

26 March 2020

Our ref: KS-CrLC

Mr Tom Humphreys
Chief Superintendent
Ministerial Communications and Executive Services Command
Organisational Capability
Queensland Corrective Services
Lvl 12, 69 Ann Street
BRISBANE QLD 4000

By email: 

Dear Mr Humphreys

Section 651 applications and bail applications via videolink

We are writing to seek your urgent support in overcoming a significant practical difficulty which has been heightened in the evolving COVID-19 crisis.

The Supreme Court and the District Court are encouraging the listing of sentences where there is a likelihood that the prisoner will be released from custody. This has obvious advantages in connection with reducing the prison population. One difficulty in listing sentences, when negotiations reach the stage that a sentence can be listed at short notice, is arranging for the transfer of summary offences from the Magistrates Court to the superior courts. It is generally preferable for the summary and indictable offences to be dealt with in the one sentencing hearing. Declarations of pre-sentence custody may not otherwise be available. The goals of efficiency, expedition, and consistency are facilitated.

In order to transfer a summary charge to a superior court, Sections 651 and 652 of the *Criminal Code Act 1899 (the Criminal Code)* require that the defendant personally sign a section 651 application, including an Oaths Act declaration. This means that solicitors need to personally attend at prisons or send section 651 applications by post for their clients' signatures.

Proposed amendments in the Justice and Other Legislation Amendment Bill 2019 (**JOLA Bill**) seek to dispense with the requirement for client signatures on these applications. The Legal Affairs and Community Safety Committee recommended that the amendments be passed in its' report on 21 February 2020. However, until the JOLA Bill amendments pass, we are urgently seeking your assistance in allowing all section 651 applications to be received and sent by email or facsimile. We would be very appreciative if this message could be communicated to all facilities so there is consistency in this regard.

It would also be enormously helpful if every assistance can be provided by staff of Queensland Corrective Services who are qualified as Justices of the Peace or Commissioners of Declarations, to witness the declarations.

Section 651 applications and bail applications via videolink

Bail applications via videolink

We note the Criminal List Manager's recent Note to Practitioners of 19 March 2020 which states that wherever possible, bail applications will be fast-tracked. Cases in the Supreme Court of Victoria have decided that the pandemic is an exceptional circumstance which can be taken into account in making decisions about bail. The Supreme Court in Brisbane has indicated that judges will make themselves available to hear bail applications at short notice. This has the potential to reduce the prison population at this critical time.

However, our members have reported experiencing difficulties with the accessibility of video conferencing to facilitate bail applications.

We understand that the earliest video link opportunity at the Arthur Gorrie remand centre, for example, is at least 15 April 2020, and the earliest teleconference is after Easter. We have been told of a 1 week delay for a practitioner requesting an urgent telephone call at Woodford. Whilst we are absolutely cognisant of the likely reasoning for such delays, there must, with respect, be alternative options put into place to address the demand as soon as possible. We would be pleased to work with you on other possible options in this regard.

In our view, addressing these immediate issues will significantly assist our members and their clients, and alleviate unnecessary pressure from correctional services facilities in processing practitioner visits in an already challenging and difficult time.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our policy solicitor [REDACTED] via email to [REDACTED]

Yours faithfully

[REDACTED]
Luke Murphy
President