



## **Template affidavit for use by the prosecution in response to an application for bail or variation of bail, or in support of an application for revocation of bail or an appeal against a bail decision**

**Prepared by the Supreme Court Criminal Registry**

**1 March 2019 and revised on [xx] June 2020**

This template should be used by the prosecution in response to an application for bail or variation of bail, or in support of an application for revocation of bail or an appeal against a bail decision. The template is designed to be indicative of the information required by the court and is designed to assist the prosecution.

Practice Note SC CR 2 (Second Revision): Bail Applications and Appeals and the *Bail Regulations 2012* outline how to make an application for revocation of bail or appeal against a bail decision. If there is any disparity with this template, the Practice Note and the Regulations govern the position.

**IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
CRIMINAL DIVISION**

**S ECR [proceeding no.]**

**IN THE MATTER of the *Bail Act 1977***

- and -

**IN THE MATTER of an application for bail by [full name]**

BETWEEN:

**[name of the applicant]**

Applicant

- and -

**[Victoria Police] or [Australian Federal Police]**

Respondent

**AFFIDAVIT IN RESPONSE TO AN APPLICATION FOR BAIL**

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Date of document:

Solicitor's code:

Filed on behalf of:

DX:

Prepared by:

Telephone:

[name of solicitor]

Ref:

[Victoria Police] or [Office of Public Prosecutions Victoria]

Email:

or [the Office of the Commonwealth Director of

Public Prosecutions]

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I, [full name] of [insert place], [insert occupation], [make oath and say] or [affirm] as follows:

1. I am an Australian Legal Practitioner employed with [Victoria Police] or [Office of Public Prosecutions Victoria] or [the Office of the Commonwealth Director of Public Prosecutions] and I am the solicitor with carriage of this matter.

2. I make this affidavit in response to an application for bail by [insert name of the applicant].
3. The matters deposed to in this affidavit are based on my examination of the documents provided to me and/or information provided to me by the informant/s, [name/s of informant/s], unless otherwise specified.

**Charges for which the applicant seeks bail**

Details	Charges and dates of the alleged offending	Bail status
<p><b>[name of informant]</b></p> <p><b>Charge date:</b></p> <p><b>Next listed:</b></p> <p>[insert date] at</p> <p>[insert court]</p> <p>for [insert nature of the hearing]</p>	<p>[Insert detail the charges and dates of the alleged offending. For example:</p> <ol style="list-style-type: none"> <li>1. Recklessly causing injury pursuant to s 21 of the <i>Crimes Act 1958</i> (Vic) on 28 June 2018; and</li> <li>2. Unlawful assault pursuant to s 23 of the <i>Crimes Act 1958</i> (Vic) on 28 June 2018]</li> </ol>	<p>On remand</p> <p>Bail refused at [insert court] on [insert date]</p>

– OR –

4. I confirm that the information as set out in the applicant’s affidavit in support at paragraphs [insert paragraph numbers] captures all relevant information relating to the charges for which the applicant is currently on remand.
5. Exhibited to this affidavit and marked **Exhibit [XXX-1]**<sup>1</sup> are true copies of the charges, summaries of the alleged offending and other related documents. A certificate identifying the exhibit must be attached to the exhibited document, dated, and signed by the deponent of the affidavit and a witness. The witness

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<sup>1</sup> A certificate identifying the exhibit must be attached to the exhibited document, dated, and signed by the deponent of the affidavit and a witness. The witness must legibly endorse below their signature their name, address, and a statement of their capacity in which they have authority to take the affidavit.

must legibly endorse below their signature their name, address, and a statement of their capacity in which they have authority to take the affidavit.

– OR –

6. I confirm that the charge sheets and summaries exhibited to the applicant's affidavit in support at Exhibit [insert exhibit number] are accurate and capture all charges for which the applicant is currently on remand.

**Summary of the alleged offending**

7. [Briefly summarise the circumstances of the alleged offending.]

**Procedural history**

8. [Detail procedural history, including any previous applications for bail and reasons for refusal, and particulars of the next listing dates.]

**Bail onus and applicable legislation**

9. [State the applicable test for the bail application, such as, prima facie entitled to bail, compelling reason or exceptional circumstances, and provide the specific Schedule and item number/s within that apply to the applicant.]

**Co-accused**

10. [Provide details of any co-accused, including their respective charges, prior criminal history, and their bail/remand status.]

– OR –

11. I confirm that the information as set out in the applicant's affidavit in support at paragraphs [insert paragraph numbers] captures all relevant details pertaining to the co-accused.

**Other outstanding charges – where the applicant is on bail**

Details	Charges and dates of the alleged offending	Bail status
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<p><b>[name of informant]</b></p> <p><b>Charge date:</b></p> <p><b>Next listed:</b> [insert date] at [insert court] for [insert nature of the hearing]</p>	<p>[Insert detail the charges and dates of the alleged offending. For example:</p> <ol style="list-style-type: none"> <li>1. Recklessly causing injury pursuant to s 21 of the <i>Crimes Act 1958</i> (Vic) on 28 June 2018; and</li> <li>2. Unlawful assault pursuant to s 23 of the <i>Crimes Act 1958</i> (Vic) on 28 June 2018]</li> </ol>	<p>On bail</p> <p>Bail granted at [insert court] on [insert date]</p>
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– OR –

12. I confirm that the information as set out in the applicant's affidavit in support at paragraphs [insert paragraph numbers] captures all relevant information relating to the charge/s for which the applicant is currently on bail.
13. Exhibited to this affidavit and marked **Exhibit [XXX-2]** are true copies of the charges and summaries for which the applicant is on bail.

– OR –

14. I confirm that the charge sheets and summaries exhibited to the applicant's affidavit in support at Exhibit [insert exhibit number] are accurate and capture all charges for which the applicant is currently on bail.

**Other outstanding charges – where the applicant is on summons**

Details	Charges and dates of the alleged offending
<p><b>[name of informant]</b></p> <p><b>Charge date:</b></p> <p><b>Summons date:</b></p> <p><b>Next listed:</b>                      [insert date] at [insert court]                      for [insert nature of the hearing]</p>	<p>[Insert detail the charges and dates of the alleged offending. For example:</p> <ol style="list-style-type: none"> <li>1. Recklessly causing injury pursuant to s 21 of the <i>Crimes Act 1958</i> (Vic) on 28 June 2018; and</li> <li>2. Unlawful assault pursuant to s 23 of the <i>Crimes Act 1958</i> (Vic) on 28 June 2018]</li> </ol>

– OR –

15. I confirm that the information as set out in the applicant’s affidavit in support at paragraphs [insert paragraph numbers] captures relevant information relating to the charges for which the applicant is currently on summons.
16. Exhibited to this affidavit and marked **Exhibit [XXX-3]** are true copies of the charges and summaries for which the applicant is on summon

– OR –

17. I confirm that the charge sheets and summaries exhibited to the applicant’s affidavit in support at Exhibit [insert exhibit number] are accurate and capture all charges for which the applicant is currently on summons.

### **Criminal history**

18. The applicant has no criminal history.

– OR –

19. The applicant has a criminal history including prior convictions/findings of guilt for [insert prior offences].

20. Exhibited to this affidavit and marked **Exhibit [XXX-4]** is a true copy of the applicant's criminal history.

– OR –

21. I confirm that the criminal history exhibited to the applicant's affidavit in support at Exhibit [insert exhibit number] is current and accurate.

### **5AAAA Family Violence risks**

22. [Provide details of any family violence intervention order, or family violence safety notice, or recognised Domestic Violence Order made against the applicant that are in force.]

23. Exhibited to this affidavit and marked **Exhibit [XXX-5]** is a true copy of the order that is in force.

### **Other matters**

24. [Detail any other matters relevant to this application.]

### **Response to the applicant's affidavit in support**

25. [Address any issues arising out of the applicant's materials.]

26. Exhibited to this affidavit and marked **Exhibit [XXX-6]** is a true copy of the informant's report.

**Proposed conditions of bail if bail is not opposed**

27. The application for bail is not opposed subject to the following conditions:

- (a) The applicant reside at [insert details of proposed residence].
- (b) ...
- (c) ...

– OR –

**Opposition to application**

28. The application for bail is opposed on the basis that the applicant has not discharged the burden of satisfying the Court as to the existence of [a compelling reason that justifies the grant of bail] or [exceptional circumstances that justify the grant of bail.]

– OR –

29. The prosecution concedes that it is open to the Court to find that [a compelling reason exists that justifies the grant of bail] or [exceptional circumstances exist that justify the grant of bail]. However, bail is opposed on the basis that the applicant is an unacceptable risk of:

- (i) endangering the safety or welfare of any person; and/or  
[provide reasons for this assertion.]
- (ii) [committing an offence while on bail]; and/or  
[provide reasons for this assertion.]
- (iii) [interfering with a witness or otherwise obstructing the course of justice in any matter]; and/or  
[provide reasons for this assertion.]
- (iv) [failing to surrender into custody in accordance with the conditions of bail].  
[provide reasons for this assertion.]



**The contents of this affidavit are true and correct and I make it knowing that a person making a false affidavit may be prosecuted for the offence of perjury.**

\*Sworn or \*Affirmed at <sup>2</sup>

\*in the State of Victoria

On <sup>3</sup>

.....<sup>4</sup>

Before me, <sup>5</sup>

On <sup>6</sup>

.....<sup>7</sup>

A person authorised under section 19(1) of the ***Oaths and Affirmations Act 2018*** to take an affidavit.

\*delete if not applicable

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<sup>2</sup> Place (City, town or suburb).

<sup>3</sup> Date.

<sup>4</sup> Signature of person making the affidavit.

<sup>5</sup> Signature of authorised affidavit taker.

<sup>6</sup> Date.

<sup>7</sup> Name, capacity in which authorised person has authority, and address (writing, typing or stamp).