



Balancing Safety and Parent-Child Attachment in Cases with Allegations of Problem Alcohol Use

JUDICIAL BENCH CARD

Introduction

Alcohol abuse and misuse within family systems can have a profound negative impact on the development and wellbeing of children of all ages. Around 7.5 million children below the age of 18 in the U.S., or **10.5% of the total population, live in a household with at least one parent suffering from alcohol use disorder (AUD).**¹ Adolescents who grow up in a home with a problem drinker tend to have higher rates of anxiety and depression, and are more likely to engage in delinquency and problem drinking of their own.²

A large study found that children of parents with AUD had higher Adverse Childhood Experience (ACE) scores, which may include experiences of verbal, physical, or sexual abuse; or other forms of family dysfunction.³ Child safety rightly becomes a foundational concern for family courts when one or both parents show early or advanced signs of problem alcohol use.

Children not only have basic safety needs, but also critical emotional attachment needs if they are to successfully develop into healthy adults on an emotional and relational level.



As early as infancy, children are reliant on bonding with caregivers to promote growth and psychological well-being. Children who have been separated from their parents or fail to create this essential bond may exhibit a number of problems later in life, including mental health issues, substance-use issues, employment problems, and other negative outcomes.⁴



In order to promote healthy attachment bonds while ensuring child safety, it's critical to assess the impact of AUD when making judicial decisions, such as guardian appointment determinations, disputed parenting plans, temporary or long term supervised visitation plans, child welfare assessments, specific alcohol or drug monitoring orders, and sentencing guidelines.

It's not always simple to determine whether there is a nexus between a parent's alcohol use and child safety. Conflict cases commonly involve unsubstantiated allegations of one or both parents being "alcoholic" and a danger to the children. Also commonly, incidents of alcohol misuse surface during the stress of divorce proceedings. To make accurate determinations about a parent's use of alcohol, it's important to have a licensed professional conduct a substance use assessment to rule out or confirm a diagnosis and also evaluate risk level regardless of diagnosis.

This Alcohol Use Bench Card will provide judges with information, resources, and best practices that they can use to inform their court decisions. It can also be distributed as a resource to counsel, litigants, and other participants involved in each case, and supplemented with current procedures and programs from each jurisdiction. This Bench Card does not cover acts of domestic violence which may be linked to Alcohol Use Disorder; judges should seek out additional resources to support their recommendations in cases that include such factors. The Bench Card is not suited for use in juvenile court, as it focuses on AUD in adults over the age of 18.

Defining Alcohol Use Disorder

Alcohol Use Disorder is a chronic and common medical condition impacting nearly 29 million Americans over the age of 12.⁵

It is a form of addiction that disrupts the brain's reward center, compelling the individual to continually seek out alcohol consumption to achieve positive impacts such as reduced anxiety and increased social ease. It is characterized by a reduced ability to limit or stop alcohol use, even in the face of negative consequences to an individual's health, employment opportunities, and social relationships. When the individual stops using alcohol, they are likely to suffer from withdrawal symptoms, including both physical issues, such as disrupted sleep cycles and pain or illness; and emotional issues, including irritability and increased anxiety.

As with other addictions, individuals with Alcohol Use Disorder are at lifelong risk of relapse, even after long periods of sobriety. Roughly two-thirds of people with AUD⁶ are likely to relapse within the first six months after abstaining from alcohol.

AUD Screening and Assessment

How AUD is Diagnosed

While more than 177 million Americans⁷ reported they consumed alcohol within the past year in 2023, additional consideration is needed to determine whether their habitual drinking behavior crosses the line from recreational alcohol use into AUD. In domestic relations cases with allegations of alcohol abuse, particularly those that are high-conflict, it becomes especially critical to objectively evaluate drinking behavior.

Clinicians typically focus on self-reported behavioral patterns and outside evidence when making their assessments, and rely on the criteria set forth in the Diagnostic and Statistical Manual, Fifth Edition (DSM-5).

Screening questions focus on five key factors: Drinking Patterns, Loss of Control and Dependence, Impact on Daily Life, High-Risk Behavior and Consequences, Tolerance and Withdrawal. AUD ranges across a spectrum from mild to severe, depending on the number and severity of symptoms the person is experiencing. AUD impacts every individual differently, and a diagnosis of AUD does not necessarily correlate with a lack of parental fitness.

Assessing Risk Level

Judges must take into consideration the full picture to determine the actual risk that a parent's alcohol use poses to child safety. In addition to assessments provided by licensed evaluators or clinicians, multiple factors should be considered to determine appropriate court actions.

Assessing Risk Level

1. Nexus of Alcohol Use on Parental Fitness

- Does the parent's use of alcohol affect their ability to care for the child?
- Have there been instances of neglect, endangerment, or inability to provide a stable environment due to alcohol use?

2. Evidence of Problem Alcohol Use

- DUI or other alcohol-related criminal offenses and accompanying police reports, videos, collateral information.
- Witness testimony from family members, friends, or professionals.
- Medical records (e.g. liver panel, physician referrals), rehab history, or documented assessment post-alcohol-incident, or treatment for problem alcohol use or alcoholism.
- Results of alcohol testing (court-ordered or voluntary).
- Job loss pattern or documented workplace discipline.
- Public records (social media posts, etc.).
- Receipt documentation (alcohol expenditures).
- Patterns of excessive drinking affecting parenting responsibilities.

3. Effect on the Child's Wellbeing

- Has the child been exposed to dangerous situations due to alcohol use?
- Does the child feel unsafe, anxious, or evidence signs of emotional or physical neglect?
- Any documented instances of physical or emotional harm related to the parent's alcohol use?

4. Willingness to Seek Treatment

- Has the parent sought rehabilitation, counseling, or a 12-step program?
- Are they complying with court-ordered treatment or therapy?
- Have they shown a commitment to recovery, including participation in supervised visitations or alcohol monitoring programs?

Assessing Risk Level

5. Custody and Visitation Arrangements

- Does the court need to restrict custody or visitation due to alcohol use?
- Should visitation be supervised?
- Should alcohol testing be required before and during visits including unsupervised or overnight visitation?

6. Co-Parenting and the Other Parent's Concerns

- Has the other parent raised concerns about problem alcohol use in court filings?
- Are there allegations of domestic violence or unsafe behavior when under the influence of alcohol?
- How does the parent's alcohol use impact co-parenting dynamics?

7. Expert Testimony

- Mental health professionals may provide insight into the extent and severity of the parent's alleged problem substance use.
- Guardian ad litem (GAL) reports, if appointed, can help the judge assess the child's needs and, if appropriate, their perspective of the impact of their parent's use of alcohol.
- Substance abuse evaluators may provide reports on the diagnostic impression and severity.
- Professional custody evaluators may provide reports or testimony that reference the impact of substance use by one or more family members upon the safety and secure attachment of the child.

8. Protective Measures

- Implementing regular alcohol monitoring when evidence of questionable, moderate, or high risk alcohol use exists.
- Mandating parenting classes, therapy, or anger management courses.
- Granting the other parent primary custody if the situation warrants.

Possible Court Actions by Risk Level

A professional evaluation will be helpful to determine risk level, which can be used to inform judicial decisions that support the child's best interests.

	Low Risk	Medium Risk	High Risk
Risk Level	<ul style="list-style-type: none"> • No history of neglect, abuse, or endangerment. • No DUI or alcohol-related criminal charges. • Occasional social drinking with no pattern of excessive consumption. • No reported concerns from the other parent or professionals. • Willingness to comply with court recommendations (e.g., counseling, alcohol education). 	<ul style="list-style-type: none"> • A history of moderate alcohol abuse that may have affected parenting. • Prior DUI or alcohol-related offenses, but no severe criminal record. • Reports of impaired judgment while parenting, but no proven neglect or abuse. • May have sought treatment or counseling, but relapses occur. • The other parent expresses consistent concerns about alcohol use. • Possible testimony from family or professionals raising moderate concerns. 	<ul style="list-style-type: none"> • Severe alcohol dependence, with a history of chronic or binge drinking. • Multiple DUI charges or alcohol-related criminal offenses. • Documented cases of neglect, abuse, or child endangerment. • Domestic violence or aggression linked to alcohol use. • Refusal to seek treatment or rehabilitation. • Child has been placed in unsafe situations due to the parent's drinking. • Expert reports, police records, or professional testimony confirming risk.
Possible Court Actions	<ul style="list-style-type: none"> • No custody restrictions. • Possible alcohol education programs. • Standard visitation rights. 	<ul style="list-style-type: none"> • Supervised visitation for a set period. • Random alcohol testing. • Court-ordered rehabilitation, therapy, or substance abuse treatment. • Restrictions on drinking before or during parenting time with appropriate monitoring. • Periodic review of custody arrangements. 	<ul style="list-style-type: none"> • Termination or severe restriction of custody. • Supervised visitation only, possibly in a court-monitored setting. • Court-ordered rehab and regular testing as conditions for any parenting time. • Requirement for proof of sobriety over a significant period.

When and How to Order Alcohol Monitoring

Ordering the use of an alcohol monitoring system is a highly effective way to verify an individual's sobriety in real time, especially during periods of parent-child contact. It is an effective way of ensuring child safety while affording maximum opportunity for the child to build and maintain a strong emotional bond with both parents.

When ordering alcohol monitoring, it's important to specify:



Acceptable BrAC Levels:

While total abstinence may be an appropriate condition for individuals with an AUD diagnosis, low BrAC levels may be appropriate in other situations. It's important to specify the maximum acceptable BrAC level based on individual circumstances.



Reporting Requirements:

The order should specify exactly what data must be shared with the court and when. Additionally, if the monitored individual is required to share data with other parties (e.g. co-parent, GAL, social worker, counselor, or parent coordinator) that should also be specified.



Consequences for Missed or Noncompliant Tests:

Without explicitly defining consequences, it creates an opportunity for a single missed or noncompliant test to be weaponized against the monitored party.

Defining fair and progressively serious consequences for multiple missed tests ensures that monitoring does not become simply a punitive measure that further alienates children from the monitored parent.



Required Testing Schedule:

A typical testing schedule will require the monitored individual to test before and during parenting time, at a minimum. If the individual has an AUD diagnosis, more frequent testing may be appropriate.

Parties should also sign a release of information, usually provided by the alcohol monitoring service, which specifies who is authorized to receive test results. A sample court order and release of information is provided in the appendix for reference.

Appropriate Alcohol Monitoring Programs

You may also order a specific alcohol monitoring program, or name a list of programs that the court would find acceptable. There may be various alcohol monitoring programs available within your jurisdiction.

When recommending an alcohol monitoring program, it's essential that the program offer these critical features in order to increase accessibility and the likelihood of compliance:



Accuracy

Devices should leverage modern fuel cell technology to provide results no less than +/- .005 from 0.000-0.050% BrAC.



Affordability

A low purchase price and subscription fee will help ensure equity, as many solutions can be cost-prohibitive.



Ease of Use

System must be portable, discreet, and intuitive to use, so that it fits easily into the affected party's lifestyle.



Real-Time Reporting Capabilities

Ability to share data and provide real-time alerts to other interested parties, such as the co-parent, Guardian ad litem (GAL), or legal counsel.



Anti-Circumvention Technology

Equipped with multiple sensors to detect tampering attempts and real-time photo authentication to verify identity.



Automatic Retesting

Immediate retests should be offered when a BrAC above 0 is recorded to eliminate the risk of false positives.



Court-Admissible Records

The program should collect a detailed result history and be able to provide Business Records Affidavits for use in court—ideally at no additional cost.



Customizable Testing Options

Testing options should be flexible enough to reflect the court order, including testing at predetermined times or at random intervals.



Expert Testimony on Request

Providers should be prepared to provide expert testimony if required for court.

Conclusion

Signs or suspicions of parental misuse of alcohol abuse must be approached with a balanced focus on both child safety and the importance of maintaining secure attachment to primary caregivers. When a court finds objective evidence that a parent's alcohol may pose risk of harm to children, immediate steps can be taken to help assure safety while gathering more conclusive clinical information.

The three common contexts are:

1. Alleged problem alcohol use without substantiation.

Parents can proactively use alcohol monitoring to demonstrate that they may not have signs and symptoms of a clinical alcohol use disorder, thereby allowing the court to focus on more pertinent matters.

2. Parent with moderate to high-risk alcohol use but without diagnosis of clinical disorder.

Parents can use alcohol monitoring to demonstrate whether they have the ability to consistently use alcohol in a low-risk manner, which can help courts and clinical supporters craft visitation, parenting or custodial terms and plans.

3. Parents with clinical AUD working toward sober recovery.

Parents can use alcohol monitoring in conjunction with their treatment to demonstrate their sobriety and recovery journey, ultimately improving their ability to engage their children on the important levels of safety and emotional attachment.

In all three scenarios of potential problem alcohol use, professional assessment and alcohol monitoring can be utilized to help determine parental rights based on objective and compelling evidence, assuring both the safety and psychological wellbeing of children.

About This Benchcard

This benchcard was created by Keepr™, a remote alcohol monitoring program designed for domestic relations cases. Keepr's mission is to make court-ordered alcohol monitoring more accessible and affordable for families, while partnering with family courts and court-involved therapists to expand awareness of how alcohol monitoring can actually reduce conflict and serve the best interests of children.



Thank You to Our Co-Author

Brian Davis is a substance abuse professional and Licensed Social Worker based in Columbus, Ohio. He founded Directions Counseling & Coaching (1995), a leading private mental health practice in central Ohio, and New Directions Assessments (2010), a nationally recognized provider of court-related mental health and substance use evaluations.

Brian brings both clinical expertise and entrepreneurial leadership to his work, often consulting with courts and legal professionals on complex, high-conflict, cases requiring in-depth collateral review for accurate diagnosis and treatment planning.

¹ <https://www.niaaa.nih.gov/alcohols-effects-health/alcohol-topics/alcohol-facts-and-statistics/consequences-families-united-states>

² <https://pmc.ncbi.nlm.nih.gov/articles/PMC6876511/>

³ <https://psychiatryonline.org/doi/10.1176/appi.ps.53.8.1001#:~:text=Respondents%20with%20higher%20ACE%20scores,among%20those%20who%20did%20not.>

⁴ Tiffany Field, Attachment and Separation in Young Children, 47 Ann. Rev. Psychol. 541 (1996).

⁵ <https://www.niaaa.nih.gov/alcohols-effects-health/alcohol-topics/alcohol-facts-and-statistics/alcohol-use-disorder-aud-united-states-age-groups-and-demographic-characteristics#>

⁶ <https://americanaddictioncenters.org/alcohol/relapse-statistics>

⁷ <https://www.niaaa.nih.gov/alcohols-effects-health/alcohol-topics/alcohol-facts-and-statistics/alcohol-use-united-states-age-groups-and-demographic-characteristics>

Appendix

Release of Information Contents

AUTHORIZATION TO RELEASE INFORMATION

I, _____
(Monitored User) _____
(Date of Birth)

the undersigned, hereby authorize **Consumer Safety Technology, LLC d/b/a Keepr™ ("Keepr")** to release to

("Recipient") _____
(E-Mail Address)

("Recipient") _____
(E-Mail Address)

("Recipient") _____
(E-Mail Address)

as may be requested by the Recipients from time to time, certain information in Keepr's records, possession, or knowledge of whatever nature and form as may now exist or come to exist, regarding services and products provided to me or on my behalf by Keepr.

The information which may be released to the Recipients may include, without limitation, all of the following which shall be referred to herein as the "Keepr Information:"

- All Keepr data logs in their original format or summary reports which may include, without limitation, information regarding test results.
- All photos and location details.
- All account information, including the fact that I am a customer of Keepr, the specific products and services that I receive from Keepr from time to time, all usage information related to such products and services, the date or dates upon which I began and/or resumed receiving products and services from Keepr, and payment information.

The following information constitutes confidential work product of Keepr and will not be released:

- Company Notes, Recorded Phone Calls and any details about information given to a governmental authority.

The Keepr Information may be released to each of the Recipients by e-mail at the e-mail addresses specified above.

This authorization shall be valid until I revoke it in writing, which I may do at any time by sending written notification requesting the same to Keepr at:

Keepr
Attention: Legal Department
12421 Meredith Drive, Suite 100
Urbandale, IA 50323

I understand that my revocation will be effective on the date that it is processed by Keepr, and that Keepr will use commercially reasonable efforts to process such revocation as soon as practicable after its receipt.

I understand that I am consenting to the release of Keepr Information that may otherwise be protected or deemed to be confidential by local, state, or federal laws.

I acknowledge and agree that the release of the Keepr Information by Keepr to the Recipients is being done at my request, and I agree to indemnify, defend, and hold Keepr, its employees, directors, officers, agents, affiliates, successors and assigns harmless from and against any and all claims, demands, damages, liabilities, and other expenses (including attorneys' fees) which any of the above may sustain at any time by reason of, or arising from, the release of Keepr Information to the Recipients as authorized herein.

IN WITNESS WHEREOF, the undersigned has caused this Authorization to Release Information to be executed as of the date set forth below.

Signature

Date

Printed Name

Address

Court Order

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA.

CASE NO.

IN THE DISTRICT COURT

____TH JUDICIAL DISTRICT

IN THE MATTER OF

COUNTY, STATE

ORDER ON ALCOHOL TESTING – KEEPR

On _____, the Court reviewed the motion for alcohol testing and finds that it is in the best interest of the child(ren) that _____ (“Monitored Party’s”) parenting time is conditioned on the use of a portable alcohol testing device, therefore:

Monitored Party **IS ORDERED** to utilize alcohol monitoring by Keepr (a brand of Consumer Safety Technology, LLC). Keepr’s website URL is www.yourkeepr.com.

1. Device. A Keepr device and subscription shall be purchased by _____ [Petitioner or Respondent] at www.yourkeepr.com on or before _____[date].

2. Keepr Information Release Form. The Keepr Information Release Form shall be completed and signed by the Monitored Party, by the same date above.

a. Monitored Party shall be listed as the “Monitored User”.

b. The non-monitored party and the attorneys for both parties shall be listed as “Recipients” who are entitled to request records from Keepr via the following information: Name & E-mail address.

3. App Configuration. The testing schedule must be configured by the Monitored Party in the YourKeepr app in accordance with the Testing Schedule ordered in Section 4 hereof.

<https://yourkeepr.com/pages/download-now>. All test results will be sent via real time notifications to any individual Monitored Party adds as a contact within the YourKeepr app.

ORDER ON ALCOHOL TESTING – KEEPR

4. Testing Schedule. IT IS ORDERED that the Monitored Party shall be required to test at the following dates and times:

_____ The Monitored Party shall utilize a daily testing scheduling between the hours of _____ and _____. Once an alert is sent to the Monitored Party within the applicable time periods, the Monitored Party has 20 minutes to submit the test to be compliant.

_____ The Monitored Party shall be tested within one hour prior to parenting time. Current parenting time hours are _____.

_____ The Monitored Party shall be tested each day at a specified time. That date and time is _____.

5. Time Period. IT IS ORDERED that the testing will continue until _____, or until further order by the Court.

6. Non-Compliant Tests. The following shall be considered a non-compliant test, resulting in _____

[forfeiture of parenting time, contempt of court, etc.]:

- a. A Keepr test result that reflects a breath alcohol content ("BrAC") above _____.
- b. A Keepr test that Monitored Party is required to submit in accordance with the Testing Schedule, but that Monitored Party does not timely submit within the testing window.
- c. Any attempt by Monitored Party to tamper with a test by turning the camera off, allowing someone else to take the test, or otherwise attempting to artificially alter the test results.

SIGNED on _____.

JUDGE PRESIDING

APPROVED AS TO FORM ONLY:

Attorney Name

Attorney Name

Address

Address

By Attorney

By Attorney

Attorney for (Monitored Party)

Attorney for (Authorized Party)

Bar Number

Bar Number

Email Address

Email Address



Contact Us

We welcome questions and comments about this bench card.



Email: contact@yourkeepr.com



Call: 1-800-735-5354

