



Royal Victorian Association of Honorary Justices

RVAHJ e-news

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****New IAO Policy****

A new policy is now in place that will eliminate the requirement for Bail Justices in Interim Accommodation Order matters, where there is less than 24 hours until the next court day.

The following information was provided by Peter Power, Children's Court Magistrate:

The change brings the "safe custody" process into line with a strict reading of the Children, Youth and Families Act 2005 (Vic). Section 242(2) of the CYFA provides that "a child taken into safe custody under s.241 must be brought before the Court for the hearing of an application for an interim accommodation order as soon as practicable and, in any event, within one working day after the child was taken into safe custody". Section 242(3) of the CYFA which enlarges the jurisdiction of a bail justice provides that "Unless a child is brought before the Court under s.242(2) within 24 hours after the child was taken into safe custody, he or she must, subject to s.242(4), be brought before a bail justice as soon as possible within that period of 24 hours for the hearing of an application for an interim accommodation order". Apart from s.598 (which does not in any event involve a bail justice), the other sections dealing with apprehension of children with or without warrants all refer back to ss.241 & 242 (see e.g. s.270(7)). So you can see that the legislation - which is in identical terms to ss.69(4) & 69(5) of the predecessor Children and Young Persons Act 1989 (Vic) - contemplates an apprehended child being brought straight to Court if this can be done within 24 hours and only brought before a bail justice if the child cannot be brought to Court within 24 hours.

The legislation has not changed at all from one Act to the other. I do not know why the previous practice had sprung up and had been part of the procedure in this State for so long but it was a practice which was not strictly in accordance with the legislation. However, that did not invalidate the practice because it did not impact adversely on the rights of parents, children or anyone else.

What then happens to an apprehended child in the period between being removed from parental care and brought before the Court or bail justice? Section 242(5) of the CYFA provides the answer: "Until a child taken into safe custody under s.241 is brought before the Court or a bail justice for the making of an interim accommodation order, the child may only be placed (a) in an out of home care service; or (b) if there is a substantial and immediate risk of harm to the child, in a secure welfare service; or (c) in other accommodation approved by the Secretary in accordance with the prescribed criteria (if any)." This is in identical terms to s.69(7) of the CYPA.

I should emphasize that the rationale for the change was not any concern about the decision-making ability of bail justices. It was not a desire by DOHS - or for that matter by DOJ or the Court - to cut bail justices out of much of the loop because of any implied criticism of the BJ's role. I say "much of the loop" rather than all of the loop because s.242(3) of the CYFA makes it clear that bail justices must remain integral to the process on Friday evenings, Saturdays & Sundays up to 10am and also on the eve of any public holiday.

The reason for the change is as follows. Earlier this year the workload of the Children's Court had reached something of a crisis point. Judge Grant took an opportunity to enable the Attorney-General personally to witness how overcrowded and understaffed the Melbourne Children's Court had become. This resulted very quickly in an assessment of the staffing needs of the Court being performed by Boston Consulting Group. In the process BCG conducted extensive interviews with various stakeholders. One of the recommendations of BCG's assessment was for the appointment of additional magistrates and registrars to the Children's Court of Victoria. As from 01/07/2008, we now have 2 additional magistrates, 1 additional acting magistrate and a number of additional registrars. Further increases are proposed for future years. This has meant that Melbourne Children's Court now has the ability to run an "apprehensions court", a luxury we have never had in the past. We expect all cases in which children have been apprehended overnight to be ready for mention - and if necessary contest - no later than 11am each day. Any cases in which children have been apprehended earlier in the day are mentioned as quickly as possible provided that the relevant paperwork is filed at Court by 2pm. In the past it would frequently happen that the "apprehensions" were not able to be mentioned until after 4pm because of the pressure of other Court work. To read the legislation strictly - and to bring the child straight to Court within 24 hours - enables DOHS to cut several hours out of the apprehension processing pathway for each family and makes it easier both for DOHS and the family members' solicitors to have the case ready for mention by 11am. So far we have found that the changed process - which has been in effect for about 5 weeks - is working well and children, parents, DOHS staff & Court staff are getting away from Court a lot earlier than had previously been possible.

There has been, of course, no change in procedure for remand/bail applications for children charged with criminal offences.

Ballarat Training Day – Document Witnessing

The final Training Day scheduled for this year will be held in Ballarat on Saturday, 25 October 2008; the presentation will cover various aspects of witnessing documentation including Oaths and Affirmations, Statutory Declarations, Powers of Attorney etc.

Even if you have attended one of these sessions before, it is an excellent opportunity to meet with fellow-justices in a friendly atmosphere.

All members are invited to attend and take advantage of this FREE presentation. Why not make a weekend of it...?

New Merchandise – in time for Christmas!

New items of merchandise are planned in time for Christmas.

Some of these items will be limited in availability, so we recommend you check out the next edition of Custodes for further details and act fast!

New Merchandise – Record of Hearing booklets for Bail Justices

A reminder to our Bail Justice members that Record of Hearing booklets are now available from the office.

These booklets, now in the new A4, notepad format, are a convenient way to ensure that you keep the necessary records of your hearings.

Available for bail hearings or protection applications at \$12.95 per booklet.

Planning Day cancelled

With regret and disappointment, we have cancelled the Planning Day advertised in our last edition of Custodes.

Unfortunately, we received *only 4 bookings* to attend, which made going forward with this day pointless. On the up side, perhaps it is an indication that the vast majority of our members are satisfied with the future direction of the association? We thank those who did book to attend and apologise for any inconvenience caused by the cancellation.

Membership satisfaction survey

The responses to our membership satisfaction survey are now being collated. We're sure you are all eager to know the results and a report will be made available as soon as practicable. Watch this space!

Your RVAHJ E-mail address

Just a reminder, that all e-mail correspondence from the RVAHJ is sent to your RVAHJ e-mail address.

In order to receive our e-mails (including e-news) at your personal e-mail address, you need to go to our website, www.rvahj.org.au, log in to the members area, go to options and select mail forwarding. Just type in the address that you want e-mails forwarded to and that's it. No need to check a second 'In' box!

SPAM and your e-mail

We are aware that in recent months, the RVAHJ e-mail system has been the victim of an incredible amount of spam.

We are currently working with our IT expert to overcome this problem.

Things you can do to reduce incoming spam:

- Avoid giving out your e-mail address where possible; if you must do so, look for options, such as tick boxes, that state you won't be sent further offers or information.
- Check terms and conditions, privacy and consent policies, before disclosing personal information and check that organisations commit to not passing your information on to other parties. Read the fine print on competition entries – what are you agreeing to?
- Consider using separate e-mail addresses for different purposes.
- Use filters – a piece of software that sorts incoming e-mails and blocks those it thinks are spam.

Certifying True Copies

Questions about certifying copies of documents are often received at our office and we hope the following tips will be helpful in performing this service for members of your community.

- Yes, you can certify copies of documents written in other languages as long as you are satisfied that the copy is a true copy of the original document presented.
- No, the owner of the document does not have to be present with the documents, for example, you can certify copies of birth certificates, passports etc. even if they are not presented by the person named on the original.
- Check the reverse of the original document being presented for any information - it should appear on the reverse of the copy. If it has been copied separately, mark each copy as side one and side two respectively, and put a 'Z' through the blank side of each and mark it with your initials. This prevents anything being copied onto the blank reverse later and tells the end-recipient that the original was a double-sided document.
- Check the copy thoroughly, particularly around the edges – has the top, bottom or side, been cut off by the copier? Client's may try to tell you that this or that part is the *important* bit...we do not have the authority to make this judgement. It is not a *true* copy unless it is a *complete* copy.

RVAHJ e-news is produced as a member service by the Royal Victorian Association of Honorary Justices