



THE PROVINCIAL COURT  
OF BRITISH COLUMBIA

Effective Date: **04 June 2021** (unless otherwise stated in this Notice)

**NP 19** Revisions in red

## NOTICE TO THE PROFESSION AND PUBLIC

### COURT OPERATIONS DURING COVID-19

The Provincial Court of British Columbia recognizes that the Province is still impacted by the COVID-19 pandemic. The Chief Public Health Officers of Canada and the Province still require people to keep a safe distance from each other, but currently there can be a cautious reopening of public places with health and safety protocols in place to minimize the transmission of the virus. Taking this into account, the Provincial Court has resumed court operations as described in this Notice (NP 19). This version of NP 19 has been substantially revised to reflect current court operations only and remove historical information. Archived versions of NP 19 are available [here](#). The directions in this Notice are subject to change as circumstances of the pandemic change. Anyone appearing for an in-person hearing must be in full compliance with all of the Provincial Health Officer's Orders or directions regarding COVID-19 and [Notice to the Profession and Public 22: In-Person Proceedings During COVID-19 Health and Safety Protocols](#). For virtual proceedings, see [NP 21 Guide to Virtual Proceedings](#).

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## I. FILINGS

Provincial Court registries are accepting all filings at the [applicable court registry](#) either in person or remotely (by mail, email, fax to fax filing registries under [GEN 01 Practice Direction](#), or using [Court Services Online](#) where available). To protect the health and safety of all court users and help contain the spread of COVID-19 while maintaining access to the Court, parties are encouraged to use remote filing options wherever possible.

Applications in family and small claims matters may be accompanied by **affidavits**, written statements of fact that have been sworn or affirmed to be true before a commissioner for oaths such as a lawyer or justice of the peace. In order to reduce the number of people attending court registries the Chief Judge is advising Provincial Court registries that the materials filed need not be sworn or affirmed at this time (during COVID-19). The judge who hears the matter may attach whatever weight they consider appropriate to unsworn or unaffirmed documents. People submitting affidavits must still take care to ensure their affidavits are accurate and true. If there is a hearing the judge will likely require them to swear or affirm that the contents of their affidavit are true at the hearing. See, also, [NP 20 Affidavits for use in Court Proceedings](#). The only exception is that Affidavits of Personal Service need to be sworn/affirmed before filing if the person who served the documents will not be attending the hearing.

During COVID-19, the Chief Judge is advising Provincial Court registries to accept family Applications and Notices of Motion with typewritten or electronic signatures.

Police must send Informations by telecommunication (fax or telephone) to the applicable local [court registry](#). The process hearing will be done by telephone.

Information about judicial authorizations is set out below in Part V, section 8.

## II. FAMILY (including child protection (CFCSA) and maintenance enforcement (FMEA))

If you require legal assistance with your matter, you may contact Legal Aid at 1-866-577-2525.

Please note that the only matters that will be heard in person are trials, unless otherwise ordered by a judge. They will remain on the trial list on date scheduled. Counsel and self-represented litigants are to attend Court in person on the date scheduled at 9:00 AM to advise if ready to proceed that day. The Court will determine which trials will proceed. Witnesses and parties represented by counsel are to wait outside the courthouse (within a 30 minute distance) and be prepared to be called to attend court in person.

Family remand lists (CFCSA, FLA, FMEA), family case conferences (CFCSA), family **settlement** conferences, and **family management conferences** will be heard by audioconference or videoconference on the date scheduled. For family remand, please contact the applicable [court registry](#) for dial in information/link in advance of the scheduled date.

#### **a. Consent Adjournment (CFCSA/FLA/FMEA)**

##### ***By Director's Counsel (CFCSA)***

- See [FAM 07 Practice Direction](#) and the [Consent Requisition Form](#).

##### ***By Counsel (FLA/FMEA)***

- See [FAM 09 Practice Direction](#) and the [Consent Adjournment Form](#).

##### ***By Parties (FLA/FMEA)***

- See Rule 114 of the *Provincial Court Family Rules*, B.C. Reg. 120/2020 for the procedure to adjourn a trial date by consent.

#### **b. Other Resources for Family Cases**

- The following link lists some other resources that may assist in resolving a family matter: <https://www.provincialcourt.bc.ca/types-of-cases/family-matters/links>.

### **III. SMALL CLAIMS**

See [SM CL 02 Practice Direction: Small Claims Proceedings During COVID-19](#).

### **IV. CRIMINAL (ADULT AND YOUTH)**

In this Part, “trial” includes preliminary inquiry if not already stated.

Crown and defence counsel are encouraged to appear by audioconference or videoconference on all matters except trials, preliminary inquiries, and sentencings where evidence is called until further notice.

If you require legal assistance with your matter, you may contact Legal Aid at 1-866-577-2525. Any in-custody accused who is transported to Court from a correctional facility, if they are returning to custody after the appearance, may be placed in an induction unit. For current information, see [BC Corrections' COVID-19 In-Court Protocols](#).

#### **1. JUDICIAL INTERIM RELEASE**

All judicial interim release (bail) hearings will continue to use audioconference or videoconference (instead of in-person appearances), unless a judge or justice orders otherwise. Bail applications occurring outside of Court sitting hours shall be referred to the [Justice Centre](#) (see [CRIM 05 Hearing of Bail Applications](#)). For bail hearings for all adult and youth criminal files in the Northern Region, see also [CRIM 14 Practice Direction: Northern Bail Pilot Project](#).

For consent bail variations without a surety, the Application to Vary Bail by Consent Form (PCR 317) (<https://www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-317>)

[records/court-forms/criminal-court-forms](#)) may be sent to the [Judicial Case Manager](#) at the applicable local court location in one of the following ways:

- a. by email; or
- b. if available in the location, by facsimile.

Counsel for a person in-custody may sign the Form on their behalf if it is their application. For consent bail variations with a surety, please call the [Judicial Case Manager](#) at the applicable local court location for further information.

## **2. INITIAL APPEARANCE COURT**

Counsel must endeavor to avoid unnecessary personal attendances of the accused or counsel at the courthouse wherever possible. Please refer to “Alternatives to Attending Court” in [CRIM 13 Practice Direction: Initial Appearance Court During COVID-19](#).

## **3. PRE-TRIAL CONFERENCES**

[CRIM 12 Practice Direction: Criminal Pre-Trial Conferences During COVID-19](#) applies to the specified adult and youth criminal files listed in the “Application” section of the Practice Direction.

This practice direction only applies to files where the accused is represented by counsel. Self-represented accused with trials requiring one day or more of trial time will have a pre-trial conference set before a judge, preferably the trial judge, approximately 8 to 10 weeks before the first date of trial for trial management purposes.

## **4. TRIALS AND TRIAL CONTINUATIONS**

In-custody and out-of-custody trials and trial continuations will remain on the trial list on the date scheduled. Counsel and self-represented litigants are to attend Court in person on the date scheduled at 9:00 AM to advise if they are ready to proceed that day. Witnesses and parties represented by counsel are to wait outside the courthouse (within a 30 minute distance) and be prepared to be called to attend court in person. The Court will determine which trials will proceed.

## **5. DISPOSITIONS**

For out of custody matters where the accused (out of custody) and counsel agree to appear by audioconference or videoconference, and the prosecutor and defence counsel have agreed to seek a sentence that does not involve any incarceration but may factor in time already spent in custody and include a one day jail sentence where the accused is not taken into custody or a conditional sentence order, in order to schedule these dispositions, defence counsel must:

- i. complete the “[Request for Resolution of Matters](#)” Form;
- ii. file the completed Form to the applicable local [court registry](#); and

- iii. provide a means by which the accused will receive a printed copy of any court order(s). For example, this could be an email, fax or mailing address for the accused or their counsel.

A Judicial Case Manager will contact counsel to schedule the hearing by audioconference or videoconference before a judge.

All materials to be relied on must be provided to the court two days in advance of the hearing. Those materials will include the picklist terms as part of any peace bond, probation order, or conditional sentence order.

Where Crown is seeking incarceration or the accused does not consent to being sentenced by audioconference or videoconference, parties must contact the applicable Judicial Case Manager to schedule these sentencings. Where the accused is appearing in person for their sentencing, counsel may appear by audioconference or videoconference and must notify the JCM of their method of appearance.

#### **6. APPLICATIONS TO REPLACE A POLICE UNDERTAKING**

For applications to replace a police undertaking under s. 502(2) of the *Criminal Code* the Application to a Judge Form (PCR 315) is available at:

<https://www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/court-forms/criminal-court-forms>.

#### **7. SPECIALIZED COURTS**

<b>Specialized Court</b>	<b>Current Status</b>
<b>Indigenous Courts (including Aboriginal Healing Court Conferences)</b>	Will remain on the date scheduled unless otherwise notified by the Court. The Court anticipates hearing these matters in person, by audioconference, or by videoconference.
<b>Drug Treatment Court of Vancouver</b>	Accused and counsel may appear, in person, by audioconference, or videoconference during the COVID period.  Crown and defence counsel are encouraged to appear by audioconference or videoconference.
<b>Downtown Community Court</b>	
<b>Domestic Violence Courts</b>	
<b>Victoria Integrated Court</b>	Accused and counsel may appear, in person, by audioconference, or videoconference during the COVID period.  Crown and defence counsel and other court participants, including ACT Team members, are encouraged to appear by audioconference or videoconference.

## 8. JUDICIAL AUTHORIZATIONS

Until June 14, 2021, as set out in my [memorandum dated February 09, 2021](#), effective February 16, 2021 (updated April 15, 2021):

1. I am directing the resumption of:
  - a. the operation of the [Practice Direction regarding Daytime Search Warrant Applications](#) (CRIM 03), which sets out a process for daytime face to face applications in the Province;
  - b. in-person applications for judicial authorizations, other than judge-only warrants, at the Justice Centre; and
  - c. in-person applications for judge-only warrants at the courthouses.
2. Affidavits in support of in-person applications for **all** judicial authorizations must be properly sworn or affirmed **before** attending at the Justice Centre or the applicable courthouse to submit your application to the Court.

### ***In-Person Applications for Judicial Authorizations at Justice Centre***

3. For in-person applications for judicial authorizations, other than judge-only warrants, at the Justice Centre:
  - a. Contact the Justice Centre (604-660-3263) to make an appointment, and you will be subject to a verbal health pre-screening process that includes answering specific questions regarding health and travel.
  - b. Arrive at the Justice Centre at your appointment time with your pre-sworn/affirmed application.
  - c. A face mask or face covering that covers your nose and mouth must be worn.
  - d. Only one affiant will be permitted to enter the Justice Centre at a time.
  - e. Affiants will be asked to provide their contact information, and the Justice Centre will contact the affiant after their application has been reviewed and advise the affiant when they may return to the Justice Centre for pick-up.

### ***In-Person Applications for Judge-Only Warrants at Courthouses***

4. For in-person applications for judge-only warrants at the courthouses:
  - a. With the exception of the requirement that all affidavits in support of in-person applications be properly sworn or affirmed before attending at the courthouse to submit your application to the Court, the local practice in place at the applicable court location prior to March 2020 will resume. Please contact the applicable [Judicial Case Manager](#) if further clarification or confirmation is required.
  - b. Review and familiarize yourself with the health and safety [protocols](#) currently in place at all courthouses.

### ***Applications for Unsealing Orders***

5. Applications for unsealing orders should be made at the court location where the judicial authorization is filed.

Effective June 14, 2021, [CRIM 03 Practice Direction: Daytime Judicial Authorization Applications](#) will apply.

### **9. SECTION 490 DETENTION OF THINGS SEIZED**

Section 490 Criminal Code extension applications will be heard by telephone. New applications must include a date/time and phone number that the applicant and disputant can attend by telephone. On the day of the telephone hearing, if the matter is uncontested, and service has been proven, the CSB Justice of the Peace or Judicial Justice will review the application along with supporting materials filed. If the matter is contested, the CSB Justice of the Peace or Judicial Justice will obtain the telephone contact information for the applicant and disputant and provide that to the applicable local [Judicial Case Manager](#), who will arrange to have a Provincial Court Judge determine by telephone any next steps.

### **10. APPLICATION TO RENDER ACCUSED BY SURETY**

Those no longer wanting to be sureties for an accused can fill out the form, [Application to render accused by surety pursuant to s. 766\(1\) of the Criminal Code](#) (PCR 967), and make that application by filing the form at the applicable local [court registry](#).

### **V. PUBLIC HEALTH EMERGENCY MATTERS**

Matters related to public health and safety and the COVID-19 pandemic, including matters under the *Quarantine Act*, *Public Health Act* and similar statutes and regulations can be filed at the applicable local [court registry](#).

### **VI. TRAFFIC, TICKET OR BYLAW MATTERS**

Parties who receive a notice of hearing and require interpreter services for their hearing must contact the Violation Ticket Center at 1-877-661-8026 prior to their hearing date.

Disputants have the options of:

- a. **Filing Written Reasons including a request for a fine reduction and/or time to pay** (link to form: <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/courthouse-services/court-files-records/court-forms/traffic/ptr022.pdf>)
- b. **Paying the fine(s) on the ticket**

To dispute a violation ticket and have a trial date assigned as a future available court date, the Disputant can download a [form](#) and mail it in to: Ticket Dispute Processing, Bag 3510, Victoria, B.C. V8W 3P7.

### ***Process for Disputant - Request to Appear by Telephone or Videoconference Form***

For violation tickets issued under the *Motor Vehicle Act* or *Motor Vehicle Act Regulations*, if the Disputant wishes to appear remotely by telephone at their traffic ticket hearing, they may ask the Court for permission by completing and submitting a [Request to Appear by Telephone or Videoconference Form](#) (PTR 824) to the Violation Ticket Centre. Please note that remote appearances by the Disputant by MS Teams videoconference are only available for hearings scheduled at specifically designated court locations and sittings at this time. In addition:

1. Individual judges and justices retain their common law authority to make directions about the proceedings in their courtrooms, including the manner in which litigants must appear before them. It is within the Court's discretion to permit or deny the Disputant's request to appear remotely at their traffic ticket hearing. It is also within the Court's discretion to subsequently require the Disputant to appear in-person after initially permitting them to appear remotely. Some of the factors that the Court may consider in exercising its discretion include the "Request Details" noted on the Form and whether it is in the interests of justice.
2. The Court will advise the Disputant of their required method of appearance.
3. If the Disputant is permitted by the Court to appear remotely at the traffic ticket hearing, they must read and abide by [NP 21 Guide to Virtual Proceedings](#).
4. Failure to attend the hearing remotely or in-person as required and failure to remain available until the Disputant's matter is concluded on the scheduled hearing date may result in their matter being deemed not disputed and a conviction being entered.

### **VII. CIRCUIT COURTS**

See Notice to Profession (NP 23) [Circuit Court Sittings During COVID-19](#).

**THE FOREGOING IS SUBJECT TO CHANGE, ANY UPDATED DIRECTIONS WILL BE POSTED ON THE COURT'S WEBSITE.**

### History of Notice to the Profession and Public

- Original Notice to the Profession and Public issued on March 19, 2020, and effective March 25, 2020 (unless otherwise stated in the Notice).
- Updated Notice issued March 23, 2020 with additions noted in red.
- April 2, 2020: Updated Appendix B to replace picture of Application to Vary Bail by Consent Form with link to the Form.
- April 14, 2020: Changes since last update noted in red, including adding applications to replace a police undertaking under s. 502(2) of the *Criminal Code* under “Persons in Custody”; revising “Judicial Authorization” section and removing “Justice Centre” section in Part III “Criminal (Adult and Youth)”; adding Part IV “Public Health Emergency Matters”; and housekeeping changes.
- April 28, 2020: Updated to set out the plan to commence recovery of some court operations that are capable of being done remotely by audioconference or videoconference.
- May 8, 2020: Updated to address: summary proceedings in criminal matters; and, some urgent matters (see page 8 for information regarding a May 16, 2020 deadline).
- June 12, 2020: Updated to remove reference to Hub Courts; address Initial Appearance Court, remand appearances, and court appearances scheduled after July 3, 2020; update Appendix “C”; add Appendix “D”. See, also, [NP 22 Resuming In-Person Proceedings During COVID-19: Health & Safety Protocols](#) and [NP 21 Guide to Remote Proceedings](#).
- July 2, 2020: Updated regarding traffic court locations, registry opening for new filings, urgent applications, additions to Appendix C and further information regarding CRIM 12.
- July 13, 2020: Updated to reflect that court registries will accept all filings, including in-person filings, and to remove references to the urgent hearing process in place during reduced registry operations; added Nelson Traffic Court sittings on August 14 and 28, 2020; and housekeeping changes to remove outdated information including several Appendices.
- July 17, 2020: Updated to add Creston Traffic Court sitting; move references to details regarding Circuit Courts to new Notice (NP 23) hyperlinked in Part VI.
- July 29, 2020: Updated “Family” and “Criminal” sections; clarification of small claims applications and payment hearing appearances after July 3, 2020.
- August 17, 2020: Removed chart under Part V “Traffic, Ticket and Bylaw Matters” as Notices of Hearing contain relevant information.
- September 28, 2020: Updated to add section d under Part I “Family”, section c under Part II “Small Claims”, and reference to “unpaid agents permitted by the presiding judicial officer” under Part V “Traffic Matters”; and consequential amendments to Part III “Criminal” further to the revised [CRIM 12](#) Practice Direction.
- October 9, 2020: Updated to reflect current court operations only, delete historical references such as to Appendix “A” – Adjournment Details, and change “remote proceedings” references to “virtual proceedings”.
- December 7, 2020: Updated Part III “Family” to reflect Early Resolution and Case Management Model in Surrey; changed title from “COVID-19: Resumption of Court Operations”.
- December 21, 2020: Updated Part V, section 8 to include reference to s. 49 *Community Charter* applications; updated Part II regarding suspension of limitation periods.
- February 16, 2021: Updated Part II title for Limitation Periods; Part V, section 8 re Judicial Authorizations; Part VII Traffic, Ticket and Bylaws to remove references to alternate locations for hearings; and housekeeping changes.

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#### History of Notice to the Profession and Public, Continued

- March 1, 2021: Updated Part VII Traffic, Ticket and Bylaws to add section entitled “*Process for Disputant – Request to Appear by Telephone or Videoconference*”; updated Part IV Small Claims re Applications and Payment Hearings.
- April 19, 2021: Removed Part II Provincial Suspension of Limitation Periods; updated Part III “Small Claims” further to [SM CL 02 Practice Direction](#); added reference to [CRIM 05](#) and [CRIM 14](#) Practice Directions in Part IV “Criminal” (#1 Judicial Interim Release); and updated Part IV “Criminal” (#8 Judicial Authorizations) re applications for unsealing orders.
- May 17, 2021: Amended Part II “Family” by removing reference to FAM 08 Practice Direction, and updating consent adjournment by parties consequential to the new *Provincial Court Family Rules*, B.C. Reg. 120/2020.
- June 04, 2021: Housekeeping amendment to Part II “Family” to be consistent with the new *Provincial Court Family Rules*, B.C. Reg. 120/2020; and updated Part IV “Criminal” (#8 Judicial Authorizations) to reflect the revised CRIM 03 Practice Direction.

By Direction of Chief Judge Melissa Gillespie  
Provincial Court of British Columbia