

Northern Region - In-Person Applications and Trials: Criminal, Youth, Family, Child Protection, Civil and Traffic

Effective June 15th, 2020

Purpose and Comment:

As the Provincial Court of Alberta moves towards a resumption of normal operations, the purpose of this practice note is to confirm and continue the process messaged broadly to the northern region criminal Bar May 13th, 2020, recognizing that the preparation of courtrooms and courthouses, and the development and implementation of new cleaning, crowd management, security, and clerk's counter protocols continue, but that in the interim the Court wishes to hear matters to the extent reasonably possible.

The Court recognizes that counsel, litigants, and witnesses desire some certainty as to whether their matter is expected to proceed, and whether they are required to physically attend the proceedings.

Nothing in this Practice Note changes the requirement that anyone appearing before the Court must be in full compliance with all Alberta Health Services Orders or directions regarding Covid-19.

In order to be able to maintain social distancing within the courtrooms, counsel are asked to discourage the attendance of any individuals not directly involved in the proceedings before the court.

This practice note is not intended to change the requirements for personal attendance by those counsel who have routinely been attending in person, although those attendances continue to be subject to *ad hoc* considerations of distancing requirements and resulting direction of the Court.

Procedures/Guidelines:

1. In-person matters are to proceed by pre-arrangement with opposing parties and the Court. Parties who are unsure if their matter is to proceed remotely, such as family and child protection proceeding participants, are to contact the clerk for confirmation.
2. Counsel or parties who wish a matter to proceed on an "in-person" basis, whether by way of in-person application, trial or other hearing, or guilty plea, must make reasonable attempts to contact the opposing party to discuss the matter and obtain agreement.

3. Counsel or parties in such discussions must consider together the pandemic-relevant factors applicable to their proceeding, including the number of witnesses and their location (whether they reside in locked-down communities, for example, as well as the required travel distance), what witnesses might appear remotely, the existing degree of courtroom preparedness, *Charter* or other notices or issues, whether the venue can be moved from a circuit point to a base point, and any other factors counsel or parties consider relevant.
4. If counsel or parties agree a matter should proceed, they must contact the clerk manager at the relevant base point to request that the matter proceed. The clerk manager will consult with a judge, who will either approve or deny the request.
5. If counsel or parties do not agree on whether a matter should proceed, they may schedule a conference with the anticipated hearing judge, or any other judge if the anticipated hearing judge is unavailable. Counsel and parties may appear remotely. Counsel and parties are expected to be prepared to articulate the reasons for their positions, based on the considerations in 3 above. The conference judge will rule on whether the matter proceeds, when, and in what fashion, including a consideration of the availability of a courtroom, clerk, and sheriff.
6. The Court will continue to address un-scheduled in-person attendances on an *ad hoc* basis, with consideration for the existing state of courtroom and courthouse preparedness, as well as the requirement for social distancing in the courtroom and courthouse. Un-scheduled in-person attendances are not encouraged.
7. Counsel or parties appearing remotely for any purpose are expected to be immediately available when contacted by the Court, and to be in a location conducive to their participation in a remote proceeding. A default in this respect may result in the matter not being heard.
8. This practice directive is not intended to replace or interfere with the Traffic Resumption Protocol; approval of an in-person traffic proceeding, or a ruling on a disputed proceeding, will be made by the Presiding JP, based on the same considerations in 3 and 5 above.

Assistant Chief Judge Shynkar

Northern Region

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