



**PRACTICE DIRECTION CONCERNING
APPLICATIONS FOR BAIL PENDING APPEAL AT THE
COURT OF APPEAL FOR ONTARIO GIVEN THE
EXCEPTIONAL AND EVOLVING CIRCUMSTANCES
CONCERNING COVID-19**

(“Practice Direction – Bail Pending Appeal – COVID-19”)

April 5, 2020

Given the exceptional and evolving circumstances concerning COVID-19, and subject to any further Practice Direction that may issue, “Practice Direction – Bail Pending Appeal – COVID-19” applies until further notice and should be read in conjunction with the *Criminal Appeal Rules*, SI/93-169, Practice Direction Concerning Criminal Appeals at the Court of Appeal for Ontario (“Practice Direction”), and all applicable federal statutes:

1. This practice direction applies to all bail-related matters, including bail pending appeal applications, applications to vary bails, applications to extend bails, and bail reviews.
2. Parties are reminded that subsequent applications for bail pending appeal based on an alleged material change in circumstances are to be brought before a single judge of the Court of Appeal: see *Criminal Code*, s. 679; see also *R. v. Daniels* (1997), 35 O.R. (3d) 737 (C.A.).
3. Applications to vary a release order by extending the date on which the appellant must surrender into custody are also to be brought before a single judge of the Court of Appeal: see *Criminal Appeal Rules*, r. 34(1). The Court of Appeal would encourage counsel to bring these applications well in advance. Pursuant to subrule

34(2) and subsection 7.2.11(4) of the Practice Direction, a release order may be varied on consent without the attendance of counsel. Subrule 34(3) sets out what material must be filed on these applications.

4. Where the appellant is proposing a release order with sureties, in addition to providing the names of the sureties and the amount for which each is to be liable (as required by *Criminal Appeal Rules*, subrule 32(1)(i)), counsel are also asked to provide the following additional information on the draft release order in relation to each surety: (i) full legal name, as depicted on government-issued identification; (ii) date of birth; (iii) home address; (iv) phone number; and (v) email address (if available).
5. The Court of Appeal will be issuing a new, “all-in-one” release order, with an appendix attached, which must be completed by the sureties (if any), the appellant, and a judge, justice, or clerk of the court. No additional forms or orders will be required. In particular, no surety declarations (under s. 515.1 of the *Criminal Code*) are required. However, this does not alleviate the requirement to provide surety affidavits as part of the application materials in accordance with subrule 32(1).

Counsel for the appellant are asked to work with Crown counsel to draft proposed conditions for release, should release be granted, and submit the draft “all-in-one” release order with their application materials. All materials should be filed with the court electronically using the following email address: coa.e-file@ontario.ca. Please include in the subject line of the email: the title of the proceeding, the court file number, the fact it is an application pertaining to bail, and a proposed date of hearing. Counsel bringing the application are also asked to contact the motions clerk by calling (416) 327-5025 in order to advise the motions clerk of the application being filed. It is the responsibility of counsel to ensure that their materials have been received by the court.



April 5, 2020

Chief Justice George R. Strathy

Date

Effective: April 5, 2020