

Alcohol Use Disorder (AUD)

Bench Card¹

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INTRODUCTION AND STATEMENT OF THE PROBLEM

Trial judges make scores of decisions every day, ranging from the simple to the complex. Among the most complex are those involving the impact of Alcohol Use Disorder (AUD) on the issues before the judge. Whether it is a disputed parenting plan, the appointment of a guardian, the safety of a child in a parent's care, or the appropriate sentence or disposition, decisions involving AUD pose major challenges for judges. Judges need a starting place to begin this decision-making process when AUD is present.

Alcohol is a legal, socially acceptable and culturally ingrained substance. Its use and misuse are hard to measure in an accurate and timely manner. Testing for alcohol use is expensive and hard to access for many people. It is often unclear what resources are available. Anyone who has spent time with someone misusing alcohol can recognize the signs but proving that allegation in court is extremely difficult. Even if judges have received AUD training, they cannot substitute their wisdom and expertise for the testimony, test results, and recommendations of an expert.

Alcohol misuse is a complex and challenging issue for judges and litigants. AUD can have significant and long-term impacts on the person, the family, and the community. It is critical that judges do the right things in cases involving AUD. But for many reasons, doing the right thing can be difficult to determine. That is why this AUD Bench Card is so valuable. Though it contains the most current research and data about AUD, it is also easy to understand and explain.

Judges could distribute this resource to counsel, litigants, and professionals involved in the case. Individual jurisdictions can supplement the Bench Card to reflect unique procedures or programs. It is usable across the judiciary and various different dockets. Most importantly, the following flow chart provides a road map for how judges can manage cases involving AUD to best serve the needs of the litigants, the court and the community. This Bench Card, however, should not replace resources to identify forms of violence that may be present and must be independently addressed. Ultimately, the desired outcome is to inform judges to support safe and healthy family connections, engagement, and stability.

10.5% OF CHILDREN LIVE WITH A PARENT WHO MISUSES ALCOHOL
14.5 MILLION ADULTS HAVE ALCOHOL USE DISORDER

National Institute on Alcohol Abuse and Alcoholism, June 2021

WHAT IS ALCOHOL USE DISORDER (AUD)?

WHAT IS ADDICTION?²

Addiction is a chronic, relapsing, brain-based disease characterized by continued use of a substance despite significant harmful consequences. When an individual becomes addicted to a substance, significant changes occur in their brain. Addiction disrupts the brain's reward system and produces powerful cravings. The pleasure from alcohol is experienced as more satisfying than other experiences typically perceived as pleasurable, such as relationships, food, and sex. Significant dysfunction occurs in psychological, social, and biological functioning.

This is often most noticeable in the continued use of alcohol even when use leads to major life problems. Like other chronic diseases such as heart disease and diabetes, addiction generally involves a series of relapses followed by remission. Improper treatment, stress, and unmanaged co-occurring conditions (e.g., mental illness, medical problems) can increase relapse risk. In fact, individuals with Alcohol Use Disorder are at risk of relapse even after many years of recovery.

WHAT IS AN ALCOHOL USE DISORDER?³

The criteria for Alcohol Use Disorder are set forth in the Diagnostic and Statistical Manual, Fifth Edition (DSM-V). The central aspect of an Alcohol Use Disorder is problematic use of alcohol resulting in significant impairment or distress. Symptoms which may or may not be present include use of larger amounts of alcohol over time, failure at efforts to stop or control alcohol use, strong urges to use, use resulting in failure to accomplish major life obligations at work, school, or home, continued use despite interpersonal problems, reducing, stopping, or failing to perform important activities due to alcohol use, a need for larger amounts of alcohol over time or diminished effect of alcohol, withdrawal, and excessive amounts of time dedicated to obtaining, using, or recovering from alcohol. **NOTE:** For individuals with AUD, sudden cessation of alcohol use may carry significant health risks.

10 ALCOHOL ADDICTION MYTHS⁴

1. All people who have engaged in problematic alcohol use are addicted to alcohol
2. People who misuse alcohol can quit whenever they want
3. Full abstinence from alcohol use is the only way to manage an AUD
4. Recurrence (relapse) should not happen
5. People need to hit "rock bottom" to get treatment
6. People need to want treatment for it to work
7. People need to 100% abstain from alcohol use to get treatment
8. "Interventions" are the best method to get a person into treatment
9. Treatment should only need to happen once
10. There is only one way to get control of problematic drinking (e.g., Alcoholics Anonymous, 28-day program)

QUESTIONS TO BE CONSIDERED BY A JUDICIAL OFFICER

- ✓ Is there a nexus between the child, the parent's alcohol use, and overall impairment?
- ✓ What data or information do you have about the parent's alcohol use and where did it come from?
- ✓ Is the parent's alcohol use objectively problematic?
- ✓ Is the alcohol use occurring during parenting time? If so, is it impairing the parent's ability to care for the child?
- ✓ What is the current direct harm to the child given the child's age, vulnerabilities, and developmental needs?
- ✓ What is the worst case scenario with regard to the child's safety?
- ✓ What is the direct harm to the child?
- ✓ What is the court's ability to order interventions, and are the interventions tailored to the goals for the family?
- ✓ What is the ability of the litigant to pay for and obtain the intervention or does the state have funds to support the intervention?
- ✓ How reliable is the intervention (e.g., evidence-based, efficacy rates, goodness of fit)?

CONSIDER THE RISK...

LOW RISK

- Alleged alcohol misuse
- Hearsay is the only evidence
- No history of AUD
- No nexus between child's needs and parent's alcohol use

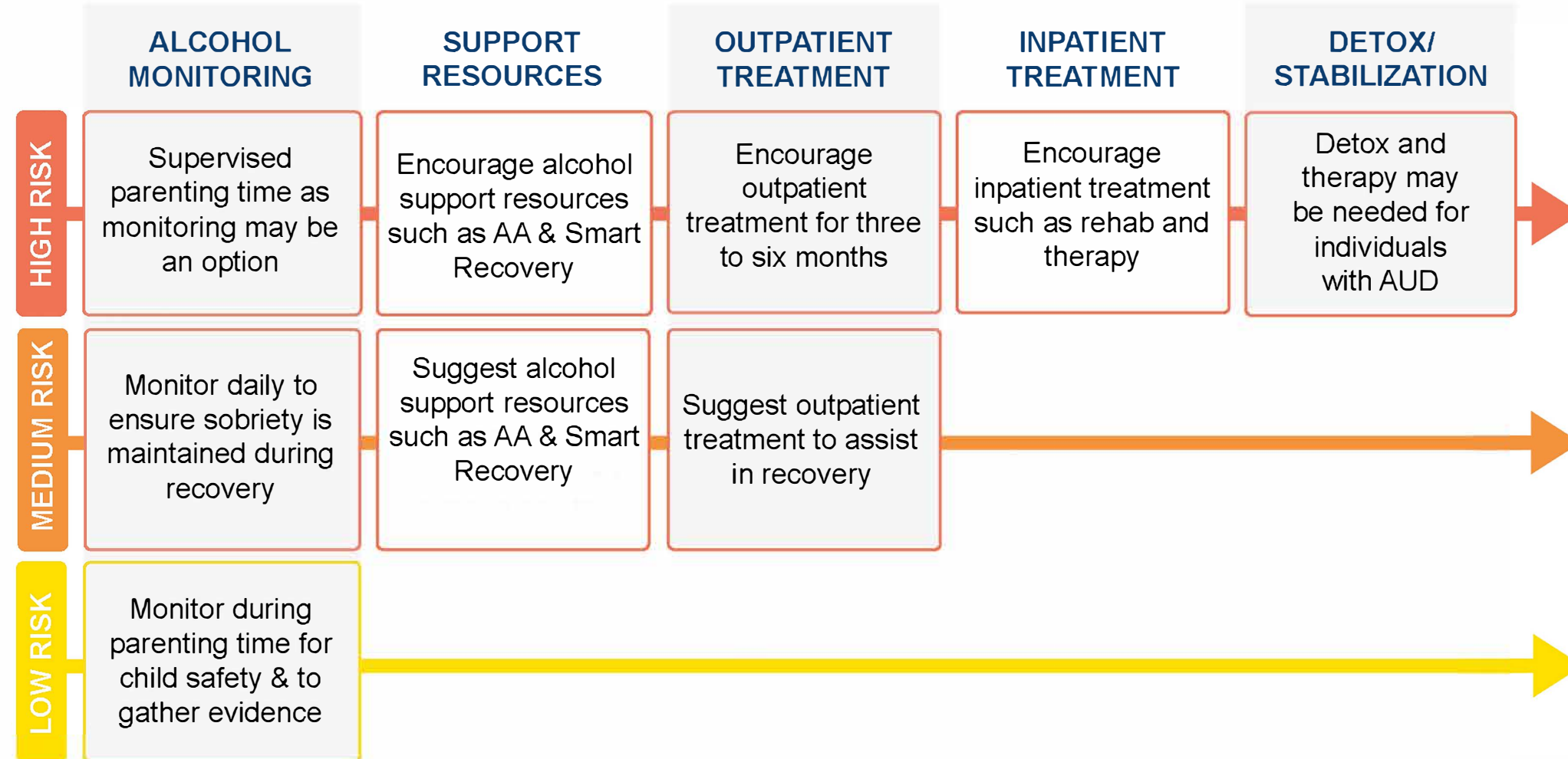
MEDIUM RISK

- Some evidence of alcohol misuse in the past
- Has met some criteria for AUD by professional evaluator
- History of DUI case
- Support such as AA & Smart Recovery

HIGH RISK

- Clear evidence of current AUD or alcohol misuse
- Has met all the criteria for AUD by professional evaluator
- History of multiple DUI cases
- Clear nexus between parent's use and direct harm to the child

NOTE: Consider a professional evaluation to assess the severity of an individual's AUD as needed



All the actions for the associated risk level below should now be considered to balance an optimal parenting plan (where a child has a relationship with both parents) and the child's safety.

DOCUMENTING SOBRIETY FOR CHILD SAFETY WITH ALCOHOL MONITORING

NOTE: Use remote alcohol monitoring across all risk levels to document sobriety and promote safer parenting time. Features in an effective system should include:

- Capability to send real-time results to unlimited recipients
- Facial recognition that instantly authenticates identity
- Software that performs instant analytics on testing activity
- Reports that are visually displayed in a calendar layout
- Multiple sensors that prevent tampering
- Agreements that detail all aspects of monitoring
- Creation of court-admissible reports
- Availability of experts to testify at any time

¹This bench resource is intended only for cases involving adults in family court and not adolescents.

²Tabashneck, S. (Ed) (2021). Substance use and parenting: Best practices for family court practitioners. Boston: Massachusetts Chapter of the Association of Family and Conciliation Courts. <https://bit.ly/3wxxfZY>

³Id.

⁴Id.