



## **COVID-19: MATTERS IN THE PROVINCIAL COURT AND YOUTH JUSTICE COURT**

***\*This Notice consolidates, and in some cases updates, the measures previously announced.***

**Updated: Friday, July 15, 2022**

### **In-Person Proceedings**

Trials, preliminary inquiries, and some sentencing hearings are proceeding in person, provided the presiding judge is satisfied that all public health directives can be followed. Space and other considerations in some courthouses may impact operational decisions.

### **Capacity Limits**

The Provincial Court will allow expanded capacity to accommodate in-person attendance for preliminary inquiries, trials, and sentencing hearings.

However, current COVID-19 restrictions will continue in Provincial Court for intake or arraignment court, or if there is a high volume of matters scheduled in a Provincial Court courtroom.

In those instances, matters will continue to be heard virtually by telephone or video. Counsel and accused individuals should not attend in person unless it is necessary (i.e. entering a guilty plea, sentencing or other contested matters). Defence counsel are encouraged to appear on behalf of their clients, where appropriate, and individuals not directly involved in the proceedings who want to attend in person or participate virtually will still need to make that request in advance to the Court.

Provincial Court judges retain the authority to implement additional protective measures that may be required to protect the health and safety of court users as might be necessary in the circumstances.

This directive also applies to matters in the Youth Justice Court, Night Court, and Wellness Court Programs. These measures will be evaluated regularly and a separate notice will be issued when restrictions in the Provincial Court can be further eased.

## **Provincial Court Sitings in Eskasoni First Nation**

Effective June 20, 2022, Provincial Court sittings for Eskasoni First Nation will resume in person at the Sarah Denny Cultural Centre, 65 Mini Mall Dr., Eskasoni. More recently, Provincial Court sittings were happening virtually from the Sydney courthouse.

## **Self-Represented Individuals**

If you are not in custody and you have a court appearance by telephone or video in the Provincial Court, unless the Court contacts you directly, your matter will go ahead and you are expected to participate virtually. If you are unsure of the status of your matter, please [contact the courthouse](#) where your matter is scheduled to be heard.

If you are not in custody and you have an upcoming in-person appearance, including a trial or sentencing hearing, you should [contact the courthouse](#) where your matter is scheduled to be heard to determine whether the matter is proceeding.

Please note that if your matter is adjourned, you may be required to attend court in person on the new date you are provided.

## **Bail Hearings**

All bail hearings will continue to be held virtually by video on Microsoft Teams, whenever possible. Provincial Court judges in certain locations may require in-person attendance of local counsel for contested bail hearings. Counsel involved in contested proceedings should check with the judge presiding in that jurisdiction for direction.

## **Masking in Courthouses**

Masking will continue to be mandatory until further notice in all public areas of courthouses. This measure will be reassessed after Sept. 1, 2022. Masking inside courtrooms is strongly encouraged but will be at the discretion of the presiding judge.

Where possible, anyone visiting a courthouse is expected to bring their own disposable medical mask for use while in the building. However, for those who may not have one, a supply will be available at the front doors of the courthouses.

## **Virtual Court Proceedings**

In an effort to hear more matters and help address the backlog of court proceedings, the Provincial Court will continue to deal with matters by telephone or video on Microsoft Teams, where appropriate.

The Provincial Court appreciates that counsel and parties may have family obligations that make it difficult to participate in a virtual court proceeding. Counsel are nevertheless encouraged to take advantage of this opportunity to move their matters forward. We must all be flexible when it comes to technical difficulties or other challenges that participants may experience during virtual court proceedings.

### **Filing of Informations**

The Provincial Court is running a pilot project that permits law enforcement agencies to securely submit Informations to the Halifax and Dartmouth Provincial Courts by fax. The full process is outlined [here](#).

All new Informations to be laid in Halifax and Dartmouth (including release documents to be confirmed) will be received by fax in the Court Administration Offices in Dartmouth and Halifax, pursuant to Sec. 508.1(1) of the Criminal Code. When submitting these documents, law enforcement agencies are expected to use the new fillable PDF [fax cover sheet](#). The fax number for the Court Administration Office is included in the cover sheet.

**The exception will be for any daily Cells matters.** Informations for Cells will continue to be received by fax through the Justice of the Peace Centre and exempt from the pilot.

### **Individuals in Police Custody**

The Provincial Court changed its processes for dealing with individuals in police custody and prisoners at correctional facilities during the pandemic to limit in-person contact at courthouses and the Justice of the Peace Centre (JP Centre).

These changes went into effect on April 1, 2020, and **remain in effect today for evening and overnight bail matters, or if a Provincial Court judge in the region is not available to hear the matter by telephone or video during daytime hours.** In those instances, releases and remands of individuals in police custody are to be done through the JP Centre. The full process is outlined [here](#).

Work is underway to gradually transition back to the original process of having accused individuals in custody appear in person, before the court, where it is safe to do so. Police agencies should contact Sheriff Services in advance to determine whether there is space available in the cells at the courthouse for an accused to be transported.

### **Resolution of Non-Urgent Matters**

The resolution of non-urgent matters remains a priority for the Provincial Court and Youth Justice Court. Counsel are encouraged to continue reviewing their matters to see what can be resolved without an in-person hearing.

Subject to the availability of a judge and court staff, the Provincial Court has introduced a process to help clear matters off the docket where the prosecutor and defence counsel have come to an agreement or substantial agreement on the resolution of a non-urgent matter.

Counsel must complete the [Request for Resolution of Non-Urgent Matters form](#) and send it to the Supervisor of the Provincial Court. This form can be used to seek a date to appear by telephone and/or video before a Provincial Court Judge for matters including:

- Resolution by way of restorative justice referral
- Resolution by way of peace bond and dismissal of charges
- Resolution by way of withdrawal or dismissal of charges
- Resolution by way of guilty plea and request the preparation of a Presentence Report, Gladue Report, or Impact of Race and Culture Assessment (IRCA)
- Resolution by way of guilty plea and recommendation for non-custodial sentence

The full process to request the resolution of a non-urgent matter is outlined [here](#).

### **Pre-Trial and Resolution Conferences**

Until further notice, the Provincial Court will hold all pre-trial and resolution conferences via telephone or Microsoft Teams. The full process and fillable PDF forms to assist counsel in preparing for and setting up such telephone conferences are available online [here](#).

### **Consent Variation of Release Orders and Probation Orders**

The Provincial Court and the Youth Justice Court have adopted procedures and fillable PDF forms for individuals to apply to vary an undertaking, a release order or probation conditions without having to go to court in person.

The procedures outlined in the updated [May 17, 2021 Notice](#) allow for the consent variation of release conditions for individuals who have been released either by the Court (s. 515 of the Criminal Code) or by the police (s. 498, 499 or 503 of the Criminal Code), or for variation of probation conditions (s. 732.2(3) of the Criminal Code).

To help reduce the number of people visiting courthouses, staff at Nova Scotia Legal Aid will assist any unrepresented people who need urgent changes to their undertaking, recognizance, or release order.

Anyone who does not have a lawyer and is looking to vary their release conditions should contact the Legal Aid office nearest to the courthouse from which they were released. Locations and contact information for Legal Aid offices across the province are available online [here](#).

## **Peace Bond Applications**

Individuals applying for a peace bond in Nova Scotia are once again able to do so at the courthouse nearest to them, rather than having to go through the Dartmouth courthouse.

In May 2020, the Provincial Court had adopted a virtual process for dealing with applications for peace bonds during the COVID-19 pandemic. That process required individuals to email their applications to the Dartmouth Provincial Court. Presiding Justices of the Peace then triaged the applications by telephone on Wednesday evenings in Dartmouth. If the parties could not reach an agreement, a virtual hearing was scheduled at a later date.

Applications for peace bonds will now be heard by telephone from all locations in the province. Applications will be scheduled on the respective location's designated day for summary offence and peace bond matters. If the parties cannot reach an agreement, a peace bond hearing will be scheduled.

The peace bond application form, also referred to as an Information, and the Statement of Complaint can be accessed and filled out on the Courts' website [here](#).

Individuals can submit these documents by mail, email or in person at the courthouse nearest to them. Please note that full names, birth dates, addresses, phone numbers and email addresses are required for both the applicant and the defendant. Applicants are encouraged to contact court staff in advance for further instructions on filing. Contact information for all courthouses is available online [here](#).

## **Dartmouth Wellness Court**

The Dartmouth Wellness Court is operating by telephone and videoconferencing, with some limited in-person attendance to deal with scheduled matters in the Mental Health Court Program and the Substance Use Disorder Court Program.

Clinicians are doing screening assessments for new referrals primarily by telephone or video, whenever possible. Those clients who require an in-person assessment will be dealt with when the clinicians can safely meet with the applicants.

Applicants who complete the screening phase will have their files referred to the court team for review and determination of whether they qualify for admission to the program.

## **Domestic Violence Court (Halifax)**

The Domestic Violence Court in Halifax is operating by telephone and videoconferencing with some limited in-person attendance to deal with scheduled matters in the Halifax Regional Municipality.

## **Night Court**

Trials and some sentencing hearings are proceeding in person, provided the Presiding Justice of the Peace is satisfied that all public health directives can be followed. This also applies to all in-person proceedings in Night Court in Halifax and Sydney. Presiding Justices of the Peace may still handle some Night Court matters by telephone and video on Microsoft Teams, including trials, if all participants consent to a virtual proceeding.

## **Summary Offence Fines**

On April 1, 2022, the Provincial Court lifted the suspension of fine payments for summary offence convictions. That means individuals who receive summary offence tickets on April 1 or later are expected to pay the associated fine by the date indicated on their ticket, unless they notify the Court before that date of their intention to plead not guilty and appear in court.

As well, anyone who has outstanding summary offence tickets that were issued since March 16, 2020, will now be expected to deal with those tickets, if they have not been dealt with already. The full notice is available [here](#).

Individuals with outstanding tickets will receive correspondence from the Provincial Court indicating the summary offence they were charged with, the fine associated with the charge, and the new deadline to pay the fine.

Individuals have the following options to pay their fines:

- Pay online at <https://novascotia.ca/just/nsjustice/>
- Make an appointment to visit a courthouse in person
- Mail a cheque or money order payable to the Provincial Court at the mailing address on your letter (please do not mail cash)

## **Surety Declarations**

The Provincial Court has adopted a procedure for individuals to apply remotely to the Court or the Justice of the Peace Centre for a release order with surety under s. 515.1 of the Criminal Code (Declaration of Surety). The full procedure and fillable PDF form are available online [here](#). Counsel are reminded that s. 515.1(2)(a) and (b) allow for dispensing with the need for a declaration.

## **Posting Cash Bail**

Individuals posting cash bail should go to the front entrance of the courthouse and must answer the screening questions asked of everyone visiting a courthouse. Those who pass the screening questions will be allowed into the courthouse and sent directly to the front counter. Court Administration staff can facilitate the posting of cash bail. Those who do not pass will not be admitted and should make other arrangements to post cash bail.

## **Surety Rendering**

In order to be relieved as a surety, you must complete this [fillable PDF form](#), follow the instructions for electronic signing and send the form to the courthouse where your original documents were signed. The full process is outlined [here](#). If you are unable to complete the form online, please contact the courthouse by phone to arrange a time to appear by telephone before a Provincial Court judge. Phone numbers for the courthouses can be found online [here](#).

## **Warrants and Judicial Authorizations**

The Provincial Court and the Justice of the Peace Centre will continue to be available to process warrants and judicial authorizations. However, the processes to obtain search warrants have been modified to reduce in-person contact and the handling of paperwork at the courthouses and the Justice of the Peace Centre. The new process to apply at the Justice of the Peace Centre is available online [here](#).

Provincial Court judges outside the Halifax Regional Municipality will continue to sign production orders, tracking warrants and transmission data recorder warrants, as the Criminal Code does not authorize their execution by tele-warrant. That process is available online [here](#).

## **Ex Parte Applications to Unseal ITO Search Warrants & Judicial Authorizations**

The Provincial Court has implemented a remote process for *ex parte* applications to unseal Informations to Obtain (ITO) search warrants and other forms of judicial authorizations. These applications are necessary for the Crown to fulfill its disclosure obligations to defence counsel. The full process is outlined [here](#).

Prosecution services seeking to unseal an ITO are asked to prepare the unsealing application and file the documents electronically with the Provincial Court where the original ITO is filed. The original ITO will be photocopied, and a paper copy will be handed to the designated person named in the Order to Unseal.

The new remote application process is intended to balance this legal requirement with public health advice regarding social distancing and the safe handling of paper documents.

## **File Access at Courthouse**

Public access to court files is being handled by appointment. To make an appointment, please contact Court Administration at the courthouse where the matter was or will be heard. Contact information for courthouses is available online [here](#). File requests for media should be directed to the [Judiciary's Communications Director](#) to facilitate.