



Children's Court
Victoria

**PRACTICE DIRECTION
NO.5 OF 2020**

**CRIMINAL DIVISION - COVID-19 - UNOPPOSED BAIL
VARIATION**

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

PREAMBLE

- A. This Practice Direction introduces temporary measures necessitated by the COVID-19 pandemic.
- B. In order to ensure that unopposed applications for variation of bail can be heard and determined in a timely manner during the COVID-19 pandemic, this Practice Direction introduces an alternative procedure for such unopposed applications consistent with the emergency health measures currently in place in Victoria.
- C. Pursuant to Section 420ZL of the *Criminal Procedure Act 2009*, the Court may decide any issue in a criminal proceeding, other than a prescribed issue, entirely on the basis of written submissions and without the appearance of the parties if the Court is satisfied it is in the interests of justice to do so.
- D. Pursuant to Part 3 of the *Bail Act 1977*:

- a person who has been granted bail, whether or not the person is in custody, may apply for variation of the amount or conditions of bail;
- the informant or the DPP may apply for variation of the amount or conditions of bail or the imposition of conditions on bail which has been granted unconditionally.

E. The Children's Court of Victoria will commence hearing unopposed applications for variation of bail 'on the papers' pursuant to Section 420ZL of the *Criminal Procedure Act 2009* on 5 May 2020. This Practice Direction sets out the procedure for the hearing of such applications.

DIRECTIONS

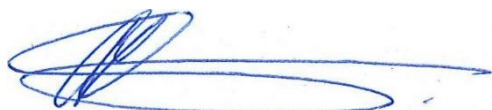
1. This alternative procedure requires the consent of both the Prosecution and the child and it also requires the child to be legally represented. It also requires the respondent not to oppose the variation sought.
2. This alternative procedure is not available if there is a surety or a deposit of money on the current bail or if a surety or a deposit of money is sought on the varied bail. In either of those events an application for variation of bail is to be dealt with at Court in the ordinary way.
3. To list an unopposed application to vary bail 'on the papers' the following documents must be completed by the parties and filed by the Prosecution by electronic communication¹ as a single package to the registry of the Children's Court at which the matter is listed:
 - a. Form CV — Application for an Unopposed Bail Variation 'On the Papers'
 - b. Copy of charge(s) with any agreed amendments
 - c. Summary of alleged facts

¹ All references to 'electronic communication' will require documents to be transmitted to and by the Court via the eDocs portal unless it is unavailable, in which case the documents may be transmitted by email.

- d. Agreed criminal history (if any)
 - e. An outline by the applicant of the reasons why variation is sought
 - f. Consent to variation signed by or on behalf of the respondent
 - g. Any supporting materials relied upon by the applicant
 - h. Any supporting materials relied upon by the respondent
4. The parties will be advised of the date for listing of the application before a judicial officer. This will be a date that is at least 3 working days after the filing of the application unless the Court determines the application is urgent and the respondent consents to the application being treated as urgent.
 5. On the listed date the judicial officer will hear and determine the application 'on the papers'.
 6. The Court will provide the Prosecutor and the legal representative of the child with a certified extract of the judicial officer's decision by electronic communication on the day of the decision.
 7. If the application for variation is granted, the child's legal representative must-
 - provide the child with a copy of the certified extract containing the varied bail conditions as soon as practicable; and
 - notify the relevant registry of the Children's Court and the Prosecutor by electronic communication that the child has been provided with a copy of that certified extract.The child will not be required to enter a new undertaking of bail.
 8. If the application for variation is not granted 'on the papers', the judicial officer will list the application for hearing and the legal representatives of the parties will be advised of the date by emailed hearing notice.

9. A copy of Form CV — Application for an Unopposed Bail Variation 'On the Papers' is annexed to this Practice Direction.

This Practice Direction commences on 18 November 2020.



Judge Amanda Chambers

President

Children's Court of Victoria

18 November 2020

Form CV
APPLICATION FOR AN UNOPPOSED BAIL VARIATION 'ON THE PAPERS'

In the Children's Court
of Victoria at [venue] _____ Court Ref: _____

Applicant: _____

Legal Rep: Phone Nr: _____ Email: _____

Respondent: _____

Legal Rep: Phone Nr: _____ Email: _____

Nature of charge(s): _____

DETAILS OF CURRENT BAIL

On [date] _____ Magistrate/Judge [name] _____

fixed bail at [location] _____

The accused was admitted to bail on [date] _____ upon signing an undertaking of bail on the following conditions:

DETAILS OF UNOPPOSED VARIATION SOUGHT [annex document if appropriate]

CONSENTS ETC.	YES	NO
Does the applicant consent to the application proceeding 'on the papers'?	<input type="checkbox"/>	<input type="checkbox"/>
Does the respondent consent to the application proceeding 'on the papers'?	<input type="checkbox"/>	<input type="checkbox"/>
Does the respondent oppose the proposed variation of bail?	<input type="checkbox"/>	<input type="checkbox"/>

DOCUMENTS ATTACHED	YES	NO
Copy of charges with any agreed amendments	<input type="checkbox"/>	<input type="checkbox"/>
Summary of alleged facts	<input type="checkbox"/>	<input type="checkbox"/>
Agreed criminal history (if any)	<input type="checkbox"/>	<input type="checkbox"/>
Outline by the applicant of the reasons why variation is sought	<input type="checkbox"/>	<input type="checkbox"/>
Consent to variation signed by or on behalf of the respondent	<input type="checkbox"/>	<input type="checkbox"/>
Any supporting materials relied on by the applicant	<input type="checkbox"/>	<input type="checkbox"/>
Any supporting materials relied on by the respondent	<input type="checkbox"/>	<input type="checkbox"/>

URGENCY	YES	NO
Does the applicant say that this application is urgent? If so, state why: _____	<input type="checkbox"/>	<input type="checkbox"/>

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Does the respondent consent to the application being treated as urgent?	<input type="checkbox"/> <input type="checkbox"/>

[Name and signature of child's legal representative]

DATE:

[Name and signature of Prosecutor]

DATE: