

STATE OF ILLINOIS)  
  )SS.  
COUNTY OF KENDALL)

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT  
KENDALL COUNTY, ILLINOIS

ADMINISTRATIVE ORDER   09 - 07

**KENDALL COUNTY CRIMINAL PROCEEDINGS**

**A.    APPLICABILITY OF RULES**

- (a) Except where clearly indicated otherwise, the rules contained in this Administrative Order shall be applicable to all cases assigned to the Criminal and Traffic Courts.
- (b) Rules contained in this Administrative Order shall read in conjunction with applicable rules contained in this and other Administrative Orders, compiled Statutes, and the Illinois Supreme Court Rules, and where conflicts exist, the Illinois Supreme Court Rules shall control.

**B.    COURTROOMS AND CASE ASSIGNMENTS**

- (a) Courtroom assignments within the Criminal and Traffic Courts shall be regulated by the Administrative/General Order.
- (b) Motions for Substitution of Judge:
  - (1) A motion for substitution for cause shall be transferred to the Presiding Judge to be assigned for a hearing. If the Presiding Judge is named in the motion, the case shall be transferred to the Chief Judge for assignment for hearing.
  - (2) If a motion for substitution of a Judge, other than the Presiding Judge, is granted, the case shall be transferred to the Presiding Judge for reassignment. If the Presiding Judge is substituted, the case shall be transferred to the Chief Judge for reassignment.

**C.    ASSIGNMENT OF COURT INTERPRETERS**

- (a) Interpreters shall be appointed pursuant to 725 ILCS 140/1 and 735 ILCS 1402.

**D. DEFENDANT'S DEMAND FOR SPEEDY TRIAL**

- (a) All demands for trial, pursuant to 725 ILCS 5/103-5(b), shall be made in writing with proper caption and case number. The demand shall be signed and dated by the defendant or the Defendant's Attorney.
- (b) A copy of the demand shall be served on the State's Attorney in any manner permitted by Supreme Court Rules 11 and 12.
- (c) A copy of the demand for speedy trial shall be filed with the Clerk of the Circuit Court with proof of service on the State's Attorney.

**E. TRIAL CALL**

- (a) A case shall be considered as being placed upon the trial call of a Judge on the defendant's first appearance on the assigned Judge's regularly scheduled court call, which will not include bond call.

**F. PROCESSING RETURNS ON BENCH WARRANTS**

- (a) After a defendant is taken into custody, the defendant should be taken before a Judge at the next available bond call when practicable, but in no case, more than 48 hours after arrest.
- (b) The Bond Court Judge shall, if necessary, set a bond in accordance with the law. The Bond Call Judge shall set the case for the setting of further proceedings on the assigned Judge's calendar as soon as practicable.

**G. SCHEDULING PRELIMINARY EXAMINATIONS**

- (a) When a defendant is in custody on an arrest warrant issued due to his/her failure to appear on a felony case, and the issuing Judge has indicated that the defendant is not to receive a personal recognizance, the defendant shall be brought before the Judge who issued the warrant on the next regularly scheduled court call. If the Judge is unavailable then the defendant shall be brought before the Judge covering the assigned Judge's court call.

## **DRIVING UNDER THE INFLUENCE OF ALCOHOL**

### **H. APPLICABILITY**

- (a) The provisions of this Order shall apply in 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.

### **I. DEFINITIONS**

- (a) "Judicial Driving Permit" ("JDP") is a judicially authorized provision of limited driving privileges. A JDP may be issued in certain cases to alleviate unusual hardship resulting from the suspension of all driving privileges. (see 625 ILCS 5/6-206.1)
- (b) "Summary Suspension" is a statutorily mandated suspension of all driving privileges. The summary suspension is one result of a DUI arrest. (See 625 ILCS 5/1-203.1, 5/2-118.1, 5/6-208.1, 5/11-501.1 and related provisions.)
- (c) "Monitoring Device Driving Permit" ("MDDP") is a judicially authorized provision, allowing limited driving privileges. A person must inform the Judge of their desire to obtain an MDDP, fill out the application, and then the Circuit Clerk will forward it to the Secretary of State.
- (d) "Breath Alcohol Ignition Interlock Device" ("BAIID") is a device which is required to be installed on the car of a person who has applied for a "MDDP." The length of time the "BAIID" device must remain on the car will vary depending on the person's previous driving record.

### **J. 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)).
- (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 the Court Services a copy of the complete evaluation report.

- (c) Any evaluation report transmitted, pursuant to this Rule shall be by 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, shall maintain the confidentiality of the information contained in the evaluation report.

**K. JUDICIAL DRIVING PERMIT**

- (a) The alleged DUI offender may file a Petition for Judicial Driving Permit to Relieve Undue Hardship. In any case in which such a petition has been filed, the Court may conduct a hearing on such petition at any time after a professional evaluation of the accused's drug or alcohol use has been made. Any alcohol and drug evaluation summary prepared in any DUI case shall be impounded.
- (b) Where appropriate, the Court may order the issuance of a JDP under such terms and conditions as the Court deems appropriate and authorized by law.
- (c) Forms shall be available in the Office of the Circuit Clerk.

**L. "Monitoring Device Driving Permit" "(MDDP)"/ "Breath Alcohol Ignition Interlock Device ("BAIID")**

- (a) The alleged DUI offender may file a petition for a court order directing the Illinois Secretary of State to issue a "Monitoring Device Driving Permit" ("MDDP.") This petition may be filed at any time before or during the statutory summary suspension. The Court, after reviewing the petition, may order the "MDDP" be issued by the Secretary of State if all of the criteria have been met.
- (b) "MDDP" petitions shall be available in the Office of the Circuit Clerk.
- (c) If the Court orders the Secretary of State to issue a "MDDP", the alleged DUI offender must wait to receive the written instructions from the Secretary of State about the installation, maintenance, and conditions of the "Breath Alcohol Ignition Interlock Device" before driving.

**M. SCHEDULING OF CASES**

- (a) First return dates for DUI citations shall be set by

arresting law enforcement agency. The first return date shall be not less than 14 days but within 49 days after the date of arrest, whenever practicable.

## **TRAFFIC AND ORDINANCES**

### **N. CONTINUANCES**

- (a) The Kendall County Circuit Clerk shall, upon receiving an insufficient payment amount on a minor traffic or conservation offense, pursuant to Supreme Court Rule 529, schedule the case on a court call at least 14 days, but no more than 45 days on a regularly scheduled date for the originating agency, and shall notify the defendant of the newly scheduled date and amount required to satisfy the outstanding fines and costs due in the case. If the defendant has paid the amount due 5 days prior to the scheduled court date, and is not otherwise required to appear in court, then the defendant need not appear on the scheduled court date and the clerk shall remove the case from the court call. If the defendant has not paid the amount due 5 days prior to the scheduled date, then the defendant must appear on the scheduled court date.
- (b) If the balance due is received 5 days prior to that date, the defendant need not appear. If the balance due is not received prior to the assigned date, the defendant must appear on the date set by the Clerk's notice.

Entered this 15<sup>th</sup> day of May, 2009:

GRANT S. WEGNER  
PRESIDING JUDGE KENDALL COUNTY, IL