



# IGNITION INTERLOCK DEVICE (IID) DEFERRAL PROGRAM

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## West Virginia Code § 17C-5-2b

### What is an Interlock Ignition Device (IID)?

An ignition interlock device (IID) is a device slightly larger than a cell phone that is wired to your vehicle's ignition. The device can be installed in a vehicle while you wait and after installation, it requires your breath sample before the engine will start. If the IID detects alcohol on your breath, the engine will not start. As you drive, you are periodically required to provide breath samples to ensure the continued absence of alcohol in your system.

### What does the new DUI law do?

§ 17C-5-2b creates a new deferral program for defendants charged with first time DUI 1<sup>st</sup> offense under §17C-5-2(d). The deferral program of §17C -5-2b applies only to defendants that have NOT been convicted under §17C-5 of the code or any Federal or other State law relating to DUI. If the program is completed, the offense will be expunged from the driver's criminal record.

### What does the deferral program require?

In order for a first time DUI offense to be expunged, the prosecuting attorney must first approve. If this approval is obtained, the defendant must have the IID installed and activated for 165 days (approximately 6 months). After successful completion of the program, the charges will be dismissed and the defendant will be placed on probation. After one year after successful completion of probation, defendants may have the charge expunged from his or her criminal record, but **not** from their driving record. There can only be one dismissal per person.

### How does it work?

- Defendants who wish to take advantage of the deferral program must notify the Court of their intention to participate in the deferral program within 30 days of their arrest. The law does not require that you plead guilty to the offense. Even after a successful prosecution, you can still take advantage of the program.
- Drivers who are charged with a first time DUI offense are given two options:
  - **15 day revocation of drivers' license and 4 months with IID, or**
  - **90 day revocation of drivers' license**
- Under the new DUI law, the court can also offer the new deferral program.
- If Defendant wants to participate in the program and chose the 15 day revocation and 4 months with the IID, they must call Ignition Interlock Office at 304-926-2507 to tell them they will be extending the program from 4 months to 6 months.
- If the Defendant chose the 90 day revocation, they can still sign on to the program, but it must be **within** the 90 days.
- If the 90 days have been completed, all fees have been paid, and the DUI has been closed, the driver must come on as a private customer. Often the court will still agree to an expungement in this circumstance.
- As a private customer, there is no \$100 application fee. Additionally, there is no restricted license. (Driver should not be operating other vehicles, but there is nothing legally stopping them from doing so.)

### How much does it cost?

The fees are as follows: \$100 application fee, \$50 installation fee, \$30 de-installation fee, and \$2.13/per day without tax, generally about 65.00/month, as an operation fee.

### Not eligible if:

- the defendant is charged with any other DUI offense under §17C-5-2 other than DUI 1<sup>st</sup>
- the defendant has a Commercial Driver's License (CDL)
- the defendant has previously had his/her driver's license suspended for DUI
- the defendant was charged with an aggravated DUI (BAC level greater than 0.15)

**West Virginia Student Legal Services does not warrant or guarantee that the information provided here is accurate. From time to time, laws are changed; therefore, prior to taking any action based on this information, you must first consult an attorney.**

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