



# CRIMINAL LAW UPDATE 2.0

SPRING 2026

## A Publication of the Bergen County Bar Association

*The comments contained in this publication are not necessarily those of the Bar Association. If you find anything objectionable, then you should blame Joseph P. Rem, Jr., the original author and editor of the Criminal Law Update.*

Edited and  
Authored by  
James B.  
Sepowitz,  
Esq.,  
Foy &  
Sepowitz LLC  
201-457-0071

**INTRODUCTION:** For approximately 20 years, Joseph P. Rem, Jr., Esq. published the Criminal Law Update for the Bergen County Bar Association. He would provide updates on caselaw, statutes, procedure and local court issues, all peppered with his witty humor and clever quotes. In Joe's honor, I will attempt to resurrect the Criminal Law Update. I guess it will be an updated Update, or the Criminal Law Update 2.0. I will do my best to stick to the same format and I dedicate the republication of the Criminal Law Update to the esteemed Joe Rem and express gratitude to him for all the time he gave to the Bergen County Bar Association and his fellow attorneys throughout his career.

**THE BERGEN COUNTY PROSECUTOR'S OFFICE** will be launching a Mental Health Diversion Program, in partnership with CarePlus, allowing eligible defendants to be placed on a structured and supervised probationary track, which will include mental health treatment and other conditions. Successful completion of the program may result in dismissal or reduced charges. Stay tuned for more details....

**IN STATE v. REYNOSO**, a published decision issued on April 10, 2026, the Appellate Division reversed a murder conviction based on a violation of the defendant's *Miranda* rights. The defendant was a juvenile who was waived to adult court. The interrogation

was conducted at the Passaic Police Department. The defendant came there with his Spanish speaking mother. One of the officers only partially explained the *Miranda* rights form to the defendant's mother and another officer subsequently translated it into Spanish for her. In addition, the defendant's question about being free to leave prior to executing the waiver form was not adequately and accurately answered by the officer. The lengthy appellate decision notes the special protections afforded to juveniles who are subjected to interrogation, as well as the issue of communicating *Miranda* rights to non-English speaking individuals. In examining the totality of the circumstances of the *Miranda* waiver process, the Court held that the State had not met its burden of proving voluntariness of the *Miranda* waiver beyond a reasonable doubt. Thus, the denial of the motion to suppress the statement should have been granted and the defendant's conviction was overturned and the case remanded for further proceedings.

**N.J.S.A. 2C:58-4.4(b)** became effective in July 2023, requiring as follows: “The holder of a permit to carry a handgun issued pursuant to N.J.S. 2C:58-4, *if stopped or detained by a law enforcement officer* while carrying a handgun in public or traveling with a handgun in a motor vehicle, shall (1) immediately disclose to the law enforcement officer that they are carrying a handgun or that a handgun is stored in the vehicle; and (2) display the permit to carry a handgun issued pursuant to N.J.S. 2C:58-4.” (emphasis added). It is a 4<sup>th</sup> degree crime to violate subsection (1). Many people with permits to carry are unaware of this provision and it is important for practitioners to advise their clients of this obligation and the potential penal consequences. Notably, however, the requirement of disclosure only applies if the person is stopped or detained by a law enforcement officer. Disclosure is not required if it is a benign encounter with the police. Nonetheless, it would probably be prudent to make the disclosure in all encounters. I recently represented a client who had a valid permit to carry a firearm, but he did not disclose to the responding officer that he was carrying a firearm until asked about it after several minutes had passed. The 4<sup>th</sup> degree charge was ultimately dismissed based on the argument that the police responded to the scene merely to provide motorist aid to the defendant, whose vehicle became disabled on the highway. Since he technically was not stopped or detained by the police, the requirement for immediate disclosure did not apply.

**WILL NON-COMPLIANCE** for failure to pay court-ordered restitution can render an expungement petitioner ineligible under the “clean slate” statute,

N.J.S.A. 2C:52-5.3c, as held by the Appellate Division on April 13, 2026 – *In the Matter of the Expungement of Records of R.G.C.* The Court found the petitioner ineligible because her failure to make any restitution payments upon release from incarceration for over a decade rendered the non-compliance as willful.

**IGNITION INTERLOCK DEVICES (IID)** appear to be here to stay in the DWI realm. In order to avoid a suspension and to potentially get a waiver of the fines at sentencing, the following pre-conviction installation process must be followed: (1) make an appointment with an NJMVC approved ignition interlock company; (2) bring the DWI ticket to the appointment and get the IID installed to receive a volunteer pre-conviction installation certificate; (3) take the installation certificate, work order and invoice to an NJMVC regional center (there are only six throughout the State of NJ) and obtain a paper document as the restricted license requiring an IID; and (4) bring a copy of the MVC document to court (along with the ignition interlock installations forms).

**QUOTE:** “If I was doing any better, they would have to drug test me.”

--Joseph P. Rem, Jr.