

# Kane County Local Rule

---

## ARTICLE 21: DRIVING UNDER THE INFLUENCE OF ALCOHOL

### 21.00 APPLICABILITY

The provisions of this Article shall apply to all cases involving the operation of a motor vehicle under the influence of alcohol or other drug (DUI), whether the offense is charged under the Illinois Vehicle Code [625 ILCS 5/11-501 et. seq.](#) or under a similar local ordinance. Where reasonable, these provisions shall be construed and applied consistent with the provisions of Local Court Rules Articles 19, 20, 21, 22, and 23.

### 21.01 DISTRIBUTION OF DUI EVALUATION REPORTS

- (a) In every case in which a professional evaluation is conducted, it shall be done in accordance with [Sec. 5-4-1\(a\) of the Unified Code of Corrections](#), [625 ILCS 5/6-206.1\(a\) \(3\)](#) and [General Order 15-20](#), effective 9-1-15.
- (b) In every case in which a disposition is ordered which requires the involvement of the Department of Court Services, the Clerk shall transmit to the Department of Court Services a copy of the complete evaluation report.
- (c) Any evaluation report transmitted, pursuant to this Rule 21.01, shall be contained within a sealed envelope to ensure that only those persons and agencies with a legitimate lawful interest in the information shall have access to the evaluation report. Every recipient of an evaluation report, pursuant to this Rule 21.01, shall maintain the confidentiality of the information contained in the evaluation report, except the treatment level may be noted on the exterior of the sealed envelope contained in the Court file.

### 21.02 TRANSDERMAL ALCOHOL MONITORS

- (a) The use of transdermal alcohol monitors and Remote Breath Monitors (RBM) by the Court shall be subject to the rules set forth in this article, and shall be limited to the devices set forth below:
  - (1) Secure Continuous Alcohol Monitor (SCRAM) or any other provider deemed suitable by the Chief Judge
  - (2) Remote Breath Monitors
- (b) Alcohol monitoring may be ordered as a condition of bail, or as part of an agreed sentence.
- (c) The cost of monitoring shall be borne by the Defendant, except in cases of indigency, as determined by the monitoring agency/court.
- (d) A court order for alcohol monitoring shall be on a form approved by the Court after review by the monitoring agency. The monitoring agency shall determine if the Defendant can afford the cost of monitoring and if so shall set the amount of fees. If a Defendant considered for monitoring claims to be indigent, the Court shall make a preliminary finding of indigence and refer the Defendant to the monitoring agency for

## Kane County Local Rule

---

application of a sliding scale fee. In no event shall fees be reduced without first obtaining input from the monitoring agency or its representative. The State's Attorney may act as the monitoring agency representative for purpose of input.

### **21.03 SCHEDULING OF CASES**

- (a) The first court dates for DUI offenses shall be set by the arresting law enforcement agency. The first return date shall be not less than fourteen (14) days but within forty-nine (49) days after the date of arrest, whenever practicable.
- (b) Petitions to Rescind Statutory Summary Suspensions shall be set by notice of motion by the State's Attorney's Office, or by order of the presiding Judge in DUI Court.
- (c) Evidentiary motions shall be filed promptly with notice of filing, but in no event not less than forty-five (45) days prior to trial, except with leave of court and for good cause shown and as may be necessary to avoid injustice.