

Delaware

Department of Corrections (<http://www.doc.delaware.gov/>)

The Department is the second largest Executive branch agency in the State, and the largest law enforcement agency in the State with over 2,500 employees. The Department is comprised of the Office of the Commissioner, Bureau of Administrative Services, Bureau of Correctional Healthcare Services, Bureau of Prisons and Bureau of Community Corrections.

Delaware provides a unified correctional system, with all correctional facilities and institutions falling under the jurisdiction of the State. The Department supervises between 4,500 - 5,000 inmates within our correctional facilities and approximately 13,000 probationers within the community.

Within the unified system, Delaware maintains a five-level system of supervision for offenders:

- Level V - 24 hour incarceration *(jail/prison - Jail describes those offenders serving one year or less.)
- Level IV - Work Release Centers, Home Confinement (electronic monitoring), Residential Drug Treatment, Violation of Probation Centers
- Level III - Intensive Probation Supervision
- Level II - Standard Probation
- Level I - Administrative Supervision

Parole and Probation

11 Del.C. § 4332. Conditions of probation or suspension of sentence; house arrest for nonviolent offenders

(c) The Department is authorized to use offender electronic monitoring systems and any new or emerging offender monitoring technology that will assist in the supervision of offenders placed on house arrest.

(d) The Department is authorized to supervise offenders on house arrest without the use of any specific electronic equipment, so long as sufficient and reasonable methods for ensuring compliance with the terms of house arrest are employed.

54 Laws 1964, ch. 349, § 7. Amended by 66 Laws 1987, ch. 29, § 1; 76 Laws 2008, ch. 399, § 1, eff. July 21, 2008.

11 Del.C. § 4219. Continuous Remote Alcohol Monitoring Program

- (a) There is hereby established for sentencing and probation purposes a Continuous Remote Alcohol Monitoring Program which shall use technology to monitor offenders for alcohol use. The program shall be administered by the Department of Correction which shall have the sole authority to determine which offenders are accepted into the program.
- (b) The Board of Parole or any Court of competent jurisdiction may request and recommend, as part of conditions of release or the sentence of any person convicted under § 4177(a) of Title 21 for a first offense where the first offender election is not available, or for a subsequent offense involving a blood alcohol content of .20 or higher, a period of continuous remote alcohol monitoring not to exceed 90 days for a first offense and 120 days for a second offense.

75 Laws 2005, ch. 143, § 1, eff. July 12, 2005. Amended by 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995; 75 Laws 2006, ch. 381, §§ 1, 2, eff. July 6, 2006; 76 Laws 2007, ch. 134, § 1, eff. July 12, 2007; 76 Laws 2008, ch. 366, § 1, eff. July 16, 2008.

Sex offenders

11 Del.C. § 4121. Community notification of sex offenders on probation, parole, conditional release or release from confinement

(u) Notwithstanding any provision of this section or title to the contrary, any Tier III sex offender being monitored at Level IV, III, II or I, shall as a condition of their probation, wear a GPS locator ankle bracelet paid for by the probationer. The obligation to pay for the GPS locator ankle bracelet shall not apply to any juvenile who is adjudicated delinquent and designated a Tier III sex offender pursuant to this title.

71 Laws 1998, ch. 429, § 2, eff. March 1, 1999. Amended by 70 Laws, ch. 186, § 1; 72 Laws, ch. 410, §§ 1 to 3, eff. July 13, 2000; 72 Laws 2000, ch. 480, § 16, eff. July 26, 2000; 73 Laws 2001, ch. 122, §§ 1, 4, 5, 6, 7, 8, 9, 10, 11; 73 Laws, ch. 172, § 4; 73 Laws, ch. 177, § 1; 73 Laws, ch. 230, § 2; 73 Laws, ch. 245, §§ 4-8; 74 Laws, ch. 26, § 1; 76 Laws, ch. 25, §§ 9-51; 76 Laws 2007, ch. 123, § 1, eff. July 12, 2007; 76 Laws 2008, ch. 374, §§ 4-24, eff. July 16, 2008; 77 Laws 2009, ch. 148, §§ 12-29, eff. July 10, 2009; 77 Laws 2010, ch. 318, §§ 6, 11, 12, eff. June 30, 2010; 78 Laws 2012, ch. 406, § 1, eff. Sept. 12, 2012; 79 Laws 2013, ch. 58, § 1, eff. Aug. 1, 2013; 79 Laws 2013, ch. 123, § 5, eff. Oct. 16, 2013; 79 Laws 2014, ch. 276, § 5, eff. June 30, 2014; 80 Laws 2015, ch. 175, § 9, eff. Sept. 3, 2015.

Community Corrections

11 Del.C. § 4393. Requirements for participation

(a) No person shall be eligible for the house arrest program unless such person meets the following requirements:

- (1) Participation shall be voluntary;
- (2) Participation shall be limited to the following types of offenders:
 - a. Individuals found guilty of non-violent crimes and who, due to the characteristics of the crime and/or the offender's background, would not be placed on regular probation;
 - b. Probation violators charged with technical or misdemeanor violations;
 - c. Parole violators charged with technical or misdemeanor violations.

(b) The supervision of offenders assigned to home confinement and the use of the electronic monitoring devices shall be restricted to the area within the geographical boundaries of the State unless otherwise determined by the Commissioner of the Department of Correction.

66 Laws 1987, ch. 29, § 3. Amended by 73 Laws 2002, ch. 320, § 3, eff. June 25, 2002.

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Tampering/Escape

11 Del.C. § 1249. Abetting the violation of driver's license restrictions

- (a) It shall be unlawful for any person to blow into an ignition interlock device, or to start a motor vehicle equipped with such a device, for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted.
- (b) It shall be unlawful for any person to request or solicit any other person to blow into an ignition interlock device, or to start a motor vehicle equipped with such device, for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted.
- (c) It shall be unlawful to tamper with, or to circumvent the operation of, any ignition interlock device.

67 Laws 1990, ch. 437, § 5. Amended by 68 Laws 1991, ch. 125, § 6; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995; 70 Laws 1996, ch. 353, § 1.

DUI

21 Del.C. § 4177. Driving a vehicle while under the influence or with a prohibited alcohol or drug content; evidence; arrests; and penalties

(d) Whoever is convicted of a violation of subsection (a) of this section shall:

(9) Any minimum sentence suspended pursuant to paragraph (d)(3), (d)(4), or (d)(8) of this section shall be upon the condition that the offender shall complete a program of supervision which shall include:

- a. A drug and alcohol abstinence program requiring that the offender maintain a period of not less than 90 consecutive days of sobriety as measured by a transdermal continuous alcohol monitoring device or through periodic breath or urine analysis. In addition to such monitoring, the offender shall participate in periodic, random breath or urine

analysis during the entire period of supervision.

- b. An intensive inpatient or outpatient drug and alcohol treatment program for a period of not less than 3 months. Such treatment and counseling may be completed while an offender is serving a Level V or Level IV sentence.
- c. Any other terms or provisions deemed appropriate by the sentencing court or the Department of Correction.

(e) In addition to any penalty for a violation of subsection (a) of this section, the court shall prohibit the person convicted from operating any motor vehicle unless such motor vehicle is equipped with a functioning ignition interlock device; the terms of installation of the device and licensing of the individual to drive shall be as set forth in § 4177C and § 4177G of this title. A person who is prohibited from operating any motor vehicle unless such motor vehicle is equipped with a functioning ignition interlock device under this title at the time of an offense under subsection (a) of this section shall, in addition to any other penalties provided under law, pay a fine of \$2,000 and be imprisoned for 60 days.

54 Laws 1963, ch. 160, § 1. Amended by 57 Laws 1969, ch. 71, §§ 1-3; 57 Laws 1970, ch. 526, §§ 1, 2; 57 Laws 1970, ch. 613, § 1; 57 Laws 1970, ch. 670, § 13B; 58 Laws 1971, ch. 80, § 3; 59 Laws 1973, ch. 46, §§ 1, 2; 60 Laws 1976, ch. 701, §§ 48, 49; 60 Laws 1976, ch. 702, § 2; 61 Laws 1978, ch. 474, § 2; 64 Laws 1983, ch. 13, § 13; 67 Laws 1990, ch. 437, §§ 1, 2; 68 Laws 1991, ch. 9, § 32; 68 Laws 1991, ch. 125, § 1; 69 Laws 1994, ch. 325, §§ 2, 3; 70 Laws 1995, ch. 26, §§ 1-8, eff. April 27, 1995; 70 Laws 1995, ch. 34, § 1, eff. May 15, 1995; 70 Laws 1995, ch. 62, §§ 1-8, eff. June 12, 1995; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995; 70 Laws 1995, ch. 265, § 2, eff. July 19, 1995; 70 Laws 1996, ch. 474, § 1, eff. July 10, 1996; 70 Laws 1996, ch. 553, § 2, eff. July 18, 1996; 71 Laws 1997, ch. 209, §§ 1, 2, eff. July 17, 1997; 71 Laws 1998, ch. 222, §§ 2, 3, eff. Jan. 27, 1998; 72 Laws 1999, ch. 36, § 1, eff. May 18, 1999; 72 Laws 1999, ch. 36, §§ 2, 3, 5, 6, eff. May 18, 1999; 73 Laws 2002, ch. 352, §§ 1, 11, eff. July 2, 2002; 73 Laws 2002, ch. 432, § 4, eff. Aug. 21, 2002; 74 Laws

2003, ch. 182, §§ 1-3, eff. July 30, 2003; 74 Laws 2004, ch. 285, § 4, eff. June 29, 2004; 74 Laws 2004, ch. 333, §§ 1, 2, eff. July 12, 2004; 75 Laws 2006, ch. 315, §§ 1-5, eff. June 28, 2006; 75 Laws 2006, ch. 397, § 15, eff. July 10, 2007; 77 Laws 2009, ch. 162, §§ 1-6, eff. July 13, 2009; 78 Laws 2011, ch. 167, §§ 1, 16-18, eff. Aug. 3, 2011; 78 Laws 2011, ch. 167, §§ 2-15, eff. July 1, 2012; 78 Laws 2012, ch. 349, § 1, eff. July 18, 2012; 79 Laws 2014, ch. 265, § 16, eff. July 4, 2014; 79 Laws 2014, ch. 378, §§ 3, 5, eff. Aug. 15, 2014; 79 Laws 2014, ch. 396, § 2, eff. Dec. 28, 2014; 80 Laws 2015, ch. 75, § 2, eff. June 30, 2015; 80 Laws 2015, ch. 120, § 1, eff. July 27, 2015; 80 Laws 2015, ch. 136, § 1, eff. July 30, 2015; 80 Laws 2015, ch. 168, § 1, eff. Aug. 17, 2015; 80 Laws 2016, ch. 289, § 1, eff. June 29, 2016; 81 Laws 2017, ch. 51, §§ 1, 2, eff. June 30, 2017.

21 Del.C. § 4177C. Ignition interlock licenses; reinstatement of license

(a) A person who enters a first offender election under § 4177B of this title is immediately eligible to apply for an ignition interlock device (IID) license under § 4177G(f) of this title if all of the following apply:

- (1) All licenses have been surrendered to the Division of Motor Vehicles before issuance of the IID license.
- (2) The person has an IID installed on each vehicle the person will, or does, operate during the period under paragraph (d)(4) of this section, regardless of whether the vehicle is owned by the person.

61 Laws 1978, ch. 474, § 2. Amended by 63 Laws 1982, ch. 430, §§ 16, 17; 64 Laws 1983, ch. 13, §§ 17, 18; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995; 72 Laws 1999, ch. 92, § 4, eff. June 30, 1999; 73 Laws 2002, ch. 352, §§ 3-5, eff. July 2, 2002; 74 Laws 2004, ch. 333, § 6, eff. July 12, 2004; 75 Laws 2006, ch. 397, §§ 5, 6, eff. July 10, 2007; 77 Laws 2009, ch. 160, §§ 3-6, eff. July 13, 2009; 78 Laws 2011, ch. 167, § 28, eff. July 1, 2012; 79 Laws 2014, ch. 378, § 1, eff. Aug. 15, 2014; 79 Laws 2014, ch. 396, § 2, eff. Dec. 28, 2014; 80 Laws 2015, ch. 75, § 1, eff. June 30, 2015; 82 Laws 2020, ch. 235, § 3, eff. Feb. 25, 2020.

21 Del.C. § 4177G. Ignition interlock Device Program

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(a) Participation.— An offender must participate in the Ignition interlock Device Program as provided under this section.

(d) Requirements.—

- (1) An offender who is eligible under subsection (f) of this section is subject to the ignition interlock requirements of this section and § 4177C of this title during the offender's revocation period for an offense.
- (2) An offender covered under paragraph (d)(1) of this section must have

the IID installed on each vehicle the offender will, or does, operate during the period under § 4177C(d)(4) of this title before the Secretary is authorized to reinstate that person's driver's license or driving privileges, regardless of whether the vehicle is owned by the person.

- (3) An offender's driving record maintained by the Division of Motor Vehicles must indicate any revocation period to be served under the IID program. The Division of Motor Vehicles shall issue an IID license to an otherwise eligible offender. The offender's IID license, the registration

of the vehicle on which the IID is installed, and the offender's driving record maintained by the Division of Motor Vehicles must indicate that the offender may not operate any vehicle except when such vehicle is equipped with an IID.

70 Laws 1995, ch. 186, § 1, eff. July 10, 1995. Amended by 73 Laws 2002, ch. 352, § 9, eff. July 2, 2002; 74 Laws 2003, ch. 110, § 89, eff. July 1, 2003; 75 Laws 2006, ch. 397, §§ 8, 9, 13, eff. July 10, 2007; 77 Laws 2009, ch. 183, § 1, eff. July 24, 2009; 79 Laws 2014, ch. 396, § 2, eff. Dec. 28, 2014; 81 Laws 2018, ch. 204, §§ 2, 3, eff. Feb. 14, 2018; 82 Laws 2020, ch. 235, § 4, eff. Feb. 25, 2020.
