



Children's Court
Victoria

**PRACTICE DIRECTION
NO. 11 OF 2020
CRIMINAL DIVISION - COVID-19**

This Practice Direction is issued pursuant to Section 592 of the *Children, Youth and Families Act 2005*.

PREAMBLE

This Practice Direction introduces further temporary measures necessitated by the COVID-19 pandemic and the Stage 4 restrictions imposed under the declared State of Disaster.

This Practice Direction applies with effect from 10 August 2020 to all Criminal Division proceedings filed in the Children's Court throughout Victoria other than CAYPINS matters. This Practice Direction will operate for the duration of the declared State of Disaster and revokes Practice Direction No. 2 of 2020. A further Practice Direction will be issued by the Court at the conclusion of the State of Disaster.

DIRECTIONS

FILING

1. All initiating documents, Court reports and other relevant documentation must be filed electronically with the relevant [Children's Court Registry](#).

MANAGEMENT OF CRIMINAL DIVISION PROCEEDINGS

2. Unless the Court otherwise directs, all proceedings in the Criminal Division will be heard remotely by audio-visual link (including via WebEx). It is only where the remote hearing

cannot be held by audio-visual link that the matter may proceed by audio-link, subject to the direction of the Court.

3. All Children's Koori Court hearings are suspended until further notice.
4. The Children's Court Clinic continues to conduct assessments remotely by Telehealth where it is appropriate to do so. The Clinic is unable to conduct neuropsychological assessments at this time.

First remand and other urgent hearings

5. The Court will continue to list cases for the following urgent hearings:
 - i. first remand hearings;
 - ii. any application under the *Bail Act 1977*;
 - iii. a plea of guilty by a child accused who is in custody;
 - iv. applications for breach, revocation or variation of a sentencing order;
 - v. applications under the following provisions of the *Crimes Act 1958*:
 - section 464B [extension of time];
 - section 464M [fingerprints];
 - sections 464U & 464V [forensic procedure]; and
 - vi. any other cases that the Court considers it necessary to deal with as a matter of urgency.
6. Where a child has been arrested and is held in a police cell and is to be the subject of a remand application to the Children's Court¹, Victoria Police must make all necessary arrangements to ensure the child is legally represented. Victoria Police must also take steps to ensure that a private and confidential conference can be held between the legal representative and the child by audio visual link (including WebEx), or where that is not possible, by audio link.

¹ Or any application under 464B, 464M, and 464U & 464V of the *Crimes Act 1958*

7. Unless the Court otherwise directs, urgent applications will be heard remotely at the proper venue of the Children's Court.
8. Following an urgent hearing, including a first remand hearing, the further case management of the proceedings will be conducted in accordance with paragraphs 9 – 20 below.

Children in custody

9. Following the first remand hearing, the charge/s will be listed no later than 21 clear days where the child is remanded in custody. Legal representatives of child accused are urged to file waivers where appropriate without necessitating an appearance at Court.
10. [Practice Direction No. 7 of 2018 – Fast Track Remand Court](#) continues to apply to the management of proceedings for children remanded in custody that are heard by the Melbourne Children's Court.

Children on bail or charged on summons

11. Where a child accused is released on bail or is charged on summons, the charge/s will be listed for mention on a date to be determined by the Court.

Summary Case Conference – Custody and non-custody matters

12. The Court directs that the parties conduct a summary case conference in respect of the charge/s pursuant to s54(3) of the *Criminal Procedure Act 2009* at least seven (7) days prior to the scheduled mention date. Where practicable to do so, the summary case conference should be conducted remotely by audio-visual link to facilitate timely and effective discussions.

Notice of resolution or request for contest mention

13. No later than three (3) days prior to the mention date, the legal representatives for the child must email the appropriate [Children's Court registry](#) and the prosecution, advising:

- a. whether the charge/s have resolved to a plea of guilty, and to which charge/s; or
- b. whether the charge/s require a contest mention.

Diversion

14. If the charge/s are considered suitable for diversion, the parties are directed to comply with [Practice Direction No. 4 of 2020 - Criminal Division – COVID-19 – Diversion.](#) Applications for diversion will be dealt with on the papers, unless otherwise directed.

Pleas/Sentencing

15. If the charge/s have resolved to a plea of guilty, the Court will schedule the plea/sentencing hearing to be conducted remotely. If the child is on bail or on summons, the child's legal representative must confirm that the child is able to appear by audio-visual link at the plea/sentencing hearing from a suitable remote location. Unless otherwise directed by the Court, the child must not attend at any venue of the Children's Court for the plea/sentencing hearing. If the child cannot appear from a suitable remote location or it is inappropriate for the child to appear remotely, the Court will adjourn the plea/sentence for special mention in October 2020.
16. The parties are directed to electronically file and serve an outline of submissions and any documents upon which they intend to rely no later than three (3) days prior to a consolidated plea/sentencing hearing.

Contest Mentions

17. If the charge/s require a contest mention, the Court will list the matter for a remote hearing. The prosecution and the child's legal representatives are required to attend the contest mention remotely. The legal representative for the child accused must be able to contact the child to obtain instructions during the contest mention but the child need not appear.

Adjourned for further mention

18. In all other cases, the charge/s will be adjourned for further mention in the absence of the parties. Where a child is on bail, the charge/s will be adjourned for a period of 6 weeks, unless the Court otherwise orders. The child's undertaking of bail will be extended on the same terms and conditions in the absence of the child accused. Where a child is charged on summons the charge/s will be adjourned for a period of 8 weeks, unless the Court otherwise orders.

Bail variation

19. [Practice Direction No. 5 of 2020 – COVID-19 – Unopposed Bail Variations](#) will continue to apply where an application for variation of bail is unopposed. Opposed bail variations will be listed for a remote hearing on a date fixed by the Court. Unless otherwise directed, no appearance will be required by the child.

Applications for breach or revocation

20. In any application for a breach, revocation or variation of a sentencing order, the applicant must ensure all necessary arrangements are made to ensure that the child is legally represented.

Appearing online

21. For information about appearing by audio-visual link, the parties are referred to the [Fact Sheet for Online Hearings](#) published on the [Children's Court website](#).

This Practice Direction commences on **10 August 2020**.



Judge Amanda Chambers
President
Children's Court of Victoria
7 August 2020