

# Changes in DWI laws Effective January 1<sup>st</sup> 2013

## Passage of HB283

*An Act Relative to Impaired Drivers*

# Overview

- In 2008, HB 1311, was introduced as an act relative to impaired driver intervention programs.
  - This bill was extended in 2009 as HB 283 to create a legislative DWI commission to review the current driving while impaired (DWI) programs.
- HB283 was the culmination of changes to the current statute proposed by the DWI (RSA 265-A) by the DWI Commission.
- HB 283 was signed into Chapter Law 0228 by Governor John Lynch on June 21, 2012 and becomes law on January 1, 2013.

# Commission/Subcommittee

## DWI Commission

- House of Representatives
- Treatment facilities
- Department of Safety (DOS)
- Impaired Driver Intervention Program Providers (IDIP)
- Victims Inc.
- Liquor Commission
- Administrative Office of the Courts (AOC)
- Prosecutors Office
- County Attorneys Office

## Services Subcommittee

Developed the framework of services

- BDAS
- IDIP Providers
- Treatment Providers

# Findings

- It was determined the current DWI intervention system was outdated and did not adequately address possible underlying substance abuse issues that result in individuals driving while impaired from alcohol and/or other drugs, posing a threat to public safety.
- As a result, the DWI Commission proposed a system that an individual charged with a DWI offense would be required to attend an impaired driver education program, be screened or evaluated for substance use disorders and if clinically indicated, participate in treatment and recovery services as determined by an Impaired Driver Care Management Program (IDCMP).
- A certain portion of House of Correction time is suspended to encourage participation in the program, which can be imposed by the courts if individuals are non-compliant.

# Per RSA 265-A:40 Impaired Driver Care Management Program (IDCMP)

- a) Screening of first-time offenders, using a screening test approved by the department of health and human services, to whether they need a full evaluation for substance use disorders.
- b) Conducting a full substance use disorder evaluation, as necessary.
- c) Development of a service plan based on this assessment of the client, which may include referral to education and/or treatment programs.
- d) Monitoring of the services provided to the client under the service plan.

## Per RSA 265-A:40 Impaired Driver Care Management Program (IDCMP) continued

- e) Notifying the division of motor vehicles and the sentencing court if the client fails to comply with the service plan.
- f) Periodic face-to-face evaluations of the client's progress.
- g) Administration of drug and alcohol tests or other abstinence monitoring regimen required by the court or included in the service plan.
- h) Reporting the results of monitoring or final evaluation and completion by the IDCMP, as appropriate, to the sentencing court, the DMV, and the DHHS.

# Service Plan

- Individualized service plans will be developed, updated and maintained by the IDCMP and may include outpatient counseling, intensive outpatient, recovery support services, recommended self help meetings (individuals are not required to attend self help meetings) and drug testing.
- The IDCMP shall determine whether the individual has complied with all requirements of the service plan. All services are subject to their approval.
- IDCMP's will be trained and must enter the individual's information into the Web-based Information Technology System (WITS) and manage the individualized service plan.

# Requirements for service plan completion

- All clinical and recovery support services have been complied with.
- A minimum of twice monthly contacts have been made with the client and once monthly contacts have been made with the clients clinician to monitor their progress.
- Client has completed an educational program within the past 5 years.
- Client has not tested positive for substances if testing conducted.
- All fees have been paid to the IDCMP and all clinical fees have been paid to the IDSP.



# Hearing

The individual shall have the right to a hearing before the Commissioner of Safety or designee, who shall determine whether the service plan requirements are warranted and appropriate. Hearings can be requested when the service plan is first developed and at any time a change is made to the service plan.

# Transition

228:11 Transition Provision; Phasing-out Multiple DWI Offender Intervention Program (M.O.P.) for the Impaired Driver Care Management Program (IDCMP). If a person was sentenced to the multiple DWI offender intervention program (M.O.P.) under RSA 651:2, V(h) or RSA 265-A:18 prior to January 1, 2013, and the person has not successfully completed the multiple DWI offender intervention program as of January 30, 2013, then such person shall be required to participate in the impaired driver care management program (IDCMP) as established under RSA 265-A:40.

# Waiver

Clients can choose to receive the clinical services from their IDCMP (if the IDCMP offers these services) upon signing an acknowledgement that they understand they can choose from any IDSP practitioner or agency approved by BDAS to provide these services.

# Impaired Driver Education Program (IDEP)

- Education:

An Impaired Driver Education Program (IDEP), is conducted through a BDAS approved IDCMP consisting of a 20 hour evidenced based curriculum.

A Weekend Impaired Driver Education Program (WIDEP) is conducted through a BDAS approved IDCMP consisting of a 20 hour evidenced based curriculum held from Friday afternoon/evening until Sunday and includes two overnight stays with room and board.

# IDEP instructor certification & recertification requirements

- All instructors for the IDEP must meet specific qualifications and be certified through the Bureau of Drug & Alcohol Services per RSA 265-A and DHHS rules He-A 509.
- Certification is valid for 3 years and must be renewed prior to the expiration deadline.
- Initial IDEP instructor certification applications and re-certification applications are available on the DHHS page.

# Impaired Driver Service Provider (IDSP)

- Per DHHS rules He-A 510, anyone in NH who wishes to conduct impaired driver services as part of the IDCMP service plan, (clinicians, recovery support, etc) must be approved by the Bureau of Drug & Alcohol Services (BDAS). An IDCMP will not accept any services provided by an individual or agency in NH that is not approved through BDAS to be an IDSP.
- IDSP's will be required to be trained and enter the individual's information into the Web-based Information Technology System (WITS).

# Clinical IDSP Qualifications

- Be a NH MLADC;
- Be a NH licensed clinical social worker, licensed in accordance with RSA 330-A, that is also certified by the NASW as a CCATODSW;
- A NH LADC that is supervised by an individual listed in (1) or (2) above;
- A NH LADC whose license allows him or her to engage in independent practice and who is practicing within the authorized scope of practice; or
- For employees of an agency in (a)(1) or (2) above only, an individual who is supervised by an individual listed in (1) or (2) above, is designated by a title that clearly indicates training status or discloses to clients that he or she is not currently a licensed MLADC or LADC but is actively seeking this credential under appropriate supervision, and meets the following requirements:

# Clinical IDSP Qualifications

## Continued

- a. Has passed the IC&RC written exam within the past 2 years;
- b. Has completed the following training within the past 2 years:
  1. A 6-hour minimum training on ethics;
  2. Training on the 12 Core Functions;
  3. Training on relevant New Hampshire statutes and rules; and
  4. Training on conducting substance use disorder evaluations, including the Addiction Severity Index (ASI) (5th edition, 1998);
- c. Does not have the required number of hours yet to apply for licensure but is currently working towards those hours; and
- d. Meets one of the following:
  1. In at least the second year of an accredited graduate clinical program and who is serving in a clinical internship in a licensed or certified treatment facility; or
  2. Has a masters degree in a clinical field and has completed the academic requirements of the NH board of licensing for alcohol and other drug use professionals to be a NH MLADC pursuant to RSA 330-C:16.



# Costs

The cost will be paid for by the individual, unless they chose to take part in Access to Recovery (ATR). ATR does not pay for all services. Individuals eligible for a reduced fee (50%) for the education program will also be given a waiver on the state client fee as long as they agree to take part and comply with all ATR services, otherwise they must pay the full price for the state client fee and all IDCMP fees.

Intake (includes screening for 1 <sup>st</sup> offenders)	\$ 75.00
Evaluation	\$200.00
Care Management Contact	\$ 30.00 per contact (Max - \$60.00 monthly)
Education (20 hours)	\$300.00
Weekend education (includes room/board)	\$485.00
Court appearance	\$100.00
State client fee	\$ 70.00

# Regular First Offense

**Guilty of a Class B Misdemeanor**  
**Fined not less than \$500**  
**License revocation 9 months-2 years**

- Completion of a screening within 14 days of conviction and an evaluation within 30 days of conviction (if evaluation deemed necessary.)
- May petition the court to reduce their driver license suspension by up to 6 months if in compliance with screening, and evaluation (if deemed necessary) and completion of all service plan requirements.
- The sentencing court may also impose, at it's discretion, installation of an interlock device either at the initial sentencing or upon notification of non-compliance.

# Aggravated Offenders

**Guilty of Class A Misdemeanor**

**Fined not less than \$750**

**License revocation 18 months-2 years**

**Interlock installation**

- Sentenced to a minimum of 17 days in the HOC with 12 days suspended with the condition that a substance use disorder evaluation is scheduled with a NH IDCMP within 30 days upon release from the HOC and completed within 60 days.
- May petition the court to reduce their driver license suspension by up to 6 months if in compliance with the evaluation and completion of all service plan requirements.
- Any portion of the suspended sentence to the HOC may be imposed if the individual does not comply with all of the requirements or becomes noncompliant with the service plan during the suspension period.

# Second Offenders

**Guilty of a Class A Misdemeanor  
Fined not less than \$750  
License revocation not less than 3 years  
Interlock installation**

## **If within two years from the prior conviction:**

Sentenced to a minimum of 60 days in the HOC with 30 days suspended with the condition that a substance use disorder evaluation is scheduled within 30 days upon release from the HOC and completed within 60 days.

## **If after two years but before 10 years from the prior conviction:**

Sentenced to a minimum of 17 days in the HOC with 12 days suspended with the condition that the evaluation is scheduled within 30 days upon release from the HOC and completed within 60 days.

Any portion of the suspended sentence to the HOC may be imposed if the individual does not comply with all of the requirements or becomes non-compliant with the service plan during the suspension period.

# Second 1<sup>st</sup> Offense

When a conviction is not based on a prior conviction obtained within the past 10 years

**Guilty of a Class A Misdemeanor**  
**Fined not less than \$750**  
**License revocation 1- 3 years**  
**Interlock installation**

- The individual must schedule the substance use disorder evaluation within 30 days of conviction and complete the evaluation within 60 days of conviction.
- May petition the court to reduce their driver license suspension by up to 6 months if in compliance with the evaluation and completion of all service plan requirements.

# Third Offense

**Guilty of a Class A Misdemeanor**

**Fined not less than \$750**

**License revocation indefinitely and cannot be restored for at least 5 years**

**Interlock installation**

- Sentenced to a minimum of 180 days in the HOC with 150 days suspended with the condition that the substance use disorder evaluation is scheduled within 30 days upon release from the HOC and completed within 60 days.
- Any portion of the suspended sentence to the HOC may be imposed if the individual does not comply with all of the requirements or becomes non-compliant with the service plan during the suspension period.

# Fourth Offense

**Guilty of a Felony**

**Fined not less than \$750**

**License revocation indefinite and cannot be restored for at least 7 years**

**Interlock installation**

- Sentenced to a minimum of 180 days in the HOC with 150 days suspended with the condition that the substance use disorder evaluation is scheduled within 30 days upon release from the HOC and completed within 60 days.
- Any portion of the suspended sentence to the HOC may be imposed if the individual does not comply with all of the requirements or becomes noncompliant with the service plan during the suspension period.

# Court Notification for a regular 1st DWI offense

- When an individual is convicted, the court will issue a sentencing order. The individual will be required to schedule the required screening and bring the sentencing order to the IDCMP of their choice at the time of their intake. An IDCMP will not conduct an intake interview without the sentencing order from the court verifying the conviction.



# Court Notification for offenses other than a regular 1<sup>st</sup> DWI offense

- Upon conviction, the individual will choose an IDCMP of their choice and the court will issue a sentencing order. The court will contact the IDCMP to obtain a scheduling date for the individual's substance use disorder evaluation and to provide the IDCMP with the contact information of the prosecutor.
- The individual is to bring the sentencing order to the IDCMP at the time of their intake. An IDCMP will not conduct an intake interview without the sentencing order from the court verifying the conviction.

# IDCMP Notification to Court on all convictions other than a regular 1<sup>st</sup> offense

- The IDCMP will notify the prosecutor if the individual does not appear at the IDCMP for the scheduled substance use disorder evaluation within the statutory timeframes or if the individual becomes non-compliant at any time with their service plan requirements.
- The prosecutor will issue a Motion to Impose and the sentencing court will issue a bench warrant.
- The individual will be required to complete the entire HOC time.

# Court Referral Form

## COURT REFERRAL TO AN IMPAIRED DRIVER CARE MANAGEMENT PROGRAM

LAST NAME FIRST NAME MI

DATE OF BIRTH BAC (If Taken)

ARRESTING AGENCY OFFENSE

COURT DOCKET #

PROSECUTOR NAME

PROSECUTOR CONTACT INFO

HOC REPORT DATE

Per RSA 265-A, as a result of your conviction for Driving While Impaired, you must complete an Impaired Driver Care Management Program (IDCMP) prior to restoration of your license or privilege to operate a motor vehicle.

# Court Referral Form continued

So that you may complete this requirement, you have been referred to the following agency which is authorized to provide this service to you:

AGENCY NAME

AGENCY ADDRESS

TELEPHONE NUMBER

In order to reinstate your license or privilege to operate a motor vehicle in the State of New Hampshire within the minimum revocation period or to avoid having the suspended portion of your House of Correction (HOC) time imposed, you must contact the above program to schedule an intake within 14 days for a regular 1st offense, or 30 days from your release from the

## Court Referral Form continued

HOC for an aggravated or 2<sup>nd</sup> or subsequent offense, or 30 days from your conviction of a subsequent offense that was not based on a prior conviction. Non-compliance will result in a Motion to Impose being filed and a bench warrant will be issued.

**DUE TO STATUTORY TIMEFRAMES, YOU ARE ADVISED TO CONTACT THE IDCMP IMMEDIATELY, SINCE YOU HAVE DEADLINES FOR SCHEDULING AND COMPLETING THE SCREENING AND/OR EVALUATION AND IN ORDER FOR THE IDCMPs TO HAVE TIME TO ACCOMMODATE YOU. BE SURE TO BRING A COPY OF THIS FORM WITH YOU.**

**THE DIVISION OF MOTOR VEHICLES WILL NOT RESTORE YOUR NEW HAMPSHIRE LICENSE OR YOUR PRIVILEGE TO OPERATE A MOTOR VEHICLE OR REMOVE YOUR NAME FROM THE NATIONAL DATABASE UNTIL YOU SUCCESSFULLY COMPLETE THE PROGRAM.**

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Signature of Court Official or Court Stamp

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Date Completed

# IDCMP COURT COMPLIANCE/NON-COMPLIANCE NOTIFICATION

PROSECUTOR NAME

EMAIL

SENTENCING COURT

COURT DOCKET #

DATE OF CONVICTION (Mo/Day/Yr)

CONVICTION TYPE

CLIENT NAME (Last, First, Middle Initial, Jr., III, etc.)

CLIENT'S LAST KNOWN ADDRESS: St, City/Town, State and Zip Code

CLIENT DATE OF BIRTH (Mo/Day/Yr)

CLIENT TELEPHONE NUMBER(S) (Include Area Code)

\_\_\_\_ DID NOT COMPLETE SCREENING

SCREENING COMPLETION DATE \_\_\_\_\_ RESULTS \_\_\_\_\_ IF POS,

SCHEDULED EVAL DATE \_\_\_\_\_ EVAL COMPLETION DATE

\_\_\_\_\_ RESULTS \_\_\_\_\_

EXTENUATING CIRCUMSTANCES GRANTED, DATE FOR

SCREENING/EVAL \_\_\_\_\_

SCREENING COMPLETION DATE \_\_\_\_\_ RESULTS \_\_\_\_\_ IF

# Notification Continued

POS, DATE OF SCHEDULED EVAL \_\_\_\_\_ EVAL COMPLETION  
DATE \_\_\_\_\_ RESULTS \_\_\_\_\_

\_\_\_ DID NOT COMPLETE EVALUATION

\_\_\_ ORIGINALLY SCREENED NEGATIVE BUT CIRCUMSTANCES  
WARRANTED NEED FOR EVAL, SCHEDULED DATE \_\_\_\_\_

\_\_\_ TESTED POSITIVE ON DRUG TEST FOR \_\_\_\_\_  
\_\_\_\_\_ ON \_\_\_\_\_

\_\_\_ MISSING SCHEDULED SESSIONS/CONTACTS

\_\_\_ NOT ATTENDING CLINICAL SESSIONS

\_\_\_ BROUGHT WEAPON TO CLASS/SESSION

\_\_\_ ATTENDED CLASS/SESSION IMPAIRED

HAS NOT PAID REQUIRED FEES

NO FURTHER CONTACT/UNABLE TO LOCATE

HAS REQUESTED DMV HEARING

HAS NOT ATTENDED/COMPLETED EDUCATION

\_\_\_ PROGRAM TRANSFER TO \_\_\_\_\_ TRANSFER  
FROM \_\_\_\_\_

\_\_\_ CLIENT COMPLETED ALL SERVICE PLAN REQUIREMENTS

# Website

Applications for IDCMP, IDSP and IDEP instructor are available on the DHHS page:

<http://www.dhhs.nh.gov/dcbcs/bdas/driving.htm>

Website also has the link for:

- DHHS He-A 500 rules
- HB283 signed by Governor Lynch

Contact information:

Impaired Driver Services: [pfowler@dhhs.state.nh.us](mailto:pfowler@dhhs.state.nh.us)

ATR: [Jaime.Powers@dhhs.state.nh.us](mailto:Jaime.Powers@dhhs.state.nh.us)