



Magistrates' Court Victoria

Practice Direction 4 of 2014

Bail Applications

Background:

This practice direction revokes Practice Direction no. 4 of 2011.

Any reference to a self - represented applicant is to an accused who has not instructed a legal practitioner to act on the bail application.

Any reference to a Court Coordinator is to a Coordinator at the proper venue of the Court.

Applications: General

- All applications regarding bail will be listed at a time directed by the Court coordinator. It is the expectation of the Court that all applications will be ready to proceed at the listed time.
- The Court coordinator must be informed in the event that an assessment has been arranged for CISP/CREDIT Bail, Youth Justice or an Aboriginal Liaison Officer, and the anticipated time when the assessment report will be available.
- Gaol orders are the responsibility of the practitioner listing the application. Where the applicant is self- represented, the registrar of the Court will provide assistance with gaol orders, including faxing them to Central Prisoner Records.
- To assist with the timely listing of matters, applicants must advise the Court coordinator of the estimated duration of the hearing, the number of witnesses to be called and any other relevant matter.
- Where an accused is facing charges from informants in multiple briefs, a separate application must be filed and served for each informant/brief.

Applications for bail at first remand

- Applicants are not required to file an application for bail at the first remand hearing.
- The informant or his/her representative with knowledge of the case, is required to appear at the first remand hearing.

- Applications will proceed on the remand day, subject to available hearing time due to the pressure of Court business, and, if relevant, the availability of assessments for Court services such as CISP, CREDIT Bail and Youth Justice.

Applications for bail after first remand hearing where no previous application made

- Applicants must file a completed “Application for Bail”. (Court form-attached).
- Applicants must contact the relevant Court coordinator to obtain a hearing date for the application.
- Subject to any directions of the Court, applicants must notify the informant and prosecution at least three days prior to the hearing date.
- Applications by fax, email or letter will not be listed unless a hearing date has previously been obtained from the Court coordinator.

Listing of Applications by Co-accused

- Applications by co-accused will be listed before the same magistrate, if it is practicable to do so.
- Where bail hearings for multiple accused are not listed on the same date, details of co-accused must be provided to the Court coordinator when filing an application for bail.

Further applications for bail where bail has been refused or revoked

- Applications must be in the prescribed Form 11 of the Bail Regulations 2012 (the Regulations).
- Notice must be given to the informant and prosecution in the prescribed Form 11A, at least three days prior to the hearing date, unless this requirement is dispensed with pursuant to s18AK (2) and (3) of the Bail Act 1977 (the Act).
- Applications will be listed before the magistrate who previously refused or revoked bail, if it is reasonably practicable to do so.
- The Court coordinator will endeavour to accommodate a listing request of an applicant subject to resource availability.

Applications to vary bail

Where a Court has granted bail and an accused seeks a variation of bail, the following procedure will apply:

- Applications for variation must be filed in the prescribed form, being Form 11 of the Regulations.
- Applicants must contact the relevant court coordinator and obtain a date for hearing of the application.

- Applicants must give notice in the prescribed Form 11A to the informant and the prosecution, at least 3 days prior to the hearing, unless this requirement is dispensed with pursuant to s18AK (2) and (3) of the Act.
- If a surety is involved, applicants must comply with section 18AI of the Act and give reasonable notice to the surety, in the prescribed Form 14 of the Regulations, of an intention to make application to vary the amount of bail or the conditions of bail.
- Applicants are to inform the Court coordinator of the estimated duration of the hearing and the attitude of the prosecution to the application, if known.
- If reasonably practicable, the application for variation of bail will be listed before the magistrate who originally granted bail.
- Where the Court grants the application for variation of bail, the applicant is required to immediately enter into the new undertaking of bail.

Revocation of Bail

Applications for revocation of bail or discharge of surety will, if reasonably practicable, be listed before the magistrate who originally granted bail.

Applications for bail after committal for trial

Any application regarding bail after the date on which the committal proceedings have concluded must be made to the Court to which the accused has been committed to stand trial, except in accordance with s18AC (4) of the Bail Act 1977.

This Practice Direction takes effect on 17 March 2014.

Peter Lauritsen
Chief Magistrate

Date: 14 March 2014