



CALGARY CRIMINAL AND REGIONAL COURTS

REMOTE APPEARANCE PRACTICE NOTE

Effective June 6, 2022

Application

This practice note applies to Criminal matters in Calgary, as well as Criminal and Youth, Family and Child Protection, and Civil Claims in Calgary Regional Courts: Airdrie, Canmore, Cochrane, Didsbury, Drumheller, Hanna, Okotoks, Siksika, Strathmore, TsuuT'ina, and Turner Valley.

1. Introduction

- 1.1. The Provisions of Part XXII.01 of the *Criminal Code* came into force on September 19, 2019. They were soon overtaken by a global pandemic that affected many aspects of criminal practice and procedure before the Provincial Court. Many of the Public Health Orders and other measures taken to address that emergency have lapsed or been changed. This Practice Note reflects those changes as they apply to the issue of remote attendance.
- 1.2. This Practice Note also applies to applications for remote appearances in Regional Courts on Adult Criminal and *Youth Criminal Justice Act* matters. It is recognized that travel, inclement weather, and other contextual issues apply in relation to remote appearance in Regional Courts.
- 1.3. Remote appearance as described in this Practice Note refers to appearance by Webex or other applicable videoconferencing technology. Permission to appear remotely by telephone is exceptional and requires leave of the presiding Judge.
- 1.4. This Practice Note takes effect in two stages. The processes for seeking leave to appear remotely take effect on **May 30, 2022**, in order to facilitate applications for remote appearance as required for matters on or after **June 6, 2022**. The appearances in docket court described in 2.1 will take effect on **June 6, 2022**.

- 1.5. This Practice Note does not apply to appearances at the Case Management Office (CMO). CMO will continue to operate remotely.

General Principles (Adult Criminal and YCJA Matters)

- 1.6. Sections 715.21 and 715.22 of the *Criminal Code* provide:

Attendance

715.21 Except as otherwise provided in this Act, a person who appears at, participates in or presides at a proceeding shall do so personally.

Provisions providing for audioconference or videoconference

715.22 The purpose of the provisions of this Act that allow a person to appear at, participate in or preside at a proceeding by audioconference or videoconference, in accordance with the rules of court, is to serve the proper administration of justice, including by ensuring fair and efficient proceedings and enhancing access to justice.

2. Appearances in Docket Court

- 2.1. These courts address procedural and scheduling matters. That may include brief bail hearings or dispositions as permitted in the Practice Notes relating to those courts. The Crown Prosecutor and Duty Counsel with primary responsibility for those courts will appear in person. Where illness or other exigent circumstances preclude a safe in person appearance by either of these parties, they will contact the Assistant Chief Judge for direction.

Remote Attendance by all other Counsel in Docket Court

- 2.2. As provided by section 715.22, remote appearance is permitted in docket courts to serve the proper administration of justice by ensuring fair and efficient proceedings in those courts by:
 - 2.2.1. Ensuring that all video appearances are conducted in strict compliance with the [Alberta Conduct Guide for Remote Appearances](#). A remote appearance is a court appearance and both counsel and the presiding Judge have particular responsibilities to ensure that the dignity and solemnity of that appearance are always maintained. These requirements include:
 - 2.2.1.1. That remote participants are properly visible,
 - 2.2.1.2. That remote participants have a proper background,

- 2.2.1.3. That remote participants use a headset with microphone to ensure optimal sound quality and minimize background noise.
- 2.2.2. Remote appearances with the consent of both parties are permitted without prior application or leave for minor procedural matters such as adjournments to obtain instructions, an ECR position, trial, scheduled bail or disposition dates, or to set dates as confirmed through CMO or to clarify matters for CMO such as the assignment of counsel or the imposition of a publication ban. Counsel may also appear remotely where charges are stayed or withdrawn by the Crown, and for the purposes of seeking related orders, such as forfeiture or return of seized property.
- 2.2.3. Where dispositions, consent releases on bail, or changes to bail conditions on consent are to be addressed in docket court leave of the presiding Judge for remote appearance must be obtained. These applications may be made at the time of the appearance, at a prior court appearance, or through the electronic process described below.

Remote Attendance by an Out-of-Custody Accused

- 2.3. Considering the alternatives available to personal attendance in docket court for an accused person, it may be that these applications are less common. Remote appearances for accused persons represented by counsel are permitted without application for matters described in 2.2.2. Where dispositions or consent variations on bail are to be addressed in docket court, leave of the presiding Judge or an application in advance is required.

Technical Difficulties

- 2.4. Should technical or other difficulties arise with the remote appearance by either counsel or an accused person the presiding Judge may terminate the remote appearance and make any other appropriate Order or direction necessary.

3. Non-Docket Appearances

Applications for Remote Attendance by Counsel at Scheduled Bail or Disposition Hearings

- 3.1. Applications for remote attendance by counsel at scheduled bail or disposition hearings must be made in advance to the scheduled or seized Judge. These applications may be made in writing by submitting an application to an email address provided to counsel for that purpose if both parties consent. If the application for remote appearance is contested, it must be addressed in court.

3.2. Regardless of the manner of the application if it is denied the reasons will be provided on the record as required by ss 715.23(2) or 715.25(3)

4. All other Applications for Remote Attendance (Adult Criminal and YCJA Matters)

4.1. All other applications for remote attendance (by an out of custody accused for a trial or sentencing or any other participant or witness) must be made 30 days in advance (if possible) in court to the seized, assigned, or otherwise designated Judge or to the Assistant Chief Judge. If the application for remote appearance relates to a witness the time period and requirements applicable to pre-trial applications under Rule 2.5(h) (60 days) applies.

5. Applications for Remote Appearance in Regional Courts for Family and *Child and Youth Family Enhancement Act (CFYEA)* and Civil Docket Matters

5.1. Counsel in Family Law Act matters are directed to s. 8 of Alberta Regulation 149/2005, which references remote appearances in such applications. Counsel in child protection proceedings are directed to s. 2 of Alberta Regulation 39/2002, governing practice, and procedure before the Court.

5.2. Counsel, court workers, and litigants may appear in person or virtually for routine (scheduling or non-contested procedural) matters.

6. Family, CFYEA, Civil Trials and Hearings

6.1. All participants will appear in person, subject to a pre-hearing order or the discretion of the presiding Judge for all trials or viva voce hearings. An application for the remote appearance of any hearing participant must be made on notice to all other parties, in advance of the hearing or at the discretion of the presiding trial Judge in accordance with the written process described above by submitting an application to the [remote.appearance.portal] Strict compliance with the remote appearance guide is required.

7. Pre-Trial Conferences and JDR Hearings

- 7.1. Pre-trial Conferences and Judicial Dispute Resolution Hearings on these matters will be conducted remotely, unless otherwise ordered by the presiding Judge.

As per: *Joshua B. Hawkes*
Assistant Chief Judge Joshua B. Hawkes
Calgary Criminal and Regional Courts