

Bobby Sand
2/11/2016

Civil Suspension Procedure and Timeline

| Day 1 | Day 7 | Day 11 | Day 21 NLT | ≥ 7 days before final hearing | Day 42 NLT |
|---|--|--|---|--|--|
| ARREST NOTICE OF INTENTION TO SUSPEND (or within three days of receiving test results i.e. blood test) Notice = temp license | If a hearing requested by motorist, must request hearing w/in 7 days of receiving Notice of intent to suspend | 2 nd or subsequent offense Suspension takes effect and Suspension takes effect for 1 st offense if no hearing requested. If a hearing requested for 1 st offense = no suspension until the hearing | Preliminary Hearing (same day as first appearance in criminal case – unless impracticable) (time frame is not mandatory for 1 st offense but is for subsequent offenses) | Defendant to provide issues to be raised at final hearing | Final Hearing (time frame is not mandatory for 1 st offense) |

Statutory Issues for Civil Suspension Hearing: 23 VSA Section 1205(b)

- (1) The officer is a certified law enforcement officer.
- (2) The officer who administered the test was certified to operate the testing equipment.
- (3) The officer had reasonable grounds to believe the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title (noting the time and date of operating, attempting to operate or being in actual physical control).
- (4) The officer informed the person of his or her rights under subsection 1202(d) of this title.
- (5) The officer obtained an evidentiary test (noting the time and date the test was taken) and the test indicated that the person's alcohol concentration was above a legal limit specified in subsection 1201(a) or (d) of this title, or the person refused to submit to an evidentiary test.
- (6) The officer complied with the Soldiers and Sailors Civil Relief Act (50 U.S.C. § 501 et seq.).
- (7) The officer confirmed the person's correct mailing address.