

NOTICE

PROVINCIAL COURT OF MANITOBA

RE: FURTHER RESUMPTIONS AND SOME CONTINUED RESTRICTIONS

RETURN TO SITTING FOR TRIALS, DISPOSITIONS AND SPECIAL SITTINGS

August 27, 2021

Since the beginning of the COVID-19 pandemic all levels of Court have taken proactive preventative measures to protect the health and safety of all court users to help contain the spread of COVID-19 while providing essential judicial services to Manitobans. Further to our earlier Notices, and due to the on-going pandemic situation in Manitoba and in line with public health directives, we will continue with the incremental steps towards re-opening already in place pursuant to previous Notices of June 23 and July 20, 2021. This Notice takes effect on Monday, August 30, 2021, and will remain in place until further notice.

OVERVIEW

The Provincial Court of Manitoba remains closed to members of the general public. Minimizing the number of people attending court in person to those whose charges are proceeding in a substantive way remains the underlying principle guiding the re-opening of the Provincial Court. It is important all court participants continue to abide by the fundamentals of wearing masks, practicing social distancing and minimizing contacts.

The Court will continue to hear all trials, preliminary inquiries and Inquests in the court centres. All special sittings and seized matters will continue to proceed. Beginning in September 2021 the Court will return to regular sittings in all circuit points in Manitoba subject to localized closures due to forest fires or COVID-19 outbreaks. When there are trials set in a circuit location, we will also hear up to five dispositions, in total, in person or remotely. When there are no trials set in a circuit location, we will hear up to ten dispositions, in total, in person or remotely.

Beginning August 30, 2021, the presumption that counsel and accused persons will appear remotely will no longer apply to adult matters proceeding to disposition and all matters under the *Youth Criminal Justice Act*. The Court encourages counsel to appear in person with their clients for these matters. If counsel or an accused person wish to appear remotely they must advise the trial coordinator in the appropriate court centre two days in advance of the appearance and provide the necessary contact information. The presiding Judge always retains the discretion to determine if a remote proceeding is appropriate in the circumstances before them.

The presumption that counsel and accused persons will appear remotely continues to apply to bail applications and all other matters where nothing substantive is expected to take place. In these cases counsel and accused persons should not be attending in person, and the matter should be spoken to remotely.

The Provincial Court of Manitoba remains open to hear applications with respect to urgent matters.

Child Protection dockets will be held in the community or court centre where they are ordinarily heard, with the restrictions to reduce the number of people attending court.

COURT CENTRES: WINNIPEG, PORTAGE LA PRAIRIE, BRANDON, DAUPHIN, THE PAS AND THOMPSON

Trials and Preliminary Hearings

In the major court centres of Winnipeg, Portage la Prairie, Brandon, Dauphin, The Pas and Thompson, the Provincial Court of Manitoba will hear all in custody and out of custody trials, special sittings and preliminary hearings in person. While the Court remains closed to the general public, those people attending as an accused or a witness may have a maximum of two support people in attendance with them.

For Winnipeg trials and preliminary hearings, counsel are reminded to email the Virtual Assignment Court (VirtualTrialAssignmentCourt@gov.mb.ca) on the morning of the hearing to let the presiding Judge know whether the matter is proceeding so it can be assigned to a trial courtroom as soon as possible. The mailbox is monitored starting at 9:15 a.m. everyday. We remind counsel (and your witnesses) not to gather outside courtroom 302 while awaiting assignment to a trial courtroom. Counsel and their clients can wait anywhere in the courthouse complex as the assignment of the courtroom is done via email.

For all court centres, we remind counsel and witnesses attending court to adhere strictly to the COVID-19 protocols and to maintain social distancing at all times.

Bail Applications and Dispositions

Bail applications and in custody dispositions will continue to proceed, with accused persons appearing by telephone or video conference, if available. All bails will proceed on the presumption all parties appear remotely, including support people.

The presumption of remote appearance by counsel no longer applies to in custody or out of custody dispositions. In a case where counsel or an accused wish to appear

remotely, notice must be provided to the appropriate trial coordinator two days in advance along with the required contact information.

The preferred platform for remote appearance dispositions is video-conferencing where available. It is expected counsel will provide an accurate time estimate of the disposition. Where video conferencing is not available for any of the parties or the Court, the parties can appear by telephone. It is incumbent on counsel to ensure they are on a phone line where they can communicate clearly with the Court, and where there is no background noise or interruptions. The presiding Judge retains the discretion to determine if the matter is appropriate to proceed remotely.

WINNIPEG

Provincial Court Counter (PCC) Dockets and Other Intake Dockets

The Provincial Court Counter Dockets and all other dockets will continue to be held virtually. No one is allowed to attend in person. For Provincial Court Counter Dockets in Winnipeg, those without counsel will be asked to phone into court to address their matter by calling either 204-948-3138 or 204-945-4612 between 8:30 a.m. and 2:00 p.m. to speak to a Staff Justice of the Peace.

Gun Prohibition Court

Beginning September 13, 2021, Gun Prohibition Court will resume sitting in person every second Monday of the month at 2:00 p.m. in courtroom 402 **for scheduled hearings only**. All other matters appearing on this docket not set for hearing must either proceed virtually via remote appearance, arranged in advance with the Trial Coordinator, or be adjourned to a future docket.

Legal Aid Administrative Court

Legal Aid Administrative dockets will continue to proceed virtually, all parties are to appear remotely.

Private Prosecution Court

All Private Prosecution matters will continue to be administratively adjourned to future dockets. The Court will notify the parties of the next date. Any peace bonds that can be dealt with remotely should be scheduled by contacting the Disposition Coordinator and set for a virtual appearance.

CHILD PROTECTION

Child Protection proceedings are considered to be a priority in the essential services provided by the Court during this time and therefore Child Protection dockets from the court circuit points will occur in the circuit location, or if that is not possible, court centres of Winnipeg, Thompson, The Pas, Dauphin and Portage la Prairie, on the same date the Child Protection docket was to take place in the circuit court. The practices set out in our Notice of April 16, 2020, will continue except only those persons essential to the proceedings can appear in person. Counsel are to coordinate staggered appearances to allow for physical distancing and facilitate remote attendance wherever possible.

Counsel may attend but are encouraged to appear by telephone for the Child Protection dockets.

Child Protection, *Family Maintenance Act* and Private Guardianship trials will proceed as scheduled. Counsel are encouraged to contact the appropriate court centre to arrange teleconference case management meetings to discuss alternative options. The Court remains available to hear applications with respect to urgent matters, especially where those can be arranged with the parties attending remotely.

PROTECTION ORDERS

Protection Order applications will continue to be heard by Judicial Justices of the Peace.

CASE MANAGEMENT CONFERENCES

Case Management Conferences will continue as scheduled, but will be conducted by videoconference where available, or by teleconference.

PROVINCIAL OFFENCES COURT- WINNIPEG

Beginning August 30, 2021, the Provincial Offences Court Office at 373 Broadway Avenue, Winnipeg, will re-open to the public for limited in person *Highway Traffic Act*, Provincial Offences and By-law hearings.

Only those with matters scheduled in advance for a hearing will be permitted to attend in person along with any witnesses.

Some *Highway Traffic Act* matters will proceed virtually. If your matter can proceed virtually, and you agree to do so, you will be contacted directly by the Court with the date and time of your hearing along with instructions of how to attend remotely. All

matters that have previously been scheduled to proceed virtually will proceed as scheduled.

If you receive a Provincial Offence ticket you must contact the Court by calling 204-945-3156 or 1-800-282-8069 between the dates and before the final response date on your ticket. The court office remains open to accept fine payments only if other remote options cannot be utilized.

CIRCUIT LOCATIONS

All special sittings, in custody and out of custody trials/preliminary hearings and scheduled dispositions will proceed in all circuit locations. All participants are expected to follow the COVID-19 protocols in each circuit location so the matters can proceed safely and within the public health guidelines.

The circuit court locations continue to be closed to the general public and are only open to those people necessary to the proceedings before the courts. Those people attending as an accused or a witness may have a maximum of two support people in attendance with them. The only people in the court facility should be those who are proceeding to trial or disposition, all others will have to wait outside or any other space where social distance can be accommodated, while they are waiting for their matter to proceed before the Court.

Sheriff Officers will be assuming significant extra duties related to maintaining and enforcing COVID-19 safety protocols. As a result, it is necessary that the only people transported, in custody, are those people who will have trials proceeding in these communities. If a matter resolves in advance, it should proceed to disposition in the nearest open court centre and the transport should be cancelled. It is imperative that counsel communicate in advance regarding the trial proceeding. Counsel must confirm with Sheriff Services at least 48 hours in advance that the transport of the person for court is required. If such confirmation is not received by Sheriff Services, the person will NOT be transported to the community, to prevent the prisoner from being isolated for up to 14 days.

Virtual Dockets

Virtual dockets will continue to be held for all circuit locations from the circuit location, with the exception of the Regional JJP Criminal dockets (see below). A virtual docket is intended to be an opportunity for counsel to discuss or review the status of the matter, however, accused persons should **not** be attending court in person. Defence counsel are expected to have made every effort to contact their client and discuss their case prior to the court proceeding. If a matter can be dealt with remotely, the matter can proceed.

Please note, any in custody accused who is transported to attend for a matter outside a court centre (Winnipeg, The Pas, Portage la Prairie, Brandon, Dauphin or Thompson) or if they share transport with a new admission or someone from another correctional centre, will have to isolate for 14 days, upon their return to the correctional centre.

A further exception has now been announced by Corrections for those who are 14 days past being fully vaccinated, these persons will have to isolate for 48 hours, and if they are asymptomatic after a negative test, their isolation period will end.

Number of Dispositions

This notice sets out the maximum number of dispositions that can be set in order to reduce the number of people attending court. This does not eliminate the obligation on counsel to consider the length of each disposition and given that length, the total number of dispositions that can reasonably be set at each court sitting.

In those locations where trials are set, up to five in person or remote dispositions can be set. In those locations where trials are not set, up to ten dispositions, in person or remotely, can proceed on the docket. If a trial is set in a circuit location after the release date of this notice (where no trials were previously set on the date), then the number of dispositions should be reduced to five dispositions. In all other cases, as noted below, matters will be addressed during the virtual dockets or adjourned to the next sitting of that court, and may be subject to further notices based on changes to public health directives.

REGIONAL JJP CRIMINAL DOCKETS

Regional JJP Criminal Dockets will continue to be heard virtually in Thompson. All parties may appear remotely.

REGIONAL PROVINCIAL OFFENCE SITTINGS

Beginning in September 2021 Provincial Offences Court (including *Highway Traffic Act* matters) will resume sitting for limited in person hearings in the regional court centres of Portage la Prairie, Brandon, Dauphin, The Pas and Thompson. Only those with matters scheduled in advance for a hearing will be permitted to attend in person along with any witnesses. All other matters that have not been scheduled in advance for hearing will be adjourned to future dates without an in person appearance. You will be notified of the date by the court.

Some regional *Highway Traffic Act* matters will proceed virtually. If your matter can proceed virtually, and you agree to do so, you will be contacted directly by the Court with the date and time of your hearing along with instructions of how to attend

remotely. All matters that have previously been scheduled to proceed virtually will proceed as scheduled.

If you receive a Provincial Offence ticket you must contact the Court by calling 204-945-3156 or 1-800-282-8069 between the dates and before the final response date on your ticket. Regional court centres remain open to accept fine payments only if other remote options cannot be utilized.

All other regional Provincial Offences court sittings (including *Highway Traffic Act* matters) in Selkirk, Steinbach, Beausejour, Morden, Flin Flon, Swan River, Virden and Minnedosa remain suspended until further notice.

ISSUED BY:

“ORIGINAL SIGNED BY:”

The Honourable Chief Judge Margaret Wiebe
Provincial Court of Manitoba

DATE: August 27, 2021