



Supreme Court of Victoria

Practice Note SC CR 10

Children in Custody Attending Court

1 INTRODUCTION

- 1.1 The Chief Justice has authorised the issue of the following Practice Note.
- 1.2 In accordance with sections 12(4) and 12(5) of the *Bail Act 1977* (Vic), in matters involving a child remanded in custody to appear before the Supreme Court, a mention hearing is required every 21 clear days. This hearing is referred to as a '21 day rollover'.
- 1.3 The purpose of this Practice Note is to outline the procedure by which the Court will consider to waive the attendance of the child at 21 day rollovers.

2 COMMENCEMENT

- 2.1 This Practice Note was issued on 1 June 2020.
- 2.2 This Practice Note applies to any 21 day rollover listed on or after 1 June 2020 where a child is remanded in custody to appear before the Supreme Court.

3 DEFINITIONS

- 3.1 In this Practice Note:

Criminal Registry means the Criminal Registry of the Supreme Court of Victoria;

Judge means a judge of the Supreme Court of Victoria, and includes a Reserve Judge;

Judicial Registrar means the Judicial Registrar of the Criminal Division of the Supreme Court of Victoria;

Reserve Judge means either a retired or interstate judge who has been appointed as a Reserve Judge of the Supreme Court of Victoria under the *Constitution Act 1975* (Vic);

Supreme Court means the Supreme Court of Victoria.

4 PROCEDURE

- 4.1 As provided for in Practice Note SC CR 8 - Case Management Procedure for Criminal Trials, the Criminal Division of the Supreme Court conducts a post-committal directions hearing ('PCDH') for matters committed to the Supreme Court for trial or plea. In accordance with paragraph 4.6 of that Practice Note, a child remanded in custody is required to attend and wherever possible will appear via audio-visual link.
- 4.2 Following the PCDH, a 21 day rollover will be listed every 21 days or less in relation to a child remanded in custody. The child is required to appear at each 21 day rollover unless the child's attendance has been waived in accordance with this Practice Note.
- 4.3 A child will not be excused from attending any directions hearing, including when a directions hearing is listed on the same date as a 21 day rollover, or where there are otherwise substantive issues to be discussed at the 21 day rollover.
- 4.4 If a child wishes to be excused from attending a 21 day rollover, the child's legal representative must:
 - 4.4.1 Complete the Waiver of Child's Attendance Request Form ('Waiver Form') which must be signed by the accused child
 - 4.4.2 File the Waiver Form via RedCrest at least 3 business days prior to each 21 day rollover.
- 4.5 The Waiver Form will be considered by either the presiding Judge or Judicial Registrar. The parties will be notified via email whether the request is approved or denied prior to each 21 day rollover.
- 4.6 Where the request is approved and the child is excused from attending a 21 day rollover, a legal representative (counsel or solicitor) for each party is required to appear at the 21 day rollover hearing. Wherever possible this will be conducted remotely via WebEx.
- 4.9 As noted in the Waiver Form, an accused child may seek to attend a 21 day rollover even after a Waiver Form has been filed. If this occurs, the Criminal Registry and the chambers of the presiding Judge or Judicial Registrar should be notified immediately.

AMENDMENT HISTORY

1 June 2020: This Practice Note was issued on 1 June 2020.

Vivienne Macgillivray
Executive Associate to the Chief Justice
1 June 2020