

NOTICE

COURT OF QUEEN'S BENCH OF MANITOBA

RE: ADJUSTMENT TO CURRENT SCHEDULING PROTOCOLS SEPTEMBER 7, 2021, UNTIL FURTHER NOTICE

Despite what are continuing signs of optimism for those vaccinated against the COVID-19 virus, there remain health and safety concerns with the Delta variant and possible mutation of new variants. These concerns call for a cautious approach in the transition to further normalization of Court of Queen's Bench hearings. Although these transitional attempts at normalizing much of this Court's judicial service represent a necessary effort to co-exist with what is still the somewhat unpredictable situation surrounding COVID-19, the earlier announced public safety measures remain in effect (i.e., masks, social distancing, screening questions, and sanitization, etc.) As always, given the unpredictable and evolving nature of the virus, this Court will be ready, if and when necessary, to make whatever changes required in order to further maximize the safety of all Court participants.

This Notice is meant to announce that during this transition, so as to best ensure access to justice while continuing to protect all court participants, the court will be further enhancing its in-person judicial service commencing with the fall term on **Tuesday, September 7, 2021, until further notice.**

In the **General Division**, the following protocols will be in effect:

- All judge-alone and jury criminal trials for both in-custody and out-of-custody accused will proceed as scheduled and in person, including where an accused is self-represented.
- All civil trials and other civil hearings where there is to be oral evidence (for example, summary judgment motions with oral evidence) will proceed as scheduled and in person, including where one or more party is self-represented. Nevertheless, with the increased availability of video capacity, counsel are encouraged to also consider requests to the presiding judge to permit a witness to appear by video conference where it is sensible having regard to issues of access, expediency, and proportionality. For example, this may include an out-of-province expert witness.
- The Protection Order Hearing List will proceed in person.
- Where video-capacity allows and all parties are represented by counsel, all contested applications, motions, summary conviction appeals, and special hearing bails and bail reviews may proceed by video conference. Where it is not possible to proceed by video conference (for example, due to a lack of video capacity), these hearings will proceed by audio conference. Protocols governing video

conference hearings will be as set out in the Practice Direction of December 18, 2020 (Appendix A).

- All other judicial services being offered by video or audio conference in the areas of criminal and civil law will continue as before unchanged.

In the **Family Division**, the following protocols will be in effect:

- All family and child protection trials will proceed as scheduled and in person, including where one or more party is self-represented. Counsel are encouraged to also consider requests to the presiding judge to permit a witness to appear by video conference where it is sensible having regard to issues of access, expediency, and proportionality.
- The Child Protection Intake List and child protection pre-trial conferences will proceed in person.
- The Family Triage Hearing List will proceed in person.
- The Triage Screening List, overseen by Angie Tkachuk, will continue to proceed via telephone.
- Where video capacity allows and all parties are represented by counsel, motions, and JADRs may proceed by video conference. Where it is not possible to proceed by video conference (for example, due to a lack of video capacity), these hearings will proceed by audio conference. Protocols governing video conference hearings will be as set out in the Practice Direction of December 18, 2020 (Appendix A).
- All other Family Division judicial services currently being offered by video or audio conference will continue as before unchanged during this transition.

In-Person Attendance Protocols

The previously announced health/safety protocols governing attendance at the Law Courts Complex will all continue to apply.

As announced in the Notice of August 6, 2021 (by all three courts), until further notice, everyone attending the Law Courts Complex will be expected to abide by current protocols and Practice Directions including:

- The initial screening conducted by sheriff's officers;
- The wearing of masks;
- The appropriate social distancing; and
- Sanitation measures.

These health/safety protocols also contemplate that in-person hearings take place in courtrooms that are large enough to permit social distancing and are otherwise properly equipped to permit trials to proceed safely. Given the ongoing challenges presented by the COVID-19 pandemic, it may be that where justified, some portion of a trial or other in-person hearing will proceed by video conference. For example, because of a travel restriction or the need to self-isolate, it may be that one or more witnesses are unable to attend a trial in person. Similarly, it may be that once a trial has commenced, a participant

is unexpectedly unable to attend the trial in person. In such situations, it is within the discretion of the trial judge to employ the use of video conference equipment (where available) in order to continue with the trial by having one or more participants appear remotely by video conference.

In advance of any scheduled in-person hearing, so as to ensure a focused and efficient approach to the presentation of evidence and to address any anticipated complications regarding the in-person attendance of witnesses, counsel should consider communicating with the pre-trial and/or trial judge about these issues. In addition, counsel are encouraged to communicate in a timely fashion with the Manager of Court Clerk Monitors (Alnie LeBlanc, 204-945-6058), to discuss specific courtroom requirements.

This Notice comes into effect immediately.

ISSUED BY:’

“Original signed by Chief Justice Glenn D. Joyal”

**The Honourable Chief Justice Glenn D. Joyal
Court of Queen’s Bench (Manitoba)**

DATE: August 20, 2021