



COVID-19 Update 2 August 2021 – Bail Application Procedures

Application to Vary Bail

On and from 2 August 2021 to 28 August 2021 at:

- **The Downing Centre;**
- **John Maddison Tower;**
- **Campbelltown;**
- **Gosford;**
- **Katoomba;**
- **Parramatta;**
- **Penrith; and**
- **Wollongong.**

all applications to vary bail will be dealt with by a Judge in chambers except in compelling cases. Personal appearances will not be permitted at any time. In a compelling case where a hearing is required, the application will be heard electronically by using the Virtual Courtroom.

Before making an application to vary bail, the defendant must notify the prosecution of the bail condition(s) that is sought to be varied and the prosecution must notify the defendant whether it consents to the application. All emails to an associate of a Judge concerning a bail application must be copied to the other party in the proceedings.

Consent Application to Vary Bail

An application to vary bail made by a defendant to which the prosecution consents must comply with the following:

1. The defendant is to email the associate of the List Judge or the Resident Judge of the relevant District Court:

- (a) a copy of the current bail condition(s);
- (b) the bail condition(s) that are to be varied by consent;
- (c) the agreed terms of the bail condition(s) that have been consented to by the prosecution; and
- (d) the reasons the defendant seeks the bail variation.

2. Where there is a surety to the defendant's bail, a separate email from the surety must be sent to the associate of the Judge in which the surety details the bail condition(s) that are to be varied and the surety agrees to the proposed variation of bail.

3. The prosecution is to email the associate of the Judge:

- (a) the bail condition(s) that are to be varied by consent; and
 - (b) the agreed terms of the bail condition(s) that have been consented to by the prosecution.
4. The Judge may require further information from the parties before making a bail decision.
5. The associate of the Judge will notify the parties if and when the orders varying bail have been made. These orders will be entered into JusticeLink by the associate immediately.

Opposed Application to Vary Bail

1. An application to vary bail condition(s) made by a defendant to which the prosecution does not consent must comply with the following:
2. The defendant is to email the associate of the List Judge or the Resident Judge of the relevant District Court:
- (a) a copy of the current bail condition(s);
 - (b) the bail condition(s) that the defendant seeks to vary;
 - (c) the proposed terms of the bail condition(s) that is to be varied; and
 - (d) the reasons the defendant seeks the bail variation.
3. Where there is a surety to the defendant's bail, a separate email from the surety must be sent to the associate of the Judge in which the surety details the bail condition(s) that the defendant seeks to vary and the surety agrees to the proposed variation of bail.
4. The prosecution is to email the associate of the Judge:
- (a) the bail condition(s) the defendant seeks to vary that is not consented to by the prosecution; and
 - (b) the reasons the prosecution opposes the bail variation.
5. The Judge may require further information from the parties before making a bail decision.
6. Where the Judge is unable to reach a bail decision on the information that has been provided by the parties, the Judge may decide that the application is a compelling case and must be heard electronically by the use of the Virtual Courtroom. The associate to the Judge will provide directions to the parties as to how and when the Virtual Courtroom hearing is to take place.

Virtual Courtroom Practitioner Guide

Practitioners are asked to familiarise themselves with the Virtual Courtroom by reading the Virtual Courtroom Guide which can be located on the District Court website.