

NOTICE

PROVINCIAL COURT OF MANITOBA

RE: BAIL VARIATION PROCESS Effective November 1, 2006

Introduction

In March 2005, the Governance & Policy Unit, Courts Division made a recommendation to Senior Management and the Judiciary on a process to streamline the bail variation process by:

- allowing bail variations on non-domestic violence matters to follow a similar process to the domestic violence matters; and
- designing a bail variation form that could be used for both domestic and non-domestic violence matters.

A committee was struck that included representatives from the Crowns, Magistrates, Courts Administration, Court Operations, CCAIN Working Group, Front End Project and the Governance Unit. As a result, a new variation form has been developed that can be used for in court or out of court variation applications and for domestic or non-domestic violence matters. As well, changes to the procedures for processing consent variations have been developed and will be used province-wide. These changes have been approved by the committee as well as Senior Management, the Judiciary and the Provincial Court Rules Committee.

Procedures

The consent bail variation process will now encompass both domestic violence matters and non-domestic violence matters where the requirements of the particular clause do not require an appearance in court before a Judge.

The changes are as follows:

- Once the consent bail variation has been processed by the court, the accused and surety (if applicable) will be required to sign the Variation/Notification form before the variation is in effect.
- The consent of the Crown to the variation is conditional upon the signed acknowledgement by the accused.
- No notifications will be made to stakeholders until the accused has signed the variation form.
- If the accused fails to sign the form within 14 days of its receipt in the Court office, it will be returned to the applicable Crown to deal with.

- A process to track the 14 day time frame will be developed by each individual Court office.

Crown Consent Variations

Variation to a Release by an Officer in Charge or a Justice

When a variation is requested on a release granted by an Officer in Charge or a Judicial Justice of the Peace, the process is as follows:

- Defence or the accused would complete the Variation/Notification form and attach a copy of the particular release document;
- the completed form and attachment would be forwarded to the Crown;
- if the Crown consents to the variation, Defence or the accused would be notified and the Variation/Notification form would be forwarded to the Court;
- a Staff Justice would confirm the validity of the request and endorse the form;
- a Staff Justice would interview surety and witness surety signature (if applicable);
- a Staff Justice would witness the signature of the accused;
- if the accused does not sign the form within 14 days of the notification by the Crown, the form will be returned to the Crown to deal with; and
- once the form is signed, Court staff will notify stakeholders of the variation

Variation to Release Ordered by a Judge

When a variation is requested on a release granted by a Judge, the process is as follows:

- Defence or the accused would complete the Variation/Notification form and attach a copy of the particular release document;
- the completed form and attachment would be forwarded to the Crown;
- if the Crown consents to the variation, Defence or the accused would be notified and the Variation/Notification form would be forwarded to the Court;
- a Duty Judge will grant or deny the variation or request that a hearing be held;
- if approved, Court staff will notify Defence or the accused;
- a Staff Justice would interview surety and witness surety signature (if applicable);
- a Staff Justice would witness the signature of the accused;
- if the accused does not sign the form within 14 days of the notification by the Crown, the form will be returned to the Crown to deal with; and
- once the form is signed, Court staff will notify stakeholders of the variation.

Variation Granted by Judge in Court

The process currently followed in the courtroom would remain the same with the following exception:

- if the accused or surety are not present in the courtroom, the variation form would be forwarded to the court office;

- a Staff Justice would witness the signature of the accused and surety (if applicable);
- if the accused does not sign the form within 14 days of the court date, the form will be returned to the Crown to deal with; and
- once the form is signed, Court staff will notify stakeholders of the variation.

Forms

Variation/Notification Form MG-5268

The Variation/Notification Form has been revised and will be used for in court or out of court bail variations province-wide. This form includes instructions on the reverse entitled "*How to Change Your Bail Order*".

This document is available in PDF format at http://www.manitobacourts.mb.ca/pdf/form_5268.pdf

Notification of Contact by Offender Form MG-5514

The Notification of Contact by Offender Form has also been revised to allow for its use when the particular clause of the recognizance or undertaking only requires notification to the court of a change of name, address, job, school or training. This form was previously used only for "notify the court" clauses on probation or conditional sentence orders but has been changed to include recognizance and undertaking. This form is an in-house form for use by Courts staff.

ISSUED BY:

Original signed by _____
Chief Judge Raymond E. Wyant
(Manitoba)

DATE: October 2006