



The following information has been compiled so that Family Court participants, attorneys and other concerned parties may reach a reasoned and workable protocol in custody cases. While no one solution is right in all cases, this information may be helpful in determining how to include SOBERLINK monitoring in your agreement.

Real-time Alcohol Monitoring:

The purpose of using SOBERLINK for child custody cases is simple – to provide verification of a parent’s full-time sobriety or verification of a parent’s abstinence during his or her parenting time. SOBERLINK technology is revolutionary in the sense that families can now have real-time knowledge of sobriety and instant alerts in case of signs of drinking so they can act swiftly and accordingly. It should give you confidence that SOBERLINK has been used by thousands of participants in Criminal Justice, Workplace, and Addiction Treatment monitoring.

Managing Expectations:

SOBERLINK was created for convenient, discreet, and remote alcohol monitoring. The real-time test results will prove if the participant has alcohol in their system at the time of the test, but will not detect usage after alcohol has completely dissipated from the body. That being said, it should be understood that if a participant is motivated enough to try to conceal small amounts of drinking, nothing short of having a full-time supervisor during the visit could detect small amounts of consumption. SOBERLINK testing throughout the visitation period will ensure that the participant is not intoxicated and acts as a tangible deterrent to drinking.

Alcohol Detection:

SOBERLINK did not create a new way to detect alcohol. Fuel-cell technology has been around for decades and has proven reliable. SOBERLINK uses the most trusted fuel-cell sensor available in Breathalyzer technology. When a test result is over the predetermined BrAC threshold, the participant is asked to retest in 15 minutes via a prompt on the device screen as well as an automated text message to his or her mobile phone. The retesting helps case monitors determine whether the source of alcohol was environmental or consumption.

Incidental exposure to alcohol from such things as mouthwash, hand sanitizer, perfumes, or other alcohol-based products dissipates within 15 minutes of exposure. The most important factor in avoiding false positive readings from incidental exposure to alcohol is to wait 15-20 minutes after eating, drinking, or smoking to perform the test. We recommend that the participant rinse their mouth with water as an extra precaution.

SOBERLINK delivers expert evaluation of drinking events for Service Providers.

Alcohol Elimination Rates:

Because everyone is different, there is no universal standard for alcohol dissipation rates. Scientific research suggests that “one size does not fit all”. People metabolize alcohol differently based on numerous variables. Below is an example of varying elimination rates based on a recent study.

| <u>Group Type</u> | <u>Expected Rate of Elimination (per hr.)</u> |
|------------------------------|---|
| Slow elimination rate | .008 - .012 |
| Moderate elimination rate | .012 - .015 |
| Rapid elimination rate | .015 - .025 |
| Ultra-Rapid elimination rate | .025 - .035 |

(Source; James G. Wigmore, Rate of Elimination of Alcohol – An Evidence-Based Review)

Because alcohol tends to dissipate quickly from the body, the inclination could be to require the participant to test excessively. But it is important to remember that a person who has a drinking problem or is dependent on alcohol is unable to control and time their drinking in such a way that it defeats the SOBERLINK system. It is our opinion that no more than 4 tests per day or visit are necessary to ensure safety. In high-risk cases, (i.e. a parent with a moderate to severe alcohol dependence problem) SOBERLINK should be used in conjunction with a clinical case manager to oversee the abstinence and recovery process, rather than relying on an excessive amount of SOBERLINK tests to ensure safety.

SL Cellular or SL Connect

The **SL Cellular** device uses cellular network to transmit test results directly to SOBERLINK’s web portal. The Cellular device is capable of storing (“queuing”) tests when cellular networks are not available and can help with reducing “missed” tests by storing the test until the device connects with a network. The downside to this is – there are also delays in reporting true missed tests if the device is off network or powered off. Discuss the pro’s and con’s of the device with your Soberlink Certified Professional provider prior to purchasing a device.

The **SL Connect** was designed for use with a Smart Phone or Tablet to submit the results via Wi-Fi or cellular connection. The SL Connect may be preferable for an iPhone user who has poor cellular reception or who travels/lives outside of the US.

The service provider can help decide which device is best in each case.

Tests Schedules:

Random scheduling is the norm for alcohol testing but does not need to be the case when using SOBERLINK.

The SOBERLINK test schedule should be determined during the initial case management meeting and adjusted as needed. Enabled automated text reminders inform the client via text message of their test times for best compliance. It is the user’s responsibility to submit a breath sample at their scheduled time regardless if they receive a notification or not.

Testing Schedule Example:

(Based on a 24-hour visitation starting at 6am)

| | |
|----------|--------------------------------------|
| 07:00 AM | Participant submits a SOBERLINK test |
| 01:00 PM | Participant submits a SOBERLINK test |
| 05:00 PM | Participant submits a SOBERLINK test |
| 10:00 PM | Participant submits a SOBERLINK test |

Testing Schedules don't work if they cannot be followed during the Participant's work schedule or other daily events. Realistic expectations must be present in order for the SoberLink system to work in your case. It is highly recommended that the SOBERLINK participant be required to test 2 hours prior to the start of the visitation period to ensure sobriety.

Variable Testing Window:

The SOBERLINK system allows you to set an amount of time before a test is considered missed or late. The test window can be set for 30 minutes, 1 hour, 2 hours, 3 hours, or 4 hours. Participants can submit a test anytime within the set testing window. The most common testing windows used in Family Law are 30 minutes and 1 hour.

Queuing or Storing Tests:

Queuing is a feature that allows the device to store a test when outside of cellular coverage. When coverage is restored, the device will submit all stored test results. Queuing can be challenging for Family Law as it can undermine real-time test results. However, the advantage of guaranteeing the ability to test even when cellular coverage is poor can out-weigh the concerns about delayed test results. These options should be considered carefully and agreed between the parties and the Soberlink provider. The SL Connect device is the ideal option if a participant has frequent problems with cellular coverage because it can connect to a mobile phone's Wi-Fi.

In the Event of Non-Compliance

There are a variety of events that can be deemed a violation:

- Positive test result
- Missing a scheduled test
- Failing to retest
- Covering the camera when taking a test

- Attempting to have anyone other than the participant blow into the device
- Using an alternative air source to blow into the device
- Any detected tampering

As part of the initial client agreement, the concerned parent can choose to be notified of all compliant and violation alerts or just of violation alerts. Further, if all parties agree, the concerned parent could access the web portal with read-only permission so they are able to remotely access test history.

It is recommended that an agreement be reached between parties regarding consequences in the event of non-compliance prior to the start of the SOBERLINK program.

Using Confirmation (Back-Up) Testing:

With Level III testing, the parties can choose to use another type of alcohol test to confirm a positive SOBERLINK test or in the event of a missed SOBERLINK test. This should be discussed and agreed upon prior to starting the SOBERLINK program. The cost and inconvenience of going to a lab will act as a drinking and missed test deterrent. That being said, studies have shown that the window of detection for alcohol tests using urine, oral fluids; hair, blood, and nail clippings is much smaller than originally thought. If additional alcohol testing is used as for confirmation, we highly recommend the client provide the urine (EtG) sample within 24 hours of the positive or missed SOBERLINK test(s) to ensure accuracy. Occasional random UA's can also include drugs of abuse, as parents may be using marijuana and other substances as well as alcohol.

Client Agreement / Monitoring Plan:

Before using SOBERLINK, clients should sign an informed consent agreement. By signing they are stating they understand and agree to the terms of their custody plan. The contract will include the following important points:

- Instructions on device use
- What to avoid while testing
- Testing frequency/schedule
- What is required if the device is lost or damaged
- Who will see test results (e.g. lawyer, ex-spouse)
- Test-result access for varying parties
- Consequences of a positive test or other non-compliance
- How schedule changes should be authorized
- Consequences for non-compliance
- Legal consequences for program violation

BrAC Threshold:

SOBERLINK can set the BrAC threshold to varying levels. The most common threshold used is .02 BrAC. We suggest setting the threshold set between .01 and .02. The SOBERLINK device will read as low as .006, but if a SOBERLINK test is submitted at this low level, a secondary or

confirmation test will generally always be .00. This is not enough evidence to determine if the positive results were due to alcohol consumption. The slightly higher threshold of .01 and .02 will offer better data for a determination.

Tamper Detection:

SOBERLINK's innovative facial-recognition software takes biometrics to the next level by adapting to subtle appearance changes that might occur over time. Our facial-recognition software automatically confirms approximately 80% of submitted photos. The Service Provider will manually review any photos that are not confirmed by the software. If a photo is declined due to a testing behavior violation (e.g. covering the camera, attempting to have anyone other than the participant blow into the device), the photo will be declined and the violation will be recorded. Our devices are equipped with internal tamper-detection sensors making them very difficult to circumvent. Each breath test passes through a sophisticated algorithm to ensure the integrity of the test and flag any inconsistencies.

Changes to Schedule or Protocol:

SOBERLINK's initial setup of schedule is based upon a weekly calendar and does not change week to week without human intervention. For this reason, we recommend orders such as "test during visits *every other weekend*" simply be calendared as *every weekend* testing. If the parent being monitored does not test during the non-custodial weekend, alerts will still be sent of "missed tests," but the other parties can ignore those alerts knowing the child is not in the Participant's custody.

As an alternative, we can change the schedule week to week at the direction of the parent being monitored or at the direction of the other parent, but we cannot verify the schedule or ensure that the monitored parent is being accurately prompted to test. This could result in missed test alerts not being generated for the "concerned entities." When this is the approach taken, it is useful for the "Concerned Entity" to have access to the SoberLink portal to view the Participant's Schedule as well as the actual test result. In this manner,

the C/E can know *real time* whether the Participant is scheduled to test that day and whether the Participant is, in fact, testing that day. Changes to the schedule will not be made more frequently than once weekly. Please submit requests at least four working days prior to the start of the new week.

Communication with Concerned Entity:

In order to answer questions and participate in the initial setup and testing protocol, it is important we have the ability to communicate with the "concerned entities," including both attorneys, the other parent, etc. In order to do so, a non-revocable release must be in place.

Initial Setup of Protocol:

We need to know the following in order to setup the testing, alerts & reporting:

1. Is recovery from alcohol problems the goal, including complete abstinence?
 - a. Will we be providing recovery monitoring / case management of other recovery activities, such as 12-Step meeting attendance, random urine testing, etc.?
2. Is partial abstinence being monitored only on certain days or events?
3. Who are the “concerned entities” and how will they be notified of results?
4. Will the “concerned entities” have access to the web portal to view the schedule and results and to generate reports?
5. What will the schedule be and will it change from week to week?
 - a. If it will change, does the “concerned entity” have access to the SoberLink portal to view the schedule and results?
6. Please provide a copy of the court order, if there is one, in order for us to better understand the recommendations or requirements. We are not attorneys and strongly recommend your attorney review the SOBERLINK setup in order to ensure compliance with the custody order.

Conclusion:

SOBERLINK’s monitoring program can be a useful solution to monitoring abstinence from alcohol. The initial setup and any subsequent changes can have significant impact on its usefulness in monitoring abstinence and creating alerts or reports for others concerned about the results. Please read this document carefully and make notes about any areas of concern. We are happy to answer your questions.

THIS SECTION

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THE REQUESTED PROTOCOL BEING SET IN THIS CASE INCLUDES:

ABSTINENCE MONITORING:

- Complete abstinence from alcohol at all times
- Abstinence from alcohol when a child is in my custody.
- Abstinence from alcohol ___ hours before and all times when children are in my custody.
- Complete abstinence from alcohol and all mind/mood alerting drugs (requires urine testing in addition to SOBERLINK).

SOBERLINK SCHEDULING:

- Parent will test 4 or more times daily 7 days per week as scheduled
- Parent will test 4 or more times daily or as scheduled while children are in my custody.
- Parent will also test ___ hours prior to visit with children
- Parent will ___ hours before, ___ times during, and at the conclusion of each visit. Concerned Party will be set to receive alerts for compliant tests in addition to missed / positive / declined photos. This will allow concerned Party to confirm the testing is taking place as agreed.

URINE OR BODILY FLUIDS TESTING:

- No additional testing is requested or provided in this case.
- Additional types of testing will be performed in the event of a positive test or missed test (EtG/EtS/Drug Panel Observed Urine).
 - Should this testing become necessary, participant will take Chain of Custody form (COC) to an approved collection site and give an observed UA within 12 hours.
 - If the missed test occurs at night, the collection will be given by 10:00 a.m. the following morning. No prompting or reminders are necessary.
- Random observed urine testing will be conducted to test for EtG / EtS
- Random observed urine testing will be conducted to test for drugs of abuse + EtG
- Concerned Entity may request bodily fluids additional testing – we have agreed upon payment in the event of positive or negative results.
- This testing is being setup with _____
- This testing is being setup elsewhere by the parties.
- Other:

DETECTION LEVELS:

- ✓ **Detection level will be set at 0.000.** I understand this may result in test results that cannot be accurately interpreted due to the very low detection levels, but we have opted for this level due to special circumstances

CHANGES TO SCHEDULE:

- No changes will be allowed to the schedule without consent of Mediator except for time zone changes due to travel. (Note: This option may require additional fees due to the time involved in obtaining consent)
- Changes may be initiated by the SOBERLINK participant or Concerned Party once per week. The Other Party will be notified via email by the initiating party when change is requested and may respond “approved” or “object.” If the Concerned Party objects to the change, no changes in schedule will be initiated. Concerned Party will also be given access to view the schedule online at any time. No mid-day or mid-week changes will be accommodated.
- Changes may be initiated by the other parent with notification to the participant by text or email.
- On-demand SoberLink testing is part of the protocol, which is initiated by the concerned entity without notice to the participating parent.
- This testing is voluntary only and the participant is completely in charge of choosing the schedule.
- No tests are scheduled in this case at this time.
- Other:

QUEUING:

- Queuing will be disabled – no tests will be stored and sent if out of network. Participant must have access to Cellular services and/or Wi-Fi to send tests when scheduled.
- Queuing will be enabled – tests can be stored when out of network and sent when connectivity is restored. We understand this may result in delays in receiving missed / positive test alerts until connectivity is restored.

CONCERNED ENTITY NOTIFICATIONS:

- Each concerned entity will receive reports / texts / emails according to their preference and as authorized on the signed consent to release information.
- Each concerned entity will receive only limited information. This requires a separate agreement between the parties and a signed consent.
- There are no concerned entities receiving any information.
- Other:

MONITORING LEVEL – CLASSIFICATION

- I have requested **LEVEL I** – Strictly voluntary monitoring. The schedule and protocol is completely within the control of the person being monitoring. Only automated reports and alerts will be generated. Francine Farrell & Associates will not be available to answer questions or interact with the participant or concerned entity except to setup and maintain the monitoring protocol. (Cost \$199- \$299 per month + additional services)
- I have requested **LEVEL II** – This level pertains to a Monitoring Protocol that includes SoberLink monitoring without other alcohol or drug testing and without any case management services. Level II Monitoring includes limited communication with the Concerned Entity and participant. Additional fees may apply if frequent or lengthy consultations are needed. The hourly rate for consultation is \$200.00 per hour. (Cost \$259 – 309 per month + any additional services)
- I have requested **LEVEL III** – Level III Monitoring includes all the services included in Level II. Additional fees may apply if frequent or lengthy consultations are needed. Level III is appropriate for high conflict divorce and custody situations, cases that require more time and attention to schedule changes and varying requirements, cases that may require more staff time or documentation. (Cost \$349 - 499 and up plus the cost of tests & collections)

Level III Monitoring Protocol will include items checked below:

- Individual recovery monitoring sessions at least twice monthly with Ms. Farrell (current cost is \$215 / session for 50 minutes; \$109 / session for 25 minutes)
 - Verification of 12-Step Meeting Attendance
 - Setup and Monitoring of for-cause Alcohol Testing through a Third Party Administrator utilizing approved collection sites and labs.
 - Consultation and Monitoring of for-cause testing via other outside provider(s)
 - Other:
-
- Communication as needed with other treatment professionals and/or family
 - This protocol will follow the Order supplied by the parents and agreed upon by them.
 - The Concerned Entity has requested additional contact or consultation time with the SoberLink Monitor. If this is chosen, a credit card must be on file to cover the cost of each consultation. This choice may be appropriate in High Conflict situations or may be required if parties do not agree on the protocol or changes to the scheduling.

I have read and understand the protocol being implemented in this case. Changes to the protocol outlined in this agreement will only be made with the consent of all parties involved in the monitoring process.

I hereby release and hold harmless Francine Farrell and all members of the Program staff and any of its agents, representatives, attorneys, members, employees or consultants from any claims, liability, damages or expenses of any kind or nature relating to or arising out of any decision, opinion, investigation, recommendation or any other action if such decision, opinion, investigation, recommendation or action was taken within the scope of their duties or functions and when such decision, opinion, investigation, recommendation or action was taken without malice and on a belief that such decision, opinion, investigation, recommendation or action was warranted by the facts that were then available.

I have read and understand this document. I have discussed any questions I have, and I am satisfied with the answers to these questions.

This document may be signed separately in multiple parts and forwarded to the office of the SoberLink Monitor.

PRINT NAME OF PARTICIPANT

SIGNED - PARTICIPANT BEING MONITORED WITH SOBERLINK

DATE

PRINT "CONCERNED ENTITY" NAME / TITLE / ROLE

SIGNED - "CONCERNED ENTITY" NAME / TITLE / ROLE

DATE

PRINT "CONCERNED ENTITY" NAME / TITLE / ROLE

SIGNED - "CONCERNED ENTITY" NAME / TITLE / ROLE

DATE

Francine Farrell & Associates, PC

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