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Testimony of Supervising Assistant District Attorney Brendan Ahern

Thank you to Senator Fuschillo, Honorable Members of the Transportation Committee, Distinguished Guests and Speakers, Members of the Public who have taken time from their busy lives to be present at this critically important hearing, and thank you to all of our partners committed to protecting our school children and saving lives.

I will be reading a statement from the Honorable Kathleen M. Rice, District Attorney of Nassau County, and President-elect of the New York State District Attorney's Association. At the conclusion, I will be available to address any questions the Committee may have.

My name is Assistant District Attorney Brendan M. Ahern. I am a supervising assistant in District Attorney Rice's Vehicular Crimes Bureau where I am tasked with prosecuting homicides involving drunk, drugged, or otherwise criminally dangerous driving. I also supervise misdemeanor DWI trials and felony screening. The District Attorney deeply regrets that she is unable to appear today before the Committee. She has personally requested that I deliver the following address:

Where we have the power to save the life of a child, we must act.

Where we possess the technology to prevent an unspeakable tragedy, involving the injury and death of a bus full of school children, we must act.

Where we possess the ability to protect our children from the trauma of being the victims of, and witnesses to, a violent crime, we must act.

Our young school children are defenseless in the hands of an adult who chooses to drink and drive. We must do all we can to defend and protect these defenseless children.

We must act, and we must act now. Waiting to act until *after* a bus full of young school children crashes, sending children from their school bus directly to hospitals - or God forbid - the morgue, is unacceptable.

District Attorney Rice joins Senator Fuschillo and all of our partners in supporting this common sense legislation to use our advances in technology to protect our school children. Ignition interlocks in our school buses ensures that there is a last line of defense to protect our children, no matter what warning signs may have been missed that a school bus driver is a problem drinker.

We have already seen the need for interlocks. We have seen several recent examples of the safety systems in the commercial vehicle industry failing. Self-regulation of alcohol and drug use by that industry is woefully inadequate, has failed repeatedly, and will fail again. But no place is a failure less defensible than in the vehicles we entrust to transport our children. The technology is available to ensure that a drunk driver never gets behind the wheel of a school bus again. We must act now.

Our local communities here on Long Island, have seen several recent instances where school bus drivers with serious alcohol problems have been able to get behind the wheel of a school bus full of children, and drive drunk. These drivers are gravely dangerous.

These warning signs must not be ignored.

In March 2013, a school bus driver in Suffolk County was sentenced after being found driving while highly intoxicated on the Long Island Expressway, with a shredded tire, a half empty bottle of vodka in the center console, multiple young children on board, and a .23% blood alcohol content - nearly three times the legal limit. Studies have shown that a crash is nearly guaranteed at that astronomical blood alcohol level. Those studies were the basis for the enactment of the Aggravated DWI statute, premised on a .18% blood alcohol content. This bus driver was several drinks beyond that level. The children on that bus were defenseless. They were saved by concerned citizens - other drivers alarmed by the school bus driver's erratic driving. Other drivers placed 911 calls to save those children. If that drunk, bus driver had not been stopped and arrested by members of Suffolk County Law Enforcement, that bus driver was more than capable of killing those school children under the circumstances.

An ignition interlock device would have prevented that highly drunk school bus driver from ever starting the school bus.

In October 2012, a school bus driver in Suffolk County was arrested and charged with driving under the influence of alcohol after he allegedly backed into a tree with over twenty students on board and a half-empty bottle of bourbon in his bag. A twelve year old student was injured. If that relatively minor crash had not stopped him, the bus driver would have continued driving that day. Once again the driver could have killed those school children. Thank goodness, the injuries to the one child hurt were not more serious.

An ignition interlock device would have prevented that drunk, school bus driver from starting the school bus and injuring that young student.

It is important to note this is a state-wide issue. To exemplify that I draw your attention to a Steuben County criminal case from several years ago:

In that case, a school bus driver was driving drunk with a fully-loaded school bus. There were over thirty school children on board, in the Town of Thurston at just after seven o'clock in the morning. The drunk, school bus driver drove the school bus off the road, into a ditch and across a driveway, before veering back onto the road and overcorrecting to the point she nearly drove off the other side of the road. The force of the crash into the ditch propelled several of the school children's heads into the roof of the bus causing serious head injuries. The drunk, bus driver continued on her route. Hours later, a school resource officer learned of the crash, and the drunk, bus driver was tested. She still had a .10% blood alcohol concentration. The 75 year old bus driver would later plead guilty to DWI, thirty four counts of endangering the welfare of a child, and two counts of second-degree vehicular assault. That drunk, bus driver seriously injured children and nearly caused a catastrophe with mass casualties.

An ignition interlock would have prevented that drunk, school bus driver from starting the school bus. The interlock would have prevented the terror and trauma inflicted upon every child on the bus, their parents, and the community. The interlock would have prevented two young school children from suffering serious head trauma.

We must act now.

The betrayal of trust is alarming and shocking in each instance where an adult is trusted by parents to care for and safeguard their young school children. But, sometimes the greater shock is that no child is seriously physically injured, or worse.

We also prosecuted an alarming and shocking case here in Nassau County. It was alarming because of the egregious conduct of the bus driver but it was happily shocking that that no child was killed or seriously injured as a result. The People of the State of New York vs. Frederick Flowers serves as a stark reminder that we must act now.

It was just before 3 p.m. on a Wednesday this past October, when five young school children boarded a school bus outside of their elementary school, St. Edward the Confessor, in Syosset. There were two nine year olds, an eight year old, a six year old, and a five year old on the bus. The children were completely defenseless as they walked past their bus driver, 66 year old Frederick Flowers, to their seats on the bus.

When Mr. Flowers closed and locked the door behind the children, the children were trapped. He was just moments away from imposing a nightmare on them and there was nothing they could do to stop him. Mr. Flowers had spent the hours leading up to this moment drinking.

The children had spent the day in the care of their teachers. Their parents had spent the day believing their children were safe. Mr. Flowers had passed all pre-employment screenings, including drug and alcohol testing and a background check. The screenings did not stop him from taking the opportunity during his lunch break to go to a local store to purchase alcohol and secretly drink it.

Nothing was in place to stop Mr. Flowers from driving drunk. He put the key in the ignition and the school bus into drive and then pulled out of the driveway of the elementary school. The bus immediately careened off the road and across the lawn of a home directly across the street from the school. The school bus plowed into the garage of the home with devastating force.

Unbelievably, none of the children were hurt. Miraculously and fatefully, the homeowners were not in harm's way. Amazingly, not a single parent was standing in front of that home even though that spot was where many parents waited to pick up their children during dismissal time. The drunk, bus driver was injured in the crash. He was airlifted away from the scene. His blood was secured by the medical personnel en route to the hospital with the initial expectation that he had a serious medical condition which caused the crash. His only serious medical condition was that he was drunk.

Members of Nassau's Vehicular Crimes Bureau worked with the police department to secure a warrant for that first drawn hospital blood. The test results revealed a .10% blood alcohol concentration.

Mr. Flowers was charged with multiple counts of endangering the welfare of a child, reckless endangerment, and felony DWI under the Leandra's Law statute - a law championed by this Committee. On February 4, 2013 he pled guilty. Just this past Monday he was sentenced to jail.

But no matter how stringent the sentence, no amount of time, no amount of punishment will make it okay for those young school children. The criminal justice system is not equipped to take away the trauma and nightmares inflicted upon a child victim or the parents who trust their children to be protected when they leave home.

An ignition interlock would have prevented this entire incident from occurring. The technology would have prevented drunk, Mr. Flowers from ever starting the school bus. The technology would have prevented that bus from launching into the home like a missile. The ignition interlock would have saved the parents and children from the nightmare of having this violent crime inflicted upon them.

We must act and we must act now.

Nassau County District Attorney Kathleen Rice stood with Senator Fuschillo when he proposed this common sense legislation back in October 2012. The District Attorney fully supports passage of this legislation. She encourages the Committee to bring this bill to the floor for a vote by the full New York State Senate.

How often can we say that a law will completely eradicate a particular crime? Placing ignition interlock devices in school buses will prevent a drunk driver from ever getting behind the wheel of a school bus again. That is truly a public safety victory and justice to the parents and children who have already been put in harm's way.

That is not to say there is not more to be done. Issues related to drugged driving and the steps that need to be taken in the commercial vehicle industry also need to be addressed. We will once again look to the proactive leadership of Senator Fuschillo and this Committee. We are grateful to them and all of our partners in public safety for the efforts made to keep our citizens safe.

Thank you Senator Fuschillo. Thank you Honorable Members of the Committee. And thank you to all of our partners.