



WYOMING LEGISLATIVE SERVICE OFFICE

# Memorandum

**DATE** May 4, 2022

**TO** Joint Judiciary Committee

**FROM** Brian Fuller, Senior Staff Attorney

**SUBJECT** Topic Summary: Ignition Interlock Removal Hearings:  
Schneider v. State

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This summary provides background information on one of the Wyoming Supreme Court cases where the Court interpreted statutes and considered the Legislature's intent in deciding the case. This summary discusses Schneider v. State, a case where the Court considered whether Wyoming statute requires a court to hold a hearing when a person seeks (and makes a prima facie case for) relief from the requirement to only operate vehicles equipped with an ignition-interlock device for the remainder of the person's life.

## Approved Interim Topic

Priority No. 2: Review of Recent Court Opinions.

*The Committee will study and consider recent opinions where courts interpreted Wyoming statutes, noted the absence of legislative action, or called for legislative action.*

## Background

When a person is convicted of driving under the influence in Wyoming, the person may be required to operate only vehicles equipped with an ignition-interlock device.<sup>1</sup> The

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<sup>1</sup> W.S. 31-5-233(f). An ignition-interlock device is essentially a breathalyzer connected to the vehicle's ignition system and that must be used in order to start a motor vehicle. In Wyoming, the device must have the ability to log data to record every instance where the device prevented the engine from starting during the period between recalibrations. W.S. 31-7-401(a)(i). The Legislature added the ignition-interlock requirement in 2009. See 2009 Wyo. Session Laws Ch. 160, § 1.

requirement to use ignition-interlock devices applies to persons who have been convicted of a second or subsequent DUI offense or for first-time DUI offenders who had an alcohol concentration of 0.15% or more. For these persons, the length of time for using the ignition-interlock device depends on the type of DUI conviction and ranges from six months to two years.<sup>2</sup>

When a person is convicted of a fourth or subsequent DUI conviction, the person is required to operate only vehicles equipped with an ignition-interlock device "for the remainder of the offender's life."<sup>3</sup> That provision does allow the person to apply to the court for removal of the ignition-interlock device five years after the date of conviction and then every five years thereafter.<sup>4</sup> The court may, "for good cause shown," remove the requirement if the offender hasn't been subsequently convicted of a DUI offense.<sup>5</sup> The entire language of the provision, W.S. 31-5-233(f)(v), follows:

(f) Any person convicted under this section or other law prohibiting driving while under the influence as defined in W.S. 31-5-233(a)(v), or whose prosecution under this section is deferred under W.S. 7-13-301, shall, in addition to the penalty imposed:

(v) For a fourth or subsequent conviction, operate only vehicles equipped with an ignition interlock device, pursuant to W.S. 31-7-401 through 31-7-404, for the remainder of the offender's life, except five (5) years from the date of conviction and every five (5) years thereafter, the offender may apply to the court for removal of the ignition interlock device required by this paragraph. The court may, for good cause shown, remove the ignition interlock device requirement if the offender has not been subsequently convicted of driving a motor vehicle in violation of this section or other law prohibiting driving while under the influence as defined in W.S. 31-5-233(a)(v).<sup>6</sup>

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<sup>2</sup> W.S. 31-5-233(f)(ii) through (iv). As an alternative or in addition to the ignition-interlock device requirement for persons convicted of a first, second, or third DUI conviction, a court may order the person to participate in the 24/7 sobriety program for the same length of time as the ignition-interlock requirement would be. W.S. 31-5-233(n).

<sup>3</sup> W.S. 31-5-233(f)(v).

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id. (emphasis added).

The grant of relief from the ignition-interlock requirement has three requirements: (1) at least five years must pass since the last DUI conviction; (2) the person must not have a subsequent DUI conviction; and (3) the person must show good cause as to why the interlock-device requirement should be removed.

### **Schneider v. State**

Robert Schneider has ten DUI convictions; the most recent offense was in August 2012, and he was sentenced in July 2013.<sup>7</sup> As a result of this conviction, Schneider was required to have an interlock device in his car for life.<sup>8</sup> In June 2021, Schneider applied to have the interlock device removed.<sup>9</sup> He asserted that five years had passed since his conviction; that he had not had a subsequent DUI conviction; and that he had been sober, took his sobriety seriously, and was no longer a risk to public safety.<sup>10</sup> The state opposed the motion, noting that the number and frequency of Schneider's conviction.<sup>11</sup> Schneider requested a hearing on his application, but the district court denied the application without explanation and declining to set a hearing, stating that the order resolved the matter.<sup>12</sup>

Schneider appealed. He argued that the district court abused its discretion by not holding a hearing because W.S. 31-5-233(f)(v) requires the court to hold a hearing if a person shows that five years has passed since conviction and the person has not been subsequently convicted of DUI.<sup>13</sup> The Supreme Court agreed and reversed. The Court focused on interpreting "for good cause shown"; Schneider argued that language requires a court to hold a hearing on an interlock-device removal application.<sup>14</sup> The Court noted that neither it nor the Legislature had defined what constitutes good cause under W.S. 31-5-233(f)(v).<sup>15</sup> The Court found persuasive a New Mexico opinion that interpreted a statute similar to W.S. 31-5-233(f)(v) and concluded that, to show good cause, the applicant must show that he no longer "presents a threat to public safety if given an

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<sup>7</sup> Schneider v. State, 2022 WY 31, ¶ 3, 505 P.3d 591, 593 (Wyo. 2022). Schneider contended that he only had eight DUI convictions, but the ultimate number was immaterial to the Court's decision. Id. ¶ 3 n.1, 505 P.3d at 593 n.1.

<sup>8</sup> Id. ¶ 5, 505 P.3d at 593.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id. ¶¶ 5–6, 505 P.3d at 593.

<sup>13</sup> Id. ¶¶ 8, 11, 505 P.3d at 593–94.

<sup>14</sup> Id. ¶ 11, 505 P.3d at 594.

<sup>15</sup> Id. ¶ 13, 505 P.3d at 594.

unrestricted license."<sup>16</sup> The New Mexico appellate court further noted that, had their legislature intended that people receiving numerous DUI convictions be required to maintain an ignition-interlock device indefinitely, despite a good-cause showing, "the Legislature could have drafted the statute to say so."<sup>17</sup>

The Wyoming Supreme Court agreed with that reasoning and further held that a court cannot deny an application to remove an interlock device based solely on the applicant's number of DUI convictions (although the number of convictions remains a factor that the court can consider as it determines whether the person poses a risk to public safety).<sup>18</sup> The Court further stated the following:

The legislature intended that an applicant be entitled to a hearing, to make a good cause showing, and provide relevant evidence. It will necessarily require evidence of the applicant's sobriety, including the length of sobriety, how the applicant maintains it, and the applicant's commitment to it. The applicant may testify to the circumstances surrounding his sobriety, and perhaps call witnesses to corroborate his testimony. This will entail weighing evidence and determining credibility. Because the legislature understands the legal framework within which it enacts laws, we conclude it understood this and intended that the applicant have an opportunity for a hearing. We therefore hold that if an applicant makes a prima facie showing of good cause, [W.S.] 31-5-233(f)(v) requires that a court afforded the applicant an opportunity for a hearing.<sup>19</sup>

Because Schneider made a prima facie showing of good cause by alleging that he had been sober since his conviction, took sobriety seriously, and was no longer a risk to public safety, the Court held that he was entitled to a hearing and that the district court abused its discretion by denying Schneider a hearing.<sup>20</sup>

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<sup>16</sup> Id.; DeMichele v. State Taxation & Revenue, Dep't of Motor Veh. Div., 356 P.3d 523, 529 (N.M. Ct. App. 2015)

<sup>17</sup> DeMichele, 356 P.3d at 530.

<sup>18</sup> Schneider, ¶ 14, 505 P.3d at 595.

<sup>19</sup> Id. ¶ 15, 505 P.3d at 595 (citations and parentheticals omitted). See also Hayse v. Bd. of Coroner Standards, 2020 WY 4, ¶ 6, 455 P.3d 267, 270 (Wyo. 2020) ("We presume that the legislature has acted in a thoughtful and rational manner with full knowledge of existing law, and that it intended new statutory provisions to be read in harmony with existing law and as part of an overall and uniform system of jurisprudence.").

<sup>20</sup> Schneider, ¶ 16, 505 P.3d at 595.

The Court also addressed Schneider's second argument—that the district court was required to make findings of fact and explain its reasoning in denying his application.<sup>21</sup> The Court rejected Schneider's argument; while the Court noted that W.S. 31-5-233(f)(v) does not require the district court to make findings of fact, the Court also explained the importance of findings in the record to "provide a firm base for an appellate judgment that discretion was soundly exercised."<sup>22</sup>

### **Committee Considerations**

If the Committee wishes to further explore this issue, it may wish to consider:

- Whether legislative change is needed to clarify whether a hearing is required for a petition to remove the ignition-interlock requirement and, if so, whether further contours or limits should be specified in statute.
- Whether a specified number of DUI convictions should preclude a person from the ability to seek discretionary relief from the ignition-interlock requirement.
- Whether a district court must articulate findings of fact in deciding whether to grant or deny an application for removing an interlock device.<sup>23</sup>

This summary is meant to provide a broad and basic overview of the requirement for using ignition-interlock devices, the procedure for removing the requirement, and Schneider v. State. Please let me know if you have any questions or need further information.

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<sup>21</sup> Id. ¶¶ 17–18, 505 P.3d at 595–96.

<sup>22</sup> Id. ¶ 21, 505 P.3d at 596 (quoting Pace v. Pace, 22 P.3d 861, 866 (Wyo. 2001)).

<sup>23</sup> Compare W.S. 31-5-233(f)(v) with, e.g., W.S. 1-1-109(c)(ii) (requiring a court trying a case without a jury to "make special findings of fact" in determining comparative fault); W.S. 14-6-229(a)(ii) (requiring a court to enter "specific findings of fact" regarding the placement of a child adjudicated delinquent if the placement is not in accordance with the recommendations of the predisposition report or the multidisciplinary team).