



**Children's Court  
Victoria**

**PRACTICE DIRECTION  
No. 2 of 2018**

**PROCEDURE FOR INDICTABLE OFFENCES THAT MAY BE HEARD AND  
DETERMINED SUMMARILY**

This Practice Direction is issued pursuant to Section 592 of the *Children, Youth and Families Act 2005*.

**Preamble**

The *Children and Justice Legislation Amendment (Youth Justice Reform) Act 2017* ('the Act') makes significant amendments to the procedure for indictable offences that may be heard and determined summarily under the *Children, Youth and Families Act 2005* ('CYFA')<sup>1</sup>.

The Act inserts a new definition of **Category A serious youth offence** and **Category B serious youth offence**. A table setting out the Category A serious youth offences and Category B serious youth offences is attached to this Practice Direction.

Section 356(6) of the CYFA introduces a presumption of uplift to a higher court where a child is charged with a Category A serious youth offence committed when the child was aged 16 years or over.

Section 356(8) of the CYFA requires the Children's Court to consider whether the charge should not be heard and determined summarily where a child is charged with a Category B serious youth offence committed when the child was aged 16 years or over.

**Directions**

**Category A serious youth offences – Section 356(6)**

1. Where a child is charged with a Category A serious youth offence alleged to have been committed when the child was aged 16 years or over, the charge must be listed for filing hearing:
  - (a) within 7 days after the charge sheet is filed if the child has been arrested and either remanded in custody or granted bail; or

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<sup>1</sup> To apply where the relevant indictable offence is alleged to have been committed on or after 5 April, 2018.

- (b) within 28 days after the charge sheet is filed if a summons to answer to a charge is issued.
2. Either the accused child or the prosecution may apply to have the charge heard and determined summarily upon filing and serving an application for summary jurisdiction (“the application”) with the Court. The application should be filed using the General Application Form 6 prescribed by the *Children’s Court Criminal Procedure Rules 2009*.
  3. The parties are directed to contact the co-ordinator at the relevant venue of the Court to obtain a suitable date for the hearing of the application.
  4. No later than 3 business days prior to the hearing of the application, the parties are directed to file and serve:
    - (a) the prosecution summary;
    - (b) any prior criminal history of the child;
    - (c) any other material to be relied upon; and
    - (d) an outline of submissions addressing s356(6)(a)-(c) and (7) of the CYFA.

**Category B serious youth offences – Section 356(8)**

5. Where a child is charged with a Category B serious youth offence alleged to have been committed when the child was 16 years or over, the Court will list the matter for hearing to determine whether the charge should not be heard and determined summarily:
  - (a) within 21 days after the first mention; or
  - (b) otherwise as directed by the Court.
6. No later than 3 business days prior to the hearing, the parties are directed to file and serve:
  - (a) the prosecution summary;
  - (b) any prior criminal history of the child;
  - (c) any other material to be relied upon; and
  - (d) an outline of submissions addressing s356A(2)(a)-(f) of the CYFA.
7. If the Children’s Court determines a Category B serious youth offence alleged to have been committed when the child was 16 years or over is unsuitable to be determined summarily, the Court will proceed to conduct a committal proceeding in accordance with s356(3) of the CYFA.

**Venue**

8. Where a child is charged with a Category A serious youth offence and the proper venue is a suburban Children’s Court, the charge must be listed for filing hearing at the Children’s Court at Melbourne.
9. Where a child is charged with a Category B serious youth offence and the Children’s Court at a suburban venue determines the charge is not suitable to be heard and determined summarily, the charge must be listed for filing hearing at the Children’s Court at Melbourne. The parties are directed to

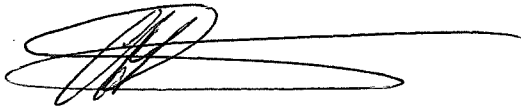
contact the Coordinator at the Melbourne Children's Court to obtain a suitable date for the filing hearing.

10. Where a child is charged with a Category A serious youth offence or a Category B serious youth offence and the proper venue for the charge is a regional Children's Court, the charge will be managed at the regional court in accordance with the timeframes contained in this Practice Direction.

**Practice Direction review**

11. The operation of this Practice Direction will be reviewed after six months.

**This Practice Direction commences on 5 April, 2018.**



Judge Amanda Chambers  
President  
Children's Court of Victoria

Dated: 3 April 2018

**TABLE: CATEGORY A AND B SERIOUS YOUTH OFFENCES**

<b>Mandatory uplift to a higher court</b>	
Child charged with death-related offence (post-reform categorised as a <b>Category A serious youth offence</b> )	<b>Category A serious youth offences</b>
	Murder
	Attempted murder
	Manslaughter
	Child homicide
	Arson causing death ( <i>Crimes Act s197A</i> )
	Culpable driving causing death ( <i>Crimes Act s318</i> )
<b>Presumption of uplift to a higher court</b>	
Child aged 16 years or over when alleged to have committed a <b>Category A serious youth offence</b>	<b>Category A serious youth offences</b>
	Intentionally causing serious injury in circumstances of gross violence ( <i>Crimes Act 1958 s15A</i> )
	Aggravated home invasion ( <i>Crimes Act s77B</i> )
	Aggravated carjacking ( <i>Crimes Act s79A</i> )
	Terrorist act offences ( <i>Criminal Code Act 1995 (Cth) Division 101</i> )
<b>Uplift to a higher court if exceptional circumstances exist</b>	
Child aged 16 years or over when alleged to have committed a <b>Category B serious youth offence</b>	<b>Category B serious youth offences</b>
	Recklessly causing serious injury in circumstances of gross violence ( <i>Crimes Act 1958 s15B</i> )
	Rape ( <i>Crimes Act s38</i> )
	Rape by compelling sexual penetration ( <i>Crimes Act s39</i> )
	Home invasion ( <i>Crimes Act s77A</i> )
	Carjacking ( <i>Crimes Act s79</i> )