commercial motor vehicle owned, leased, or principally operated by the offender, whichever the offender most often operates, which shall remain installed during the period that the person's commercial motor vehicle driving privilege is suspended.

6. Section 2 of P.L.1981, c.512 (C.39:4-50.4a) is amended to read as follows:

C.39:4-50.4a Refusal to submit to test; penalties.

2. a. The municipal court shall order any person who, after being arrested for a violation of R.S.39:4-50 or section 1 of P.L.1992, c.189 (C.39:4-50.14), refuses to submit, upon request, to a test provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2):

(1) if the refusal was in connection with a first offense under this section, to forfeit the right to operate a motor vehicle over the highways of this State until the person installs an ignition interlock device in one motor vehicle owned, leased, or principally operated by the

person, whichever the person most often operates, for the purpose of complying with the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.);

(2) if the refusal was in connection with a second offense under this section, to forfeit the right to operate a motor vehicle over the highways of this State for a period of not less than one year or more than two years following the installation of an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates, for the purpose of complying with the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.);

(3) if the refusal was in connection with a third or subsequent offense under this section, to forfeit the right to operate a motor vehicle over the highways of this State for a period of eight years following the installation of an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates, for the purpose of complying with the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.). A conviction or administrative determination of a violation of a law of a substantially similar nature in another jurisdiction, regardless of whether that jurisdiction is a signatory to the Interstate Driver License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction under this section.

The municipal court shall determine by a preponderance of the evidence whether the arresting officer had probable cause to believe that the person had been driving or was in actual physical control of a motor vehicle on the public highways or quasi-public areas of this State while the person was under the influence of intoxicating liquor or a narcotic, hallucinogenic, or habit-producing drug, or marijuana or cannabis item as defined in section 3 of P.L.2021, c.16 (C.24:6I-33); whether the person was placed under arrest, if appropriate, and whether he refused to submit to the test upon request of the officer; and if these elements of the violation are not established, no conviction shall issue. In addition to any other requirements provided by law, a person whose operator's license is revoked for refusing to submit to a test shall be referred to an Intoxicated Driver Resource Center established by subsection (f) of R.S.39:4-50 and shall satisfy the same requirements of the center for refusal to submit to a test as provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2) in connection with a first, second, third or subsequent offense under this section that must be satisfied by a person convicted of a commensurate violation of this section, or be subject to the same penalties as such a person for failure to do so. For a first offense, the revocation may be concurrent with or consecutive to any revocation imposed for a conviction under the provisions of R.S.39:4-50 arising out of the same incident. For a second or subsequent offense, the revocation shall be consecutive to any revocation imposed for a conviction under the provisions of R.S.39:4-50. In addition to issuing a revocation, the municipal court shall fine a person convicted under this section, a fine of not less than \$300 or more than \$500 for a first offense; a fine of not less than \$500 or more than \$1,000 for a second offense; and a fine of \$1,000 for a third or subsequent offense.

Notwithstanding any judicial directive to the contrary, upon recommendation by the prosecutor, a plea agreement under this section is authorized under the appropriate factual basis consistent with any other violation of Title 39 of the Revised Statutes or offense under Title 2C of the New Jersey Statutes; provided, however, that if a person is convicted of operating a motor vehicle while under the influence of a narcotic, hallucinogenic, or habit-producing drug or permitting another person who is under the influence of a narcotic, hallucinogenic, or habit-producing drug to operate a motor vehicle owned by the person or under the person's custody or control pursuant to the provisions of R.S.39:4-50 or a person is convicted of operating a commercial motor vehicle under the influence of a controlled substance pursuant to section 5

of P.L.1990, c.103 (C.39:3-10.13), the person shall forfeit the right to operate a motor vehicle over the highways of this State for a period of not less than six months.

b. (Deleted by amendment, P.L.2019, c.248)

C.39:4-50.21a Ignition interlock device installation, appropriate factual basis.

7. Nothing in P.L.2023, c.191 (C.39:4-50.21a et al.) shall be construed to preclude the installation of an ignition interlock device for a violation of Title 39 of the Revised Statutes under the appropriate factual basis.

C.39:4-50c Person arrested, convicted, operating, permitting another person to operate a motor vehicle under the influence, waivers, fines, not eligible.

8. Notwithstanding the provisions of R.S.39:4-50, a person who has been arrested or convicted of operating a motor vehicle while under the influence of a narcotic, hallucinogenic, or habit-producing drug or permitting another person who is under the influence of a narcotic, hallucinogenic, or habit-producing drug to operate a motor vehicle owned by the person or under the person's custody or control pursuant to the provisions of R.S.39:4-50 or a person who has been convicted of operating a commercial motor vehicle under the influence of a controlled substance pursuant to section 5 of P.L.1990, c.103 (C.39:3-10.13) shall not be eligible, based on the person's installation of an ignition interlock device, for any waiver of the fine or for any credit against the period that the person is required to forfeit the right to operate a motor vehicle on the highways of this State.

9. Section 1 of this act shall take effect immediately, sections 2 through 8 of this act shall take effect 60 days following enactment, and the amendments to R.S.39:4-50 pursuant to P.L.2023, c.191 (C.39:4-50.21a et al.); section 2 of P.L.1981, c.512 (C.39:4-50.4a) pursuant to P.L.2023, c.191 (C.39:4-50.21a et al.), section 2 of P.L.1999, c.417 (C.39:4-50.17) pursuant to P.L.2023, c.191 (C.39:4-50.21a et al.); section 3 of P.L.1999, c.417 (C.39:4-50.18) pursuant to P.L.2023, c.191 (C.39:4-50.21a et al.); and section 12 of P.L.1990, c.103 (C.39:3-10.20) pursuant to P.L.2023, c.191 (C.39:4-50.21a et al.) shall expire on January 1, 2029.

Approved December 21, 2023.