



FAMILY COURT
OF AUSTRALIA



FEDERAL CIRCUIT
COURT OF AUSTRALIA

Joint Practice Direction 3: JPD 3 of 2020 – The COVID-19 List

- A. This Joint Practice Direction applies to urgent family law applications filed in the Family Court of Australia and the Federal Circuit Court of Australia (“the Courts”) which are filed as a direct result of the impact of coronavirus (COVID-19).
- B. This Joint Practice Direction establishes a fast-tracked, national list in each Court (“the COVID-19 List”) to allow the Courts to swiftly deal with urgent COVID-19 applications on a national basis.
- C. This Joint Practice Direction takes effect from the date it is issued and remains in effect until and unless superseded or revoked. Given the COVID-19 situation is still evolving, amended versions may be issued.

Criteria for COVID-19 list

- 1. In order to be considered for the COVID-19 List, the application must satisfy the following criteria:
 - a. the application has been filed as **a direct result of the COVID-19 pandemic**;
 - b. the matter is **urgent**;
 - c. the application is accompanied by an Affidavit (using the COVID-19 template affidavit for the **FCoA** or **FCC**) that addresses the criteria set out in paragraph 13 below;
 - d. if safe to do so, reasonable attempts have been made to resolve the issue, but were unsuccessful; and
 - e. the matter is capable of being dealt with by electronic means.

Operation of the COVID-19 List

- 2. The COVID-19 List is an initiative of the Chief Justice/Chief Judge, and is at all times managed and overseen by the Chief Justice/Chief Judge.
- 3. The COVID-19 List will operate in each Court and be administered by the National COVID-19 List Registrars. The National Registrars will, under arrangements set in place by the Chief Justice,

consider the urgency of the applications filed and triage them to Judges in each Court who have been assigned to the COVID-19 List.

4. In triaging an application, the National Registrar will consider whether the matter is suitable for an urgent electronic mediation or conciliation and may make orders to facilitate this.
5. Applications that meet the COVID-19 criteria will be given a first return date before a National Registrar or a Judge within 3 business days of being considered by the National Registrar, or less if assessed as critically urgent.
6. If the application does not meet the relevant criteria for inclusion in the COVID-19 List, it will be listed into a duty list or referred to the relevant docket Judge, if applicable, for hearing in the ordinary course.
7. Judges will hear matters in the COVID-19 List on national basis as allocated by the Chief Justice/Chief Judge through the National Registrars based on demand and available judicial resources.
8. If the matter involves significant risk to the parties and/or the children, it will be referred directly to a Judge by the National Registrar.
9. If the application is part of an existing proceeding and has already been docketed to a Judge, that Judge will be consulted in the listing process and invited to mention the application within the required time period if possible.
10. The COVID-19 List will operate electronically, meaning that the application may be heard by a Judge from any Registry.
11. The COVID-19 List Judge will only hear the discrete COVID-19 application, or put interim arrangements in place to deal with the circumstances of urgency. Once that issue is dealt with, the remainder of the matter will be case managed by the docket Judge or a Registrar as appropriate.

Filing an application in the COVID-19 List

12. Applications to be placed in the COVID-19 List are to be filed by email to:
 - a. COVID19List@familycourt.gov.au; or
 - b. COVID19List@federalcircuitcourt.gov.au .
13. To file an application in the COVID-19 List, the Applicant must file:
 - a. The application;
 - b. A supporting affidavit of no more than 6 pages using the COVID-19 template affidavit;

- c. A cover letter for urgency – see Annexure;
 - d. In the Federal Circuit Court, a Notice of Risk or, in the Family Court, a Notice of Child Abuse, Family Violence or Risk of Family Violence (if applicable).
14. In accordance with [JPD2 of 2020 Special Measures in response to COVID-19](#), the Application and Affidavit may be signed electronically. The Affidavit may be filed without a qualifying witness also signing the document.
15. The Affidavit must address the following criteria:
- a. why the matter is urgent;
 - b. how the dispute has arisen as a direct result of COVID-19;
 - c. details of any current allegations of risk to children or parties, such as a risk of child abuse or family violence;
 - d. details of the parties' reasonable attempts to resolve the dispute through negotiation, or details of why it was not safe to attempt to resolve the dispute by negotiation; and
 - e. details of how it is proposed the Respondent can be provided with a copy of the court documents, including information about the Respondent's current email address; and
 - f. if applicable, annexing (or attaching a copy or photo of) any current family law orders, parenting plans, or family violence orders, e.g. an intervention order or domestic violence order.
16. Unless it is not safe to do so, the Applicant must copy the Respondent into the email when emailing the documents to the Court to put them on notice of the proceedings.
17. The Registrar may require the Respondent to file answering material on short notice on the urgent issue only. If the Registrar or Judge requires further material to be filed to be able to deal with the urgent application, that will be conveyed at the first return date.

Examples of applications that may be suitable for filing in the COVID-19 List

18. The following are examples of applications that may be suitable for filing in the COVID-19 List:
- a. **Supervised contact:** the current parenting arrangements involve supervised contact, and the contact centre is closed or the supervisor is unable to perform their role, and the parties cannot agree on an alternative arrangement.
 - b. **Border restrictions:** the parties live in different States or Territories and the child cannot travel between the parties' residences due to border restrictions.

- c. **Medical:** The parties and/or child have tested positive for COVID-19 and cannot fulfil the parenting obligations due to sickness or concerns of infection.
- d. **Family violence:** There has been an increase in risk due to family violence resulting from the restrictions imposed on families during the COVID-19 pandemic.

THE HONOURABLE JUSTICE WILLIAM ALSTERGREN

CHIEF JUSTICE

FAMILY COURT OF AUSTRALIA

CHIEF JUDGE

FEDERAL CIRCUIT COURT OF AUSTRALIA

DATE: 28 APRIL 2020

Annexure: Template COVID-19 cover letter for urgency

Dear Registrar

Re: Urgent COVID-19 Application [include existing file number and matter name if applicable]

I/we request that this Application is given an urgent listing and allocated to the National COVID-19 List.

I/my client seek/s that the matter be filed in the [insert location] registry of the [Family Court of Australia].

I/we enclose the following required documents:

1. Application;
2. Affidavit of [insert name] [using the COVID-19 template affidavit]; and
3. [If a parenting matter] Notice of Risk [FCC] or Notice of Child Abuse, Family Violence or Risk of Family Violence [FCoA if applicable].

In filing this application, the Affidavit addresses the required criteria:

- a) why the matter is urgent;
- b) how the dispute has arisen as a direct result of COVID-19;
- c) details of any current allegations of risk to children or parties, such as a risk of child abuse or family violence;
- d) details of the parties' reasonable attempts to resolve the dispute through negotiation, or details of why it was not safe to attempt to resolve the dispute by negotiation;
- e) details of how it is proposed to provide a copy of these court documents to the Respondent today, including information about the Respondent's current email address; and
- f) If applicable, annexes (or attaches a photo or copy of) any current family violence order, e.g. an intervention order or domestic violence order.

Regards,