



THE PROVINCIAL COURT  
OF BRITISH COLUMBIA

Effective Date: *09 January 2023*

**NP 28**

## **NOTICE TO THE PROFESSION AND PUBLIC**

### **COURT OPERATIONS DURING COMMUNICABLE DISEASE PHASE OF COVID-19**

As COVID-19 still actively circulates in our communities, the Court recognizes the need to accommodate remote appearances in order to maintain court operations. Accordingly, while court operations are moving from the pandemic/emergency court operations set out in Notice to the Profession and Public 19 (“NP 19”), the BC Provincial Court is now operating in the communicable disease phase of COVID-19.

At this time, to ensure the health and safety of all court participants and to support greater access to justice, the Court is conducting proceedings in the manner set out in this Notice (see **Appendix “A”** for a summary table). The directions set out in this Notice replace those set out in NP 19. These directions are subject to change, and any updates will be posted on the Court’s [website](#).

The Court remains committed to using technology in appropriate cases to better serve court users and improve access to justice. Remote attendance options provide the flexibility to support greater access to justice, including for those living in remote communities, vulnerable people served by the Court, and those who test positive for COVID-19 and need to stay home pursuant to the [BCCDC guidelines](#).

**When counsel attend court proceedings remotely using MS Teams, they must appear by videoconference or apply to the Court to appear by audioconference only (see [NP 21](#)).**

In this Notice, “hybrid” means participants may attend court either in person or remotely without having to make an application (and no advance notice is required).

## CONTENTS

I.	FILINGS .....	2
II.	FAMILY (including child protection (CFCSA) and maintenance enforcement (FMEA)) .....	2
III.	SMALL CLAIMS.....	3
IV.	CRIMINAL (ADULT AND YOUTH) .....	3
1.	JUDICIAL INTERIM RELEASE .....	3
2.	INITIAL APPEARANCE COURT .....	4
3.	PRE-TRIAL CONFERENCES .....	4
4.	DISPOSITIONS .....	4
5.	APPLICATIONS TO REPLACE A POLICE UNDERTAKING .....	4
6.	SPECIALIZED COURTS .....	4
7.	JUDICIAL AUTHORIZATIONS.....	4
8.	SECTION 490 DETENTION OF THINGS SEIZED .....	5
9.	APPLICATION TO RENDER ACCUSED BY SURETY .....	5
V.	APPLICATION TO ATTEND TRIAL REMOTELY .....	5
VI.	TRAFFIC, TICKET OR BYLAW MATTERS .....	6
	Appendix "A" .....	8

## 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 Fax Filing Registries – Family and Small Claims](#), or using [Court Services Online](#) where available).

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. 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.

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

Information about judicial authorizations is set out below in Part IV, section 7.

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

See [FAM 11 Default Method of Attendance for Court Appearances under the Provincial Court Family Rules](#) and [FAM 12 Default Method of Attendance for Court Appearances under the Provincial Court \(CFCSA\) Rules](#).

## Consent Adjournment (CFCSA/FLA/FMEA)

Where counsel and parties agree to adjourn a matter they can use the following procedures to adjourn.

### ***By Director's Lawyer of Record (CFCSA)***

- See Rule 8(4)(b) of the *Provincial Court (CFCSA) Rules*, B.C. Reg. 533/95.

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

- See [FAM 09 Consent Adjournment \(FLA/FMEA\)](#) 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.

## III. SMALL CLAIMS

See [SM CL 02 Default Method of Attendance for Court Appearances under the Small Claims Rules](#).

## IV. CRIMINAL (ADULT AND YOUTH)

The Court has established interim guidelines for methods of attendance in criminal proceedings as set out below.

In-custody and out-of-custody trials and trial continuations are by default in person proceedings. In this Part, "trial" includes preliminary inquiry if not already stated.

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**

Attendance at bail hearings for accused persons will be remote, and attendance by counsel will be remote only in the Northern, Interior and Island Regions and hybrid in the Fraser and Vancouver Regions, subject to the following:

- [CRIM 14 Northern, Interior, and Island Bail Pilot Project](#) for bail hearings for all adult and youth criminal files in the Northern and Interior Regions
- [CRIM 05 Hearing of Bail Applications](#) for bail applications occurring outside of Court sitting hours shall be referred to the [Justice Centre](#)
- [NP 26 Chilliwack Provincial Court Bail Pilot Project](#)

For consent bail variations without a surety, the [Application to Vary Bail by Consent Form \(PCR 317\)](#) 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 fax.

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**

See [CRIM 13 Initial Appearance Court](#).

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

See [CRIM 12 Criminal Pre-Trial Conferences](#).

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. DISPOSITIONS**

Counsel may file a [Consent Requisition](#) form (Form 1, CPD-1) before the hearing date to adjourn matters. See [CPD-1 CCFM Practice Direction, and CRIM 08 Criminal Caseflow Management Rules Forms and Procedure](#).

## **5. 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 [here](#).

## **6. SPECIALIZED COURTS**

See **Appendix "A"**.

## **7. JUDICIAL AUTHORIZATIONS**

See [CRIM 03 Daytime Judicial Authorization Applications](#).

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

Section 490 Criminal Code extension applications will initially 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 use best efforts to schedule it either before a Provincial Court Judge that day if the detention period is about to expire or for another day prior to the expiration of the detention period. At the hearing before a Provincial Court Judge, attendance by all participants will be hybrid.

## **9. 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. APPLICATION TO ATTEND TRIAL REMOTELY**

If all or some court participants wish to attend a trial or trial continuation remotely that was originally scheduled to be heard in-person, they may apply to do so by filing their application (**Small Claims** [Application to a Judge - Filing Assistant](#) (SCR Form 17, SCL017); **FLA** [Application for a Case Management Order](#) (Form 10, PFA717); **CFCSA** [Application to Change Method of Attendance Form](#) (Form 10.5); or **Criminal** [Application to a Judge](#) (PCR315) at the applicable local court registry).

Remote attendance are only possible if the court location has sufficient resources and if court participants have access to the appropriate technology to attend remotely. Before making an application, the parties (or their counsel) must: (1) make the necessary inquiries with Court Services Branch to ensure there are sufficient resources at the applicable court location to facilitate a virtual hearing; and (2) ensure that court participants have the technology to appear remotely.

Even if the appropriate technology is in place, the judge has discretion to grant or refuse an application for remote attendance at trial. In addition to any applicable statutory requirements, some of the factors that the judge may consider in exercising their discretion include whether:

- a. an interpreter is required;
- b. an application will be made to have the trial conducted in French;
- c. exhibits will be entered in evidence;
- d. witnesses will be called, and if so, the number of witnesses;

- e. court participants have the means to appear remotely (computer/tablet/mobile, reliable Internet connection); and,
- f. remote attendance is in the interests of justice.

It is expected that parties or their counsel will address the above-noted factors in their submissions.

See, also, [SM CL 02](#), [FAM 11](#), and [FAM 12](#) as applicable. For criminal applications, please include the applicable *Criminal Code* sections being relied upon.

## 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](#)
- b. **Paying the fine(s) on the ticket**
- c. **Disputing the ticket**

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

### ***Process for Disputant and Officer (Prosecutor) - 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 and/or the Officer wishes to appear remotely by telephone at the traffic ticket hearing, they may ask the Court for permission by completing and submitting a Request to Appear by Telephone or Videoconference Form ([PTR824](#) for the Disputant or [PTR824b](#) for the Officer) to the Violation Ticket Centre. Please note that remote appearances by the Disputant and/or Officer 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 parties must appear before them. It is within the Court's discretion to permit or deny a request to appear remotely at a traffic ticket hearing. It is also within the Court's discretion to subsequently require the Disputant or the Officer 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 Forms and whether it is in the interests of justice.
2. The Court will advise the Disputant and the Officer of their required method of appearance.

3. If the Disputant and/or the Officer is permitted by the Court to appear remotely at the traffic ticket hearing, they must read and abide by [NP 21](#).
4. A Disputant's 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 the matter being deemed not disputed and a conviction being entered.
5. The Officer must be available and remain available until the hearing is called, spoken to and concluded.

Expired  
January 14, 2023

## Appendix "A"

### Summary of Default Method of Attendance by Appearance Type Showing Changes from NP 19 to NP 28

**\*\*Note:** "Hybrid" means participants may attend court either in person or remotely without having to make an application (and no advance notice is required). For MS Teams remote attendance, counsel must attend by videoconference or apply to the court to attend by audioconference only (see [NP 21](#)). Notwithstanding the below, family duty counsel and counsel for Parents Legal Centres may attend either in person or remotely by videoconference without having to make an application.

	Appearance Type	Participants Default Attendance Method: NP 19	Participants Default Attendance Method: NP 28	Related Notices/ PDs
<b>A. FAMILY (FLA)</b>				
1.	Trials and trial continuations	In person	In person	<a href="#">FAM 11</a>
2.	Family management conferences	Remote	Counsel by Teams video  Parties by Teams video or audio	
3.	Family settlement conferences	Remote	Counsel by Teams video  Parties by Teams video or audio	
4.	Family case conferences	Remote	n/a	
5.	Trial preparation conferences	Remote	Hybrid	
6.	Pre-trial conferences	Remote	Hybrid	
7.	Other applications: • Applications for Order about Priority Parenting Matter • Applications for Order to Prohibit Relocation of a Child • Applications about Enforcement • Applications for Case Management Order (where notice required)	Remote	In person	
8.	Protection order hearings	Remote	As set by the Registry, in consultation with a JCM	
9.	Confirm trial date (non-assize)	n/a	Hybrid	
10.	Calling of the family assize list	n/a	Hybrid	



	Appearance Type	Participants Default Attendance Method: NP 19	Participants Default Attendance Method: NP 28	Related Notices/ PDs
<b>B. FAMILY (Hague)</b>				
11.	Any appearance		Any party, including a left-behind parent, may appear by way of telephone conference or video conference where the assigned Judge considers it appropriate and where facilities for such conferences are available. The Central Authority will facilitate any such arrangements for the participation of the left-behind parent.	<a href="#">FAM 04</a>
<b>C. FAMILY (FMEA/ISO)</b>				
12.	Trials and continuations		In person  <b>ISO:</b> Amicus counsel and out-of-province party may always appear remotely	<a href="#">FAM 11</a>
13.	Appearances where notice is required to be given to another party and where evidence will be given in person		In person  <b>ISO:</b> Amicus counsel and out-of-province party may always appear remotely	
14.	Any other appearance		Hybrid  <b>ISO:</b> Amicus counsel and out-of-province party may always appear remotely	
<b>D. FAMILY (CFCSA)</b>				
15.	Family case conferences		Remote <sup>1</sup>	<a href="#">FAM 12</a>
16.	Aboriginal Family Healing Case Conferences		In person <sup>1</sup>	

<sup>1</sup> Designated representative of a First Nation, an Indigenous community, a Treaty First Nation or the Nisga'a Lisims Government may appear remotely where available if they do not intend to call their own evidence.

	Appearance Type	Participants Default Attendance Method: NP 19	Participants Default Attendance Method: NP 28	Related Notices/ PDs
17.	Trials and continuations		In person <sup>1</sup>	
18.	Appearances where notice of the application is required to be given to another party and where oral evidence will be presented		In person <sup>1</sup>	
19.	Any other appearance		Hybrid	
E. SMALL CLAIMS				
20.	Trials and trial continuations (including Rule 9.1 simplified trials and Rule 9.2 summary trials)	In person	In person	<a href="#">SM CL 02</a>
21.	Rule 13 default hearings	In person	In person	
22.	Trial conferences	Remote	Remote	
23.	Settlement conferences	Remote	Remote	
24.	Applications to a judge (requiring a hearing – i.e., not desk applications)	Remote	In person	
25.	Payment hearings	Remote	In person	
F. CRIMINAL (ADULT AND YOUTH)				
26.	Trials and trial continuations	In person	In person	
27.	Preliminary inquiries	In person	In person	
28.	Dispositions (sentencings)	Out of custody – accused in person subject to application to Court	Out of custody – accused in person subject to application to Court	
		In custody – accused by video (consent required)	In custody – accused expected to continue to attend by video (consent required)	
		Counsel – hybrid	Counsel – hybrid	
29.	Pre-trial applications		In person or remote, subject to application	
30.	Judicial interim release (bail)	Remote	Interior, Island, and Northern Regions – remote	<a href="#">CRIM 05</a> <a href="#">CRIM 14</a>

	Appearance Type	Participants Default Attendance Method: NP 19	Participants Default Attendance Method: NP 28	Related Notices/ PDs
			Vancouver and Fraser Regions – hybrid	<a href="#">NP 26</a>
31.	Initial appearance court	Hybrid	Hybrid	<a href="#">CRIM 13</a>
32.	Pre-trial conferences per <a href="#">CRIM 12</a>  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.	Remote	Remote for counsel where accused is represented  Otherwise in person	<a href="#">CRIM 12</a>
33.	Indigenous Courts	In person or remote	In person	
34.	Drug Treatment Court of Vancouver Downtown Community Court	In person or remote	Out of custody – accused in person subject to application to Court  In custody – accused expected to continue to attend by video  Support person – hybrid  Counsel – in person	
35.	Domestic Violence Courts Kelowna Integrated Court Victoria Integrated Court	In person or remote	Accused – in person  Support person – hybrid  Counsel – hybrid	
36.	Judicial authorizations	In person, unless can be done by telewarrant	In person, unless can be done by telewarrant	<a href="#">CRIM 03</a>

	Appearance Type	Participants Default Attendance Method: NP 19	Participants Default Attendance Method: NP 28	Related Notices/ PDs
37.	Section 490 Criminal Code extension applications (contested)	Remote by telephone	Hybrid	
<b>G. TRAFFIC, TICKET, BYLAW</b>				
38.	Hearings	In person	In person	

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

- Original notice issued June 16, 2022 and effective July 18, 2022.
- Revised Notice issued July 8, 2022 and effective July 18, 2022: housekeeping changes, including to Appendix "A" (D.18.) consequential to FAM 12, and adding reference in Part V to CFCSA Application to Change Method of Attendance Form.
- Revised Notice effective December 19, 2022: changes consequential to Revised CFCSA Rules and housekeeping changes.
- Revised Notice effective January 9, 2023: consequential update of CRIM 14 Practice Direction title to include Island Region.

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