AMENDMENTS TO RESEARCH MATERIALS

This table contains a running list of amendments which have been made to the 12 files containing the Research Materials text.

This table is also useful as an INDEX to cases referred to in the Research Materials text.

In addition, a separate INDEX to the 12 chapters has been available on‑line since 20/10/2022 and is updated from time to time as required.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| DATE | | CHAP. | SECTION | | AMENDMENT |
| 13/06/24 | | CHAPTER 1 – HISTORY, ACTS, REGULATIONS, RULES | | | |
| 13/06/24 | | 1 | 1.1.1 | Addition to text primarily to include details of the locations of the Melbourne Children’s Court from 1908 to the present time. | |
| 13/06/24 | | 1 | 1.1.5 | Note that all remaining provisions of the *Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Act 2023* are to come into operation on 01/07/2024. | |
| 13/06/24 | | 1 | 1.6.3 | Updating and other minor modifications to text. | |
| 13/06/24 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 13/06/24 | | 2 | 2.1 | Very minor modification to text. | |
| 13/06/24 | | 2 | 2.3 | Updating of the list of Children’s Court Office Holders. | |
| 13/06/24 | | 2 | 2.7.3 | Reference to *Re Cardwell* [2024] VSC 263 at [48]‑[50]. | |
| 13/06/24 | | 2 | 2.7.6 | Updating and expansion of text. | |
| 13/06/24 | | 2 | 2.8.2 | Reference to *Mongan v The King (suppression application)* [2024] VSCA 125 at [12]-[13]. | |
| 13/06/24 | | CHAPTER 3 – COURT OPERATION | | | |
| 13/06/24 | | 3 | 3.3.4.1 | Reference to *Porter (a pseudonym) v The King* [2024] VSCA 127 at [45]-[53] & [72]-[76]. | |
| 13/06/24 | | 3 | 3.5.3.7 | References to *Callaway (a pseudonym) v The King* [2024] VSCA 103 at [19]-[43]; *Fares v The King* [2024] VSCA 108 at [90]-[127]. | |
| 13/06/24 | | 3 | 3.5.3.9 | **Heading of subsection amended to “Adducing evidence of confidential communication or protected health information”.** | |
| * Ratio of *HM v Sister Mary Monaghan* [2024] VSC 257. * References to *Skarbek v The Society of Jesus in Victoria & Ors* [2016] VSC 622; *KR v BR* [2018] VSCA 159. | |
| 13/06/24 | | 3 | 3.5.9.1 | References to *Re SLKALT Pty Ltd (in liq)* [2024] VSC 250; *Arnautovic v The King* [2024] VSC 235, especially at [25]-[31]. | |
| 13/06/24 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 13/06/24 | | 4 | 4.9.3 | Minor addition to text. | |
| 13/06/24 | | 4 | 4.9.4 | Updating of statistics and significant amendments to text. | |
| 13/06/24 | | 4 | 4.9.8 | Minor addition to text. | |
| 13/06/24 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 13/06/24 | | 7 | 7.10.1 to 7.10.5 | Amendments to clarify whether it is DFFH or DJCS to which reference is being made. | |
| 13/06/24 | | 7 | 7.12.6 | **New section headed “Committing an act that outrages public decency”.** | |
| Summary of *Pusey v The King* [2024] VSCA 110 and references to a number of cases that are referred to in the judgment. | |
| 13/06/24 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 13/06/24 | | 9 | 9.0.2 | Reference to *Runacres v The Coroners Court of Victoria* [2024] VSC 304. | |
| 13/06/24 | | 9 | 9.4.1.1 | Summaries of *Re Taylor* [2024] VSC 233; *Re Al-Mandalawy* [2024] VSC 298. | |
| 13/06/24 | | 9 | 9.4.1.3 | Summary of *Re FT* [2024] VSC 158, extract from [85]-[95] and cross-reference to **subsection 9.5.9.2**. | |
| 13/06/24 | | 9 | 9.4.2.2 | Summary of *Re Harris* [2024] VSC 226 and extract from [28]. | |
| 13/06/24 | | 9 | 9.4.10 | Reference to *FT (a pseudonym) v The King* [2024] VSCA 90 at [62]. | |
| 13/06/24 | | 9 | 9.5.9 | **Heading of section amended to “Appeal”.** | |
| 13/06/24 | | 9 | 9.5.9.1 | **Heading of subsection amended to “Appeal to the Supreme Court”.** | |
| * Reference to s.18A(12) of the **BA** moved into subsection 9.5.9.2. * Expanded summary of *Re Zhang* [2023] VSC 8, including extract from *Beljajev & Pinhassovitch v DPP (Vic) & CDPP* [Supreme Court of Victoria-Appeal Division, unreported, 08/08/1991] at pp.29-30. | |
| 13/06/24 | | 9 | 9.5.9.2 | **Heading of subsection amended to “Appeal to the Court of Appeal”.** | |
| * Added reference to s.18(12) of the **BA** and s.17(2) of the *Supreme Court Act 1986*. * Summary of *Re Zayneh* [2023] VSC 470 and extract from the Court of Appeal judgment in *Zayneh v The King* [2023] VSCA 311 at [37]‑[44]. * Summary of *FT (a pseudonym) v The King* [2024] VSCA 90 and extracts from [51] & [59]‑[64]. * Added cross-references to **subsection 9.4.1.3**. | |
| 13/06/24 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 13/06/24 | | 10 | 10.3.3.5**B** | Summary of *Sladek v The King* [2024] VSCA 119 and extract from [80]. | |
| 13/06/24 | | 10 | 10.3.3.5**C** | References to *Sturt (a pseudonym) v The King* [2024] VSCA 102; *Allen v The King* [2024] VSCA 128. | |
| 13/06/24 | | 10 | 10.3.4 | References to *R v Frank (No 2)* (2021) 288 A Crim R 104; *DPP v Rapisarda (No 2)* [2024] VSC 217 at [222] & [245]. | |
| 13/06/24 | | 10 | 10.3.7 | Reference to *Mongan v The King* [2024] VSCA 126 at [35]. | |
| 13/06/24 | | 10 | 10.6**E** | Reference to *Glascott v The King* [2024] VSCA 106 at [30]-[34]. | |
| 13/06/24 | | 10 | 10.6**M** | Reference to *DPP v Sanderson* [2024] VSC 256. | |
| 13/06/24 | | 10 | 10.6**Q** | * Summary of *Re Cardwell* [2024] VSC 263 and extract from [12]-[13]. * Reference to *In the matter of an application for a non-custodial supervision order by Roger Kozarov* [2024] VSC 275 at [30]-[50]. | |
| 13/06/24 | | 10 | 10.6**W** | Reference to *Re Cardwell* [2024] VSC 263 at [39]‑[47]. | |
| 13/06/24 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 13/06/24 | | 11 | 11.1.4.4 | References to *Gilmore (a pseudonym) v The King* [2024] VSCA 98 at [39]-[51]; *Barnett v The King* [2024] VSCA 100 at [36]-[56]. | |
| 13/06/24 | | 11 | 11.2.1 | References to *Gilmore (a pseudonym) v The King* [2024] VSCA 98 at [52]-[60]; *Fares v The King* [2024] VSCA 108. | |
| 13/06/24 | | 11 | 11.2.6 | Reference to *Moussa v The King* [2024] VSCA 113 and extract from [56]-[59]. Reference to *Gar v The King* [2024] VSCA 96 at [70]-[76]. | |
| 13/06/24 | | 11 | 11.2.9 | Summary of *Yat v The King* [2024] VSCA 93 and extracts from [65]-[67], [70]-[71], [79], [84] and [88]‑[91]. | |
| 13/06/24 | | 11 | 11.2.10 | Reference to *DPP v Gregory Reynolds* changed to *DPP v Reynolds (a pseudonym)* (2022) 71 VR 336; [2022] VSCA 263. | |
| 13/06/24 | | 11 | 11.2.12 | Reference to *DPP v Atkinson* [2024] VSC 286 at [63]-[66]. | |
| 13/06/24 | | 11 | 11.2.22.1 | Summary of *DPP v Atkinson* [2024] VSC 286. | |
| 13/06/24 | | 11 | 11.2.22.4 | Reference to *Fares v The King* [2024] VSCA 108 esp at [200]-[227]. | |
| 13/06/24 | | 11 | 11.2.23**B** | Reference to *Camin v The King* [2024] VSCA 124. | |
| 13/06/24 | | 11 | 11.2.26.1**C** | Reference to *Gar v The King* [2024] VSCA 96 at [82]-[87]. | |
| 13/06/24 | | 11 | 11.2.27**B** | Reference to *Wang v The King* [2024] VSCA 97. | |
| 13/06/24 | | 11 | 11.2.30 | Reference to *Dragovic v The King* [2024] VSCA 95 at [35]-[36]. | |
| 13/06/24 | | 11 | 11.2.36 | * Summary of *Dragovic v The King* [2024] VSCA 95 and extract from [31]-[33]. * Summary of *DPP v Lindemann* [2024] VSC 220 and extract from [96]-[98]. * Reference to *DPP v Gregory Reynolds* changed to *DPP v Reynolds (a pseudonym)* (2022) 71 VR 336; [2022] VSCA 263. | |
| 13/06/24 | | 11 | 11.3.1 | Reference to *Nuramin & Anor v The King* [2024] VSCA 117 at [57]-[58]. | |
| 13/06/24 | | 11 | 11.3.4 | Reference to *Nuramin & Anor v The King* [2024] VSCA 117 at [32]-[40]. | |
| 13/06/24 | | 11 | 11.7.1 | Reference to *The King v Hatahet* [2024] HCA 23 at [19]-[28]. | |
| 13/06/24 | | 11 | 11.15.1.1 | References to *Gilmore (a pseudonym) v The King* [2024] VSCA 98; *Benson (a pseudonym) v The King* [2024] VSCA 99. | |
| 13/06/24 | | 11 | 11.15.4 | Reference to *Nuramin & Anor v The King* [2024] VSCA 117 esp at [7], [12]-[15], [49] & [53]. | |
| 13/06/24 | | 11 | 11.18 | Reference to *Varghese v The King* [2024] VSCA 115 at [70]. | |
| 13/06/24 | | CHAPTER 12 – CHILDREN’S COURT CLINIC | | | |
| 13/06/24 | | 12 | 12.2 | Updating of text. | |
| 13/06/24 | | 12 | 12.2.1 | Minor amendments to text, including changing s.524(2) CYFA to s.524(1B) CYFA. | |
| 13/06/24 | | 12 | 12.2.2 | Amendments to text, including reference to the judgment of Incerti J in *DPP v PM* [2023] VSC 560. | |
| 13/06/24 | | 12 | 12.2.3 | Amendments to text and 1st template to reflect the introduction of CMS in Family Division (Child Protection) cases. | |
| 13/06/24 | | 12 | 12.3.3 | Major additions to text. | |
| 13/06/24 | | 12 | 12.3.4 | Minor additions to statistics and major amendments to text. | |
| 13/06/24 | | 12 | 12.3.5 | **New section headed “Research role”.** | |
| 13/06/24 | | 12 | 12.4.1 to 12.4.4 | Updating of text. | |
| 09/05/24 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 09/05/24 | | 1 | 1.4.1 | Note that P.D. No.1/2024 revokes and replaces P.D. No.3/2023. | |
| 09/05/24 | | 1 | **1.7** | **Heading of Part amended to “Yoorrook Justice Commission’s Second Interim Report & Govt response”.** | |
| Amendment to text to include the Government’s response to a number of the Yoorook Justice Commission’s recommendations. | |
| 09/05/24 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 09/05/24 | | 2 | 2.5.1 | Minor modifications to text. | |
| 09/05/24 | | 2 | 2.5.2 | Minor modifications to text. | |
| 09/05/24 | | 2 | 2.7.3 | Reference to *Attorney-General v Temssah* [2024] VSC 172 at [33]-[34]. | |
| 09/05/24 | | 2 | 2.8.2 | References to *Attorney-General v Temssah* [2024] VSC 172 at [12]-[36]; *R v Benbrika & Ors (Ruling 1)* [2007] VSC 141; *R v Lodhi* [2006] NSWSC 596 upheld on appeal (2006) NSWLR 573; *Peers v Australian Health Practitioner Regulation Agency* [2024] VSC 110 at [17]-[32]. | |
| 09/05/24 | | CHAPTER 3 – COURT OPERATION | | | |
| 09/05/24 | | 3 | 3.1 | Extract from *Constantinou v The King* [2024] VSCA 79 at [104]. | |
| 09/05/24 | | 3 | 3.1.1 | References to *AGN (a pseudonym) v Secretary to the Department of Families, Fairness and Housing (Redacted)* [2024] VSC 176 at [58]-[79]; *Shearer v Chief Commissioner of Police (Victoria)* [2024] VSC 181 at [49]-[74]. | |
| 09/05/24 | | 3 | 3.1.2 | Reference to *Andre McKechnie v Detective Peter Evans (Recusal Application)* [2024] VSC 192. | |
| 09/05/24 | | 3 | 3.3.4.1 | Reference to *Buchanan (a pseudonym) v The King [No 2]* [2024] VSCA 50 at [30]-[36] & [71]-[101]. | |
| 09/05/24 | | 3 | 3.5.3.7 | * Previous summary of and extracts from *DPP v Roder (a pseudonym)* [2023] VSCA 262 deleted. * Summary of *DPP v Roder (a pseudonym)* [2024] HCA 15 {allowing an appeal from [2023] VSCA 262} and extracts from the Court of Appeal judgment at [29] & [33]-[34] and the High Court judgment at [1]-[2] & [37]. * Reference to *Healy (a pseudonym) v The King* [2024] VSCA 80 at [50]-[65]. | |
| 09/05/24 | | 3 | 3.5.9.1 | Reference to *Peers v AHPRA* [2024] VSC 110 at [4]-[15]. | |
| 09/05/24 | | 3 | 3.5.14 | Reference to *Kelly v The King* [2024] VSCA 69 at [31]-[36] & [52]-[58]. | |
| 09/05/24 | | 3 | 3.6 | Extracts from *Miller v Minister for Immigration, Citizenship and Multicultural Affairs* [2024] HCA 13 at [24] & [26]. | |
| 09/05/24 | | 3 | 3.7.3 | * Reference to *Re Kordos* [2024] VSCA 84 at [45]-[48]. * Reference to a paper by Justice Mark Weinberg entitled “Adequate, sufficient and excessive reasons” (Judicial College of Victoria, 4 March 2014), especially at [30]-[53]. | |
| 09/05/24 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 09/05/245 | | 4 | 4.3.5 | **New section headed “Jurisdiction under the Firearms Act 1996”.** | |
| * Summary of the operation of s.189 *Firearms Act 1996* in the Children’s Court. * References to *Russo v The Chief Commissioner of Police* [2024] VSC 179 esp. at [31]-[37] & [45]-[53]; *Pickford v Chief Commissioner of Police* [2002] VSC 435 at [6]-[7]; *Clark v Chief Commissioner of Police* [2010] VSC 144; *Swebbs v Magistrates’ Court of Victoria* [2017] VSC 229 at [13]; *SBW v Chief Commissioner of Police* [2023] VSC 447 at [30]-[32]. | |
| 09/05/24 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 09/05/24 | | 5 | 5.11.16 | * Minor amendment to the commentary on *DOHS v DR* [2013] VSC 579. * Summary of *KDN v The Secretary to the Department of Families, Fairness and Housing* [2023] VSC 479 and extracts from [13], [17]-[23] & [83]-[84]. * Summary of *AGN (a pseudonym) v Secretary to the Department of Families, Fairness and Housing* and extracts from [40]-[48], [72]-[74] & [86]. Note re P.D. No.1 of 2024. | |
| 09/05/24 | | CHAPTER 8 – CRIMINAL DIVISION – INVESTIGATION | | | |
| 09/05/24 | | 8 | 8.7 | Extract from *Lednar v Magistrates’ Court* [2000] A Crim R 396 at [393]. | |
| 09/05/24 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 09/05/24 | | 9 | 9.4.1.1 | Summaries of *Re Tiburcy* [2024] VSC 163; *Re SS* [2024] VSC 225. | |
| 09/05/24 | | 9 | 9.4.2 | Summary of *Re TS* [2024] VSC 164 and extracts from [29]-[32] & [34]-[36]. Summary of *Re TS (No 2)* [2024] VSC 218. | |
| 09/05/24 | | 9 | 9.4.2.2 | Summaries of *Re Wills* [2024] VSC 168; *Re CR* [2024] VSC 197. | |
| 09/05/24 | | 9 | 9.5.8 | Summary of *Re Farah* [2024] VSC 196 and extracts from [3]-[4], [74], [76]-[77] & [81]. Summary of *Re TS (No 2)* [2024] VSC 218. | |
| 09/05/24 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 09/05/24 | | 10 | 10.1.1 | Comment on *Peers* *v Australian Health Practitioner Regulation Agency* [2024] VSC 110 and extract from [45]-[48]. | |
| 09/05/24 | | 10 | 10.1.7 | **New section headed “Transfer of a related summary offence to a higher court”.** | |
| Commentary on ss.3(1), 145 & 242(1) of the *Criminal Procedure Act 2009* and extract from *Christoforou v The King* [2024] VSCA 89 at [39]-[43]. | |
| 09/05/24 | | 10 | 10.3.3.5**C** | * Extracts from *Healy (a pseudonym) v The King* [2024] VSCA 81 at [37] & [45]. * References to *Briggs (a pseudonym) v The King* [2024] VSCA 80; *Kelly v The King* [2024] VSCA 69 at [38]-[49]; *Parker v The King* [2024] VSCA 72. | |
| 09/05/24 | | 10 | 10.3.8 | Reference to *Henderson (a pseudonym) v The King* [2024] VSCA 78 at [92]-[97]. | |
| 09/05/24 | | 10 | 10.6**M** | References to *DPP v Matthews* [2024] VSC 204; *DPP v LC* [2024] VSC 206. | |
| 09/05/24 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 09/05/24 | | 11 | 11.2.6 | Reference to *Younis v The King* [2024] VSCA 64 at [27]-[29]. | |
| 09/05/24 | | 11 | 11.2.8.2 | Reference to *Bleakley v The King* [2024] VSCA 88 at [30]-[35]. | |
| 09/05/24 | | 11 | 11.2.11 | Reference to *Clifton v The King* [2024] VSCA 82 at [39]-[51]. | |
| 09/05/24 | | 11 | 11.2.14 | Reference to *Barbaro v The King* [2024] VSCA 54 at [23]‑[48]. | |
| 09/05/24 | | 11 | 11.2.22.1 | Summaries of *DPP v Ho* [2024] VSC 162; *DPP v Belmore* [2024] VSC 213. | |
| 09/05/24 | | 11 | 11.2.22.3 | Reference to *Constantinou v The King* [2024] VSCA 79. | |
| 09/05/24 | | 11 | 11.2.22.4 | Reference to *DPP v Hillman* [2024] VSC 100. | |
| 09/05/24 | | 11 | 11.2.23**B** | Reference to *Younis v The King* [2024] VSCA 64. | |
| 09/05/24 | | 11 | 11.2.24.2 | Reference to *Russo v The King* [2024] VSCA 55 at [33]-[39] & [45]-[47]. | |
| 09/05/24 | | 11 | 11.2.24.5 | **Subsection heading amended to “Sentencing for affray / violent disorder”.** | |
| Summary of *DPP v Sewell; DPP v Hersant* [2024] VSCA 70 and extract from [89]-[99]. | |
| 09/05/24 | | 11 | 11.2.25 | Addition to the summary of *Obian v The King* of a reference to the High Court decision in [2024] HCA 18. | |
| 09/05/24 | | 11 | 11.2.26.1**A** | Reference to *Sabitovic v The King* [2024] VSCA 66 at [45]-[53]. | |
| 09/05/24 | | 11 | 11.3.3 | Summary of *Re GH* [2024] VSC 216. | |
| 09/05/24 | | 11 | 11.8.1 | Reference to *Constantinou v The King* [2024] VSCA 79 at [124]-[135]. | |
| 09/05/24 | | 11 | 11.15.1.1 | References to *DPP v Sutcliffe (a pseudonym)* [2024] VSCA 63; *Henderson (a pseudonym) v The King* [2024] VSCA 78. | |
| 09/05/24 | | 11 | 11.15.3 | Summary of *Trinh v The King* [2024] VSCA 61 and extract from [71]-[74]. | |
| 09/05/24 | | 11 | 11.15.4 | Reference to *Clifton v The King* [2024] VSCA 82. | |
| 09/05/24 | | 11 | 11.21 | Discussion re *Trinh v The King* [2024] VSCA 61 and extracts from [73] & [40]-[44]. | |
| 25/03/24 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 25/03/24 | | 1 | **1.1.6** | | Date of commencement of s.1(j) JLA corrected to 01/01/2024. |
| 25/03/24 | | 1 | **1.2.5** | | Amendment to text to add reference to the *Bail Amendment Regulations 2024* [S.R. No.8/2024]. |
| 25/03/24 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 25/03/24 | | 2 | 2.5.1 | Minor modification to text. | |
| 25/03/24 | | 2 | 2.5.2 | Minor modification to text. | |
| 25/03/24 | | 2 | 2.8.2 | Reference to *Attorney-General v Hadashah Sa’adat Khan (No 5)* [2024] VSC 92. | |
| 25/03/24 | | CHAPTER 3 – COURT OPERATION | | | |
| 25/03/24 | | 3 | 3.1.1 | Summary of *Moran v The King* [2024] VSCA 13 and extract from [48]-[51]. Reference to *HH v WW* [2023] VSC 459 at [9]. | |
| 25/03/24 | | 3 | 3.1.2 | Reference to *Gibson (a pseudonym) v The King* [2024] VSCA 33 at [53]-[55] re ‘entering the fray’. | |
| 25/03/24 | | 3 | 3.3.4.1 | Reference to *Ballard (a pseudonym) v The King* [2024] VSCA 26. | |
| 25/03/24 | | 3 | 3.4.5 | References to *Vella v Wybecca Pty Ltd* [2014] VSC 443; *210 Hawthorn Road Pty Ltd v Ellinson & Ors* [2024] VSC 61. | |
| 25/03/24 | | 3 | 3.5.3.7 | References to *Rhodes (a pseudonym) v The King* [2024] VSCA 15; *Gibson (a pseudonym) v The King* [2024] VSCA 33 at [26]‑[43]. | |
| 25/03/24 | | 3 | 3.5.3.9 | **New subsection headed “Leave required to adduce confidential communication or protected health information”.** | |
| Discussion of Division 2A of the *Evidence (Miscellaneous Provisions) Act 1958*. Summary of *Duncan (a pseudonym) v The King* [2024] VSCA 27 and extract from [33]-[35]. | |
| References to *Todd (a pseudonym) v The Queen* [2016] VSCA 29, [32]–[33]; *KR v The Queen* [2018] VSCA 159, [34], [41]–[42]; *Bowers (a pseudonym) v The Queen* [2020] VSCA 246, [14]–[16]. | |
| 25/03/24 | | 3 | 3.5.6.3  FORMER  3.5.7 | **Some of the material contained in former section 3.5.7 – headed** **“The Less Adversarial Trial approach of the Family Court of Australia” is moved into subsection 3.5.6.3 and former section 3.5.7 is otherwise deleted.** | |
| NEW 3.5.7 | **New section headed “Compelling production of a prisoner/detainee at court – Remand warrant/Gaol order”.** | |
| 25/03/24 | | 3 | 3.5.9.1 | References to *Madafferi v The King [No 2]* [2024] VSCA 14; *Wawryk v Mercedes-Benz Australia/Pacific Pty Ltd (Subpoena Ruling)* [2024] VSC 120 at [11]-[27]. | |
| 25/03/24 | | 3 | 3.5.10.4 | Reference to *Re Mokbel (No 4)* [2024] VSC 68 at [49]. | |
| 25/03/24 | | 3 | 3.5.14 | * Extract from *Kuhl v Zurich Financial Services Australia Ltd* (2011) 243 CLR 361, 384-385 at [63]-[64]. * References to *Moore v Goldhagen* [2024] VSCA 25 at [79]-[91]; *Transonic Travel Pty Ltd v Tilakee Nominees Pty Ltd & Ors* [2024] VSC 86 at [679]-[685]. | |
| 25/03/24 | | 3 | 3.6 | Extract from *AB (a pseudonym) v Independent Broad-based Anti-corruption Commission* [2024] HCA 10 at [26]. | |
| 25/03/24 | | 3 | 3.8 | Reference to *Attorney-General v Hadashah Sa’adat Khan (No 4)* [2024] VSC 62 at [7]-[9]. | |
| 25/03/24 | | 3 | 3.9 | Extract from *Millsave Holdings Pty Ltd & Ors* v *Slea Pty Ltd & Ors* *[No 2]* [2024] VSCA 28 at [12]. | |
| 25/03/24 | | 3 | 3.9.9 | **New section headed “**[**Costs of an intervener/contradictor**](#_3.9.9_Costs_of)**”.** | |
| Summary of *In the matter of Border Express Pty Ltd (No 2)* [2024] VSC 41 and extract from [3]. | |
| 25/03/24 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 25/03/24 | | 4 | PREAMBLE | Correction to name of **“THE FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA”**. | |
| 25/03/24 | | 4 | 4.3.3 | * Amendment to **s.22CP** of the *Terrorism (Community Protection) Act 2003.* * Amendment to **s.22DM** of the *Terrorism (Community Protection) Act 2003.* * “Court” is replaced by “court” throughout section 4.3.3 except where it involves a reference to a particular court. | |
| 25/03/24 | | CHAPTER 6 – FAMILY DIV’N – INTERVENTION ORDERS | | | |
| 25/03/24 | | 6 | **PREAMBLE** | Replacement of reference to *Personal Safety Intervention Order Regulations 2011* by *Personal Safety Intervention Order Regulations 2021*. | |
| 25/03/24 | | 6 | **6.11.1** | New reference to Form 1AA of the CPSR. | |
| 25/03/24 | | 6 | **6.11.2** | New reference to Form 1AB of the CPSR. | |
| 25/03/24 | | 6 | **6.12** | Minor amendment to text including correction of error in citation of case of *DDD v Magistrates’ Court of Victoria* [2023] VSC 89. | |
| 25/03/24 | | 6 | **6.19.4** | Updating of information re Forms. | |
| 25/03/24 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 25/03/24 | | 7 | 7.5.6  7.5.7  ~~7.5.8~~ | **Corrections to errors in section numbering:**   * **Section 7.5.6 – “The distinction between striking out a charge and dismissing a charge” – is actually section 11.1.10 and has never been in Chapter 7.** * **Section 7.5.7 – “Venue of the Court” – is actually section 7.5.6.** * **Section 7.5.8 – “Criminal Division processing & output statistics (excluding CAYPINS)” – is actually section 7.5.7.** | |
| 25/03/24 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 25/03/24 | | 9 | **Amendments made by the *Bail Amendment Act 2023* as and from 25/03/2024 have now been included in the relevant sections of Chapter 9 as well as leaving them in section 9.0.3.** | | |
| 25/03/24 | | 9 | PREAMBLE | Discussion of the replacement in **Chapter 9** of “**surety**” by “**bail guarantee**” or “**bail guarantor**” as the context requires. | |
| 25/03/24 | | 9 | PREAMBLE | Addition of definition of “***prison***” per s.3 **BA**. | |
| 25/03/24 | | 9 | 9.0.1 | **Section heading changed to “Major amendments to the Bail Act in 2018 + some associated definitions”.** | |
| Several changes to the list of major amendments to the *Bail Act 1977* in 2018. | |
| 25/03/24 | | 9 | 9.0.3 | Minor amendments to the text. | |
| 25/03/24 | | 9 | 9.1 | Cross-reference to the Children’s Court Weekend Online Remand Court {WORC} in **section 2.5.3**. | |
| 25/03/24 | | 9 | 9.1.2 | Replacement of “Malmsbury Youth Justice Precinct” with “Cherry Creek Youth Justice Precinct”. | |
| 25/03/24 | | 9 | 9.2.1 | Removal of reference to s.30A **BA**. | |
| 25/03/24 | | 9 | 9.2.2 | * Amendments to s.3B(1) and insertion of ss.3B(1A), 3B(1B), 3B(2) & 3B(3) **BA**. * Reference to *Re PJ* [2024] VSC 97, cross-reference to **subsection 9.4.1.1** and extract from [77]. Reference to *Re DF* [2024] VSC 122 at [30] & [57]. | |
| 25/03/24 | | 9 | **NEW**  **9.2.3** | **Former section 9.2.6 is renumbered 9.2.3 and its heading is amended to “Powers & duties of a bail decision maker”.** | |
| Commentary on ss.8, 8A, 8B & 8AA moved from former section 9.2.4 to new section 9.2.3. | |
| Addition of s.8(1)(aa) **BA** and reference to the Explanatory Memorandum to the *Bail Amendment Act 2023*. | |
| **Summary of *R.* v *Sanghera* [1983] 2 VR 130 is moved from former section 9.5.2 – previously headed “Evidence in bail applications” – and that section is deleted.** | |
| Addition or variation of commentary on ss.10, 10AA, 10A, 10B, 12, 12B, 13, 13A & 13AA **BA**. | |
| **Former section 9.2.9 is deleted and its reference to s.13A BA is moved into new section 9.2.3.** | |
| **Former section 9.2.10 is deleted and its reference to s.13AA BA is moved into new section 9.2.3.** | |
| 25/03/24 | | 9 | NEW  9.2.4 | **Former section 9.2.3 – headed “*Prima facie* entitlement to bail and exceptions thereto – Flow charts” – is renumbered 9.2.4.** | |
| Addition of new s.4AAA **BA**. | |
| Amendments to ss.4AA, 4D & 4E **BA**. | |
| Amendments to the definition of “surrounding circumstances” in s.3AAA **BA**. | |
| Minor modifications made to the chart summarising the bail process. | |
| Replacement of the 4 previous Flow Charts in s.3D **BA** by 5 new Flow Charts. | |
| 25/03/24 | | 9 | NEW  9.2.5 | **Former section 9.2.4 – headed “Step 1 – exceptional circumstances test” is renumbered 9.2.5.** | |
| Amendments to Schedule 1 and to s.4AA **BA**. | |
| 25/03/24 | | 9 | NEW  9.2.6 | **Former section 9.2.5 – headed “Step 1 – show compelling reason test” is renumbered 9.2.6.** | |
| Amendments to Schedule 2 and added commentary on the repeal of item 1. | |
| Reference to and comment on the *Bail Amendment (Indictable Offences Whilst on Bail) Bill 2024*. | |
| 25/03/24 | | 9 | NEW  9.2.5/6 | **Former section 9.2.4/5 is renumbered 9.2.5/6 and its heading is amended to “Meaning of ‘serving a sentence’ for the tests in 9.2.5 & 9.2.6”.** | |
| Amendments to text as a consequence of the addition of s.4AA(5) of the **BA** which has the effect of over-riding the dicta of Weinberg JA in *Application for Bail by Allen Matemberere* [2018] VSC 762 and the dicta of Kaye J in *WBM v Chief Commissioner of Police* (2010) 27 VR 469, 475. | |
| 25/03/24 | | 9 | 9.2.7 | Inclusion of definition of “family violence offence”. | |
| 25/03/24 | | 9 | 9.2.8 | **Section heading amended to “Requirement for reasons when bail granted”.** | |
| Amendments to commentary on s.12A **BA**. | |
| Added cross-reference to **section 9.5.5**. | |
| 25/03/24 | | 9 | NEW  9.2.9 | **Former section 9.2.11 – headed “Bail Regulations 2022” – is renumbered 9.2.9.** | |
| Amendment to text to include references to the *Bail Amendment Regulations 2024* and their content. | |
| 25/03/24 | | 9 | 9.3 | Amendments to text as a consequence of the *Bail Amendment Act 2023*. | |
| 25/03/24 | | 9 | 9.4.1  9.4.2 | Amendments to text as a consequence of amended s.4E **BA**. | |
| 25/03/24 | | 9 | 9.4.1.1 | Summary of *Re Kellie Boland* [2024] VSC 85. Summary of *Re PJ* [2024] VSC 97 and extracts from [70]-[71], [74]-[75] & [79]-[83]. | |
| 25/03/24 | | 9 | 9.4.1.2 | Summary of *Re Naaman* [2024] VSC 118. | |
| 25/03/24 | | 9 | 9.4.2.2 | Summary of *Re DF* [2024] VSC 122. | |
| 25/03/24 | | 9 | 9.4.3 | Reference to *Re PJ* [2024] VSCA 97 at [75]. | |
| 25/03/24 | | 9 | 9.4.11 | Section restructured and significantly amended as a consequence of the *Bail Amendment Act 2023*. | |
| 25/03/24 | | 9 | 9.4.12 | Added cross-reference to **sections 9.2.1 & 9.2.2**. | |
| 25/03/24 | | 9 | 9.5.1 | **Section heading amended to “Whether the principle of ‘parity’ applies to bail proceedings”.** | |
| 25/03/24 | | 9 | FORMER 9.5.3 | **Former section 9.5.3 – headed “Bail undertaking, Conduct conditions & Sureties” – is split into two new sections 9.5.2 & 9.5.3.** | |
| 25/03/24 | | 9 | NEW  9.5.2 | **New section 9.5.2 headed – “Bail undertaking & conduct conditions” – was previously the first part of section 9.5.3 and has been varied as follows.** | |
| **BAIL UNDERTAKING**  Amendments to the text as a consequence of amendments to ss.5(1), 5(1A), 5(2), 16B, 17A, 17B & 28 **BA**, the repeal of s.5(3) and the change in terminology from “undertaking of bail” to “bail undertaking” as defined in s.3 **BA**. | |
| **CONDUCT CONDITIONS**  Amendments to text as a consequence of ss.5AAA & 17 **BA**. | |
| 25/03/24 | | 9 | NEW  9.5.3 | **New section 9.5.3 – headed “Bail guarantees/ guarantors (formerly known as sureties) & deposits of money” – was previously the latter part of section 9.5.3 and has been varied as follows.** | |
| Amendments to text as a consequence of amendments to ss.3, 5(2)(b), 5AAB, 9 & 32 **BA**. | |
| 25/03/24 | | 9 | NEW 9.5.3 FORMER 9.5.10 | **The contents of former section 9.5.10 headed “No power for surety to apprehend principal – Discharge of surety” are moved into section 9.5.3.** | |
| 25/03/24 | | 9 | 9.5.6 | Addition of s.18A(1)(aa) **BA** expanding the circumstances in which an applicant can make a further application for bail. | |
| 25/03/24 | | 9 | 9.5.7  9.5.8  9.5.9.1 | Minor modifications to text as a consequence of the *Bail Amendment Act 2023*. | |
| 25/03/24 | | 9 | 9.5.9.1 | *Summary of DPP v Abdelkhalek* [2024] VSC 111 and extract from [53]. | |
| 25/03/24 | | 9 | NEW 9.5.10 | **Former section 9.5.12 – headed “Breach of bail” – is renumbered 9.5.10.** | |
| * Significant modifications to text as a consequence of the repeal of ss.30A, 30B & 32A **BA** and the amendment of s.26(2) **BA** by the *Bail Amendment Act 2023*. Note in relation to the *Bail Amendment (Indictable Offences Whilst on Bail) Bill 2024*. * Commentary on concern re the repeal of s.30A **BA** being answered by operation of s.24 **BA**. | |
| 25/03/24 | | 9 | 9.5.11 | Modifications to text as a consequence of the *Bail Amendment Act 2023*. | |
| 25/03/24 | | 9 | NEW 9.5.12 | **Former section 9.5.18 – headed “Extradition bail” – is renumbered 9.5.12.** | |
| 25/03/24 | | 9 | 9.5.14 | Minor modification to text. | |
| 25/03/24 | | 9 | 9.5.17 | Inclusion of definition of “**Aboriginal bail support service**”. | |
| 25/03/24 | | 9 | 9.5.17.2 | Extract from *Re PJ* [2024] VSC 97 at [39]-[42] & [52]. | |
| 25/03/24 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 25/03/24 | | 10 | **10.3.10** | Reference to *DPP v Tuteru (No 4)* [2024] VSC 80. | |
| 25/03/24 | | 10 | **10.3.3.5B** | **Subsection heading amended to “Standard & onus of proof”.** | |
| Addition to text, including extract from *The King v Anna Rowan – A Pseudonym* [2024] HCA 9 at [65]. | |
| 25/03/24 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 25/03/24 | | 11 | 11.2.6 | Reference to *Stefani v The Queen* [2024] VSCA 29 at [42]‑[52]. | |
| 25/03/24 | | 11 | 11.2.7 | References to *Deng v The King* [2024] VSCA 19 at [37]-[40]; *Aden v The King* [2024] VSCA 21 at [48]. | |
| 25/03/24 | | 11 | 11.2.22.1 | Summaries of *R v LH Holding & Hanna* [2024] VSC 90; *DPP v Nguyen* [2024] VSC 99. | |
| 25/03/24 | | 11 | 11.2.22.4 | Summary of *DPP v Sako* [2024] VSC 77 and extract from [102]-[107]. | |
| 25/03/24 | | 11 | 11.2.25 | Summary of *DPP v Luong Tran* [2024] VSCA 16 and extract from [2]-[7]. Extract from *Hourigan v The King* [2024] VSCA 30 at [21]. | |
| 25/03/24 | | 11 | 11.2.26**B** | Reference to *Aden v The King* [2024] VSCA 21 at [43]-[47]. | |
| 25/03/24 | | 11 | 11.2.27**B** | Reference to *Deng v The King* [2024] VSCA 19. | |
| 25/03/24 | | 11 | 11.2.28.1 | Summary of *DPP v Sharp* [2024] VSCA 24 and extract from [45]-[48]. Summary of *Stanford v The King* [2024] VSCA 35 and extracts from [75]-[78]. | |
| 25/03/24 | | 11 | 11.2.31 | **Section heading amended to “Sentencing for property damage / arson / arson with intent to endanger life”.** | |
| Summary of *Liddell v The King* [2024] VSCA 18 and extracts from [43], [53] & [58]. | |
| 25/03/24 | | 11 | 11.2.36 | Reference to *Stanford v The King* [2024] VSCA 35 at [75]-[78]. | |
| 25/03/24 | | 11 | 11.3.4 | Extracts from *Tufue v The King* [2024] VSCA 22 at [39] & [43]. | |
| 25/03/24 | | 11 | 11.8.1 | Reference to *Stefani v The Queen* [2024] VSCA 29 at [42]-[52]. | |
| 25/03/24 | | 11 | 11.15.1.1 | Summary of the sentencing appeal in *Gibson (a pseudonym) v The King* [2024] VSCA 33 and extract from [77]. | |
| 25/03/24 | | 11 | 11.18 | Summary of *Tufue v The King* [2024] VSCA 22 and extract from [28]-[31]. | |
| 25/03/24 | | 11 | 11.19 | Summary of *DPP v Sako* [2024] VSC 77 and extract from [105]-[106]. | |
| 23/02/24 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 23/02/24 | | 1 | **ADDED NOTE: “CROSS-REFERENCES TO SPECIFIC CHAPTERS, PARTS, SECTIONS AND SUBSECTIONS IN THESE RESEARCH MATERIALS ARE HIGHLIGHTED IN GREEN”.** | | |
| 23/02/24 | | 1 | **1.3** | | Reference to *Victorian Legal Services Board v Kuksal (Costs and Amendment Application)* [2024] VSC 48 and extract from [19]. |
| 23/02/24 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 23/02/24 | | 2 | 2.7.3 | Reference to *Re Mokbel (Ruling No 1)* [2024] VSC 26 at [36]-[42]. | |
| 23/02/24 | | CHAPTER 3 – COURT OPERATION | | | |
| 23/02/24 | | 3 | 3.1.1 | Extract from *Casperz v Garry & Warren Smith Pty Ltd & Ors (No 2)* [2024] VSC 8 at [95]-[96]. | |
| 23/02/24 | | 3 | 3.3.4.1 | References to *Haris (a pseudonym) v The King* [2023] VSCA 205; *Haris (a pseudonym) v The King [No 2]* [2024] VSCA 9. | |
| 23/02/24 | | 3 | 3.3.4.4 | **New subsection headed “Implied power to reinstate a proceeding which was struck out”.** | |
| * Reference to *The Herald and Weekly Times Pty Ltd & Anor v State of Victoria & Ors* [2006] VSCA 146 and extract from [19]. * References to *Thurin v Krongold Constructions Aust P/L* [2022] VSCA 226 at [150]; *Zhang v Bajada* [2024] VSC 15 at [65]. * Cross-reference to **section 11.1.10**. | |
| 23/02/24 | | 3 | 3.5.3.4 | * Minor amendment to text re s.92. * References to *Osborne v Butler (a pseudonym)* [2024] VSCA 6 at [19]-[37] & [61]-[62]; *Commissioner of the Australian Federal Police v Kannan (Evidence Ruling)* [2024] VSC 35 at [45]-[54]. | |
| 23/02/24 | | 3 | 3.5.3.7 | References to *Sharman (a pseudonym) v The King* [2024] VSCA 5 at [67]-[68]; *Lee (a pseudonym) v The King* [2024] VSCA 10 at [54]-[61]. | |
| 23/02/24 | | 3 | 3.5.3.8 | Reference to *Glideware Pty Ltd v Hadad & Anor* [2024] VSC 34 at [46]-[62] per Daly AsJ. | |
| 23/02/24 | | 3 | 3.5.9.1 | References to *Re Mokbel (Ruling No 1)* [2024] VSC 26 at [22]-[35]; *Madafferi v The King [No 1]* [2024] VSCA 12. | |
| 23/02/24 | | 3 | 3.5.10.4 | Reference to *Re Mokbel (No 3)* [2024] VSC 50. | |
| 23/02/24 | | 3 | 3.6 | References to *Re Mokbel (No 2)* [2024] VSC 39 at [62]-[80] and extracts from [79] & [81]. Reference to *The King v Rohan (a pseudonym)* [2024] HCA 3. | |
| 23/02/24 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 23/02/24 | | 5 | 5.9.11 | Minor correction to text replacing “s.532(2)” with “s.531(2)”. | |
| 23/02/24 | | 5 | 5.15.5 | Cross-reference corrected to **5.15.2**. | |
| 23/02/24 | | 5 | 5.27.9 | **New section headed “Execution of a warrant under the Service and Execution of Process Act 1992 (Cth)”.** | |
| 23/02/24 | | 5 | 5.33.1 | Summary of *Re WD (No 3)* [2024] VSC 14 and extract from [69]-[73]. | |
| 23/02/24 | | 5 | 5.33.2 | Very minor amendment to text. | |
| 23/02/24 | | CHAPTER 6 – FAMILY DIV’N – INTERVENTION ORDERS | | | |
| 23/02/24 | | 6 | **6FV.9.4** | Inclusion of text of s.55(1A) of the FVIA and comparison with s.38(1A) of the PSIA, including a reference to the non-applicability of *Myers v Satheeskumar & Ors (Judicial Review)* [2024] VSC 12. | |
| 23/02/24 | | 6 | **6PS.7** | Expansion of text of s.13 of the PSIA and reference to *Myers v Satheeskumar & Ors (Judicial Review)* [2024] VSC 12. | |
| 23/02/24 | | 6 | **6PS.9.4** | Inclusion of text of s.38(1A) of the PSIA. Summary of *Myers v Satheeskumar & Ors (Judicial Review)* [2024] VSC 12. | |
| 23/02/24 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 23/02/24 | | 7 | 7.11.2 | Reference to *Kowski v The King* [2024] VSCA 3 at [14]-[19]. | |
| 23/02/24 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 23/02/24 | | 9 | 9.0 | **Heading of Part amended to “Amendments to the Bail Act in 2018 and in 2024”.** | |
| 23/03/24 | | 9 | 9.0.3 | **Section heading amended to “**[**The Bail Amendment Act 2023**](#_9.0.3_Amendments_to) **(as from 25/03/2024)”.** | |
| Some very minor amendments and additions made to the text, including amending the commencement date from 24/03/2024 to 25/03/2024. | |
| 23/02/24 | | 9 | 9.4.1.1 | Summaries of *Re WD (No 1)* [2023] VSC 780; *Re Guerra* [2023] VSC 795; *Re Chok* [2024] VSC 33. | |
| 23/02/24 | | 9 | 9.4.1.2 | Summaries of *Re Hodgetts* [2024] VSC 21; *Re Vicky McKay* [2024] VSC 59. | |
| 23/02/24 | | 9 | 9.4.2.2 | Summary of *Re Mangion* [2024] VSC 23. | |
| 23/02/24 | | 9 | 9.4.11 | Summary of *Re Vicky McKay* [2024] VSC 59 and extracts from [20]-[27] & [34]. | |
| 23/02/24 | | 9 | 9.5.8 | Summary of *Re WD (No 3)* [2024] VSC 14 and extracts from [65]-[68] & [98]-[101]. | |
| 23/02/24 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 23/02/24 | | 10 | **10.3.3.5****B** | Summary of *DPP v SA & Ors* [2024] VSC 28 and extracts from [27]-[36], [39]-[40] & [43]-[45]. Reference to *DPP v SA & Ors (Ruling No 6)* [2024] VSC 27. | |
| 23/02/24 | | 10 | **10.3.3.5C** | References to *Lee (a pseudonym) v The King* [2024] VSCA 10 at [24]-[53] & [71]-[74]; *DPP v SA & Ors* [2024] VSC 28. | |
| 23/02/24 | | 10 | **10.3.11**  **🡺 10.3.10** | Summary of *Haris (a pseudonym) v The King* [2023] VSCA 205 and extracts from [49]-[53] & [68] have been moved from 10.3.11 to 10.3.10. | |
| 23/02/24 | | 10 | **10.3.10** | Reference to *Haris (a pseudonym) v The King [No 2]* [2024] VSCA 9. | |
| 23/02/24 | | 10 | **10.6Q** | Reference to *Re TK* [2024] VSC 53. | |
| 23/02/24 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 23/02/24 | | 11 | 11.1.10 | **Section heading amended to “****Distinction between dismissing a charge and striking out a charge”.** | |
| Section re-written, including addition of:   * an extract from *R v McGowan & Another; ex parte Macko & Sanderson* [1984] VR 1000 at 1002; * a cross-reference to **subsection 3.3.4.4**. | |
| 23/02/24 | | 11 | 11.2.11.2 | Extract from *Kowski v The King* [2024] VSCA 3 at [83]. | |
| 23/02/24 | | 11 | 11.2.23**A** | Reference to *Hennessey v The King* [2024] VSCA 2. | |
| 23/02/24 | | 11 | 11.2.26.1**B** | Reference to *Kowski v The King* [2024] VSCA 3. | |
| 23/02/24 | | 11 | 11.2.27**B** | Reference to *Seualuga v The King* [2024] VSCA 7. | |
| 23/02/24 | | 11 | 11.4.5 | Extract from *Kowski v The King* [2024] VSCA 3 at [53]. | |
| 23/02/24 | | 11 | 11.8.1 | Reference to *Kowski v The King* [2024] VSCA 3 and extracts from [66] & [70]-[71]. | |
| 31/01/24 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 31/01/24 | | 1 | **1.1** | | Extract from “A Short Manual for the Guidance of Children’s Court Magistrates and Probation Officers” (1906). |
| 31/01/24 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 31/01/24 | | 2 | 2.7 | Minor amendments to the summaries of *Ramsay Alec (a pseudonym) v The King* [2023] VSCA 208 and *DPP v Smith* [2023] VSCA 293. | |
| 31/01/24 | | 2 | 2.7.1 | Minor amendments to text. | |
| 31/01/24 | | 2 | 2.7.6 | Additions to text including a reference to Magistrates’ Court Practice Direction No. 2 of 2023 and a discussion of s.19A of the *Magistrates’ Court Act 1989*. | |
| 31/01/24 | | 2 | 2.8.1 | Extracts of footnotes 38 & 39 from *Re WD (No 2)* [2023] VSC 790. | |
| 31/01/24 | | 2 | 2.8.2 | Summary of *Re WD (No.2)* [2023] VSC 790 and extracts from [58]-[59], [61]-[63] & [115]. | |
| 31/01/24 | | 2 | 2.8.4 | Commentary on *Re WD (No.2)* [2023] VSC 790 and extracts from [100]-[102], [107] & [110]. | |
| 31/01/24 | | CHAPTER 3 – COURT OPERATION | | | |
| 31/01/24 | | 3 | 3.1 | Summary of *Becker v The King* [2023] VSCA 332 and brief quotations from [6], [108] & [283]. | |
| 31/01/24 | | 3 | 3.3.4.1 | * Reference to *Karam v The King* [2023] VSCA 318 at [187]-[355]. * Summary of *CDPP v Carrick (a pseudonym)* [2023] VChC 2 and extract from [72]-[84]. | |
| 31/01/24 | | 3 | 3.5.3.5 | Summary of *DFFH v ZX* [2023] VChC 3 and extracts from [24] & [31]-[43]. | |
| 31/01/24 | | 3 | 3.5.3.6 | Reference to *CDPP v Carrick (a pseudonym)* [2023] VChC 2 at [85]-[89]. | |
| 31/01/24 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 31/01/24 | | 5 | 5.10.4B | Reference to *DFFH v ZX* [2023] VChC 3 at [18]-[19]. | |
| 31/01/24 | | 5 | 5.11.3 | Addition of reference to Form 13 in relation to an IAO to a declared hospital. | |
| 31/01/24 | | 5 | 5.17.5 | Additions to text. | |
| 31/01/24 | | 5 | 5.18.6 | * Additions to text. * Deletion of alleged [90] extracted from *AA v DHHS & Ors* [2020] VSC 400; (2020) 61 VR 436 which was erroneously merely a repeat of [89]. | |
| 31/01/24 | | 5 | 5.33.1 | Extract from *Julia Kukuy v Timothy Holden & Anor* [2023] VSCA 331 at [37]. | |
| 31/01/24 | | CHAPTER 6 – FAMILY DIV’N – INTERVENTION ORDERS | | | |
| 31/01/24 | | 6 | **6PS.7** | Extract from *HH v WW* [2023] VSC 459 at [9]. | |
| 31/01/24 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 31/01/24 | | 7 | 7.5.5 | Extracts from *Kuksal v Mioch* [2023] VSC 624 at [48]. | |
| 31/01/24 | | 7 | 7.7.4 | **Section heading amended to "****Criminal Division statistics involving children aged 10-13 inclusive”.** | |
| Modification of text including brief additional comment on the statistics. | |
| 31/01/24 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 31/01/24 | | 9 | 9.4.1.1 | * Summary of *Re Thomas Carrick (a pseudonym)* [2022] VChC 4 and extract from [61]-[71]. * Summary of *Re Pelle-Lopeti* [2023] VSC 776. | |
| 31/01/24 | | 9 | 9.4.1.2 | Summary of *Re El-Leissy* [2023] VSC 767. | |
| 31/01/24 | | 9 | 9.4.2.2 | Summary of *Re Pecori* [2023] VSC 777. | |
| 31/01/24 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 31/01/24 | | 10 | **10.1.5** | Summary of *CDPP v Carrick (a pseudonym)* [2022] VChC 3 and extract from [30]-[33]. | |
| 31/01/24 | | 10 | **10.2.9** | Committal statistics for 2022/23 added as **Table D**. | |
| 31/01/24 | | 10 | **10.3.3.5B** | Reference to *Harika v The King; Hamann v The King* [2023] VSCA 317 at [54]-[56]. | |
| 31/01/24 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 31/01/24 | | 11 | 11.2.22.3 | Summary of *DPP v Cigercioglu* [2023] VSC 772. | |
| 31/01/24 | | 11 | **11.2.22.4** | Reference to *R v Rozynski (No 2)* [2023] VSC 773. | |
| 31/01/24 | | 11 | **11.2.23B** | Summary of *DPP v Perry* [2023] VSC 776 and extract from [26]-[27]. | |
| 31/01/24 | | 11 | 11.2.25 | * Summary of *McCabe v The King* [2023] VSCA 329 and extract from [43]. * Summary of *Elkadi v The King* [2023] VSCA 328 and extracts from [30]-[35]. * Summary of *Rohen v The King* [2024] VSCA 1 and extract from [125]-[126]. | |
| 18/12/23 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 18/12/23 | | 2 | 2.5.1 | Reference to *Re Cohrs* [2023] VSC 752. | |
| 18/12/23 | | 2 | 2.7 | Summary of *DPP v Smith* [2023] VSCA 293 and extracts from [4]-[7], [10], [32]-[34] & [54]. | |
| 18/12/23 | | 2 | 2.7.3 | References to *Director of Public Prosecutions v EN* [2023] VSC 724 at [50]; *Legal Services Commissioner v JXL* [2023] QSC 283 at [33]-[36], [41]-[43] & [54]-[66]. | |
| 18/12/23 | | 2 | 2.8.1 | * Minor modifications – including insertion of a brief legislative history – to the opening sentence of this section. * Summary of *Legal Services Commissioner v JXL* [2023] QSC 283 and extracts from [27]-[39]. | |
| 18/12/23 | | 2 | 2.8.2 | Summary of *Director of Public Prosecutions v EN* [2023] VSC 724 and extracts from [19]-[20] & [49]‑[50]. | |
| 18/12/23 | | CHAPTER 3 – COURT OPERATION | | | |
| 18/12/23 | | 3 | 3.1.1 | Reference to *Marks v Thompson* [2023] VSC 716 at [48]-[56] applying *Betfair Pty Ltd v Racing New South Wales* (2010) 189 FLR 356. | |
| 18/12/23 | | 3 | 3.1.2 | References to *DPP v Smith* [2023] VSCA 293, esp. at [4]-[7], [10], [32]-[34] & [56]; *Kuksal v Victorian Legal Services Board (Recusal Application)* [2023] VSC 722; *Santos (a pseudonym) v The King* [2023] VSCA 320. | |
| 18/12/23 | | 3 | 3.3.4.1 | * Added citation reference [2023] VSCA 294 to *YZ v Beit Habonim Pty Ltd (ACN 051 827 984) ATF Association of Parents & Friends of Zionist Youth & Weiden*. * Link to “Abuse of Judicial Process in Criminal Proceedings”, a paper dated September 2015. | |
| 18/12/23 | | 3 | 3.5.3.4 | References to *Hayward v A & T Goldman Pty Ltd (Ruling)* [2023] VSC 719; *Kane (a pseudonym) v The King; Moon (a pseudonym) v The King* [2023] VSCA 305 at [65]-[66]. | |
| 18/12/23 | | 3 | 3.5.3.6 | Reference to *Duran (a pseudonym) v The King* [2023] VSCA 314 at [27]-[35]. | |
| 18/12/23 | | 3 | 3.5.13 | Reference to *Wilson (a pseudonym) v The King* [2023] VSCA 276 at [43]-[64]. | |
| 18/12/23 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 18/12/23 | | 4 | 4.3.4  4.7.4  4.8.2  4.10.6 | Replacement of term “independent children’s lawyer” by “best interests lawyer” and the acronym “ICL” by “BIL”. | |
| 18/12/23 | | 4 | 4.5.3 | Significant expansion of text. | |
| 18/12/23 | | 4 | 4.6.3 | **Section heading amended to "Child protection report statistics (Victoria & Australia) – 1989 to 2023”.** | |
| This section is restructured and statistics are added for 2019/2020, 2020/2021 & 2021/2022. | |
| 18/12/23 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 18/12/23 | | 5 | 5.2.3  5.10.3  5.25.3  5.34.4 | Replacement of term “independent children’s lawyer” by “best interests lawyer” and the acronym “ICL” by “BIL”. | |
| 18/12/23 | | 5 | 5.10.4 | Minor rewording of text in opening paragraph and added extract from *DOHS v DR* [2013] VSC 579 at [54]. | |
| 18/12/23 | | 5 | 5.10.4B | **New section headed “‘Good enough’ parenting”.** | |
| Extract from *DOHS v Mr D & Ms B* [2008] VChC 2 at pp.65-66. | |
| 18/12/23 | | 5 | 5.13 | Updating of 2022/23 Family Division statistics for s.278 undertakings. | |
| 18/12/23 | | 5 | 5.25.3 | **Section heading amended to "Orange form – Minutes of proposed order for appointment of BIL”.** | |
| 18/12/23 | | CHAPTER 8 – CRIMINAL DIVISION – INVESTIGATION | | | |
| 18/12/23 | | 8 | 8.4.3.10 | Updating of s.464U & s.464V statistics. | |
| 18/12/23 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 18/12/23 | | 9 | 9.4.1.2 -> 9.4.1.1 | The summary of *Re Njovu* [2023] VSC 622 was accidentally and erroneously placed in 9.4.1.2 and has now been moved to 9.4.1.1. | |
| 18/12/23 | | 9 | 9.4.1.1 | Summaries of *Re Wetzler* [2023] VSC 626; *Re Morrison* [2023] VSC 643; *Re SS* [2023] VSC 712; *Re Jeffkins* [2023] VSC 733; *Re Espagne* [2023] VSC 746. | |
| 18/12/23 | | 9 | 9.4.1.2 | Summary of *Re Moody* [2023] VSC 662. | |
| 18/12/23 | | 9 | 9.4.1.3 | Note added to summary of *Re Zayneh* noting that the applicant’s appeal was dismissed: see *Zayneh v The King* [2023] VSCA 311. | |
| 18/12/23 | | 9 | 9.4.2.2 | Summary of *Re O’Connell* [2023] VSC 726. | |
| 18/12/23 | | 9 | 9.4.2.3 | Summary of *Re Rafat* [2023] VSC 710 and partial extracts from [101]-[104]. | |
| 18/12/23 | | 9 | 9.4.4.2 | Reference to *Re Winks* [2023] VSC 734. | |
| 18/12/23 | | 9 | 9.4.8 | Reference to *John William Samuel Higgs v The King (No 2)* [2023] VSCA 279. | |
| 18/12/23 | | 9 | 9.4.10 | Reference to *Zayneh v The King* [2023] VSCA 311 at [44]. | |
| 18/12/23 | | 9 | 9.5.9.1 | References to *DPP (Cth) v Khan* [2021] VSC 224; *Re Molla* [2023] VSC 729. | |
| 18/12/23 | | 9 | 9.5.9.2 | Reference to *Zayneh v The King* [2023] VSCA 311, esp. at [37]-[45]. | |
| 18/12/23 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 18/12/23 | | 10 | **10.3.3.5B** | Reference to *Nhial v The King* [2023] VSCA 282 at [43]-[59]. | |
| 18/12/23 | | 10 | **10.3.3.5C** | Summary of *DPP v Ho (Ruling No 2)* [2023] VSC 720 and extract from [27]. | |
| 18/12/23 | | 10 | 10.3.5 | Extract from *R v Minhinnick* [2023] VSC 736 at [40]. | |
| 18/12/23 | | 10 | 10.3.10 | Link to “Abuse of Judicial Process in Criminal Proceedings”, a paper dated September 2015. | |
| 18/12/23 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 18/12/23 | | 11 | 11.1.20 | * Summary of *DPP v Thorn* [2023] VSC 702 and extracts from [2], [4] & [91]-[93]. * Reference to *DPP v Bottom & Smith* [2023] VSC 717 at [103]-[107]. | |
| 18/12/23 | | 11 | 11.2.6 | Reference to *Minutolo v The King* [2023] VSCA 300 at [53]-[57]. | |
| 18/12/23 | | 11 | 11.2.7 | Reference to *Tokarahi v The King* [2023] VSCA 293 at [36]-[40]. | |
| 18/12/23 | | 11 | 11.2.12 | * References to *Wilson (a pseudonym) v The King* [2023] VSCA 276 at [80]-[83]; *Hurst v The King* [2023] VSCA 286 at [65]-[79]. * Reference to *Dhal v The King* [2023] VSCA 289 and extract from [56]. | |
| 18/12/23 | | 11 | 11.2.14 | References to *Talia v The Queen* [2009] VSCA 260 at [22]; *Arthurs v The Queen* (2013) 39 VR 613, 628 [28]; *Hicks v The Queen* [2016] VSCA 154 at [23]; *Arthur v The Queen* [2018] VSCA 58 at [33]; *Weatherburn v The King* [2023] VSCA 283 at [37]‑[50]. | |
| 18/12/23 | | 11 | 11.2.22.1 | Reference to *DPP v Maskell* [2023] VSC 689. | |
| 18/12/23 | | 11 | 11.2.22.3 | Reference to *DPP v Malovski* [2023] VSC 748. | |
| 18/12/23 | | 11 | 11.2.22.4 | * Summary of *R v Minhinnick* [2023] VSC 736. * References to *DPP v Charlton (No 2)* [2023] VSC 707; *DPP v El Nasher* [2023] VSC 694. | |
| 18/12/23 | | 11 | 11.2.23 | **Heading of section 11.2.23 is amended to “Sentencing for–” and the section is divided into two segments involving sentencing for-**  **A culpable driving**  **B dangerous driving causing death/serious injury** | |
| 18/12/23 | | 11 | 11.2.23**B** | References to *Gardezi v The King* [2023] VSCA 297 at [30]-[45]; *DPP v Kenneison* [2023] VSCA 321. | |
| 18/12/23 | | 11 | 11.2.24.1**A** | Summaries of *Carbis v The King* [2023] VSCA 285; *Dhal v The King* [2023] VSCA 289. | |
| 18/12/23 | | 11 | 11.2.24.1**B** | Summary of *Weatherburn v The King* [2023] VSCA 283 and extract from [57]-[61]. | |
| 18/12/23 | | 11 | 11.2.24.5 | Reference to *R v Casley* [2023] VSC 678. | |
| 18/12/23 | | 11 | 11.2.24.6**A** | Reference to *DPP v Campbell* [2023] VSC 691; *Gardezi v The King* [2023] VSCA 297 at [30]-[45]; *El‑Hassan v The King* [2023] VSCA 307. | |
| 18/12/23 | | 11 | 11.2.24.6**B** | Reference to *El-Hassan v The King* [2023] VSCA 307. | |
| 18/12/23 | | 11 | 11.2.25 | Summary of *Thang Nguyen v The King* [2023] VSCA 310. | |
| 18/12/23 | | 11 | 11.2.26.1**A** | References to *Tokarahi v The King* [2023] VSCA 293 at [48]-[53]; *Tuarae v The King* [2023] VSCA 303 at [36]‑[51]. | |
| 18/12/23 | | 11 | 11.2.26.1**B** | Reference to *Kennett v The King* [2023] VSCA 306. | |
| 18/12/23 | | 11 | 11.2.27**A** | Reference to *Repac v The King* [2023] VSCA 313. | |
| 18/12/23 | | 11 | 11.2.27**C** | Reference to *DPP v Batsanes & Smith* [2023] VSC 693. | |
| 18/12/23 | | 11 | 11.2.28.1 | Reference to *Basile v The King* [2023] VSCA 308. | |
| 18/12/23 | | 11 | 11.2.34**B** | Reference to *Hurst v The King* [2023] VSCA 286 at [82]-[98]. | |
| 18/12/23 | | 11 | 11.2.36 | Summary of *Dhal v The King* [2023] VSCA 289 and extract from [67]-[69]. | |
| 24/11/23 | | CHAPTER 3 – COURT OPERATION | | | |
| 24/11/23 | | 3 | 3.1.1 | Extract from *Roberts v Harkness* [2018] VSCA 215 at [46]-[49]. | |
| 24/11/23 | | 3 | 3.3.4.1 | Reference to *GLJ v The Trustees of the Roman Catholic Church for the Diocese of Lismore* [2023] HCA 32. | |
| 24/11/23 | | 3 | 3.5.3.7 | Summary of *DPP v Roder (a pseudonym)* [2023] VSCA 262 and extracts from [28]-[30] & [33]-[34]. Reference to *Harlen (a pseudonym) v The King* [2023] VSCA 269 at [61]-[85]. | |
| 24/11/23 | | 3 | 3.5.9.1 | References to *Chief Commissioner of Police v Zammit* [2023] VSC 635 at [25]-[66]; *Farachi v The King* [2023] VSCA 253; *Arico v The King* [2023] VSCA 268. | |
| 24/11/23 | | 3 | 3.5.13 | Reference to *Wilson (a pseudonym) v The King* [2023] VSC 276 at [43]-[64]. | |
| 24/11/23 | | 3 | 3.5.14 | Reference to *Alphington Developments Pty Ltd v Amcor Pty Ltd (No 5)* [2023] VSC 637 at [569]-[586]. | |
| 24/11/23 | | 3 | 3.7.3 | * Summary of *JV v The Children’s Court of Victoria & Anor* [2023] VSC 656 and extracts from [52]-[56], [58] & [71]-[72]. * Reference to *Chief Commissioner of Police v Zammit* [2023] VSC 635 at [100]-[107]. | |
| 24/11/23 | | 3 | 3.10.1 | * Amendment to text re s.9(1) of the *Justice Legislation Amendment (Trial by Judge Alone and Other Matters) Act 2022*. * Added commentary on *JV v The Children’s Court of Victoria & Anor* [2023] VSC 656 at [81]-[103]. | |
| 24/11/23 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 24/11/23 | | 5 | 5.2.3 | Summary of *PAA v HJ (a pseudonym)* [2023] VChC 1 and extracts from [19]-[32], [37]-[44] & [70]. | |
| 24/11/23 | | 5 | 5.4.10  5.5  5.5.8  5.14.8  5.23.9 | Addition of 2022/23 Family Division statistics to each of these paragraphs. | |
| 24/11/23 | | 5 | 5.17.5 | Addition to text, including reference to *Children, Youth and Families Amendment (Child Protection) Bill 2021*, cll. 1(xiv), 32 & 33. | |
| 24/11/23 | | 5 | 5.18.6 | Addition of *In the Matter of ZB* to the cross-reference to section 5.17.5. | |
| 24/11/23 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 24/11/23 | | 6 | **6.7.2** | Extract from *HH v WW* [2023] VSC 459 at [9]. | |
| 24/11/23 | | 6 | **6FV.9.4** | * Addition of paragraphs [11] & [15] to the quotation from *Zion-Shalom v Magistrates’ Court of Victoria & Ors (No.2)* [2009] VSC 477. * Reference to *MN v OP* [2017] VSC 733 and extract from [49]. | |
| 24/11/23 | | CHAPTER 8 – CRIMINAL DIVISION – INVESTIGATION | | | |
| 24/11/23 | | 8 | **FORMER 8.7**  **NEW 8.8** | **Former Part 8.7 – headed “Other relevant provisions relating to DNA samples & forensic procedures” – is renumbered 8.8.** | |
| References to ss.464ZFB & 464ZFC removed because they form the subject matter of new Part 8.7. | |
| 24/11/23 | | 8 | **NEW 8.7** | **New Part headed “Retention of information following finding of guilt”.** | |
| Summary of *MB v Children’s Court of Victoria & Anor* [2023] VSC 666 and extracts from [14], [16]-[17] & [55]. | |
| 24/11/23 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 24/11/23 | | 9 | 9.4.1.1 | Summaries of *Re AZ* [2023] VSC 648; *Re Njovu* [2023] VSC 622. | |
| 24/11/23 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 24/11/23 | | 10 | **10.3.3.5C** | Reference to *Pratt v The King* [2023] VSCA 278 at [18]-[25]. | |
| 24/11/23 | | 10 | 10.3.10 | Reference to *GLJ v The Trustees of the Roman Catholic Church for the Diocese of Lismore* [2023] HCA 32. | |
| 24/11/23 | | 10 | 10.6**U** | Reference to *Re BK* [2023] VSC 649 at [40]-[47]. | |
| 24/11/23 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 24/11/23 | | 11 | 11.1.4.4 | Reference to *Natano v The King* [2023] VSCA 261 at [46]-[55]. | |
| 24/11/23 | | 11 | 11.2.6 | Reference to *Chaarani v The King* [2023] VSCA 275 at [24]-[29]. | |
| 24/11/23 | | 11 | 11.2.8.3 | Reference to *ABC (a pseudonym) v The King* [2023] VSCA 280 at [50]-[61]. | |
| 24/11/23 | | 11 | 11.2.11.2 | * Reference to *Kazami v The King* [2023] VSCA 267 at [34]-[55]. * Summary of *DPP v Whyte* [2023] VSC 645 and reference to [28] & Appendix. | |
| 24/11/23 | | 11 | 11.2.13 | Reference to *Wilson (a pseudonym) v The King* [2023] VSC 276 at [88]-[103]. | |
| 24/11/23 | | 11 | 11.2.18 | Reference to *Chaarani v The King* [2023] VSCA 275 at [17]-[23]. | |
| 24/11/23 | | 11 | 11.2.22.4 | Reference to *DPP v Whyte* [2023] VSC 645. | |
| 24/11/23 | | 11 | 11.2.24.1**A** | Summary of *R v Douglas* [2023] VSC 663. | |
| 24/11/23 | | 11 | 11.2.25 | Summary of *Quang Xuan Do v The King* [2023] VSCA 254. | |
| 24/11/23 | | 11 | 11.2.27**B** | Reference to *R v Scriven* [2023] VSC 652. | |
| 24/11/23 | | 11 | 11.2.33 | Summary of *Chaarani v The King* [2023] VSCA 275. | |
| 24/11/23 | | 11 | 11.2.34 | **Heading of section 11.2.34 is amended to “Sentencing for firearms offences–” and is divided into two segments involving sentencing for-**  **A Importation of firearms**  **B Trafficking in / possession of / discharge of firearms** | |
| 24/11/23 | | 11 | 11.2.34**B** | Summary of *Haddara v The King* [2023] VSCA 250 and extract from [46]-[47] & [51]. | |
| 24/11/23 | | 11 | 11.7.2 | Added chart depicting the rate of young people aged 10-17 under supervision (community-based & detention) in all Australian states and territories on an average day in 2021/22. | |
| 24/11/23 | | 11 | 11.15.2 | *ABC (a pseudonym) v The King* [2023] VSCA 280. | |
| 27/10/23 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 27/10/23 | | 1 | **PREAMBLE** | | **Explanation of the words “the Secretary” or “the Secretary DFFH” in these Research Materials.** |
| 27/10/23 | | 1 | **PREAMBLE** | | **Explanation that where appropriate in these Research Materials a reference to “the Secretary” includes a reference to the principal officer of an Aboriginal agency which has been authorised under s.18 CYFA to perform specific functions and exercise specific powers detailed in s.18(2) in respect of a child or a class of children.** |
| 27/10/23 | | 1 | **1.1.6** | | **New section headed “**[**Relevant amendments made by the Justice Legislation Amendment Act 2023**](#_1.1.6_Amendments_to)**”.** |
| 27/10/23 | | 1 | **1.3** | | * Updating of the matters contained in s.588 CYFA which govern the making of rules of court. * Removal of description of S.R. No.94/2011 and insertion of reference to replacement rules S.R. No.113/2021. |
| 27/10/23 | | 1 | **1.4.1** | | Summary of new Practice Direction No.3 of 2023 and deletion of summary of Practice Direction No.1 of 2023. |
| 27/10/23 | | 1 | **1.6.3** | | * Summary of minor amendments made to the CYFA by Part 7 of the *Justice Legislation Amendment Act 2023* to support the introduction of the electronic case management system [CMS] in the Family Division of the Court. * Amendments to the *Children's Court Authentication and Electronic Transmission Rules 2020* [S.R.No.126/2020] to support the introduction of the electronic case management system [CMS] in the Court. |
| 27/10/23 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 27/10/23 | | 2 | 2.4 | Addition of the Court’s finalisation statistics for 2022/23. | |
| 27/10/23 | | 2 | 2.5.3 | Addition of WORC statistics for 2022/23. | |
| 27/10/23 | | 2 | **2.5.4** | | **New section headed “**[**The**](#_1.1.6_Amendments_to) **Court Security Act 1980”.** |
| 27/10/23 | | 2 | **2.7.1** | | **Section heading amended to “Section 523 of the CYFA and sections 8A & 8B of the *Open Courts Act 2013*”.** |
| Addition of s.8A and amended s.8B of the *Open Courts Act 2013*. |
| 27/10/23 | | 2 | 2.7.1  2.7.2 | The opening paragraph of section 2.7.2 has been moved into section 2.7.1 | |
| 27/10/23 | | 2 | 2.10 | Additional material on Court Support Coordinators. | |
| 27/10/23 | | CHAPTER 3 – COURT OPERATION | | | |
| 27/10/23 | | 3 | 3.5.3.2 | Summary of *Colin Stevenson (a pseudonym) v The Queen* [2020] VSCA 27 which was in former subsection 3.5.3.7 is moved into subsection 3.5.3.2. Added references to *R v Dickman* (2017) 261 CLR 601; *Tate (a pseudonym) v The King* [2023] VSCA 249. | |
| 27/10/23 | | 3 | **NEW**  **3.5.3.5** | | **New subsection headed “Expert evidence”.** |
| Summary of *Lang v The Queen* [2023] HCA 29 and extracts from [4]-[19], [26] & [422]-[423]. |
| **All of the material formerly contained in old section 4.8.6 – headed “Expert evidence” – has been transferred into new subsection 3.5.3.5.** |
| 27/10/23 | | 3 | **FORMER**  **3.5.3.5**  **3.5.3.6**  **3.5.3.7**  **NEW**  **3.5.3.6**  **3.5.3.7** | | * **Former subsection 3.5.3.5 – headed “Illegally or improperly obtained evidence” – is renumbered 3.5.3.6.** * **Former subsection 3.5.3.6 – headed “Admissibility of tendency evidence and coincidence evidence” – is renumbered 3.5.3.7.** * **Former subsection 3.5.3.7 – headed “Other cases involving the admissibility of evidence” is deleted and its contents moved into subsection 3.5.3.2.** |
| 27/10/23 | | 3 | 3.5.9 | Cross-reference to section 3.5.10 added. | |
| 27/10/23 | | 3 | 3.5.9.1 | References to *Cargill Australia Ltd v Viterra Malt Pty Ltd (No 19)* [2018] VSC 144, [27], citing *R v Saleam* (1989) 16 NSWLR 14, 18C; *Ryan v The Diocese of Wagga Wagga (Subpoena and discovery ruling)* [2023] VSC 607 at [18]-[19]. | |
| 27/10/23 | | 3 | 3.5.9.3 | Updating of reference to Practice Direction. | |
| 27/10/23 | | 3 | 3.5.10 | **Section heading amended to “Witnesses in court cases”.** | |
| 27/10/23 | | 3 | FORMER  3.5.10.1  3.5.10.2 | **These subsections – respectively headed “Competence” and “Compellability” – have been combined and renumbered 3.5.10.2.** | |
| 27/10/23 | | 3 | NEW  3.5.10.1 | **New subsection headed “Ensuring attendance of a witness** **and/or production of documents or things at court” which is divided into the following 3 segments:** A WITNESS SUMMONSES IN THE FAMILY DIVISIONB WITNESS SUMMONSES IN THE CRIMINAL DIVISIONC NOTICE TO AUTHOR OF REPORT | |
| 27/10/23 | | 3 | NEW  3.5.10.2 | **This subsection is now headed “Competence and Compellability” and is divided into the following 2 segments** A COMPETENCE **B COMPELLABILITY** | |
| 27/10/23 | | 3 | **3.7** | | **Heading of Part amended to “Judgments & Orders”.** |
| 27/10/23 | | 3 | **3.7.1** | | **Section heading amended to “Explanation of and reasons for orders”.** |
| Content of s.527(12) CYFA added. |
| 27/10/23 | | 3 | **FORMER**  **3.7.2** | | **This section – headed “Judgments” – is renumbered 3.7.3.** |
| 27/10/23 | | 3 | **NEW**  **3.7.2** | | **New section headed “Provision of orders to parties”.** |
| The last paragraph of section 3.7.1 has been moved into this section and a summary of ss.527(3), (4) & (10) CYFA has been added. |
| 27/10/23 | | 3 | 3.8 | Reference to *Lindholm v Elliott & Ors (No 2)* [2023] VSC 572 at [8]-[10]. | |
| 27/10/23 | | 3 | 3.9 | Reference to *Lindholm v Elliott & Ors* [2023] VSC 442 at [9]-[27]. | |
| 27/10/23 | | 3 | 3.9.3 | Inclusion of the full judgment of Hampel J. in *Secretary to the Department of Human Services* v. *His Worship Mr Hanrahan and Maher and Others* [Supreme Court of Victoria, {MC21/97}, 10/12/1996]. | |
| 27/10/23 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 27/10/23 | | 4 | 4.3.3 | Minor amendment to text. | |
| 27/10/23 | | 4 | 4.3.4 | **New section headed “Limited jurisdiction under the Births, Deaths and Marriage Registration Act 1996”.** | |
| 27/10/23 | | 4 | 4.6.2 | The contents of this section on mandatory protective intervention reports have been substantially rewritten. | |
| 27/10/23 | | 4 | FORMER  4.8.6 | **All of the material formerly contained in old section 4.8.6 – headed “Expert evidence” – has been transferred into new subsection 3.5.3.5.** | |
| 27/10/23 | | 4 | FORMER  4.8.7  NEW  4.8.6 | **Former section 4.8.7 – headed “Attendance of child at Court” is renumbered 4.8.6.** | |
| 27/10/23 | | 4 | **4.9.8** | * Addition of MNG statistics for 2022/23. * Reference to Practice Direction No. 1 of 2023 is replaced by reference to Practice Direction No. 3 of 2023. | |
| 27/10/23 | | 4 | **4.16** | Addition of FDTC statistics for 2022/23. | |
| 27/10/23 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 27/10/23 | | 5 | **5.3** | | New table listing the total number of primary and secondary child protection applications initiated, finalised and pending in each region in 2021/22 & 2022/23. |
| 27/10/23 | | 5 | **5.3.1**  **5.3.2**  **5.4.1**  **5.4.4**  **5.5**  **5.6**  **5.7**  **5.9.5**  **5.9.6**  **5.9.7**  **5.11**  **5.11.3**  **5.15.5**  **5.17.6**  **5.18.7**  **5.22.2**  **5.22.5**  **5.22.8**  **5.23.2**  **5.23.4**  **5.23.5**  **5.23.6** | | Minor amendments are made to each of the listed parts or sections as a consequence of-   * Part 7 of the *Justice Legislation Amendment Act 2023* to support the introduction of the electronic case management system [CMS] in the Family Division of the Court; and/or * amendments to s.18 CYFA relating to authorisation of the principal officer of an Aboriginal agency to act in lieu of the Secretary DFFH. |
| 27/10/23 | | 5 | 5.5.8  5.11.10  5.13  5.14.8  5.22.9  5.23.6  5.23.9  5.27.3 | Addition of 2022/23 Family Division statistics to each of these paragraphs. | |
| 27/10/23 | | 5 | 5.9.11 | Substantial expansion of text. | |
| 27/10/23 | | 5 | 5.24.6 | Reference to *Weiren v The Secretary to the Department of Families, Fairness & Housing* [2023] VSC 553 at [168]. | |
| 27/10/23 | | 5 | 5.25.1  5.25.2  5.25.3  5.26 | Modification to preamble of each section to reflect operational changes made as a consequence of the commencement of CMS processing of Family Division orders and conditions. | |
| 27/10/23 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 27/10/23 | | 6 | **6.20** | Addition of 2022/23 intervention order statistics. | |
| 27/10/23 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 27/10/23 | | 7 | 7.5.1 | Addition of a paragraph referring to private prosecutions and containing a reference to *Harkness v Banks* [2023] VSC 588. | |
| 27/10/23 | | 7 | 7.5.7 | **Section heading amended to “Criminal Division processing & output statistics (excluding CAYPINS)”.** | |
| Substantial rewriting of text, including addition of a new table listing the total number of charges (excluding the Children and Young Persons Infringement Notice System) initiated, finalised and pending in the Children’s Court Criminal Division for each of the financial years from 2013/14 to 2022/23. | |
| 27/10/23 | | 7 | 7.7.2 | A link has been added to the May 2022 statutory review. | |
| 27/10/23 | | 7 | 7.11.2 | Addition to text of materials about the role of the Aboriginal elders or respected persons in Children’s Koori Court hearings. | |
| 27/10/23 | | 7 | 7.11.4 | Updating of text. | |
| 27/10/23 | | 7 | 7.11.6 | Addition of 2022/23 Children’s Koori Court statistics. | |
| 27/10/23 | | CHAPTER 8 – CRIMINAL DIVISION – INVESTIGATION | | | |
| 27/10/23 | | 8 | **8.2.2** | Addition of reference to s.464AF *Crimes Act 1958*. | |
| 27/10/23 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 27/10/23 | | 9 | 9.0 | **Part heading is amended to “Amendments to the Bail Act in 2018 and in 2023”**. | |
| 27/10/23 | | 9 | 9.0.3 | **Section heading is amended to “The Bail Amendment Act 2023**”. | |
| Text modified to reflect the content of the *Bail Amendment Act 2023* as ultimately enacted. | |
| 27/10/23 | | 9 | 9.4.1.2 | Summary of *Re Ngoc Quoc Pham* [2023] VSC 585. | |
| 27/10/23 | | 9 | 9.4.2.4 | Summary of *Re Keating* [2023] VSC 594. | |
| 27/10/23 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 27/10/23 | | 10 | FORMER  10.2.8  NEW  10.2.9 | **This section – headed “Committal and ‘uplift’ statistics” – is renumbered 10.2.9.** | |
| 27/10/23 | | 10 | **NEW 10.2.8** | **New section headed “Fast-tracking of homicide matters to the Supreme Court”.** | |
| 27/10/23 | | 10 | 10.3.3.5**B** | References to *Lang v The Queen* [2023] HCA 29 at [1], [142]-[143] & [250]-[251]; *Farrugia v The King* [2023] VSCA 248 at [46]. | |
| 27/10/23 | | 10 | 10.3.3.5**C** | Reference to amendments to ss.47A & 54H(5) of the *Jury Directions Act 2015* relating to ‘consent and reasonable belief in consent’ in sexual offence cases. | |
| 27/10/23 | | 10 | 10.3.4 | References to *The Queen v A2* (2019) 269 CLR 507; *DPP v Feetham* [2023] VSC 619. | |
| 27/10/23 | | 10 | 10.7**K** | Addition of 2022/23 statistics. | |
| 27/10/23 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 27/10/23 | | 11 | 11.1.5 | Reference to *DPP v Merryful; DPP v Bloomfield* [2023] VSC 244 at [65]. | |
| 27/10/23 | | 11 | 11.2.14 | References to *DPP v Harvey* [2023] VSCA 234 at [53]-[55]; *DPP v Merryful; DPP v Bloomfield* [2023] VSC 244 at [44]-[49]. | |
| 27/10/23 | | 11 | 11.2.22.1 | Summary of *R v MA* [2023] VSC 613. | |
| 27/10/23 | | 11 | 11.2.22.4 | Reference to *DPP v Edmunds* [2023] VSC 581. | |
| 27/10/23 | | 11 | 11.2.23 | Summary of *DPP v Harvey* [2023] VSCA 234 and extracts from [46]-[48] & [55]-[58]. | |
| 27/10/23 | | 11 | 11.2.25 | Reference to *Vocaj v The King* [2023] VSCA 242. Summary of *DPP v Richardson* [2023] VSCA 241. | |
| 27/10/23 | | 11 | 11.2.27**C** | Extract from *Wright v The King* [2023] VSCA 243 at [88]. | |
| 27/10/23 | | 11 | 11.2.28.1 | Reference to *DPP v Merryful; DPP v Bloomfield* [2023] VSC 244. | |
| 27/10/23 | | 11 | 11.2.36 | Correction of formatting errors in the extracts from *Skeates (a pseudonym) v The King* [2023] VSCA 226. | |
| 27/10/23 | | 11 | 11.2.36.2 | Reference to *DPP v RC (No 2)* [2023] VSC 422. | |
| 27/10/23 | | 11 | 11.3.5 | Summary of *DPP v Richardson* [2023] VSCA 241 and extract from [92]. | |
| 27/10/23 | | 11 | 11.4.5 | Reference to *DPP v Edmunds* [2023] VSC 581 at [5]. | |
| 27/10/23 | | 11 | 11.7.1 | Added statistics for sentencing orders made in 2022/23 and significant amendments to the text. | |
| 27/10/23 | | 11 | 11.7.2 | Added statistics for youth offending rates in Australia for 2020/21 & 2021/22. | |
| 27/10/23 | | 11 | 11.13.2 | Addition of amendments to ss.3, 9(1), 11(1) & 21(3) of the *Spent Convictions Act* 2021 and reference to added ss.5A & 5B. | |
| 27/10/23 | | 11 | 11.15.1 | Reference to *Gugliucciello v The King* [2023] VSCA 247. | |
| 27/10/23 | | CHAPTER 12 – CHILDREN’S COURT CLINIC | | | |
| 27/10/23 | | 12 | 12.3.4 | **New section headed “Statistics”.** | |
| Addition of statistics showing the numbers of reports prepared by the Clinic in 2022/23. | |
| 25/09/23 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 25/09/23 | | 1 | **1.3** | | Removal of description of S.R. No.94/2011 and insertion of reference to replacement rules S.R. No.113/2021. |
| 25/09/23 | | 1 | **1.7** | | Expansion of text in this Part. |
| 25/09/23 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 25/09/23 | | 2 | 2.7 | Summary of *Alec Ramsay (a pseudonym) v The King* [2023] VSCA 208 and extracts from [21], [23], [27]-[30] & [32]-[33]. | |
| 25/09/23 | | CHAPTER 3 – COURT OPERATION | | | |
| 25/09/23 | | 3 | 3.1.2 | Reference to *Ramsay Alec (a pseudonym) v The King* [2023] VSCA 208, esp. at [28]-[35] and cross-reference to Part 2.7. | |
| 25/09/23 | | 3 | 3.3.1 | References to *Victorian Legal Services Board v Bowers-Taylor* [2023] VSC 519; *Fahey v Bird (No 2)* [2023] VSC 540. | |
| 25/09/23 | | 3 | **FORMER 3.5.3.6** | **This subsection – headed “Other cases involving the admissibility of evidence” – is renumbered 3.5.3.7.** | |
| 25/09/23 | | 3 | **NEW**  **3.5.3.6** | **This new subsection is headed “Admissibility of tendency evidence and coincidence evidence”.** | |
| Reference to ss.97, 98 & 101 of the *Evidence Act 2008* and summary of *Matthews (a pseudonym) v The King* [2023] VSCA 229 and extracts from [33]-[36], [50]-[52], [56] & [67]. | |
| 25/09/23 | | 3 | **FORMER 3.5.3.7** | **This section – headed “Conflicting evidence – Dangers of demeanour – Fallibility of human memory” – is renumbered 3.5.3.8.** | |
| 25/09/23 | | 3 | 3.5.3.8 | * Reference to *Salehi v Salehi* [2023] VSC 535 at [119]-[151] per Daly AsJ. * Summary of *Gurappaji v Duncan & Anor* [2023] VSC 558 and extract from [227]-[232]. | |
| 25/09/23 | | 3 | 3.5.9.1 | Reference to *Re Sleeping Duck Pty Ltd (Appeal)* [2023] VSC 541. | |
| 25/09/23 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 25/09/23 | | 4 | 4.7.6 | Updating of reference to a Victoria Legal Aid guide to **Representing Children in Child Protection Proceedings**, inserting a link to the document and adding the contents of the foreword. | |
| 25/09/23 | | 4 | 4.8.5 | Reference to subsection 3.5.3.7 changed to 3.5.3.8. | |
| 25/09/23 | | 4 | 4.9.3 | Conciliation conference statistics for 2020/21, 2021/22 & 2022/23 added. | |
| 25/09/23 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 25/09/23 | | 5 | **5.5.7** | | Reference to *Harvey v The King* [2023] VSCA 219. |
| 25/09/23 | | 5 | **5.11** | | Addition to text supported by extract from *Weiren v The Secretary to the Department of Families, Fairness & Housing* [2023] VSC 553 at [30]-[32]. |
| 25/09/23 | | 5 | **5.11.11** | | Summary of *Weiren v The Secretary to the Department of Families, Fairness & Housing* [2023] VSC 553 and extracts from [41]-[42], [45]-[47], [112]‑[116], [141], [161], [165]-[166] & [168]. |
| 25/09/23 | | 5 | **5.11.16** | | * Addition to text supported by extract from *Weiren v The Secretary to the Department of Families, Fairness & Housing* [2023] VSC 553 at [40]. * Added reference to *Weiren v The Secretary to the Department of Families, Fairness & Housing* [2023] VSC 553 at [42] & [112]-[116]. |
| 25/09/23 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 25/09/23 | | 6 | INDEX | **Reference to the *Children’s Court (Personal Safety Intervention Orders) Rules 2011* [S.R.No 94/2011] is replaced by reference to the *Children’s Court (Personal Safety Intervention Orders) Rules 2021* [S.R. No 113/2021].** | |
| 25/09/23 | | 6 | 6.8.2 | Added references to rule 4.06(1) & 4.06(2) CPSR. | |
| 25/09/23 | | 6 | 6PS.7.6 | Correction of error by replacing “family violence” by “personal safety”. | |
| 25/09/23 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 25/09/23 | | 9 | 9.4.1.1 | Summary of *Re Carr* [2023] VSC 564 and extract from [79]. | |
| 25/09/23 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 25/09/23 | | 10 | 10.3.3.5**B** | Reference to *Ahn Sup Kim v The King* [2023] VSCA 228 at [98]-[103]. | |
| 25/09/23 | | 10 | 10.3.10 | Summary of *Haris (a pseudonym) v The King* [2023] VSCA 205 and extracts from [49]-[53] & [68]. | |
| 25/09/23 | | 10 | 10.4.5 | **Section heading amended to** “**The principle as stated by the High Court of Australia and its application**”. | |
| Detailed summary of *DPP v PM* [2023] VSC 560 and extracts from [11]-[14], [68]-[69], [80]-[84], [92]-[100], [188]-[189], [257], [460], [527], [544]-[549] & [572]-[580]. | |
| 25/09/23 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 25/09/23 | | 11 | 11.1.3 | Summary of *DPP v JA & Ors* [2023] VSC 531 and extracts from [9]-[11], [17] & [25]-[29]. | |
| 25/09/23 | | 11 | 11.1.4.4 | Reference to *Norman v The King* [2023] VSCA 213 at [53]-[65]. | |
| 25/09/23 | | 11 | 11.2.11.2 | Reference to *Kerney v The King* [2023] VSCA 202 at [38]-[69]. | |
| 25/09/23 | | 11 | 11.2.22.1 | Summaries of *R v Tovey* [2023] VSC 530; *R v Jeffrey* [2023] VSC 538. Reference to *DPP v JA & Ors* [2023] VSC 531 and cross-reference to section 11.1.3. | |
| 25/09/23 | | 11 | 11.2.22.4 | Reference to *DPP v JA & Ors* [2023] VSC 531 and cross-reference to section 11.1.3. Reference to *R v Heron* [2023] VSC 539. | |
| 25/09/23 | | 11 | 11.2.24 | References to *Kumar v The Queen* [2020] VSCA 103 at [43]-[50]; *Avder v The Queen* [2015] VSCA 154, esp. at [2] & [7]; *Scammel v The Queen* [2015] VSCA 206, esp. at [8] & [13*]; Mashayamombe v The Queen* [2023] VSCA 60, esp. at [19] & [67]. | |
| 25/09/23 | | 11 | 11.2.24.1**B** | Reference to *DPP v JA & Ors* [2023] VSC 531 and cross-reference to section 11.1.3. | |
| 25/09/23 | | 11 | 11.2.24.4 | Reference to *DPP v Sari* [2023] VSC 523. | |
| 25/09/23 | | 11 | 11.2.25 | Summary of *Ovadia v The King* [2023] VSCA 211. | |
| 25/09/23 | | 11 | 11.2.26.1**A** | References to *Dabaja v The King* [2023] VSCA 209; *Cao Thien Nguyen v The King* [2023] VSCA 212. | |
| 25/09/23 | | 11 | 11.2.27**C** | Reference to *Mattin Nguyen v The King* [2023] VSCA 206 at [21]-[25]. | |
| 25/09/23 | | 11 | 11.2.28.1 | Reference to *Watkins (a pseudonym) v The King* [2023] VSCA 203 esp. at [31]-[75]. | |
| 25/09/23 | | 11 | 11.2.30 | Reference to *Colleen Treloar v The King* [2023] VSCA 214. | |
| 25/09/23 | | 11 | 11.2.34 | Reference to *Tony Nguyen v The King* [2023] VSCA 217 and extract from [16]. | |
| 25/09/23 | | 11 | 11.2.36 | Summary of *Skeates (a pseudonym) v The King* [2023] VSCA 226 and extracts from [55]-[62]. | |
| 25/09/23 | | 11 | 11.3.4 | Reference to *Sozmen v The King* [2023] VSCA 215 at [25]-[40]. | |
| 25/09/23 | | 11 | 11.15.1 | Summary of *DPP v Ooms* [2023] VSCA 207. | |
| 25/09/23 | | 11 | 11.15.4 | Reference to *Nathan Davies (a pseudonym) v The King* [2023] VSCA 225. | |
| 05/09/23 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 05/09/23 | | 1 | **1.7** | | **New Part headed “The Yoorrook Justice Commission’s Second Interim Report”.** |
| This new Part summarises Yoorrook’s second interim report – “Report into Victoria’s Child Protection and Criminal Justice Systems” and details a number of the report’s recommendations. |
| 05/09/23 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 05/09/23 | | 2 | 2.5.2 | Discussion of recommendation 18 of the Yoorrook report and reference to recommendation 19. | |
| 05/09/23 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 05/09/23 | | 4 | **Where appropriate in this Chapter the term “First Nations” has been replaced by “First Peoples”.** | | |
| 05/09/23 | | 4 | 4.1.7 | Inclusion of a “Key Facts: Child Protection” chart from the Yoorrook report. | |
| Summary of recommendation 1c of the Yoorrook report. | |
| 05/09/23 | | 4 | 4.9.8 | Discussion of recommendation 19 of the Yoorrook report and reference to recommendation 18. | |
| 05/09/23 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 05/09/23 | | 7 | **Where appropriate in this Chapter the term “First Nations” has been replaced by “First Peoples” or “Aboriginal”.** | | |
| 05/09/23 | | 7 | 7.7.3 | Inclusion of a “Key Facts: Criminal Justice” chart from the Yoorrook report. | |
| 05/09/23 | | 7 | 7.11.4 | Minor modification to text. | |
| 31/08/23 | | CHAPTER 3 – COURT OPERATION | | | |
| 31/08/23 | | 3 | 3.1.1 | * Summary of *AML (a pseudonym) v Longden Super Custodian Pty Ltd* [2023] VSCA 170 and extracts from [1]-[2] & [47]-[49]. * Reference to *Woodman v State of Victoria & Independent Broad-based Anti-corruption Commission* [2023] VSCA 169 at [29]-[37]. | |
| 31/08/23 | | 3 | 3.3.3 | Summary of *Figurehead Construction Pty Ltd v Machado* [2023] VSC 448 and extract from [35]‑[36]. | |
| 31/08/23 | | 3 | 3.5.3.7 | Reference to *Double v The Salvation Army (Victoria) Property Trust* [2023] VSC 452. | |
| 31/08/23 | | 3 | 3.5.9.1 | Reference to the appeal in *Quebani Pty Ltd & Anor v McDonald’s Australia Limited* [2023] VSC 439. | |
| 31/08/23 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 31/08/23 | | 5 | **5.2.3** | | * Discussion of and quotations from *Brooke S.B. v. Elizabeth A.C.C.*, 28 N.Y.3d 1 [30/08/2016] and *Middleton v Johnson* 368 S.C. 581 [2006]. * References to *VC v MJB* 748 A.2d 539; *In re L.H.*, No. 17-0102; *Evans v McTaggart* 88 P.3d 1078*; In re Custody of H.S.H.-K* 193 Wis. 2d 649. |
| 31/08/23 | | 5 | **5.3.2** | | Amendment to text, including reference to the relevant Explanatory Memorandum. |
| 31/08/23 | | 5 | **5.5.7** | | Reference to *Rowe v The King* [2023] VSCA 193 especially at [88]-[133]. |
| 31/08/23 | | 5 | **5.11.15** | | Amendment to text, including reference to the relevant Explanatory Memorandum. |
| 31/08/23 | | 5 | **5.11.16** | | Reference to *KDN v The Secretary DFFH* [2023] VSC 479 at [13]-[44]. |
| 31/08/23 | | 5 | **5.18.4**  **5.19.4** | | Amendment to text, including reference to the relevant Explanatory Memorandum. |
| 31/08/23 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 31/08/23 | | 6 | **6.8.3** | Section heading amended to “**Whether withdrawal of application requires leave of the court**”. | |
| Summary of *MNX (a pseudonym) v TNV (a pseudonym)* [2022] VSC 592 plus extracts from [58]-[62] & [72] and a cross-reference to new section 6FV.7.3. | |
| 31/08/23 | | 6 | **6FV.1** | Extract from *NBT v Magistrates’ Court of Victoria* [2023] VSC 461 at [26] per Quigley J. | |
| 31/08/23 | | 6 | **6FV.2** | Deletion of 4th paragraph of text. | |
| 31/08/23 | | 6 | **FORMER 6FV.7.2** | **This section – headed “Application for leave to apply for order” – is deleted and its contents are moved into section 6FV.7.1.** | |
| 31/08/23 | | 6 | **FORMER 6FV.7.3** | **This section – headed “Joint applications” – is renumbered 6FV.7.2.** | |
| 31/08/23 | | 6 | **NEW 6FV.7.3** | **This new section is headed “****Substitution of an applicant”.** | |
| * Summary of *NBT v Magistrates’ Court of Victoria* [2023] VSC 461 and extracts from [15]‑[16], [44], [74], [87], [94]-[95] & [99]. * Reference to *MNX (a pseudonym) v TNV (a pseudonym)* [2022] VSC 592 and a cross-reference to section 6.8.3. | |
| 31/08/23 | | 6 | **6FV.11.8** | Summary of *DDD v Magistrates’ Court of Victoria* [2023] VSC 89 and extract from [1]-[2]. | |
| 31/08/23 | | 6 | **6PS.11.7** | Cross-reference to the case of *DDD v Magistrates’ Court of Victoria* [2023] VSC 89. | |
| 31/08/23 | | 6 | **6.11.3** | Comment on *DPP v Cormick* [2023] VSCA 186 and extracts from [102] & [106]. | |
| 31/08/23 | | 6 | **6.12** | Summary of costs order in *DDD v Magistrates’ Court of Victoria* [2023] VSC 89 and extract from [136]. Reference to *NBT v Magistrates’ Court of Victoria* [2023] VSC 461 at [101]-[105]. | |
| 31/08/23 | | 6 | **6.18.1** | Summary of *DPP v Cormick* [2023] VSCA 186 and extracts from [69]-[77], [84]-[85] & [101]-[120]. | |
| 31/08/23 | | 6 | **6.20** | Discussion of the distinction between cases in which applications are **struck out** and those in which applications are **withdrawn**. | |
| 31/08/23 | | CHAPTER 8 – CRIMINAL DIVISION – INVESTIGATION | | | |
| 31/08/23 | | 8 | **8.2.12** | Summary of *Renee Headland (a pseudonym) v The King* [2023] VSCA 174 and extracts from [38], [41], [56]-[57], [60], [63] & [72]. | |
| 31/08/23 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 31/08/23 | | 9 | 9.0 | This Part is renamed “**Amendments to the Bail Act in 2018 and proposed amendments in 2023**” and is split into 3 sections. | |
| 31/08/23 | | 9 | 9.0.1 | New section heading “**Major amendments to the Bail Act in 2018**”. | |
| 31/08/23 | | 9 | 9.0.2 | New section heading “**Coronial criticism of the 2018 amendments**”. | |
| 31/08/23 | | 9 | 9.0.3 | New section heading “**The Bail Amendment Bill 2023**”. | |
| This new section summarises the *Bail Amendment Bill 2023* which was read in the Legislative Assembly on 16/08/2023 together with two proposed amendments circulated on 30/08/2023. | |
| **CAUTION: None of the proposed legislation discussed in section 9.0.3 has yet been enacted.** | | |
| 31/08/23 | | 9 | 9.4.1.1 | Summary of *Re PI* [2023] VSC 481 and extract from [24]-[25]. Summary of *Re De Stefanis* [2023] VSC 513. | |
| 31/08/23 | | 9 | 9.4.1.2 | Summary of *Re Ridge* [2023] VSC 509. | |
| 31/08/23 | | 9 | 9.4.1.3 | Summary of *Re Zayneh* [2023] VSC 470 and extract from [41]. | |
| 31/08/23 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 31/08/23 | | 10 | 10.3.3.5 | **This subsection headed “Contested hearing” has been divided into the following 4 segments and its contents have been reorganised accordingly:**  **A** [**Procedure**](#_A_INTENTIONALLY_CAUSING)  **B Standard of proof**  **C** [**Application**](#_A_INTENTIONALLY_CAUSING) **of the Jury Directions Act 2015**  **D** [**Alternative**](#_A_INTENTIONALLY_CAUSING) **verdicts.** | |
| 31/08/23 | | 10 | 10.3.3.5**A** | Minor amendments to text and added reference to *Taig v The King* [2022] VSCA 235 at [41]. | |
| 31/08/23 | | 10 | 10.3.3.5**B** | Minor reorganisation of text. | |
| 31/08/23 | | 10 | 10.3.3.5**C** | Expanded discussion of s.4A *Jury Directions Act 2015* and a summary of and link to a JCV paper entitled “Magistrates and the Jury Directions Act”. | |
| 31/08/23 | | 10 | 10.3.3.5**D** | New discussion of the statutory and common law bases of “alternative verdicts”, including extracts from *DPP v Maskell (Ruling No 2)* [2023] VSC 507 at [8]-[11] & [19]-[22]. | |
| 31/08/23 | | 10 | 10.3.10 | * Summary of *DPP v Tuteru* [2023] VSCA 188 and extract from [63]-[69] plus references to [43] & [73]-[132]. * Summary of *Hines (a pseudonym) v The King* [2023] VSCA 168 and extract from [28]-[31]. * Summary of *DPP v MK and TRF* [2023] VSCA 187 and extract from [37] & [44]. | |
| 31/08/23 | | 10 | 10.6**M** | Reference to *DPP v Ahmed* [2023] VSC 33. | |
| 31/08/23 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 31/08/23 | | 11 | 11.1.3 | Summary of *DPP v JN* [2023] VSC 500 and extract from [48]-[51]. | |
| 31/08/23 | | 11 | 11.1.4.4 | * Extract from *Mohamed v The Queen* [2022] VSCA 136 at [4]-[6]. * References to *DPP v Rider & Ong* [2023] VSC 466 at [119]; *Tonkin v The King* [2023] VSCA 194 at [61]-[81]; *Seiler v The King* [2023] VSCA 207 at [44]-[45]. | |
| 31/08/23 | | 11 | 11.2.4 | Reference to *Dalais v The King* [2023] VSCA 195 at [60]-[68]. | |
| 31/08/23 | | 11 | 11.2.6 | Reference to *DPP v Rider & Ong* [2023] VSC 466 and extracts from [2] & [110]-[113]. | |
| 31/08/23 | | 11 | 11.2.11.2 | Reference to *DPP v JN* [2023] VSC 500 at [36]-[47]. | |
| 31/08/23 | | 11 | 11.2.12 | **Section heading amended to “Effect of deprived/disadvantaged background (*Bugmy*)”.** | |
| Reference to *DPP v Rider & Ong* [2023] VSC 466 at [67]-[71]. | |
| 31/08/23 | | 11 | 11.2.18 | Reference to *Ahmed Mohamed v The King [No 2]* [2022] VSCA 177 at [15]-[30]. | |
| 31/08/23 | | 11 | 11.2.22.1 | Summaries of *R v Smart & Ors* [2023] VSC 469; *DPP v Pearson* [2023] VSC 483. Summary of *DPP v JN* [2023] VSC 500 and extract from [67]-[68]. | |
| 31/08/23 | | 11 | 11.2.22.4 | References to *DPP v Rider & Ong* [2023] VSC 466; *DPP v Holt (Sentence)* [2023] VSC 515; *DPP v Pandilovsky* [2023] VSC 514. | |
| 31/08/23 | | 11 | 11.2.24.2 | Reference to *Cole v The King* [2023] VSCA 172. | |
| 31/08/23 | | 11 | 11.2.24.6**A** | Reference to *Jones v The King* [2023] VSCA 167. | |
| 31/08/23 | | 11 | 11.2.27**B** | Summary of *Tseros v The King* [2023] VSCA 179 and extracts from [28]-[30]. | |
| 31/08/23 | | 11 | 11.2.28.1 | Reference to *DPP v Holland* [2023] VSC 510. | |
| 31/08/23 | | 11 | 11.2.30 | Reference to *Bamblett v The King* [2023] VSCA 184. | |
| 31/08/23 | | 11 | 11.2.31 | References to *Beevers v The Queen* [2016] VSCA 271; *McPadden v The Queen* [2018] VSCA 57; *Whitten v The King* [2023] VSCA 181. | |
| 31/08/23 | | 11 | 11.2.33 | Summary of *Ahmed Mohamed v The King [No 2]* [2022] VSCA 177 and extract from [30]-[31]. | |
| 31/08/23 | | 11 | 11.3.4 | Reference to *Seiler v The King* [2023] VSCA 207. | |
| 31/08/23 | | 11 | 11.8.1 | References to *Gray v R* [2010] VSCA 312 at [20]‑[21]; *Cummins (a pseudonym) v The Queen* [2013] VSCA 352 at [80]; *Stefani v The Queen* [2023] VSCA 183 at [38]-[41]. | |
| 07/08/23 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 07/08/23 | | 1 | **FORMER**  **1.1.5** | | **This section – headed “Proposed new Youth Justice Act and proposed 2021 amendments to the CYFA” – and its contents are deleted.** |
| 07/08/23 | | 1 | FORMER  1.1.6 | | **Former section 1.1.6 – headed “CYFA amendments in the Aboriginal Self-determination etc Act 2023” – is renumbered 1.1.5.** |
| 07/08/23 | | 1 | NEW 1.1.5 | | Amended summary of the provisions of the *Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Act 2023* insofar as they amend the CYFA. |
| 07/08/23 | | 1 | 1.3 | | Note that the *Children, Youth and Families (Children’s Court Judicial Registrars) Rules 2021* [S.R. No.22/2021] were amended as and from 10/07/2023 by S.R. No.70/2023. |
| 07/08/23 | | 1 | 1.4 | | **Heading of Part amended to “****Practice Directions/Notes, Court Guidelines & Court Information Guides”.** |
| 07/08/23 | | 1 | 1.4.1 | | * Summary of new Practice Direction No.2 of 2023 and deletion of summaries of Practice Directions No.1 of 2022; Nos.4‑6 of 2018; No.1 of 2009 & Nos.1-2 of 2007 which are revoked by new P.D. No.2 of 2023. * Summaries of Practice Directions which have either been revoked or are redundant have been removed. * A link has been provided to each of the current Practice Directions. |
| 07/08/23 | | 1 | 1.4.2 | | **Section heading amended to “Court Guidelines”.** |
| The details of the **Multi-jurisdictional Court Guidelines for Ground Rules and the Intermediary Program** have been updated and expanded and a link provided to the full document which is on the County Court website. |
| 07/08/23 | | 1 | 1.4.3 | | **New section headed “Court Information Guides”.** |
| This new section provides links to Court Information Guides on the Court’s website. |
| 07/08/23 | | 1 | 1.5.1 | | Added paragraph on s.12 of the Charter. |
| 07/08/23 | | 1 | 1.5.3 | | Summary of the rejected Charter submission in *Secretary to the Department of Families, Fairness and Housing v AM (a pseudonym)* [2023] VSC 291 and extract from [72]-[73]. |
| 07/08/23 | | 1 | 1.6.1  1.6.3 | | Minor amendments to text. |
| 07/08/23 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 07/08/23 | | 4 | **Wherever appropriate in this Chapter the term “indigenous” has been replaced by “First Nations” or “Aboriginal”.** | | |
| 07/08/23 | | 4 | 4.1.6 | | Quotation from *DOHS v Mr M & Ms H* [Children’s Court of Victoria, 11/05/2009] at p.30. |
| 07/08/23 | | 4 | 4.1.7 | | Discussion of new s.18 CYFA. Brief summaries of ss.18AAA, 18AAB, 18B‑D & 19E. |
| 07/08/23 | | 4 | 4.3.2  4.3.3  4.7.10  4.8.4  4.9.4  4.10.1  4.10.2  4.10.3  4.10.9  4.10.10  4.15 | | Minor amendments to text. |
| 07/08/23 | | 4 | 4.6.3 | **Section heading changed to “Some history of child protection reports in Victoria – 1989 to 2014”.** | |
| Some of the material previously in deleted section 4.6.4 has been moved into 4.6.3. | |
| 07/08/23 | | 4 | 4.6.4 | | **Section headed “Trends in child protection reports 1989-1990 to 2012-2013” is deleted with some of its contents being moved into 4.6.3.** |
| 07/08/23 | | 4 | 4.6.5 | | **Section headed “Australian rate of reports of alleged child abuse” and its contents are deleted as the information contained therein is now out of date.** |
| 07/08/23 | | 4 | 4.8.1 | | Discussion of *DHHS v Mr & Mrs C* [Children’s Court-Power M, 09/07/2018] in relation to s.215B CYFA and extract from pp.3-4 of judgment. |
| 07/08/23 | | 4 | 4.9.7 | | **Section heading amended to “Throughput of applications in the Family Division child protection jurisdiction”.** |
| Major amendment to text. |
| 07/08/23 | | 4 | 4.9.8 | | Updated reference to relevant Practice Direction. |
| 07/08/23 | | 4 | 4.10.6 | | This section has been substantially rewritten to reflect the 2016 guidelines. |
| 07/08/23 | | 4 | 4.12 | | This Part is substantially restructured and a summary of and extracts from the judgment in *DOHS v Mr M & Ms H* [Children’s Court of Victoria-Power M, 11/05/2009] at pp.78, 80, 88, 122 & 134 are included. |
| 07/08/23 | | 4- | 4.13 | | Modification of text by anonymising the names of two clinical psychologists and slightly expanding the summary of the judgment in *DOHS v Mr M & Ms H* [Children’s Court of Victoria-Power M, 11/05/2009]. |
| 07/08/23 | | 4 | 4.14 | * **This Part has been restructured and much of it has been rewritten. In particular there are now only 2 sections, headed– “4.14.1 The Victorian case of *DOHS v Ms B & Mr G”* “4.14.2 American Judicial Guidelines 2009”.** * **Former section 14.1.2 – headed “Baby on Board” and research cited therein” – plus its contents are deleted.** * **Former section 14.1.4 – headed “Contact conditions are an integral part of a court order” is deleted with some of its contents being moved into the opening paragraphs of Part 4.14.** | |
| 07/08/23 | | 4 | FORMER 4.16 | | **This Part – headed “Effect on child of separation from primary attachment figure” – is deleted with most of its contents being moved into a new section 5.10.4A.** |
| 07/08/23 | | 4 | FORMER  4.17  NEW 4.16 | | **Former Part 4.17 is renumbered 4.16.** |
| 07/08/23 | | 4 | 4.18 | | **Part 4.18 headed “Some other relevant papers” and its contents are deleted as the information in it is now very old and the papers referred to may no longer be available.** |
| 07/08/23 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 07/08/23 | | 5 | **The banner heading towards the top of this Chapter has been amended to read:**  **THIS CHAPTER APPLIES FROM 01/03/2016. OLD CHAPTER 5 DETAILS CHILD PROTECTION LAW BEFORE 01/03/2016 AND IS AVAILABLE ON REQUEST.** | | |
| 07/08/23 | | 5 | **5.2.3** | | Amendments made to the summaries of *Re CL* [Children’s Court of Victoria, 05/02/2021] and *Re KT* [Children’s Court of Victoria-Billings M, 04/11/2022]. |
| 07/08/23 | | 5 | **5.5.8**  **5.10.3**  **5.17.5**  **5.18.6**  **5.18.7**  **5.23.9**  **5.29.3** | | Minor amendments to text. |
| 07/08/23 | | 5 | **5.9.9** | | Reference to *Strauss v Macdonald (No 2)* [2023] VSC 377. |
| 07/08/23 | | 5 | **5.10.4** | | **Section heading amended to “Child not to be removed from parent unless unacceptable risk of harm / s.10(3)(g) CYFA”.** |
| This section has been significantly restructured and an extract from *MMM v Secretary to the Department of Families, Fairness and Housing* [2023] VSC 354 at [17] has been added. |
| 07/08/23 | | 5 | **5.10.4A** | | **New section headed “Effect on a child of separation from the child’s primary attachment figure(s)”.** |
| Material linking this section with some of the cases in section 5.10.4 is included together with some of the material from former Part 4.16. Summaries of *DOHS v Ms H & Mr* *I* [17/12/2014] and *DOHS v The D Children* [11/01/2012] are provided together with extracts from these two cases and references to 6 other cases have been added. |
| 07/08/23 | | 5 | **5.10.5** | | * Correction of error in description of previous s.14 where s.14(4) was accidentally omitted. * Amendment of text to include discussion of new ss.13(4) and the additional principles in s.14 for the placement of an Aboriginal child. |
| 07/08/23 | | 5 | **5.11.3** | | * Minor amendment to text in category (a) of the table. * In category (b) of the table added extract from *Secretary to the Department of Families, Fairness and Housing v AM (a pseudonym)* [2023] VSC 291 at [53]. |
| 07/08/23 | | 5 | **5.11.16** | | * Summary of *Secretary to the Department of Families, Fairness and Housing v AM (a pseudonym)* [2023] VSC 291 and extract from [10]-[13]. * Summary of *MMM v Secretary to the Department of Families, Fairness and Housing* [2023] VSC 354 and extract from [15]-[17]. |
| 07/08/23 | | 5 | 5.13 | | Introduction and first table in this part rewritten and expanded. Information about the transitional provisions deleted as it is no longer relevant. |
| 07/08/23 | | 5 | **5.17.4** | | Reference to the COVID based 6m extension to the length of a family reunification order deleted as this is no longer operative. |
| 07/08/23 | | 5 | **5.17.6** | | Removal of reference to the temporary COVID-19 based extension of the period of an FPO which is no longer operative. |
| 07/08/23 | | 5 | **5.21.1** | | The paper version of the blue form is deleted and the electronic form provided is amended. |
| 07/08/23 | | 5 | **5.21.2** | | The paper version of the mauve form is deleted and the electronic form provided is amended. |
| 07/08/23 | | 5 | **5.25.4** | | **New section headed “Minutes of terms of reference for assessments by the Children’s Court Clinic.** |
| This new section provides a cross-reference to sections 12.2.3 & 12.2.4 in chapter 12. |
| 07/08/23 | | 5 | **5.26** | | The paper version of the pink form is deleted and the electronic form provided is amended. |
| 07/08/23 | | 5 | **5.27.1** | | Amendments to text to refer to Children’s Court judicial registrars being empowered to issue emergency care search warrants. |
| 07/08/23 | | 5 | **5.27.3** | | Minor modifications to text. |
| 07/08/23 | | 5 | **5.30** | **This Part has been retitled “Aboriginal agencies under the CYFA”. Much of its former contents have been deleted (especially in former section 5.30.1) and there are now only 2 sections which are headed: “5.30.1 Details of Victorian Aboriginal agencies declared under s.6 CYFA” and“5.30.2 Role of VACCA”.** | |
| 07/08/23 | | 5 | **FORMER 5.31** | **This Part – headed “Protocol between DFFH child protection service and VACCA” – and its contents are deleted.** | |
| **NEW 5.31** | **A new Part 5.31 headed “Statements of Acknowledgment & Recognition and Recognition Principles” is added, detailing new Parts 1.1A & 1.1B of the CYFA.** | |
| 07/08/23 | | 5 | **FORMER 5.32.2** | **Section 5.32.2 entitled “Statement of Recognition & Recognition Principles” is deleted and some of its contents moved into new Part 5.31.** | |
| **NEW**  **5.32.2** | **A new section 5.32.2 entitled “Authorisation of Aboriginal agency to act” is added.** | |
| The material in this new section largely replicates the material contained in renumbered section 1.1.5 of the Research Materials. | |
| 07/08/23 | | 5 | **5.32.3** | Minor modification to text. | |
| 07/08/23 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 07/08/23 | | 7 | 7.11.1 | Addition of s.518(1)(c)(iv) CYFA. | |
| 07/08/23 | | 7 | 7.14 | **Part 7.14 headed “**[**Papers on aspects of the criminal law relating to children**](#_7.13_Papers_on)**” and its contents are deleted as the information in it is now very old and the papers referred to may no longer be available.** | |
| 07/08/23 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 07/08/23 | | 10 | 10.2.8 | Corrections to the last two columns [2021/22 & TOTAL] of Table B. | |
| 26/07/23 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 26/07/23 | | 2 | 2.7.3 | Reference to *Taylor v State of Victoria* [2023] VSC 320 at [9]-[27]. | |
| 26/07/23 | | 2 | 2.8.2 | Reference to *Stewart v Good Shepherd Australia New Zealand* [2023] VSC 351. | |
| 26/07/23 | | CHAPTER 3 – COURT OPERATION | | | |
| 26/07/23 | | 3 | 3.1.2 | Reference to *Keene v The King* [2023] VSCA 142 at [21]-[40]. | |
| 26/07/23 | | 3 | 3.5.9.1 | Reference to *Andrianakis v Uber Technologies Inc & Ors; Taxi Apps Pty Ltd v Uber Technologies Inc & Ors (third party privilege)* [2023] VSC 366. | |
| 26/07/23 | | 3 | 3.9 | Minor amendment to text. | |
| 26/07/23 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 26/07/23 | | 9 | 9.2.2 | References to *Re IM* [2023] VSC 360 at [89]-[93]; *Re SQA; Re MG* [2023] VSC 359 at [110]-[114]. | |
| 26/07/23 | | 9 | 9.4.1.1 | * Summaries of *Re Prider* [2023] VSC 294; *Re Bray* [2023] VSC 371; *Re Laverick* [2023] VSC 303; *Re Johnson* [2023] VSC 333. * Summary of *Re IM* [2023] VSC 360 and extracts from [89]-[93], [101] & [111]. * Summary of *Re SQA; Re MG* [2023] VSC 359 and extract from [122]-[123]. | |
| 26/07/23 | | 9 | 9.4.1.2 | Summaries of *Re Amr* [2023] VSC 328; *Re Cresswell* [2023] VSC 382. | |
| 26/07/23 | | 9 | 9.4.2.3 | Summary of *Re Thompson* [2023] VSC 274. | |
| 26/07/23 | | 9 | 9.4.3 | Reference to *Re Bray* [2023] VSC 371. | |
| 26/07/23 | | 9 | 9.4.4 | Extract from *Re IM* [2023] VSC 360 at [111]. | |
| 26/07/23 | | 9 | 9.5.1 | Reference to *Re IM* [2023] VSC 360 at [101]; *Re SQA; Re MG* [2023] VSC 359 at [116]-[121]. | |
| 26/07/23 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 26/07/23 | | 10 | 10.1 | **Heading of Part amended to “Indictable offences tried summarily or tried on indictment”.** | |
| Text expanded and extract from *Castillo (a pseudonym) v The King* [2023] VSCA 150 at [23]-[32] added. | |
| 26/07/23 | | 10 | 10.3.3.5 | Reference to *DPP v Holland* [2023] VSC 322. | |
| 26/07/23 | | 10 | 10.6J | Reference to *R v Cohrs (No 3)* [2023] VSC 334. | |
| 26/07/23 | | 10 | 10.6U | Reference to *Re GB* [2023] VSC 343 at [6]-[8] & [59]-[64]. | |
| 26/07/23 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 26/07/23 | | 11 | 11.2.11.2 | Reference to *Kruger v The King* [2023] VSCA 149 at [44]-[46]. | |
| 26/07/23 | | 11 | 11.2.12 | References to *Kruger v The King* [2023] VSCA 149 at [38]-[43]; *DPP v Payne* [2023] VSC 286 at [68]‑[72]. | |
| 26/07/23 | | 11 | 11.2.22.1 | Summaries of *DPP v Tiumalu* [2023] VSC 233; *DPP v Seymour* [2023] VSC 324; *R v Price & Brown* [2023] VSC 347; *DPP v Armstrong* [2023] VSC 374. Summary of *DPP v McDonough* [2023] VSC 352 and extract from [47]-[48]. | |
| 26/07/23 | | 11 | 11.2.22.4 | Summary of *DPP v Payne* [2023] VSC 286. Reference to *DPP v Brown* [2023] VSC 311. | |
| 26/07/23 | | 11 | 11.2.24.1 | **Subsection divided into 3 segments involving sentencing for-**  **A intentionally causing serious injury**  **B intentionally causing serious injury in circumstances of gross violence**  **C intentionally causing serious injury in circumstances of gross violence** | |
| 26/07/23 | | 11 | 11.2.24.1A | Reference to *DPP v Gorgulu* [2023] VSCA 140. | |
| 26/07/23 | | 11 | 11.2.24.1B | Summary of *Castillo (a pseudonym) v The King* [2023] VSCA 150. | |
| 26/07/23 | | 11 | 11.2.24.2 | Summary of *DPP v Almatrah* [2023] VSC 361.  Reference to *DPP v Myko* [2023] VSC 369. | |
| 26/07/23 | | 11 | 11.2.24.6 | **Subsection divided into 2 segments involving sentencing for-**  **A reckless conduct endangering life/serious injury**  **B recklessly exposing emergency worker to risk by driving** | |
| 26/07/23 | | 11 | 11.2.25 | Summary of *Hoang Lai v The King* [2023] VSCA 151. | |
| 26/07/23 | | 11 | 11.2.26.1 | **Subsection divided into 3 segments involving sentencing for-**  **A armed robbery**  **B attempted armed robbery**  **C robbery** | |
| 26/07/23 | | 11 | 11.2.26.1A | Reference to *Castillo (a pseudonym) v The King* [2023] VSCA 150. | |
| 26/07/23 | | 11 | 11.2.26.2 | **Subsection divided into 2 segments involving sentencing for-**  **A aggravated carjacking**  **B carjacking** | |
| 26/07/23 | | 11 | 11.2.27 | **Section divided into 4 segments involving sentencing for-**  **A burglary**  **B aggravated burglary**  **C home invasion**  **D aggravated home invasion** | |
| 26/07/23 | | 11 | 11.2.36 | Summary of *DPP v McDonough* [2023] VSC 352 and extract from [48]. Summary of *DPP v Al-Hasan* [2023] VSC 376 and extract from [46]. | |
| 26/07/23 | | 11 | 11.3.5 | Summary of *DPP v Payne* [2023] VSC 286 and extract from [92]-[97]. | |
| 26/07/23 | | 11 | 11.3.8(5) | Extract from *DPP v Seymour* [2023] VSC 324 at [60] quoting *Biba v The Queen* [2022] VSCA 168 at [26]. | |
| 26/07/23 | | 11 | 11.8.1 | Reference to *DPP v Brown* [2023] VSC 311 at [135]-[139]. | |
| 26/07/23 | | 11 | 11.15.1.1 | Reference to *Qadir (a pseudonym) v The King* [2023] VSCA 155. | |
| 26/07/23 | | 11 | 11.15.7 | Summary of *DPP v Nguyen* [2023] VSC 325. | |
| 05/06/23 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 05/06/23 | | 2 | 2.7.3 | * Addition of paragraphs [18]-[19] to quoted extract from the judgment of T Forrest J in *XYZ v State of Victoria & Anor* [2016] VSC 339. * Summary of *Mokbel v The King* [2023] VSCA 114 and extract from [11]-[12]. | |
| 05/06/23 | | CHAPTER 3 – COURT OPERATION | | | |
| 05/06/23 | | 3 | 3.1.1 | Reference to *AML (a pseudonym) v Longden Super Custodian Pty Ltd* [2023] VSCA 118. | |
| 05/06/23 | | 3 | 3.1.2 | Reference to *QYFM v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2023] HCA 15. Esp. at [36]-[58], [67]-[85], [153]-[175], [189] & [273]-[302]. | |
| 05/06/23 | | 3 | 3.5.9.1 | Reference to *Commissioner of the Australian Federal Police v Song & Ors (Subpoena Objection)* [2023] VSC 273. | |
| 05/06/23 | | 3 | 3.5.10.2 | Reference to *DPP v Fuller (a pseudonym)* [2023] VSCA 121. | |
| 05/06/23 | | 3 | 3.5.14 | Reference to *Gunawardana v GMA Environmental Services Pty Ltd* [2023] VSC 281 at [73]-[81]. | |
| 05/06/23 | | 3 | 3.9 | Reference to *M C Wholesaling Pty Ltd & Anor v Che & Ors (No 5)* [2023] VSC 267. | |
| 05/06/23 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 05/06/23 | | 9 | 9.4.1.1 | Summary of *Re Murray* [2023] VSC 266. | |
| 05/06/23 | | 9 | 9.4.4.3 | Summary of *Re Ikebudu* [2023] VSC 265. | |
| 05/06/23 | | 9 | 9.4.11 | Reference to *Re Murray* [2023] VSC 266 and extract from [79]. | |
| 05/06/23 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 05/06/23 | | 10 | 10.2 | Text expanded and reference to *Goldsmid v The King* [2023] VSCA 124 at [100]-[103] added. | |
| 05/06/23 | | 10 | 10.2.8 | Committal statistics for 2021/22 updated. | |
| 05/06/23 | | 10 | 10.3.4 | Reference to *DPP v Perry* [2023] VSC 270 at [6]-[13] & [61]-[76]. | |
| 05/06/23 | | 10 | 10.4.5 | Summary of *BDO v The Queen* [2023] HCA 16 and extracts from [5], [48], [49] & [52]. | |
| 05/06/23 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 05/06/23 | | 11 | 11.1.2 | Reference to *R v Deng* [2023] VSC 257 and extract from [169]. | |
| 05/06/23 | | 11 | 11.2.6 | References to *Biba v The King* [2023] VSCA 122 at [33]-[40]; *R v Deng* [2023] VSC 257 at [167]-[174]. | |
| 05/06/23 | | 11 | 11.2.11.2 | Reference to *R v Deng* [2023] VSC 257 at [167]-[174]. | |
| 05/06/23 | | 11 | 11.2.22.1 | Summary of *Nelis v The King* [2023] VSCA 128 and extract from [28]-[29] quoting dicta of Weinberg JA in *R v Jagroop* [2008] VSC 25; (2009) 22 VR 80. | |
| 05/06/23 | | 11 | 11.2.24.1 | Summary of *R v Deng* [2023] VSC 257. | |
| 05/06/23 | | 11 | 11.2.24.5 | Reference to *DPP v Pedlar* [2023] VSC 250. | |
| 05/06/23 | | 11 | 11.2.25 | Summary of *Ong v The King* [2023] VSCA 116 and extract from [72]. Summary of *DPP v Goldsmid; DPP v Moreau* [2023] VSCA 124. Summary of *DPP v Jabbour* [2023] VSCA 204. | |
| 05/06/23 | | 11 | 11.2.28.1 | Reference to *DPP v Avalos (a pseudonym)* [2023] VSCA 117, especially at [10]-[14]. | |
| 05/06/23 | | 11 | 11.2.36 | Summary of *DPP v Avalos (a pseudonym)* [2023] VSCA 117 and extract from [10]-[14]. | |
| 05/06/23 | | 11 | 11.15.1.1 | Summary of *Weir (a pseudonym) v The King* [2023] VSCA 113 and extracts from [22] & [25]-[28]. | |
| 05/06/23 | | 11 | 11.15.3 | Reference to *Phibbs v The King* [2023] VSCA 123. | |
| 05/06/23 | | 11 | 11.18 | Reference to *Ong v The King* [2023] VSCA 116 at [35]-[58]. | |
| 05/06/23 | | 11 | 11.19 | References to *Weir (a pseudonym) v The King* [2023] VSCA 113 at [26]-[27]; *Nelis v The King* [2023] VSCA 128 at [18]-[27]. | |
| 05/06/23 | | CHAPTER 12 – CHILDREN’S COURT CLINIC | | | |
| 05/06/23 | | 12 | 12.2.1 | Minor modification to text. | |
| 05/06/23 | | 12 | 12.2.2 | Minor modification to text re *doli capax* assessments and addition of reference to *BDO v The Queen* [2023] HCA 16 at [48] applying *RP v The Queen* [2016] HCA 53; (2016) 259 CLR 641. | |
| 05/06/23 | | 12 | 12.2.3 | **New section entitled “Terms of reference for Family Division assessments by the Clinic”.** | |
| Addition of 2019 proforma form for Minutes of proposed Terms of Reference. | |
| 05/06/23 | | 12 | 12.2.4 | **New section entitled “Terms of reference for Criminal Division assessments by the Clinic”.** | |
| Addition of 2019 proforma form for Minutes of proposed Terms of Reference. | |
| 05/06/23 | | 12 | 12.3.1 | Modification of text. | |
| 05/06/23 | | 12 | 12.3.3 | **Section heading amended to “Clinical assessments”.** | |
| 05/06/23 | | 12 | 12.3.4 | **Section headed “Referrals for treatment” is deleted.** | |
| 05/06/23 | | 12 | 12.3.5 | **Section headed “Teaching function” is deleted.** | |
| 12/05/23 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 12/05/23 | | 1 | 1.1.6 | **Section heading amended to “CYFA amendments in the Aboriginal Self-determination etc Act 2023”.** | |
| Summary of the provisions of the *Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Bill 2023* insofar as they are intended to amend the CYFA, together with details of the Bill’s progress through Parliament. | |
| **NOTE: The legislation discussed in section 1.1.6 is not yet part of current Victorian law.** | |
| 12/05/23 | | 1 | 1.2.5  1.3 | Commentary on s.53 of the *Interpretation of Legislation Act 1984* is added. | |
| 12/05/23 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 12/05/23 | | 2 | 2.5.2 | Updating of text, including a reference to the planned opening of Dandenong Children’s Court as and from 19/06/2023. | |
| 12/05/23 | | 2 | 2.6 | Reference to *Mia Harris (a pseudonym) and Adam Jackson (a pseudonym) v Secretary to the Department of Families Fairness and Housing* [2023] VSC 228 at [106]. | |
| 12/05/23 | | 2 | 2.7.1 | Summary of *Caulfield (a pseudonym) v The King [2023] VSCA 76* and reference to [36]-[42]. | |
| 12/05/23 | | 2 | 2.7.2 | Minor amendment to text. | |
| 12/05/23 | | 2 | 2.8.1 | The first paragraph of this section is deleted. The wording of s.534(1) is corrected. A cross-reference to new section 2.8.4 is added at the end of this section. | |
| 12/05/23 | | 2 | 2.8.2 | A minor restructure has been made to this section and the 4th paragraph has been corrected to take account of s.5 of the OCA and dicta of Forbes J in *DPP v Tuteru (Application for suppression order)* [2023] VSC 241 at [11]-[13]. In addition a cross-reference to section 2.8.4 has been added. | |
| 12/05/23 | | 2 | 2.8.3 | **New section entitled “****‘Take-down’ orders”.** | |
| Discussion of chapter 14 of a report entitled “**Contempt of Court**” which was published by the Victorian Law Reform Commission [VLRC] on 22/11/2021. | |
| 12/05/23 | | 2 | 2.8.4 | **New section entitled “****Relationship between s.534 CYFA and the Open Courts Act 2013”.** | |
| Discussion of s.8 of the OCA and its relationship with s.534 CYFA, including a case in which a Children’s Court magistrate made an interim proceeding suppression order on 24/03/2022. | |
| 12/05/23 | | 2 | 2.8.5 | **Former section 2.8.3 entitled “Section 10(5) of the Witness Protection Act” is renumbered 2.8.5.** | |
| 12/05/23 | | CHAPTER 3 – COURT OPERATION | | | |
| 12/05/23 | | 3 | 3.1 | Summary of *Mia Harris (a pseudonym) and Adam Jackson (a pseudonym) v Secretary to the Department of Families Fairness and Housing* [2023] VSC 228 and extracts from [305]-[311] & [345]. | |
| 12/05/23 | | 3 | 3.3.3 | Summary of *5 Boroughs NY Pty Ltd v State of Victoria (No 3)* [2023] VSC 22 and extracts from [3], [18]-[22], [41]-[43] & [78]. References to *State of Victoria v 5 Boroughs NY Pty Ltd* [2023] VSCA 101; *YZ v Beit Habonim Pty Ltd & Anor* [2023] VSC 222. | |
| 12/05/23 | | 3 | 3.5.3.2 | Summary of *Moreno (a pseudonym) v The King* [2023] VSCA 98 with reference to [95]-[107]. | |
| 12/05/23 | | 3 | 3.5.9.1 | Extract from *Smith v Trustees of the Christian Brothers* [2023] VSC 171 at [13]-[14]. | |
| 12/05/23 | | 3 | 3.5.10.1 | Reference to *Martin v Amaca Pty Ltd & Ors* [2023] VSC 165. | |
| 12/05/23 | | 3 | 3.9 | Reference to *DPP v Tuteru (Application for suppression order)* [2023] VSC 241 at [22]-[46]. | |
| 12/05/23 | | 3 | 3.9.5 | Summary of *McKechnie v State of Victoria (Costs Judgment)* [2023] VSC 234 and extract from [7]-[10]. | |
| 12/05/23 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 12/05/23 | | 4 | 4.1 | Added reference to s.17 CYFA. | |
| 12/05/23 | | 4 | 4.1.7 | **New section entitled “****DFFH may authorise Aboriginal agency to carry out DFFH functions”.** | |
| Discussion of proposed new s.18 CYFA and its anticipated scope. References to ss.18AAA, 18B-D & 19E. | |
| **NOTE: Most of the legislation discussed in section 4.1.7 is not yet part of current Victorian law.** | |
| 12/05/23 | | 4 | 4.2 | Minor amendment to text to include a reference to an authorised Aboriginal agency. | |
| 12/05/23 | | 4 | 4.8.1 | Addition of reference to Part 1.1B in the preamble to s.215B CYFA. | |
| 12/05/23 | | 4 | 4.9.8 | Replacement of “Aborigine” by “Aboriginal person”. | |
| 12/05/23 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 12/05/23 | | 5 | **5.3.2** | Addition of rows 14-17 in the table of secondary applications. | |
| 12/05/23 | | 5 | **5.9.9** | Reference to *Strauss v Macdonald* [2023] VSC 226. | |
| 12/05/23 | | 5 | **5.10.3** | Reference to *Mia Harris (a pseudonym) and Adam Jackson (a pseudonym) v Secretary to the Department of Families Fairness and Housing* [2023] VSC 228 and extracts from [122] & [127]-[131]. | |
| 12/05/23 | | 5 | **5.10.5** | Minor amendment made to section heading to read **“Aboriginal Child Placement Principles”**. | |
| * Discussion of proposed new ss.14(1A) to 14(1D) CYFA and the anticipated scope of ss.14(1B) & 14(1D). * Replacement of “Aborigine” by “Aboriginal person”. | |
| 12/05/23 | | 5 | **5.12.1** | Reference to *Mia Harris (a pseudonym) and Adam Jackson (a pseudonym) v Secretary to the Department of Families Fairness and Housing* [2023] VSC 228 at [132]-[240]. | |
| 12/05/23 | | 5 | **5.12.2** | Minor amendment made to section heading to read **“Restrictions on removing parental care rights”**. | |
| Reference to *Mia Harris (a pseudonym) and Adam Jackson (a pseudonym) v Secretary to the Department of Families Fairness and Housing* [2023] VSC 228 at [132]-[240] and extracts from [135]-[139], [151]-[167] & [239]. | |
| 12/05/23 | | 5 | **5.12.3** | Reference to *Mia Harris (a pseudonym) and Adam Jackson (a pseudonym) v Secretary to the Department of Families Fairness and Housing* [2023] VSC 228 at [241]. | |
| 12/05/23 | | 5 | **5.17.4/6** | Modification of text to note that s.600OA CYFA was repealed on 26/04/2023. Deletion of commentary by the writer which is no longer relevant following the repeal. | |
| 12/05/23 | | 5 | **5.17.5** | Minor amendment to text to emphasise that the *Children, Youth and Families Amendment (Child Protection) Bill 2021* lapsed on 01/11/2022. | |
| 12/05/23 | | 5 | 5.22.3 | Replacement of “Aborigine” by “Aboriginal person”. | |
| 12/05/23 | | 5 | **5.25.1**  **5.25.2** | Blue and Mauve minutes of proposed order forms amended to include Dandenong Children’s Court as an optional venue for an adjourned hearing. | |
| 12/05/23 | | 5 | 5.27.3 | Addition of sentence re impact of COVID-19 pandemic. | |
| 12/05/23 | | 5 | 5.27.5 | Correction of errors in the CYFA references in the 2nd and 3rd dot points. | |
| 12/05/23 | | 5 | 5.27.6 | Text redrafted and expanded. | |
| 12/05/23 | | 5 | 5.27.7 | Correction of error by addition of reference to s.237. | |
| 12/05/23 | | 5 | 5.27.8 | Section updated by replacing reference to “fax” by “electronic communication”. | |
| 12/05/23 | | 5 | 5.30.1 | Replacement of “Aborigine” by “Aboriginal person”. | |
| 12/05/23 | | 5 | **5.32.2** | **New section entitled “Statement of Recognition & Recognition Principles”.** | |
| Extensive discussion of proposed new ss.7A to 7H CYFA and their anticipated relevance to the Children’s Court. | |
| **NOTE: The material in section 5.32.2 is not yet part of current Victorian law.** | |
| 12/05/23 | | 5 | **5.32.3** | **Former section 5.32.2 entitled “Other relevant provisions” is renumbered 5.32.3.** | |
| Minor updating of text. | |
| 12/05/23 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 12/05/23 | | 7 | 7.11 | Replacement of “Aborigine” by “Aboriginal person”. | |
| 12/05/23 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 12/05/23 | | 9 | 9.4.1.1 | Summary of *Re BZ* [2023] VSC 216. | |
| 12/05/23 | | 9 | 9.4.11 | Replacement of “Aborigine” by “Aboriginal person”. | |
| 12/05/23 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 12/05/23 | | 10 | 10.3.3.5 | * Expansion of discussion of *George Pell v DPP* [2020] HCA 12; (2020) 268 CLR 123. * Extract from *M v The Queen* (1994) 181 CLR 487 at 494-5 and reference to *Dansie v The Queen* [2022] HCA 25 at [8]-[10]. * References to *Baini v The Queen* (2012) 246 CLR 469; *Cooper (a pseudonym) v The King* [2023] VSCA 67 at [55]-[70]; *Marrogi v The King* [2023] VSCA 83 at [24]-[27]; *Dwyer (a pseudonym) v The King* [2023] VSCA 85; *Henry v The King* [2023] VSCA 100 at [9] & [66]-[70]; *Diab v The King* [2023] VSCA 107 at [72]-[73] & [87]. * Summary of *Yeates (a pseudonym) v The King* [2023] VSCA 72, including a summary of ss.15‑16 of the *Jury Directions Act 2015* and a reference to *Burns v The Queen* (1975) 132 CLR 258. | |
| 12/05/23 | | 10 | 10.6M | Reference to *DPP v Turner (a pseudonym)* [2023] VSC 229. | |
| 12/05/23 | | 10 | 10.6Q | References to *Re HR* [2023] VSC 152; *Re RD* [2023] VSC 189; *Re CM* [2023] VSC 194. | |
| 12/05/23 | | 10 | 10.6W | **New section entitled “Suppression order”.** | |
| Summary of s.75 CMIA and summary of *Re RD* [2023] VSC 189 including partial quote from [36]. References to *Re HR* [2023] VSC 152; *Re KL* [2023] VSC 182; *Re CM* [2023] VSC 194. | |
| 12/05/23 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 12/05/23 | | 11 | 11.2.6 | References to *DPP v McCartin & Anor (Sentence)* [2023] VSC 193 at [79]-[80]; *Kellway (a pseudonym) v The King*; *Donald (a pseudonym) v The King* [2023] VSCA 109 at [119]-[130]. | |
| 12/05/23 | | 11 | 11.2.8 | Summary of *Shaptafaj v The King* [2023] VSCA 93 and extract from [54]-[56]. | |
| 12/05/23 | | 11 | 11.2.8.2 | Summary of *Alicia Mason (a pseudonym) v The King* [2023] VSCA 75. | |
| 12/05/23 | | 11 | 11.2.8.4 | References to *Alicia Mason (a pseudonym) v The King* [2023] VSCA 75; *R v Guillerme* [2023] VSC 36. | |
| 12/05/23 | | 11 | 11.2.11.2 | References to *Roberts v The King* [2023] VSCA 92; *DPP v Newell* [2023] VSC 237 at [59]-[67]. | |
| 12/05/23 | | 11 | 11.2.11.4 | Reference to *Giudice v The King* [2023] VSCA 105 at [22]-[36]. | |
| 12/05/23 | | 11 | 11.2.12 | References to *Magee v The King* [2023] VSCA 80 at [37]-[43]; *James Clarke (a pseudonym) v The King* [2023] VSCA 103 at [49]-[53]; *DPP v Newell* [2023] VSC 237 at [59]-[63]; *Kellway (a pseudonym) v The King*; *Donald (a pseudonym) v The King* [2023] VSCA 109 at [80]-[98]. | |
| 12/05/23 | | 11 | 11.2.14 | Reference to *DPP v Mathiei & Ors* [2023] VSC 123 at [142]-[143]. | |
| 12/05/23 | | 11 | 11.2.18 | References to *DPP v Hill (a pseudonym)* [2023] VSCA 56 at [20]-[23]; *El Masri v The King* [2023] VSCA 93 at [44]-[60]. | |
| 12/05/23 | | 11 | 11.2.22.1 | Summaries of *DPP v Griffith (sentence)* [2023] VSC 218; *R v Guillerme* [2023] VSC 36; *DPP v Clark* [2023] VSC 220; *DPP v Newell* [2023] VSC 237. | |
| 12/05/23 | | 11 | 11.2.22.4 | References to *Wilio v The King* [2023] VSCA 88; *DPP v McCartin & Anor (Sentence)* [2023] VSC 193; *Shaptafaj v The King* [2023] VSCA 93; *Foster (a pseudonym) v The King* [2023] VSCA 94. | |
| 12/05/23 | | 11 | 11.2.23 | Reference to *DPP v Sheather* [2023] VSC 219. | |
| 12/05/23 | | 11 | 11.2.24.1 | Summary of *DPP v Talbot* [2023] VSCA 95 and extract from [22]. | |
| 12/05/23 | | 11 | 11.2.24.3 | Reference to *Kellway (a pseudonym) v The King*; *Donald (a pseudonym) v The King* [2023] VSCA 109. | |
| 12/05/23 | | 11 | 11.2.24.4 | Reference to *Magee v The King* [2023] VSCA 80. | |
| 12/05/23 | | 11 | 11.2.25 | Summary of *Alicia Mason (a pseudonym) v The King* [2023] VSCA 75. | |
| 12/05/23 | | 11 | 11.2.27 | References to *DPP v Rahman* [2023] VSC 87; *DPP v Talbot* [2023] VSCA 95 at [22]; *Potter v The King* [2023] VSCA 104. | |
| 12/05/23 | | 11 | 11.2.36 | Summary of *James Clarke (a pseudonym) v The King* [2023] VSCA 103 and extract from [63]. Summary of *Giudice v The King* [2023] VSCA 105 and extract from [11]. | |
| 12/05/23 | | 11 | 11.15.1 | References to *Caulfield (a pseudonym) v The King* [2023] VSCA 76; *DPP v Hill (a pseudonym)* [2023] VSCA 56; *DPP v Henry* [2023] VSCA 100. | |
| 12/05/23 | | 11 | 11.15.4 | Reference to *Roberts v The King* [2023] VSCA 92 at [16]-[17]. | |
| 12/05/23 | | 11 | 11.15.6 | Summary of *Kellway (a pseudonym) v The King*; *Donald (a pseudonym) v The King* [2023] VSCA 109 and extracts from [95] & [140]-[141]. | |
| 12/05/23 | | 11 | 11.19 | Reference to *Wilio v The King* [2023] VSCA 88 at [93]-[98]. | |
| 05/04/23 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 05/04/23 | | 1 | 1.1.5 | **Section heading amended to “Proposed new Youth Justice Act and proposed 2021 amendments to the CYFA”.** | |
| Addition of a small amount of text to describe the current status of the proposed legislation discussed in this section. | |
| 05/04/23 | | 1 | 1.1.6 | **New section entitled “Proposed CYFA amendments in the Aboriginal Self-determination etc Bill 2023”.** | |
| Summary of the provisions of the *Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination and Other Matters) Bill 2023* insofar as they would amend the CYFA. | |
| 05/04/23 | | 1 | 1.4.1 | Summary of new P.D. No. 1 of 2023. Removal of summary of Practice Direction No. 2 of 2022 which has been revoked by P.D. No. 1 of 2023. | |
| 05/04/23 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 05/04/23 | | 2 | 2.8.2 | Reference to *Arico v The King* [2023] VSCA 31. | |
| 05/04/23 | | CHAPTER 3 – COURT OPERATION | | | |
| 05/04/23 | | 3 | 3.1.1 | References to *TL v The King* (2022) 96 ALJR 1072 at [33]; *DPP v Sharman (a pseudonym)* [2023] VSCA 56 at [32]-[54]. | |
| 05/04/23 | | 3 | 3.4.2 | Summary of *Peter James (a pseudonym) v The King* [2023] VSCA 34 insofar as it relates to the failure to swear in an Intermediary and extract from [62]. | |
| 05/04/23 | | 3 | 3.5.3.5 | Summary of *Peter Johnston (a pseudonym) v The King* [2023] VSCA 49 and extracts from the decision of the trial judge in [2022] VCC 1083 at [44]-[45] and from the Court of Appeal at [5], [122]‑[123] & [198]-[204]. Reference to *Jackson Elliot (a pseudonym) v The King* [2023] VSCA 48 at [30]-[32]. | |
| 05/04/23 | | 3 | 3.5.9 | New text on the *Harman* undertaking: see *Harman v Secretary of State for the Home Department* [1980] 1 AC 280. Extract from *Hearne v Street* (2008) 235 CLR 125 at [96]. References to *Williams v TT Line* [2021] VSC 150 at [31]-[36]; *Williams v TT-Line (No 2)* [2022] VSC 413 at [18]-[24]. Summary of dicta from *Re Clarinda Pty Ltd (in liq)* [2023] VSC 109 at [20], [29] & [39]. | |
| 05/04/23 | | 3 | 3.5.9.1 | Reference to *Zirilli v The King* [2023] VSCA 64. | |
| 05/04/23 | | 3 | 3.7.2 | References to *Hu v Commissioner of the Australian Federal Police* [2023] VSCA 32 at [98]-[118]; *Grujovska v Dr Caroline Brand & Ors* [2023] VSCA 59 at [25]-[29]. | |
| 05/04/23 | | 3 | 3.8 | Reference to *Merrion B Pty Ltd v Donchiod Pty Ltd (in liq)* [2023] VSC 111. | |
| 05/04/23 | | 3 | 3.9.7 | References to *Swebbs v Magistrates’ Court of Victoria (No 2)* [2017] VSC 339 (Ginnane J); *DDD v Magistrates’ Court of Victoria* [2023] VSC 89 at [167] (Croucher J). | |
| 05/04/23 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 05/04/23 | | 5 | **5.3.2** | * Modifications to cells 8 & 12 of the Table contained in this section. * Added reasons why an application for a care by Secretary order and an application for a long-term care order are **secondary applications**. | |
| 05/04/23 | | 5 | **5.10.6**  **5.18.1**  **5.18.6**  **5.29.3** | A reference to (2020) 61 VR 436 is added to the references to *AA v DHHS & Ors* [2020] VSC 400. | |
| 05/04/23 | | 5 | **5.17.5** | Summary of *In the Matter of ZB* (Children’s Court of Victoria, unreported, 16/09/2020) and extracts from [20]-[24] & [27]-[28]. | |
| 05/04/23 | | 5 | **5.27.1** | Summary of *Peter Johnston (a pseudonym) v The King* [2023] VSCA 49 and extracts from [21]-[22], [122]-[123] & [201]. | |
| 05/04/23 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 05/04/23 | | 6 | **6FV.14.1** | Summary of *DDD v Magistrates’ Court of Victoria* [2023] VSC 89 and extract from [1]-[2]. | |
| 05/04/23 | | 6 | **6PS.12.1** | Cross-reference to the case of *DDD v Magistrates’ Court of Victoria* [2023] VSC 89. | |
| 05/04/23 | | CHAPTER 8 – CRIMINAL DIVISION – INVESTIGATION | | | |
| 05/04/23 | | 8 | **8.2.10** | Reference to *Peter Johnston (a pseudonym) v The King* [2023] VSCA 49 and cross-reference to subsection 3.5.3.5. | |
| 05/04/23 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 05/04/23 | | 9 | 9.4.1.1 | Summaries of *Re Warren* [2023] VSC 98; *Re Pollard* [2023] VSC 106. | |
| 05/04/23 | | 9 | 9.4.3 | Reference to *Re Pollard* [2023] VSC 106 at [53]. | |
| 05/04/23 | | 9 | 9.4.4.1 | Reference to *Re Pollard* [2023] VSC 106 at [61]. | |
| 05/04/23 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 05/04/23 | | 10 | 10.3.3.5 | Reference to *Kannan v The King* [2023] VSCA 58 at [52]-[76]. | |
| 05/04/23 | | 10 | 10.3.5 | Reference to *R v Bos* [2023] VSC 68 and extract from [159]-[160]. | |
| 05/04/23 | | 10 | 10.3.10 | Summary of *DPP v Tuteru (Ruling No 3)* [2023] VSC 93 and extracts from [63]-[74], [78] & [84]‑[85]. | |
| 05/04/23 | | 10 | 10.6E | Reference to *DPP v DY* [2023] VSC 117. | |
| 05/04/23 | | 10 | 10.6M | Reference to *DPP v Bird* [2023] VSC 77. | |
| 05/04/23 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 05/04/23 | | 11 | 11.2.6 | References to *Kannan v The King* [2023] VSCA 58 at [82]-[84]; *Ka Ming Chong v The King* [2023] VSCA 62 at [59]-[64]; *Khoshaba v The King* [2023] VSCA 65 at [23]-[33]. | |
| 05/04/23 | | 11 | 11.2.11.2 | Reference to *Van Kempten v The King* [2023] VSCA 26 at [53]-[59]. | |
| 05/04/23 | | 11 | 11.2.12 | Reference to *Newton (a pseudonym) v The King* [2023] VSCA 22 at [36]-[47]. | |
| 05/04/23 | | 11 | 11.2.17 | **Section heading amended to “Relevance of intoxication/drug ingestion”.** | |
| Commentary on the cases of *R v Martin* [2007] VSCA 291, *DPP v Smeaton* [2007] VSCA 256 and *R v Broad; R v Freeman* [2013] VSC 454 plus references to *DPP v Arvanitidis* [2008] VSCA 189, *R v Hay* [2007] VSCA 147 and *R v Sebalj* [2006] VSCA 106 have been moved from section 11.2.16 into section 11.2.17. | |
| Summary of and extracts from *DPP v PS* [2023] VSC 85 at [56]-[75]. | |
| 05/04/23 | | 11 | 11.2.22.1 | Summary of *R v Bos* [2023] VSC 68. Reference to *Surtees v The King* [2023] VSCA 42. | |
| 05/04/23 | | 11 | 11.2.22.4 | References to *DPP v Bednar* [2023] VSC 67; *R v Basham (Sentence)* [2023] VSC 79; *DPP v PS* [2023] VSC 85; *DPP v Coman* [2023] VSC 159. | |
| 05/04/23 | | 11 | 11.2.23 | Reference to *DPP v Harvey* [2023] VSC 80. | |
| 05/04/23 | | 11 | 11.2.24.1 | Summary of *Van Kempten v The King* [2023] VSCA 26 and extracts from [28] & [53]. | |
| 05/04/23 | | 11 | 11.2.24.3 | Reference to *Mashayamombe v The King* [2023] VSCA 60. | |
| 05/04/23 | | 11 | 11.2.25 | Reference to *Mokbel v The King* [2023] VSCA 40. Summary of *Biricik v The Queen* [2023] VSCA 47. | |
| 05/04/23 | | 11 | 11.2.31 | References to *Biricik v The Queen* [2023] VSCA 47 at [38]-[41]; *Khoshaba v The King* [2023] VSCA 65 at [31]-[32]. | |
| 05/04/23 | | 11 | 11.3.1 | Reference to *Adkins v The King* [2023] VSCA 23 at [37]-[51]. | |
| 05/04/23 | | 11 | 11.3.4 | References to *Buddle v The Queen* [2014] VSCA 232 at [42]; *Akoka v The Queen* [2017] VSCA 214 at [109]-[112]; *Kenyeres v The King* [2023] VSCA 25 at [57]-[69]; *Tambakakis v The King* [2023] VSCA 36; *Sengul v The King* [2023] VSCA 63 at [36]-[42]. | |
| 05/04/23 | | 11 | 11.1.4.4 | Reference to *De Luca v The King* [2023] VSCA 44 at [47]-[60]. | |
| 05/04/23 | | 11 | 11.15.1 | Summary of *Adkins v The King* [2023] VSCA 23 and extract from [61]. | |
| 05/04/23 | | 11 | 11.15.1.1 | References to *Newton (a pseudonym) v The King* [2023] VSCA 22; *Nathan Hester (a pseudonym) v The King* [2023] VSCA 41. | |
| 21/02/23 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 21/02/23 | | 2 | 2.7.1 | Minor updating of text. | |
| 21/02/23 | | 2 | 2.7.6 | **New section entitled “Recording of proceedings in the Children’s Court”.** | |
| New text including references to s.19A *Magistrates’ Court Act 1989* and ss.4A, 4B & 4C of the *Court Security Act 1980*. | |
| 21/02/23 | | 2 | 2.8.1 | Summary of *Porch v State of Victoria* [2023] VSC 61 and extract from [18]-[21]. | |
| 21/02/23 | | CHAPTER 3 – COURT OPERATION | | | |
| 21/02/23 | | 3 | 3.1.2 | Reference to *Xerri v The King* [2023] VSCA 15 at [108]-[125]. | |
| 21/02/23 | | 3 | 3.3.3 | Reference to *5 Boroughs NY Pty Ltd v State of Victoria (No. 3)* [2023] VSC 22. | |
| 21/02/23 | | 3 | 3.4.5 | Summary of *Victorian Legal Services Board v Nida* [2023] VSC 25 and extract from [4]. | |
| 21/02/23 | | 3 | 3.5 | Minor modification of text. | |
| 21/02/23 | | 3 | 3.5.3.7 | Extract from *3 Apples Childcare Centre Pty Ltd v MMC Pacific International Pty Ltd* [2023] VSC 21 at [143]-[145]. | |
| 21/02/23 | | 3 | 3.5.9.1 | References to *Esposito v The Victorian Legal Services Board*; *BEUT Property Pty Ltd v Bunnings Group Ltd* [2023] VSC 31. | |
| 21/02/23 | | 3 | 3.9 | * Extract from *Huang v Frankston City Council (Costs Ruling)* [2023] VSC 41 at [10]-[13]. * Extract from *Shout Rock Cafes Pty Ltd v City of Port Phillip & Anor (Costs Ruling)* [2023] VSC 23 at [18]-[19]. * Reference to *Love v Kempton & Anor* [2010] VSC 254 at [19]. | |
| 21/02/23 | | 3 | 3.9.3 | Reference to *Anderson v Stonnington City Council (No 2)* [2020] VSCA 238. | |
| 21/02/23 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 21/02/23 | | 5 | **5.11.2** | **Heading amended to “Power of Bail justice to make an IAO”.** | |
| Minor addition to text and inclusion of pointer to Part 5.5. | |
| 21/02/23 | | 5 | **5.11.3** | Update of text to include a reference to s.263(1)(fb) CYFA. | |
| 21/02/23 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 21/02/23 | | 6 | **6.8.10** | Reference to *Porch v State of Victoria* [2023] VSC 61 and cross-reference to section 2.8.1 of these Research Materials. | |
| 21/02/23 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 21/02/23 | | 7 | 7.1.5 | **Heading to section 7.1.5 amended to “Proceedings for breach of sentencing order”.** | |
| Text expanded but material relating to proceedings for variation or revocation of sentencing order transferred to new section 7.1.6. | |
| 21/02/23 | | 7 | 7.1.6 | **New section 7.1.6 headed “Proceedings for variation or revocation of sentencing order”.** | |
| Text expanded, including some text transferred from section 7.1.5. | |
| 21/02/23 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 21/02/23 | | 9 | 9.0 | **Heading to Part 9.0 amended to “Major amendments to the Bail Act in 2018 and criticism thereof”.** | |
| Summary of *Finding into Death with Inquest into the Passing of Veronica Nelson* (Coroner’s Court of Victoria, 30/01/2023) including extracts from [273], [328], [364], [367], [372]-[373], [375] & [377] and recommendations 3 & 4 in Appendix C. | |
| 21/02/23 | | 9 | 9.4.1.1 | Summaries of *Re ZP* [2022] VSC 585; *Re Smith-Goode* [2022] VSC 798. | |
| 21/02/23 | | 9 | 9.4.1.2 | Summary of *Re RN* [2023] VSC 9 and extracts from [3], [19], [21] & [22]. Summaries of *Re SH* [2022] VSC 584; *Re Mirkovic* [2023] VSC 27; *Re Karisson* [2023] VSC 45. | |
| 21/02/23 | | 9 | 9.4.2.2 | Summary of *Re Ali* [2022] VSC 581. | |
| 21/02/23 | | 9 | 9.4.10 | Reference to *Finding into Death with Inquest into the Passing of Veronica Nelson* (Coroner’s Court of Victoria, 30/01/2023) and extracts from [386]-[390]. | |
| 21/02/23 | | 9 | 9.4.11 | Reference to *Finding into Death with Inquest into the Passing of Veronica Nelson* (Coroner’s Court of Victoria, 30/01/2023) and extract from [331]-[335]. | |
| 21/02/23 | | 9 | 9.5.1 | Summary of *Re Brown* [2022] VSC 578 and extracts from [91]-[92]. | |
| 21/02/23 | | 9 | 9.5.9.1 | * Extracts from *DPP v Molinaro* [2017] VSC 624 at [7] & [9]. * Summary of *Re Zhang* [2023] VSC 8 and extract from [16]-[17]. | |
| 21/02/23 | | 9 | 9.5.17 | **Former section 9.5.17 headed “Limited bail support programs in Children’s Court” is renamed “Bail support services” and is partly split into three subsections.** | |
| 21/02/23 | | 9 | 9.5.17.1 | **New subsection headed “CISP – Bail support service for adults”.** | |
| * Description of CISP, including reference to website <https://www.mcv.vic.gov.au/find-support/bail-support-cisp>. * Reference to *Finding into Death with Inquest into the Passing of Veronica Nelson* (Coroner’s Court of Victoria, 30/01/2023) and extract from [346]-[349]. | |
| 21/02/23 | | 9 | 9.5.17.2 | **New subsection headed “Bail support program & service for children”.** | |
| 21/02/23 | | 9 | 9.5.17.3 | **New subsection headed “The dangers of detoxification by ‘drying out’ in custody”.** | |
| Reference to *Finding into Death with Inquest into the Passing of Veronica Nelson* (Coroner’s Court of Victoria, 30/01/2023) and extract from [351]-[352]. | |
| 21/02/23 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 21/02/23 | | 10 | 10.3.1 | The diagram in this section has been amended by including a pathway to diversion. | |
| 21/02/23 | | 10 | 10.3.2 | **Former section 10.3.13 headed “Transfer of proceedings from Supreme or County Court to Children’s Court” is renumbered 10.3.2.** | |
| 21/02/23 | | 10 | 10.3.3 | **Former section 10.3.2 headed “Hearings” is renumbered 10.3.3 and is split into five subsections.** | |
| 10.3.3.1 | **New subsection header “Mention”.** | |
| 10.3.3.2 | **New subsection header “Diversion”.** | |
| 10.3.3.3 | **New subsection header “Summary case conference”.** | |
| The material previously contained in former section 10.3.5 is moved into this subsection. | |
| 10.3.3.4 | **New subsection header “Contest mention”.** | |
| Text restructured. | |
| 10.3.3.5 | **New subsection header “Contested hearing”.** | |
| Text restructured and summaries of *Awad v The Queen;* *Tambakakis v The Queen* [2022] HCA 36 & *Xerri v The King* [2023] VSCA 15 at [92]-[100] added. | |
| 21/02/23 | | 10 | 10.3.4 | **Former section 10.3.3 headed “’No case’ procedure” is renumbered 10.3.4.** | |
| 21/02/23 | | 10 | 10.3.5 | **Former section 10.3.4 headed “Sentence indication” is renumbered 10.3.5.** | |
| Reference to ss.207-209 *Criminal Procedure Act 2009*. Summary of *DPP v Christopher Browne* [2023] VSCA 13 and extracts from [76]-[77] & [94]. | |
| 21/02/23 | | 10 | 10.3.13 | **Former section 10.3.13 headed “Transfer of proceedings from Supreme or County Court to Children’s Court” is renumbered 10.3.2** | |
| 21/02/23 | | 10 | 10.6J | Brief summary of *R v Yuot* [2023] VSC 47. | |
| 21/02/23 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 21/02/23 | | 11 | 11.2.1 | Summary of *McLean v The King* [2023] VSCA 6 and extract from [42]-[46]. Summary of *DPP v ST* [2023] VSC 49 and extracts from [35] & [43]. | |
| 21/02/23 | | 11 | 11.2.6 | References to *Edgar Case (a pseudonym) v The King* [2023] VSCA 12 at [148]-[154]; *Obian v The King* [2023] VSCA 18 at [410]-[412]. | |
| 21/02/23 | | 11 | 11.2.11.2 | References to *DPP v Ledlin* [2022] VSC 826 at [71]-[76]; *Sweeney v The King* [2023] VSCA 9 at [36]-[46]. | |
| 21/02/23 | | 11 | 11.2.12 | References to *DPP v Ledlin* [2022] VSC 826 at [66]-[70]; *McKay v The King [No 2]* [2023] VSCA 8. | |
| 21/02/23 | | 11 | 11.2.22.1 | Summary of *DPP v ST* [2023] VSC 49 and extracts from [45]-[49]. Summary of *R v Lovett* [2023] VSC 50. | |
| 21/02/23 | | 11 | 11.2.22.4 | Summary of *DPP v Ledlin* [2022] VSC 826. References to *DPP v Cross (No 2)* [2023] VSC 40. | |
| 21/02/23 | | 11 | 11.2.23 | Summary of *DPP v Armstrong* [2022] VSC 827. Summary of *DPP v Christopher Browne* [2023] VSCA 13 and extracts from [40]-[47] & [61]-[62]. | |
| 21/02/23 | | 11 | 11.2.24.1 | Summary of *McLean v The King* [2023] VSCA 6 and extracts from [31]-[37]. Summary of *DPP v Dastmozd* [2023] VSC 29. | |
| 21/02/23 | | 11 | 11.2.24.4 | Summary of *DPP v Silivaii* [2023] VSCA 19. Reference to *DPP v Wal & Anor* [2022] VSC 828. | |
| 21/02/23 | | 11 | 11.2.24.5 | References to *DPP v Casley* [2022] VSC 718; *DPP v Wal & Anor* [2022] VSC 828. | |
| 21/02/23 | | 11 | 11.2.24.6 | References to *Nelson v The Queen* [2020] VSCA 219; *McKay v The King* [2023] VSCA 8. | |
| 21/02/23 | | 11 | 11.2.25 | Summary of *Obian v The King* [2023] VSCA 18. Reference to *Awad v The Queen;* *Tambakakis v The Queen* [2022] HCA 36. | |
| 21/02/23 | | 11 | 11.2.26.1 | References to *DPP v Aditya Singh* [2023] VSCA 17 at [59]; *DPP v Hammoud* [2023] VSC 58. | |
| 21/02/23 | | 11 | 11.2.27 | Reference to *DPP v Hammoud* [2023] VSC 58. | |
| 21/02/23 | | 11 | 11.4.4A | **Section formerly numbered 11.4.4 is renumbered 11.4.4A and renamed “Submissions & duty of prosecutor”.** | |
| 21/02/23 | | 11 | 11.4.4B | **New subsection 11.4.4B entitled “Submissions of accused”.** | |
| Summary of *Frank Brooks (a pseudonym) v The King* [2023] VSCA 4 and extract from [31]. | |
| 21/02/23 | | 11 | 11.15.1.1 | Summary of *Frank Brooks (a pseudonym) v The King* [2023] VSCA 4 and extract from [28]. Reference to *Edgar Case (a pseudonym) v The King* [2023] VSCA 12. | |
| 03/02/23 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 03/02/23 | | 1 | 1.1.5 | Minor amendment noting that the *Children, Youth and Families Amendment (Child Protection) Bill 2021* lapsed on 01/11/2022. | |
| 03/02/23 | | CHAPTER 3 – COURT OPERATION | | | |
| 03/02/23 | | 3 | 3.1  3.1.1  3.1.2 | **Section headings 3.1.1 “Procedural fairness (natural justice) generally” & 3.1.2 “Actual or apprehended judicial bias” are inserted into Part 3.1.** | |
| 03/02/23 | | 3 | 3.1.1 | References to *Stevens v DP World Melbourne Ltd* [2022] VSCA 285 at [22] & [63]-ground (8); *Hycenko v Badge & Ors* [2023] VSC 19 at [24]-[41]. | |
| 03/02/23 | | 3 | 3.3.3 | References to *Soo v Yang & Vale Pty Ltd* [2022] VSCA 227; *Taylor v Merlino* [2022] VSCA 37; *Holden v Kukuy; Re Jay Invest Property Pty Ltd (in liq)* [2022] VSC 796 at [23]-[24]. | |
| 03/02/23 | | 3 | 3.3.4.2 | Reference to *Zaric & Ors v City of Greater Dandenong* [2022] VSC 680 at [46]-[50]. | |
| 03/02/23 | | 3 | 3.4.5 | Summary of *Weldemichael v Duy Tri Ha* [2022] VSC 817 and extract from [20]. | |
| 03/02/23 | | 3 | 3.5.3.7 | References to *Re Klapsas; Klapsas v Muscat* [2022] VSC 755 at [108]-[128]; *China Insurance Group Finance Company Limited v Kingston (No 3)* [2023] VSC 6. | |
| 03/02/23 | | 3 | 3.5.9.1 | Reference to *Quebani Pty Ltd & Anor v McDonald’s Australia Limited* [2023] VSC 16. | |
| 03/02/23 | | 3 | 3.5.14 | Reference to *China Insurance Group Finance Company Limited v Kingston (No 3)* [2023] VSC 6 at [343]-[353]. | |
| 03/02/23 | | 3 | 3.7.1 | Summary of *Ms D v Mr D* [2022] EWFC 164 and extracts from [7], [55] & [63] together with the letter written by Recorder McKendrick QC to the children contained in Appendix One. | |
| 03/02/23 | | 3 | 3.7.2 | References to *Hadid v Redpath* [2001] NSWCA 416 at [40]-[52]; *Cotton On Group Services Pty Ltd v Monica Golowka* [2022] VSCA 279 at [173]-[174]. | |
| 03/02/23 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 03/02/23 | | 4 | 4.8.6 | Summary of *R v Duong* [2022] VSC 816 and extract from [28]-[30]. | |
| 03/02/23 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 03/02/23 | | 6 | **6.14** | Summary of *AAA v County Court of Victoria & Ors* [2023] VSC 13 and extracts from [48]-[52], [63] & [65]. | |
| 03/02/23 | | 6 | **6.18.1** | Addition of extract from *DPP v Cormick* [2022] VSC 786 at [62]. | |
| 03/02/23 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 03/02/23 | | 7 | 7.12.5 | **Addition of new section entitled “Dangerous driving causing death/serious injury”.** | |
| Summary of *R v Duong* [2022] VSC 816 and extract from [281]-[290]. | |
| 03/02/23 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 03/02/23 | | 10 | 10.3.2(4) | * Expansion of text on **Contested hearings**, including addition of references to the *Jury Directions Act 2015*, extracts from *DPP v Arslanian* [2022] VSC 736 at [19] & [21]-[26] and a summary of *R v Duong* [2022] VSC 816 with references to [13]-[36]. * Replacement of the ALR citation to *George Pell v DPP* with (2020) 268 CLR 123. * Reference to *Ben Hill v The King* [2022] VSCA 316 at [72]-[73]. | |
| 03/02/23 | | 10 | 10.3.3 | Reference to *DPP v McCartin & Ors (Ruling No 3)* [2022] VSC 723 at [4]-[5]. | |
| 03/02/23 | | 10 | 10.3.12(9) | Summary of *Marcus White (a pseudonym) v The King* [2022] VSCA 278. | |
| 03/02/23 | | 10 | 10.6J | Reference to *R v Cohrs (No 2)* [2022] VSC 784. | |
| 03/02/23 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 03/02/23 | | 11 | 11.1.5 | References to *R v Assaad* [2022] VSC 800 at [119]; *R v K*Y [2022] VSC 805 at [85]. | |
| 03/02/23 | | 11 | 11.1.21 | Reference to *DPP v Hooper & Stefani* [2022] VSC 821 at [82], [92], [99], [155] & [159]. | |
| 03/02/23 | | 11 | 11.2.11.2 | Reference to *Tewaka v The King* [2022] VSCA 275 at [37]-[41]. | |
| 03/02/23 | | 11 | 11.2.22.1 | Summary of *R v Gurlu* [2022] VSC 820. Summary of *R v K*Y [2022] VSC 805 and extracts from [71] & [84]-[86]. | |
| 03/02/23 | | 11 | 11.2.22.7 | **Former subsection 11.2.22.6 headed “Sentencing for being accessory to murder” is renumbered 11.2.22.7.** | |
| 03/02/23 | | 11 | 11.2.22.6 | **New subsection headed “Sentencing for incitement to murder”.** | |
| Summary of new case of *R v Assaad* [2022] VSC 800 and extracts from [51], [62]-[63], [120]-[122] & [131]. | |
| 03/02/23 | | 11 | 11.2.24.2 | Reference to *R v Couch* [2022] VSC 717. | |
| 03/02/23 | | 11 | 11.2.26.2 | Reference to *Tewaka v The King* [2022] VSCA 275. | |
| 19/12/22 | | CHAPTER 3 – COURT OPERATION | | | |
| 19/12/22 | | 3 | 3.1 | References to *Viva Energy Australia Pty Ltd v Glen Eira City Council* [2022] VSC 726 at [83]-[95]; *Bolitho & Anor v Banksia Securities Limited & Ors (No 19)* [2022] VSC 761. | |
| 19/12/22 | | 3 | 3.5.6.5 | **Addition of new subsection entitled “Tips for Advocates and Witnesses in contested Family Division cases”.** | |
| Reference to *DFFH v West (a pseudonym)* [2022] VChC 2. | |
| 19/12/22 | | 3 | 3.5.9.1 | Reference to *Huang v Frankston City Council* [2022] VSC 733 at [31]-[34] & [75]-[85]. | |
| 19/12/22 | | 3 | 3.5.9.3 | Removal of reference to Practice Direction No. 4 of 2013 which has long been revoked and addition of reference to paragraphs [26]-[27] of Practice Direction No. 2 of 2022 in lieu. | |
| 19/12/22 | | 3 | 3.5.14 | Brief summary of *DFFH v West (a pseudonym)* [2022] VChC 2 (with cross-reference to section 5.5.3) and extract from [138]. | |
| 19/12/22 | | 3 | 3.9.7 | **Addition of new section entitled “Costs against the Court”.** | |
| * Extracts from *Magistrates’ Court of Victoria at Heidelberg v Robinson* (2000) 2 VR 233; [2000] VSCA 198 at [13] & [10]-[11]. * Summary of *Travis v Rando & Anor* [2022] VSC 782 and extract from [14]. | |
| 19/12/22 | | 3 | 3.9.8 | **Addition of new section entitled “Costs indemnity certificates under the Appeal Costs Act”.** | |
| 19/12/22 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 19/12/22 | | 4 | 4.8.2 | Two very minor amendments to text. | |
| 19/12/22 | | 4 | 4.9.6 | Added information described as: “**TIPS FOR ADULTS REPRESENTING THEMSELVES AT A FINAL HEARING IN A CONTESTED FAMILY DIVISION CASE IN THE CHILDREN’S COURT**” | |
| 19/12/22 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 19/12/22 | | 5 | **5.5.3** | * Summary of *DFFH v West (a pseudonym)* [2022] VChC 2 and extracts from [89]-[90], [101]-[105], [113], [120]-[124] & [129]-[142]. * Extract from *DFFH v West (a pseudonym)* [2022] VChC 2 at [114]-[115]. | |
| 19/12/22 | | 5 | **5.5.4** | * Extract from *DFFH v West (a pseudonym)* [2022] VChC 2 at [142]. * Extract from *In re B (Children)* [2008] UKHL 35 at pp.54 & 59 cited in *DFFH v West (a pseudonym)* [2022] VChC 2 at [131]. | |
| 19/12/22 | | 5 | **5.5.5** | Reference to *DFFH v West (a pseudonym)* [2022] VChC 2 at [123]. | |
| 19/12/22 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 19/12/22 | | 6 | **6.18.1** | Summary of *DPP v Cormick* [2022] VSC 786 and extract from [49]-[58]. | |
| 19/12/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 19/12/22 | | 9 | 9.4.1.2 | Summary of *Re Pope* [2022] VSC 735. | |
| 19/12/22 | | 9 | 9.4.2.2 | Summaries of *Re JK (a pseudonym)* [2022] VSC 714; *Re Benjamin Williams* [2022] VSC 712. | |
| 19/12/22 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 19/12/22 | | 10 | 10.2.5 | Addition of “committal caution” pursuant to ss.144(1) & 144(2)(b)(iii) CPA and “alibi caution” pursuant to s.144(2)(b)(i) CPA which are contained in Forms 39 & 40 of the *Magistrates’ Court Criminal Procedure Rules 2019*. | |
| 19/12/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 19/12/22 | | 11 | 11.1.4.4 | * A minor change in the order in which cases referred to near the start of this subsection are discussed. * Extract from *Polos v The King* [2022] VSCA 258 at [41]-[43]. | |
| 19/12/22 | | 11 | 11.1.5 | Discussion of s.571 CYFA re pre-sentence reports. | |
| 19/12/22 | | 11 | 11.1.9.1 | **Subsection heading amended to “Licence suspension/cancellation and disqualification from driving”.** | |
| * Substantial addition of text discussing licence suspension/cancellation and disqualification from driving in relation to offences contained in Division 3 of Part 4 of the Sentencing Act 1991 [see s.417(1) CYFA]. * Minor amendment to discussion of *Victoria Police v FT* [2018] VChC 2. | |
| 19/12/22 | | 11 | 11.2.6 | References to *McBain v The King* [2022] VSCA 257 at [28]-[32]; *Garipoli v The King* [2022] VSCA 260 at [38]-[70]. | |
| 19/12/22 | | 11 | 11.2.8.3 | Summary of *Ngyuen (a pseudonym) v The King* [2022] VSCA 284 and extract from [39]-[40] & [48]‑[50]. | |
| 19/12/22 | | 11 | 11.2.10 | Extract from *DPP v Gregory Reynolds (a pseudonym)* [2022] VSCA 263 at [18]. | |
| 19/12/22 | | 11 | 11.2.11.2 | References to *Evan Chey (a pseudonym) v The King* [2022] VSCA 262 at [30], [37] & [48]; *DPP v Deng* [2022] VSC 790 at [19]-[29]. | |
| 19/11/22 | | 11 | 11.2.11.4 | Reference to *DPP v Andrew Robert Paterson* [2022] VSC 746 at [72]. | |
| 19/12/22 | | 11 | 11.2.22.4 | Summary of *Evan Chey (a pseudonym) v The King* [2022] VSCA 262 and extracts from [41]-[42] & [47]‑[49]. Summary of *DPP v Deng* [2022] VSC 790 and extract from [39]. | |
| 19/12/22 | | 11 | 11.2.24.4 | Summary of *DPP v Miller (Sentence)* [2022] VSC 775. | |
| 19/12/22 | | 11 | 11.2.25 | Summaries of *Polos v The King* [2022] VSCA 258; *Nguyen (a pseudonym) v The King* [2022] VSCA 284. | |
| 19/12/22 | | 11 | 11.2.26.1 | Reference to *Garipoli v The King* [2022] VSCA 260. | |
| 19/12/22 | | 11 | 11.2.36 | Summary of *DPP v Gregory Reynolds (a pseudonym)* [2022] VSCA 263 and extracts from [71]-[87], [1]-[5] & [13]-[22]. | |
| 19/12/22 | | 11 | 11.2.36.2 | Cross-referencing note to *DPP v Gregory Reynolds (a pseudonym)* [2022] VSCA 263 at [21]-[22] added to the quotation from *Pasinis v R* [2014] VSCA 97. | |
| 19/12/22 | | 11 | 11.4.1 | Discussion of s.571 CYFA re pre-sentence reports. | |
| 19/12/22 | | 11 | 11.13 | **Heading of Part amended to “Sunset provision for Children's Court priors – Spent convictions”.** | |
| * Deletion of reference to repealed s.376 Crimes Act 1958. * Summary of Spent Convictions Act 2021. | |
| 19/12/22 | | 11 | 11.15.1.1 | Reference to *Toby Murphy (a pseudonym) v The King [2022] VSCA 259.* | |
| 24/11/22 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 24/11/22 | | 1 | 1.2.5 | **New section entitled “Bail Regulations 2022”.** | |
| 24/11/22 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 24/11/22 | | 2 | 2.1 | **Title of Part changed to “Establishment, Role, Strategic Priorities & Purpose”.** | |
| Text updated and expanded to include material from the Court’s “Statement of Priorities 2022-2025”. Reference to *Re C Children* [Children’s Court of Victoria-Power M, unreported, 18/07/2013] at pp. 98‑100. | |
| 24/11/22 | | 2 | 2.5.2 | Minor updating of text. | |
| 24/11/22 | | 2 | 2.8.2 | Reference to *Attorney-General v Khan (suppression order)* [2022] VSC 627. | |
| 24/11/22 | | CHAPTER 3 – COURT OPERATION | | | |
| 24/11/22 | | 3 | 3.1 | Reference to *The Crown in Right of the State of Victoria (Department of Health) v Magistrates’ Court of Victoria* [2022] VSC 630 at [12]-[14]. | |
| Reference to *VLSB v Kuksal & Ors (Recusal Applications)* [2022] VSC 648. | |
| 24/11/22 | | 3 | 3.5.9 | Minor amendment to text to include reference to s.532 CYFA. | |
| 24/11/22 | | 3 | 3.5.9.1 | Summary of *Monash University v EBT* [2022] VSC 651 and extract from [132]. | |
| Reference to *Andrianakis v Uber Technologies; Taxi Apps Pty Ltd v Uber Technologies (Appeal)* [2022] VSC 643. | |
| 24/11/22 | | 3 | 3.7.2 | Extract from *Jay Moore (a pseudonym) v The King* [2022] VSCA 233 at [14]. | |
| 24/11/22 | | 3 | 3.9.1 | **Section heading amended to “Criminal Division** **(costs of defendant / *amicus curiae*)”.** | |
| Reference to *AB v Paulet (No 2)* [2022] VSC 646 at [60]-[64]. | |
| 24/11/22 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 24/11/22 | | 4 | 4.7.4 | Number of ICLs appointed in 2021/22. | |
| 24/11/22 | | 4 | 4.8.2 | **New section headed “Whether an adult party may be represented by a ‘litigation guardian’”.** | |
| Discussion of this issue highlighting an article entitled “Parents lacking capacity” dated 01/04/2017 written by Ms Siobhan Mansfield and published in the Law Institute of Victoria. | |
| 24/11/22 | | 4 | **4.8.3** | **Number of the section headed “Court may inform itself as it thinks fit – Rules of evidence not mandatory” is changed from 4.8.2 to 4.8.3.** | |
| 24/11/22 | | 4 | **4.8.4** | **Number of the section headed “Impact of the “best interests” principle on the Court’s procedure” is changed from 4.8.3 to 4.8.4.** | |
| 24/11/22 | | 4 | **4.8.5** | **Number of the section headed “Findings on balance of probabilities” is changed from 4.8.4 to 4.8.5.** | |
| 24/11/22 | | 4 | **4.8.6** | **Number of the section headed “Expert evidence” is changed from 4.8.5 to 4.8.6.** | |
| 24/11/22 | | 4 | **4.8.7** | **Number of the section headed “Attendance of child at Court” is changed from 4.8.6 to 4.8.7.** | |
| 24/11/22 | | 4 | **4.9.8** | Addition of MNG statistics for 2021/22. | |
| 24/11/22 | | 4 | **4.17** | Addition of FDTC statistics for 2021/22. | |
| 24/11/22 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 24/11/22 | | 5 | **5.2.3** | Summary of case of *Re KT* (Children’s Court of Victoria-Billings M, 04/11/2022). | |
| 24/11/22 | | 5 | 5.4.10  5.5  5.5.8  5.11.10  5.13  5.14.8  5.22.9  5.23.6  5.23.9  5.27.3 | Addition of 2021/22 Family Division statistics to all of these paragraphs and minor associated amendments to the text in some of these paragraphs. | |
| 24/11/22 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 24/11/22 | | 6 | **6PS.10.1** | Summary of *Smit & Yemeni v Simon* [2022] VMC 29 and extract from [83]-[86]. | |
| 24/11/22 | | 6 | **6.20** | Addition of 2021/22 intervention order statistics. | |
| 24/11/22 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 24/11/22 | | 7 | 7.5.7 | Addition of the number of Criminal Division finalisations for the year 2021/22. | |
| 24/11/22 | | 7 | 7.6 | Addition of statistics for 2021/22 and restructuring of the finalised CAYPINS cases statistical table. | |
| 24/11/22 | | 7 | 7.11.6 | Addition of Children’s Koori Court statistics for 2021/22. | |
| 24/11/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 24/11/22 | | 9 | 9.2.11 | **New section entitled “Bail Regulations 2022”.** | |
| This new section lists the 21 Forms prescribed to be used for the purposes of the Bail Act 1977 and makes brief comments about several of them. | |
| 24/11/22 | | 9 | 9.4.1.1 | Summaries of *Re Xian* [2022] VSC 492; *Re SP* [2022] VSC 626; *Re Ryan* [2022] VSC 663. | |
| Added note to *Re Hammound* that bail was revoked by Tinney J on 06/10/2022: [2022] VSC 613. | |
| 24/11/22 | | 9 | 9.4.1.2 | Reference to *Re Pusey (No 2)* [2022] VSC 682. | |
| 24/11/22 | | 9 | 9.4.2.2 | Summaries of *Re LU (Youth)* [2022] VSC 644; *Re John Booth* [2022] VSC 657. | |
| 24/11/22 | | 9 | 9.4.2.4 | Summaries of *Re Maynard* [2022] VSC 616; *Re Forrester* [2022] VSC 654. | |
| 24/11/22 | | 9 | 9.4.3 | Summary of *Re John Booth* [2022] VSC 657 and extract from [2]. | |
| 24/11/22 | | 9 | 9.4.8 | Summary of *Fiona Lee Austin v The King* [2022] VSCA 240 and extracts from [20]-[23] & [37]. | |
| 24/11/22 | | 9 | 9.5.8 | Summary of *Re Hammoud (application for bail revocation)* [2022] VSC 613 and extract from [63]‑[66]. | |
| 24/11/22 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 24/11/22 | | 10 | 10.0.2 | Summary of *Taig v The King* [2022] VSCA 235 and extract from [40]-[46]. | |
| 24/11/22 | | 10 | 10.2.3 | Reference to *The Crown in Right of the State of Victoria (Department of Health) v Magistrates’ Court of Victoria* [2022] VSC 630. | |
| 24/11/22 | | 10 | 10.3.2(4) | Reference to *DPP v Horan* [2022] VSC 692. | |
| 24/11/22 | | 10 | 10.3.10 | Reference to *R v Oberin (Ruling)* [2022] VSC 518 at [57]-[72]. | |
| 24/11/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 24/11/22 | | 11 | 11.1.10 | Reference to *Thurin v Krongold Constructions Aust P/L* [2022] VSCA 226 at [150]. | |
| 24/11/22 | | 11 | 11.2.11.2 | Reference to *DPP v Taylor* [2022] VSC 598 at [34]‑[46]. | |
| 24/11/22 | | 11 | 11.2.12 | Reference to *R v Johnson* [2022] VSC 681 at [37]. | |
| 24/11/22 | | 11 | 11.2.14 | Reference to *Stafford v The King* [2022] VSCA 229 at [27]-[28] & [38]-[39]. | |
| 24/11/22 | | 11 | 11.2.22.1 | Summary of *R v Johnson* [2022] VSC 681. | |
| 24/11/22 | | 11 | 11.2.22.6 | Summary of *DPP v Hamka* [2022] VSC 609. | |
| 24/11/22 | | 11 | 11.2.25 | Summary of *Terry James Johnson v The King* [2022] VSCA 228 and extracts from [9], [23] & [24]. | |
| 24/11/22 | | 11 | 11.2.26.1 | **Heading of subsection amended to “Sentencing for armed robbery / attempted armed robbery / robbery”.** | |
| Summary of *Shrubshall v The King* [2022] VSCA 221 and extract from [36]. | |
| 24/11/22 | | 11 | 11.2.28.1 | Reference to *Stafford v The King* [2022] VSCA 229. | |
| 24/11/22 | | 11 | 11.7.1 | Added statistics for sentencing orders made in 2021/22 and very minor additional amendments to the text. | |
| 24/11/22 | | 11 | 11.7.2 | Very minor amendment to text. | |
| 24/11/22 | | 11 | 11.15.1.1 | Reference to *Jay Moore (a pseudonym) v The King* [2022] VSCA 233. | |
| 24/11/22 | | CHAPTER 12 – CHILDREN’S COURT CLINIC | | | |
| 24/11/22 | | 12 | 12.3.3 | Added statistics for the numbers of reports prepared by the Clinic in 2021/2022. | |
| 20/10/22 | | CHAPTER 3 – COURT OPERATION | | | |
| 20/10/22 | | 3 | 3.1 | Reference to *Adaz Nominees Pty Ltd v Castleway Pty Ltd* [2022] VSC 600. Summary of *MNX (a pseudonym) v TNV (a pseudonym)* [2022] VSC 592. Summary of *Kyriazis v Victoria Police* [2022] VSC 596 and extracts from [32]-[33] & [37]-[39]. | |
| 20/10/22 | | 3 | 3.3.1 | Reference to *Victorian Legal Services Board v Jensen* [2022] VSC 603. | |
| 20/10/22 | | 3 | 3.5.3.3 | Subsection slightly restructured and an example of double hearsay evidence from a case in 2018 added. | |
| 20/10/22 | | 3 | 3.5.3.7 | Extract from judgment of Weinberg JA in *Pell v The Queen* [2019] VSCA 186 at [897]. | |
| 20/10/22 | | 3 | 3.5.14 | Reference to *Thompson v Marks* [2002] VMC 25 at [10]-[25]. | |
| 20/10/22 | | 3 | 3.7.2 | Reference to *Griffiths v Nillumbik Shire Council* [2022] VSCA 217 at [115]-[118]. | |
| 20/10/22 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 20/10/22 | | 4 | **Broken link repaired.** | | |
| 20/10/22 | | 4 | 4.3.3 | **New section headed “Jurisdiction under the Terrorism (Community Protection) Act 2003”.** | |
| A detailed description of this new Family Division jurisdiction which came into operation on 02/09/22, including three process flowcharts. | |
| **THIS SECTION WAS SUPPOSED TO BE ADDED ON 09/09/2022 BUT WAS OMITTED BY MISTAKE.** | |
| 20/10/22 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 20/10/22 | | 5 | **Several broken links repaired.** | | |
| 20/10/22 | | 5 | **5.25.1**  **5.25.2**  **5.25.3**  **5.26** | Minor amendments made to text. | |
| 20/10/22 | | 5 | **5.25.3** | **Section heading amended to “Orange form – Minutes of proposed order for appointment of ICL”.** | |
| 20/10/22 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 20/10/22 | | 6 | **Several broken links repaired.** | | |
| 20/10/22 | | 6 | **6.8.3** | Reference to *MNX (a pseudonym) v TNV (a pseudonym)* [2022] VSC 592 at [58]-[72] and extract from [58]. | |
| 20/10/22 | | 6 | **6FV.6.2** | Minor correction to text re ss.24-25 FVPA. | |
| 20/10/22 | | 6 | **6FV.7** | Updating of text re Rule 11.01 of the CFVR. | |
| 20/10/22 | | 6 | **6FV.14.1** | **Heading amended to “Variation, revocation or extension generally”.** | |
| 20/10/22 | | 6 | **6FV.14.2** | **Heading amended to “When consent of protected person or guardian is not required”.** | |
| 20/10/22 | | 6 | **6.18.1** | Reference to Willis, *Breach of FVIO: Strict liability or mens rea?* (2022) Oct LIJ: Law Institute Journal 24‑27. | |
| 20/10/22 | | 6 | **6.22** | **Section headed “Power to bind over to keep the peace” which was formerly numbered 6PS.13 is renumbered 6.22.** | |
| Minor amendment to text. | |
| 20/10/22 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 20/10/22 | | 7 | 7.4 | **This Part is renamed "Police Cautioning Program" as a means of diversion from court.”** | |
| Significant updating of and additions to text. | |
| 20/10/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 20/10/22 | | 9 | 9.4.1.1 | Summary of *Re Swanson* [2022] VSC 619. | |
| 20/10/22 | | 9 | 9.4.1.2 | Summary of *Re Al-Qassim* [2022] VSC 576. | |
| 20/10/22 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 20/10/22 | | 10 | **Broken links repaired.** | | |
| 20/10/22 | | 10 | 10.3.3 | Reference to *DPP v Orchard (Ruling No.1)* [2022] VSC 601. | |
| 20/10/22 | | 10 | 10.7F | Addition to text to include a number of examples of Children’s Court Diversion Programs. | |
| 20/10/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 20/10/22 | | 11 | **Broken links repaired.** | | |
| 20/10/22 | | 11 | 11.1.9.1 | Reference to *Parker v The King* [2022] VSCA 207 at [41]-[49]. | |
| 20/10/22 | | 11 | 11.2.1 | Summary of *DPP v Elliott & Fares (Sentence)* [2022] VSC 554 and extract from [84] & [89]. | |
| 20/10/22 | | 11 | 11.2.11.4 | References to *DPP v Taylor* [2022] VSC 598 at [34]‑[46]; *DPP v Hay*es [2022] VSC 679 at [70-]-[83]. | |
| 20/10/22 | | 11 | 11.2.22.4 | Summary of *DPP v Elliott & Fares (Sentence)* [2022] VSC 554. Reference to *DPP v Taylor* [2022] VSC 598. | |
| 20/10/22 | | 11 | 11.2.24.4 | Reference to *Fonua v The King* [2022] VSCA 213. | |
| 20/10/22 | | 11 | 11.5 | Minor addition to text. | |
| 20/10/22 | | 11 | 11.7.2 | Significant addition to text, including a chart depicting the rate of young people aged 10-17 under supervision (community-based & detention) in all Australian states and territories on an average day in 2020/21. | |
| 20/10/22 | | 11 | 11.8 | Minor addition to text. | |
| 20/10/22 | | 11 | 11.15.3 | Reference to *Hutchison v The King* [2022] VSCA 217. | |
| 20/10/22 | | 11 | 11.15.4 | Reference to *Nuramin v The King* [2022] VSCA 215 at [86]-[98]. | |
| 07/10/22 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 07/10/22 | | 1 | 1.3 | Note re minor and consequential amendments to the *Children, Youth and Families (Children’s Court Family Division) Rules 2017* effected as from 01/10/2022 by S.R. No.100/2022. | |
| 07/10/22 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 07/10/22 | | 2 | 2.8.2 | Reference to *Madafferi v The Queen* [2022] VSCA 189. | |
| 07/10/22 | | CHAPTER 3 – COURT OPERATION | | | |
| 07/10/22 | | 3 | 3.3.3 | Reference to *Ah Fook v Transport Accident Commission* [2022] VSCA 199 at [52]-[63]. | |
| 07/10/22 | | 3 | 3.5.10.4 | Reference to *Timeless Sunrise Pty Ltd v BigJ Enterprises Pty Ltd (No 7)* [2022] VSC 549. | |
| 07/10/22 | | 3 | 3.7.2 | Summary of *Karabagias v Katopodis* [2022] VSCA 191 and extracts from [10]-[14] & [47]-[57]. Reference to *Ah Fook v Transport Accident Commission* [2022] VSCA 199 at [67]-[72]. | |
| 07/10/22 | | 3 | 3.8 | Reference to *Zirilli v The King* [2022] VSCA 192 at [48]-[58]. | |
| 07/10/22 | | CHAPTER 8 – CRIMINAL DIVISION – INVESTIGATION | | | |
| 07/10/22 | | 8 | **8.4.3.3** | Summary of *Yarran v Magistrates’ Court of Victoria* [2022] VSC 531. | |
| 07/10/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 07/10/22 | | 9 | 9.2.4 | Expansion of commentary on s.4AA(2). | |
| 07/10/22 | | 9 | 9.2.4/5 | Summary of *Re LW* [2022] VSC 567 and extract from [48]-[49]. Minor modification of commentary consequential upon the judgment of Fox J in *Re LW*. | |
| 07/10/22 | | 9 | 9.4.1.1 | Summaries of *Re Trakci* [2022] VSC 530; *Re Dole* [2022] VSC 560; *Re LW* [2022] VSC 567. | |
| 07/10/22 | | 9 | 9.4.1.2 | Summary of *Re Desic* [2022] VSC 537 and extract from [59]-[61]. | |
| 07/10/22 | | 9 | 9.4.2.2 | Summary of *Re Sofele* [2022] VSC 409. | |
| 07/10/22 | | 9 | 9.4.2.3 | Summaries of *Re Ejikeme* [2022] VSC 522; *Re Brook* [2022] VSC 566. | |
| 07/10/22 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 07/10/22 | | 10 | 10.3.2(4) | Reference to *Kennett v The King* [2022] VSCA 202. | |
| 07/10/22 | | 10 | 10.3.12 | References to *R v Villella (Rulings 1-3)* [2022] VSC 535 at [7] & [162]-[167]; *Sutton v The Queen* (1984) 152 CLR 528, 541-2; *Townsend (a pseudonym) v The King* [2022] VSCA 201 at [149]-[164]. | |
| 07/10/22 | | 10 | 10.6Q | Reference to *Re Toohey* [2022] VSC 500. | |
| 07/10/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 07/10/22 | | 11 | 11.1.4.5 | Reference to *Wasif v The Queen* [2022] VSCA 182 at [60]. | |
| 07/10/22 | | 11 | 11.1.5 | Extract from *Wasif v The Queen* [2022] VSCA 182 at [45]. | |
| 07/10/22 | | 11 | 11.2.8.2 | Reference to *Tyson Ralph v The Queen* [2022] VSCA 185 at [50]-[51]. | |
| 07/10/22 | | 11 | 11.2.12 | Reference to *Tyson Ralph v The Queen* [2022] VSCA 185 at [46]-[49]. | |
| 07/10/22 | | 11 | 11.2.22.1 | Summary of *DPP v Folau* [2022] VSC 514. | |
| 07/10/22 | | 11 | 11.2.22.3 | Reference to *DPP v Constantinou* [2022] VSC 513. | |
| 07/10/22 | | 11 | 11.2.23 | Reference to appeal in case of *R v Al-Anwiya* [2022] VSCA 181. Reference to *DPP v Lombardo* [2022] VSCA 204. | |
| 07/10/22 | | 11 | 11.2.24.2 | Reference to *Muller v The King* [2022] VSCA 193. | |
| 07/10/22 | | 11 | 11.2.24.5 | Reference to *DPP v WA* [2022] VSC 506. | |
| 07/10/22 | | 11 | 11.2.26.1 | Summary of *Sinclair v The Queen* [2022] VSCA 180 and extract from [50]-[52]. Reference to *DPP v Roberts (Sentence)* [2022] VSC 532. | |
| 07/10/22 | | 11 | 11.2.27 | Summary of *Tyson Ralph v The Queen* [2022] VSCA 185 and extract from [37]-[57]. Reference to *Stowers v The King; Phillips v The King* [2022] VSCA 203. | |
| 07/10/22 | | 11 | 11.2.30 | References to *Wasif v The Queen* [2022] VSCA 182 at [63] & [66]; *DPP v Rowson* [2022] VSC 510. | |
| 07/10/22 | | 11 | 11.2.34 | References to *Powell v The Queen* [2015] VSCA 93; *Berichon v The Queen* (2013) 40 VR 490 at [26]; *DPP v Basic* [2017] VSCA 376 at [81]; *Kelly v The Queen* [2020] VSCA 171 at [44]; *Begg v The Queen* [2020] VSCA 183 at [82]; *Sultan v The King* [2022] VSCA 205 at [37]-[55]. | |
| 07/10/22 | | 11 | 11.3.4 | Reference to *DPP v Roberts (Sentence)* [2022] VSC 532 at [63]‑[64]. | |
| 09/09/22 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 09/09/22 | | 1 | 1.4.1 | Changes to reference to PD No.2 of 2022 to reflect its amendment on 02/09/22. Removal of references to PD No.4 of 2022 & No.5 of 2022 as both have expired. | |
| 09/09/22 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 09/09/22 | | 2 | 2.3 | Update of description of Organisational Structure of the Children’s Court at Melbourne and removal of the associated chart. | |
| 09/09/22 | | 2 | 2.5 | **New section headings inserted into this Part: 2.5.1 Sections 505 & 505A of the CYFA**  **2.5.2 Current Victorian Children’s Court venues**  **2.5.3 Children’s Court Weekend Online Remand Court [WORC]** | |
| 09/09/22 | | 2 | 2.5.2 | Some significant updating of text. | |
| 09/09/22 | | 2 | 2.5.3 | Addition of description of the Children’s Court Weekend Online Remand Court [WORC]. | |
| 09/09/22 | | 2 | 2.6 | Extracts from *DHHS v Brown* [2018] VSC 775 at [62]; *TSH v DFFH* [2022] VSC 390 at [62]. | |
| 09/09/22 | | CHAPTER 3 – COURT OPERATION | | | |
| 09/09/22 | | 3 | 3.1 | * Extract from *Davies v The Queen* [2019] VSCA 66 at [523]. Reference to *Ross v Commonwealth of Australia* [2022] VSC 457 at [6]. * Summary of *Nathanson v Minister for Home Affairs* [2022] HCA 26 and extract from [1]-[2]. | |
| 09/09/22 | | 3 | 3.4.3 | Summary of *J v Lieschke* (1987) 162 CLR 447 and extracts from the judgment of Brennan J at pp.456‑458. | |
| 09/09/22 | | 3 | 3.5 | Reference to s.19A *Magistrates’ Court Act 1989* read in conjunction with s.528(2)(a) CYFA. | |
| 09/09/22 | | 3 | 3.5.10.4 | References to *X7 v Australian Crime Commission* (2013) 248 CLR 92; *Villan v State of Victoria* [2021] VSC 354 & *State of Victoria* *v Villan* [2022] VSCA 106; *Lucciano v R* [2021] VSCA 12; *Kontis & Anor v Coroners Court of Victoria* [2022] VSC 422 esp. at [142]. | |
| 09/09/22 | | 3 | 3.7.2 | Reference to *Salmon-Urbani v The Queen* [2022] VSCA 170. | |
| 09/09/22 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 09/09/22 | | 4 | 4.3.3 | **New section headed “Jurisdiction under the Terrorism (Community Protection) Act 2003”.** | |
| A detailed description of this new Family Division jurisdiction which came into operation on 02/09/22, including three process flowcharts. | |
| 09/09/22 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 09/09/22 | | 5 | 5.17.5 | Summary of the case of *DFFH v WE & WL* [Melbourne Children’s Court, unreported, 02/09/2022] and commentary on cl.32 of the *Children, Youth and Families Amendment (Child Protection) Bill 2021.* | |
| 09/09/22 | | 5 | 5.18.6 | Commentary on cl.33 of the *Children, Youth and Families Amendment (Child Protection) Bill 2021* and reference to the case of *DFFH v WE & WL* [Melbourne Children’s Court, unreported, 02/09/2022]. | |
| 09/09/22 | | CHAPTER 8 – CRIMINAL DIVISION – INVESTIGATION | | | |
| 09/09/22 | | 8 | **8.6** | Summary of *Joshua Martin (a pseudonym) v The Queen (No.2)* [2022] VSCA 161, in particular the Court of Appeal’s rulings at [87] & [98]-[100]. | |
| 09/09/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 09/09/22 | | 9 | 9.4.1.1 | * Summary of *Andrew James Price [No.2]* [2022] VSC 441 and extracts from [29] & [31]. * Summary of *Re JK* [2022] VSC 527 and extract from [38]-[42]. | |
| 09/09/22 | | 9 | 9.4.1.2 | Summary of *Re Pusey* [2022] VSC 455. | |
| 09/09/22 | | 9 | 9.4.4.2 | Reference to *Re Cassidy* [2022] VSC 491. | |
| 09/09/22 | | 9 | 9.5.1 | Reference to *Re Price [No.2]* [2022] VSC 441 and extract from [32]. | |
| 09/09/22 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 09/09/22 | | 10 | 10.3.2(4) | References to *Dansie v The Queen* [2022] HCA 25; *Palliyaguruge v The Queen* [2022] VSCA 159. | |
| 09/09/22 | | 10 | 10.4.1 | Very minor amendment to text. | |
| 09/09/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 09/09/22 | | 11 | 11.2.1 | Reference to *Laz v The Queen* [2022] VSCA 160 at [31]-[33]. | |
| 09/09/22 | | 11 | 11.2.6 | Reference to *Shbaro v The Queen* [2022] VSCA 190 at [42]-[48]. | |
| 09/09/22 | | 11 | 11.2.8.2 | Reference to *Biba v The Queen* [2022] VSCA 168 at [26]-[32]. | |
| 09/09/22 | | 11 | 11.2.8.4 | Reference to *Mohinder Singh v The Queen* [2022] VSCA 178 at [55]-[59] and small quotation from [58]. | |
| 09/09/22 | | 11 | 11.2.11.2 | Reference to *Mazzonetto v The Queen* [2022] VSCA 153 at [24]-[32]. | |
| 09/09/22 | | 11 | 11.2.11.3 | Reference to *Rule v The Queen* [2022] VSCA 162 at [24]-[37]. | |
| 09/09/22 | | 11 | 11.2.18 | Reference to *Rodgerson v The Queen [No 2]* [2022] VSCA 154 at [64]-[80], [84]-[85] & [91]. | |
| 09/09/22 | | 11 | 11.2.22.1 | Addition of citation of the Court of Appeal decision in *Biba v The Queen* [2022] VSCA 168. | |
| 09/09/22 | | 11 | 11.2.22.4 | Summary of *DPP v Fairhall* [2022] VSC 444 and extract from [34]-[37]. | |
| 09/09/22 | | 11 | 11.2.23 | * Summary of *Mohinder Singh v The Queen* [2022] VSC 178 and quotations from [51]-[55] & [58]-[59]. * References to *Peter Buckley v The Queen* [2022] VSCA 152; *DPP v Moloney* [2022] VSC 393. | |
| 09/09/22 | | 11 | 11.2.24 | Section heading amended to “Sentencing for inflicting injury / endangerment / affray / violent disorder etc.” | |
| 09/09/22 | | 11 | 11.2.24.1 | Subsection heading amended to “Sentencing for intentionally causing serious injury / intentionally or recklessly causing serious injury in circumstances of gross violence”. | |
| Summary of *DPP v Price* [2022] VSC 380. | |
| 09/09/22 | | 11 | 11.2.24.2 | Summary of *Mazzonetto v The Queen* [2022] VSCA 153. | |
| 09/09/22 | | 11 | 11.2.24.5 | **Subsection heading amended to “Sentencing for affray / riot / violent disorder”.** | |
| Summary of *R v Tafa* [2022] VSC 466. | |
| 09/09/22 | | 11 | 11.2.25 | Summary of *Rodgerson v The Queen [No 2]* [2022] VSCA 154 and quotation from [92]. | |
| 09/09/22 | | 11 | 11.8.1 | Extract from *Peter Buckley v The Queen* [2022] VSCA 152 at [37]-[38]. | |
| 09/09/22 | | 11 | 11.15.1.1 | Reference to *Porter (a pseudonym) v The Queen* [2022] VSCA 177. | |
| 09/09/22 | | 11 | 11.18 | Reference to *R v Tafa* [2022] VSC 466 at [57]-[58]. | |
| 09/09/22 | | CHAPTER 12 – CHILDREN’S COURT CLINIC | | | |
| 09/09/22 | | 12 | 12.2.2 | Addition of a modified version of the last paragraph which had been deleted on 14/07/2022. | |
| 12/08/22 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 12/08/22 | | 1 | 1.4.1 | Addition of reference to PD No.5 of 2022. | |
| 05/08/22 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 05/08/22 | | 1 | 1.1.4 | **Section heading amended to “COVID-19 amendments to relevant legislation [2020/21] and their aftermath”.** | |
| 05/08/22 | | 1 | 1.1.5 | **Section heading amended to “Proposed new Youth Justice Act and proposed amendments to the CYFA”.** | |
| Addition of an extensive summary of the proposed amendments to the CYFA contained in the ***Children, Youth and Families Amendment (Child Protection) Bill 2021.*** | |
| 05/08/22 | | 1 | 1.3 | Minor amendment to include the S.R. No. of the rules which amended S.R. No.22 of 2021. | |
| 05/08/22 | | 1 | 1.4.1 | * Minor amendment to introductory text. * Reference to Practice Direction No.4 of 2022. | |
| 05/08/22 | | 1 | 1.6.3 | Modification to implementation dates for the CMS project. | |
| 05/08/22 | | CHAPTER 3 – COURT OPERATION | | | |
| 05/08/22 | | 3 | 3.3.1 | Reference to *Zhang v Shi (No 6)* [2022] VSC 271. | |
| 05/08/22 | | 3 | 3.3.4.1 | Reference to *YZ v Beit Habonim Pty Ltd (ACN 051 827 984) ATF Association of Parents & Friends of Zionist Youth & Anor* [2022] VSC 402. | |
| 05/08/22 | | 3 | 3.5.1 | Added reference to ss.8(1) & 10 CYFA. | |
| 05/08/22 | | 3 | 3.5.2 | Minor amendment to text. | |
| 05/08/22 | | 3 | 3.5.3.1 | Summary of *DPP v Roberts (Ruling No 15)* [2022] VSC 345 and extracts from [7] & [10]. Addition of ss.135 & 136 of the *Evidence Act 2008*. | |
| 05/08/22 | | 3 | 3.5.3.2 | Addition of s.137 of the *Evidence Act 2008*. Summary of *DPP v Roberts (Ruling No 4)* [2021] VSC 778 and extract from [5]-[10]. Reference to *DPP v Roberts (Ruling No 3)* [2021] VSC 658. | |
| 05/08/22 | | 3 | 3.5.3.4 | Addition of s.66 of the *Evidence Act 2008* and brief summary of *DPP v Roberts (Ruling No 14)* [2022] VSC 344. Reference to *Snyder (a pseudonym) v The Queen* [2021] VSCA 96. | |
| 05/08/22 | | 3 | 3.5.9.1 | Reference to *Smith v Trustees of the Christian Brothers; Pearce v The Corporation of the Society of the Missionaries of the Sacred Heart* [2022] VSC 343. | |
| 05/08/22 | | 3 | 3.5.10 | **Section heading amended to “Competence & compellability of witnesses in court cases”.** | |
| The text in this section has been reorganised and expanded. | |
| 05/08/22 | | 3 | 3.5.10.2 | **Subsection heading amended to “Compellability”.** | |
| Summary of *DPP v Roberts (Ruling No 10)* [2022] VSC 96 and extracts from [2] & [11]-[15]. Added references to ss.14-16 of the *Evidence Act 2008*. | |
| 05/08/22 | | 3 | 3.5.10.3 | **Subsection heading amended to “Children as witnesses in court cases”.** | |
| Text moved from section 3.5.10 and minor amendments made. | |
| 05/08/22 | | 3 | 3.5.10.4 | **New subsection entitled “Claim of privilege by a witness”.** | |
| Repeat of most of the text in subsection 3.5.9.1. Summary of *DPP v Roberts (Ruling No 7)* [2022] VSC 60 and extract from [40]. | |
| 05/08/22 | | 3 | 3.7.2 | Reference to *AB v Paulet* [2022] VSC 414. | |
| 05/08/22 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 05/08/22 | | 4 | 4.9  4.9.1  4.9.2  4.9.3 | Minor changes to text. | |
| 05/08/22 | | 4 | 4.9.4 | **Section headed “Readiness Hearing” was formerly 4.9.4A and is renumbered 4.9.4.** | |
| Significant updating of the text and statistics. | |
| 05/08/22 | | 4 | 4.9.5 | **Former section 4.9.4 is retitled “Directions hearing preceding a contest” and is renumbered 4.9.5.** | |
| The text is significantly amended by removing the material relating to a First directions hearing since this has long been replaced by a Readiness hearing. | |
| 05/08/22 | | 4 | 4.9.6 | **Section headed “Contested hearing” was formerly 4.9.5 and is renumbered 4.9.6.** | |
| Two further sentences added to the text. | |
| 05/08/22 | | 4 | 4.9.7 | **New section 4.9.7 headed “Throughput of protection and secondary applications”.** | |
| Throughput statistics included for 2019/21 & 2021/22. | |
| 05/08/22 | | 4 | 4.9.8 | **Section headed “Marram-Ngala Ganbu Program” was formerly 4.9.6 and is renumbered 4.9.8.** | |
| 05/08/22 | | 4 | 4.10.10 | Very minor amendment to text. | |
| 05/08/22 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 05/08/22 | | 5 | 5.22.3 | Some minor additions to the summary of case of *AW* [Melbourne Children's Court, unreported, 03/07/2017]. | |
| 05/08/22 | | 5 | 5.23.10 | Added link to the Gatehouse website for further information about therapeutic treatment. | |
| 05/08/22 | | 5 | 5.25.1 | The paper version of the blue form is added. | |
| 05/08/22 | | 5 | 5.25.2 | The electronic version of the mauve form is added. | |
| 05/08/22 | | 5 | 5.25.3 | The electronic version of the orange form is added. | |
| 05/08/22 | | 5 | 5.26 | The electronic version of the pink form is added. | |
| 05/08/22 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 05/08/22 | | 7 | 7.1.3 | Added reference to the *Children, Youth and Families (Raise the Age) Amendment Bill 2021.* | |
| 05/08/22 | | 7 | 7.5.5 | Reference to *Whedlock v Flaws* [2022] VSC 359. | |
| 05/08/22 | | 7 | 7.12.4 | **New section entitled “Sexual touching”.** | |
| Summary of *AB v Paulet* [2022] VSC 414 and extracts from [3]-[4] & [17]-[29]. | |
| 05/08/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 05/08/22 | | 9 | 9.4.1 | Reference to *DPP v Roberts (Ruling No 2)* [2021] VSC 559 at [45]-[81]. | |
| 05/08/22 | | 9 | 9.4.1.1 | Summary of *Re Booth* [2022] VSC 419. | |
| 05/08/22 | | 9 | 9.4.1.3 | Summary of Re PM [2022] VSC 421 and extracts from [8]-[10] & [23]-[29]. | |
| 05/08/22 | | 9 | 9.4.2.4 | Summary of *Re AC* [2022] VSC 370. | |
| 05/08/22 | | 9 | 9.5.6.1 | Reference to *DPP v Roberts (Ruling No 2)* [2021] VSC 559 at [34]-[44]. | |
| 05/08/22 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 05/08/22 | | 10 | 10.3.2(4) | References to *Clifton Snyder (a pseudonym) v The Queen* [2022] VSCA 140*;* *Lindholm v The Queen* [2022] VSCA 141 at [94]; *Jeffrey Arbogast (a pseudonym) v The Queen* [2022] VSCA 143. | |
| 05/08/22 | | 10 | 10.3.3 | Reference to *DPP v Roberts (Ruling No 13)* [2022] VSC 321. | |
| 05/08/22 | | 10 | 10.3.10 | Reference to *DPP v Roberts (Ruling No 1)* [2021] VSC 472. | |
| 05/08/22 | | 10 | 10.6K | References to *R v Rowen* [2021] VSC 347; *R v Rowen (No 2)* [2022] VSC 374. | |
| 05/08/22 | | 10 | 10.6Q | Reference to *Re LB* [2022] VSC 375. | |
| 05/08/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 05/08/22 | | 11 | 11.1.4.4 | Summary of *Ahmed Mohamed v The Queen* [2022] VSCA 136 at extract from [63]-[80]. Summary of *Walsh v The Queen* [2022] VSCA 146 and extract from [81]-[83]. Reference to *Donnes v The Queen* [2022] VSCA 132 at [21]-[24]. | |
| 05/08/22 | | 11 | 11.2.1 | Reference to *Beau Buckley v The Queen* [2022] VSCA 138 {discussed in detail in Part 11.21}. | |
| 05/08/22 | | 11 | 11.2.6 | Reference to *Booker v The Queen* [2022] VSCA 150 at [28]-[29]. | |
| 05/08/22 | | 11 | 11.2.8.3 | Reference to *Brendan Lowell (a pseudonym) v The Queen* [2022] VSCA 134 at [38]-[46]. | |
| 05/08/22 | | 11 | 11.2.12 | Reference to *Ross v The Queen* [2022] VSCA 149 and extract from [39]. | |
| 05/08/22 | | 11 | 11.2.18 | Summary of *Ahmed Mohamed v The Queen* [2022] VSCA 136 and extracts from [82]-[84] & [91]-[93]. | |
| 05/08/22 | | 11 | 11.2.23 | Summary of *Walsh v The Queen* [2022] VSCA 146. Reference to *R v Al-Anwiya* [2022] VSC 428. | |
| 05/08/22 | | 11 | 11.2.24.1 | Summaries of *R v Gorgulu* [2022] VSC 391; *Booker v The Queen* [2022] VSCA 150; *R v Condon* [2022] VSC 425. | |
| 05/08/22 | | 11 | 11.2.24.6 | Reference to *Smith v The Queen* [2022] VSCA 148, esp. at [49]-[51]. | |
| 05/08/22 | | 11 | 11.2.25 | Summary of *Donnes v The Queen* [2022] VSCA 132. | |
| 05/08/22 | | 11 | 11.2.26.2 | Reference to *Beau Buckley v The Queen* [2022] VSCA 138 {discussed in detail in Part 11.21}. | |
| 05/08/22 | | 11 | 11.2.27 | Reference to *Brendan Lowell (a pseudonym) v The Queen* [2022] VSCA 134, esp. at [4]. | |
| 05/08/22 | | 11 | 11.2.33 | Summary of *Ahmed Mohamed v The Queen* [2022] VSCA 136. | |
| 05/08/22 | | 11 | 11.3.4 | Extract from *Brendan Lowell (a pseudonym) v The Queen* [2022] VSCA 134 at [29]-[33]. | |
| 05/08/22 | | 11 | 11.15.1.1 | Summary of *Adam Wright (a pseudonym) v The Queen* [2022] VSCA 137 and extract from [50]. | |
| 05/08/22 | | 11 | 11.15.4 | Reference to *Clifton Snyder (a pseudonym) v The Queen* [2022] VSCA 140. | |
| 05/08/22 | | 11 | 11.21 | **New part entitled “Mandatory sentencing”.** | |
| Summary of *Beau Buckley v The Queen* [2022] VSCA and extracts from [1]-[14] & [43]-[50]. | |
| 14/07/22 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 14/07/22 | | 2 | 2.6 | Extracts from *DHHS v Brown* [2018] VSC 775 at [62]; *TSH v DFFH* [2022] VSC 390 at [62]. | |
| 14/07/22 | | CHAPTER 3 – COURT OPERATION | | | |
| 14/07/22 | | 3 | 3.3.4.1 | Reference to *Phillips & Anor v Stanzer* [2022] VSC 355 at [35]-[56]. | |
| 14/07/22 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 14/07/22 | | 4 | 4.1.1 | Quotations from pp.14-16 of an independent report to Parliament on Kinship Care dated June 2022, summarising out of home care in Victoria | |
| 14/07/22 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 14/07/22 | | 5 | 5.10.3 | Commentary on *TSH v DFFH* [2022] VSC 390 and extract from [57]-[62]. | |
| 14/07/22 | | 5 | 5.19.3 | Reference to *TSH v DFFH* [2022] VSC 390. | |
| 14/07/22 | | 5 | 5.25.1 | Amendment to Blue Form to include an option for an NDIS placement on an IAO. | |
| 14/07/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 14/07/22 | | 9 | 9.4.1.1 | Summary of *Re KA [No 2]* [2022] VSC 363. | |
| 14/07/22 | | 9 | 9.4.2.2 | Summary of *Re KF* [2022] VSC 349. | |
| 14/07/22 | | 9 | 9.5.8 | Summaries of the conflicting judgments in *Re ZT* (unreported, SCV-Lasry J, 10 May 2022) and *Re KA [No 2]* [2022] VSC 363 and extracts from both judgments. | |
| 14/07/22 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 14/07/22 | | 10 | 10.4.1 | Addition of two sentences at the end of this section emphasising that the onus is on the prosecution to rebut the presumption of *doli incapax* and that the child accused does not have to do anything at all. | |
| 14/07/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 14/07/22 | | 11 | 11.2.11.2 | Summary of *R v Chol* [2022] VSC 341 and extract from [34]. Reference to *R v Bonney* [2022] VSC 264 at [23]-[38]. | |
| 14/07/22 | | 11 | 11.2.12 | Summary of *Hayley Black v The Queen* [2022] VSCA 125 and extract from [27]-[30]. References to *R v Bonney* [2022] VSC 264 at [21]; *DPP v DJ (a pseudonym)* [2022] VSC 358 at [57]. | |
| 14/07/22 | | 11 | 11.2.22.1 | Summary of *R v Chol* [2022] VSC 341 and extracts from [82]-[83] & [85]-[86]. | |
| 14/07/22 | | 11 | 11.2.22.4 | Summary of *DPP v DJ (a pseudonym)* [2022] VSC 358 and extracts from [57] & [63]. | |
| 14/07/22 | | 11 | 11.2.24.1 | Summary of *R v Bonney* [2022] VSC 264. | |
| 14/07/22 | | 11 | 11.2.25 | Summary of *Hawker v The Queen* [2022] VSCA 127. | |
| 14/07/22 | | 11 | 11.2.26.2 | Summary of *Mikael v The Queen* [2022] VSCA 119 and extract from [29]-[32]. | |
| 14/07/22 | | 11 | 11.2.28.1 | References to *Landale (a pseudonym) v The Queen* [2022] VSCA 121; *Babar v the Queen* [2022] VSCA 122. | |
| 14/07/22 | | 11 | 11.3.4 | Reference to *Babar v the Queen* [2022] VSCA 122 at [25]-[29]. | |
| 14/07/22 | | CHAPTER 12 – CHILDREN’S COURT CLINIC | | | |
| 14/07/22 | | 12 | **Links included from the index to each of the parts and sections in this chapter.** | | |
| 14/07/22 | | 12 | 12.2.2 | Deletion of last paragraph. | |
| 23/06/22 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 23/06/22 | | 2 | 2.5 | Reference to *DPP v JH* [2022] VSC 237 at [15]-[19]. | |
| 23/06/22 | | 2 | 2.7.3 | Reference to *Smit v Lyons & Ors* [2022] VSC 274 at [43]-[52]. | |
| 23/06/22 | | CHAPTER 3 – COURT OPERATION | | | |
| 23/06/22 | | 3 | 3.1 | References to *Minogue v Falkingham* [2022] VSC 111 at [42]-[65]; *Hill v Cronin (No 2)* [2022] VSC 328. | |
| 23/06/22 | | 3 | 3.5.14 | Reference to *National Express Group Australia (Bayside Trains) Pty Ltd v McDonald* [2022] VSCA 109 at [39]-[41]. | |
| 23/06/22 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 23/06/22 | | 4 | Various | ‘CCV’ changed to ‘ChCV’ wherever it occurs in this chapter. | |
| 23/06/22 | | 4 | 4.3.2 | Minor amendment to reflect the fact that the Chief Magistrate is now a Supreme Court justice. | |
| 23/06/22 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 23/06/22 | | 5 | 5.5.7 | The last sentence of the opening paragraph has been rewritten. | |
| 23/06/22 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 23/06/22 | | 7 | 7.7.2 | Addition of statistics for 2019/20 & 2020/21. | |
| 23/06/22 | | 7 | 7.7.2 | Addition of a summary of pp.16-20 and extract from pp.4-5 of a statutory review pursuant to s.492B of the CYFA of the *Children and Justice Legislation Amendment (Youth Justice Reform) Act 2017* and dated May 2022. | |
| 23/06/22 | | 7 | 7.7.3 | **New section headed “Aboriginal and Torres Strait Islander young people—youth justice trends since 2017”.** | |
| Extract from pp.20-22 of the May 2022 statutory review. | |
| 23/06/22 | | 7 | 7.7.4 | **Section headed “Offending by children aged 10‑13 inclusive from 2017/18 to 2020/21” was formerly 7.7.3 and is renumbered 7.7.4.** | |
| 23/06/22 | | 7 | 7.11.4 | Name of new Koori Court Officer added. | |
| 23/06/22 | | 7 | 7.11.6 | **Section heading changed to “Children’s Koori Court Statistics”.** | |
| 23/06/22 | | CHAPTER 8 – CRIMINAL DIVISION – INVESTIGATION | | | |
| 23/06/22 | | 8 | **8.1** | Addition of reference to the power conferred by s.465AA *Crimes Act 1958* and to *Smit v Lyons & Ors* [2022] VSC 274 at [89]-[111]. | |
| 23/06/22 | | 8 | **8.4.3** | Expansion of text to discuss the disconnect between the age of a “child” in limb (a) of the definition in s.3(1) of the CYFA and in ss.464U & 464SC. | |
| 23/06/22 | | 8 | **8.4.3.3** | Summary of *W & Anor v Children’s Court of Victoria & Anor* [2002] VSC 75 and extracts from [27]-[28] & [30]. | |
| 23/06/22 | | 8 | **8.4.3.4**  **8.4.3.8** | Note that ss.464U(11) & 464V(6) now require the child to be physically present at court and not by audio visual link. | |
| 23/06/22 | | 8 | **8.4.3.10** | **New subsection entitled “Statistics”.** | |
| This new section lists the numbers of applications for orders under s.464U & 464V granted and refused for each financial year since 2014/15. | |
| 23/06/22 | | 8 | **8.4.4** | **This section has been deleted and its contents transferred into new part 8.7.** | |
| 23/06/22 | | 8 | **8.5** | **New part entitled “DNA profile sampling”.** | |
| 23/06/22 | | 8 | **8.5.1** | **New section headed “Police request for DNA profile sample from a child aged 15-17”.** | |
| Discussion of new Court of Appeal case of *Joshua Martin (a pseudonym) v The Queen* [2022] VSCA 97 at [39]-[42]. | |
| 23/06/22 | | 8 | **8.5.2** | **New section headed “Senior police officer authorisation for DNA profile sample from child aged 15-17”.** | |
| 23/06/22 | | 8 | **8.6** | **New part headed “Use of evidence from DNA samples”.** | |
| Reference to *Joshua Martin (a pseudonym) v The Queen* [2022] VSCA 97 at [29], [36]-[38] & [44]. | |
| 23/06/22 | | 8 | **8.7** | **New part headed “Other relevant provisions relating to DNA samples & forensic procedures”.** | |
| 23/06/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 23/06/22 | | 9 | 9.4.1.1 | Lengthy summary of *Re KA* [2022] VSC 277. Summary of *Re Cowley* [2022] VSC 304. | |
| 23/06/22 | | 9 | 9.4.1.2 | Summary of *Re Gaper* [2022] VSC 287. | |
| 23/06/22 | | 9 | 9.4.2.2 | Summary of *Re Rafik* [2022] VSC 279. | |
| 23/06/22 | | 9 | 9.4.3 | Reference to *Re Cowley* [2022] VSC 304, [78] & [81]. | |
| 23/06/22 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 23/06/22 | | 10 | 10.3.9 | Reference to *Bruce v The Queen* [2022] VSCA 100 at [30]-[32]. | |
| 23/06/22 | | 10 | 10.3.12 | Reference to *Feeney v The Queen* [2022] VSCA 113 at [26]-[49]. | |
| 23/06/22 | | 10 | 10.6J | Note re *R v Cohrs* [2022] VSC 334. | |
| 23/06/22 | | 10 | 10.6Q | Note re *Re GB* [2022] VSC 323. | |
| 23/06/22 | | 10 | 10.7K | The statistics in this part have been expanded. | |
| 23/06/22 | | 10 | 10.7L | **New section headed “Statutory Review of the Court Diversion Program & Recommendations”.** | |
| Material from pp.69-80 of a statutory review pursuant to s.492B of the CYFA of the *Children and Justice Legislation Amendment (Youth Justice Reform) Act 2017* and dated May 2022. | |
| 23/06/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 23/06/22 | | 11 | 11.2.1 | Summary of *DPP v Pan* [2022] VSCA 98 and extract from [49]. | |
| 23/06/22 | | 11 | 11.2.6 | Reference to *Farrugia, Ali, Monro & Synan v The Queen* [2022] VSCA 104 at [21]-[22]. | |
| 23/06/22 | | 11 | 11.2.13 | Reference to *DPP v Gonzalez* [2022] VSC 331 at [45]-[50]. | |
| 23/06/22 | | 11 | 11.2.18 | Reference to *Josie Gonzalez v The Queen* [2022] VSCA 110 at [62], [65] & [70]. | |
| 23/06/22 | | 11 | 11.2.22.4 | Reference to *DPP v Pan* [2022] VSCA 98. | |
| 23/06/22 | | 11 | 11.2.23 | References to *R v McStay* [2022] VSC 268; *DPP v Tulloch* [2022] VSC 352. | |
| 23/06/22 | | 11 | 11.2.25 | Brief summary of *Bruce v The Queen* [2022] VSCA 100. | |
| 23/06/22 | | 11 | 11.2.30 | Reference to *Shiryar v The Queen* [2022] VSCA 96. | |
| 23/06/22 | | 11 | 11.2.34 | Summary of *Bruce v The Queen* [2022] VSCA 100. | |
| 23/06/22 | | 11 | 11.8.1 | Extract from *DPP v Pan* [2022] VSCA 98 at [53]-[56]. | |
| 23/06/22 | | 11 | 11.15.1 | Summary of *Narang (a pseudonym) v The Queen* [2022] VSCA 103. | |
| 23/06/22 | | 11 | 11.15.4 | Summary of *Adam Rose (a pseudonym) v The Queen* [2022] VSCA 112 and extract from [70]-[73]. Summary of *Sims v The Queen* [2022] VSCA 114. | |
| 16/06/22 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 16/06/22 | | 5 | 5.5.7 | **New section headed “Abusive Head Trauma / Shaken Baby Syndrome [AHT]”.** | |
| Commentary on *R v Vinaccia* [2019] VSC 683 and *Vinaccia v The Queen* [2022] VSCA 107 and extensive extracts from the majority judgment in the latter at [157], [409]-[417] & [420]-[422] and from the dissenting judgment at [492]-[499]. | |
| 16/06/22 | | 5 | 5.5.8 | **Section headed “Statistics” was formerly 5.5.7 and is renumbered 5.5.8.** | |
| 16/06/22 | | 5 | 5.11 | Small but important amendment to text. | |
| 16/06/22 | | 5 | 5.11.1 | Summary and commentary on *Sani (a pseudonym) v DFFH (No 2)* [2022] VSC 276 together with extracts from [20] & [37]-[40]. | |
| 16/06/22 | | 5 | 5.11.16 | Reference to *Sani (a pseudonym) v DFFH (No 2)* [2022] VSC 276 at [20]. | |
| 26/05/22 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 26/05/22 | | 2 | 2.2 | Minor amendment to text. | |
| 26/05/22 | | 2 | 2.5 | Minor amendment to text. | |
| 26/05/22 | | 2 | 2.6 | Substantial amendment to text including quotations from Hansard [04/05/2000 at p.1322]. | |
| 26/05/22 | | 2 | 2.8.2 | Reference to *Re AB* [2022] VSC 235 at [30]-[48] per Tinney J. | |
| 26/05/22 | | 2 | 2.9 | Minor amendment to text. | |
| 26/05/22 | | CHAPTER 3 – COURT OPERATION | | | |
| 26/05/22 | | 3 | 3.1 | Expansion of summary of *Onyeka Evans Nwagbo v The Queen* [2021] VSCA 93. | |
| 26/05/22 | | 3 | 3.3.1 | Reference to *Re Ramsay Health Care Australia Pty Ltd* [2022] VSC 226. | |
| 26/05/22 | | 3 | 3.5.9.1 | Note that Part 3.10 of the *Evidence Act 2008* (Vic) details various privileges which may be claimed by persons seeking that production of particular documents not be ordered. Extract from *Andrianakis v Uber Technologies Inc & Ors; Taxi Apps Pty Ltd v Uber Technologies Inc & Ors* [2022] VSC 196 at [47]. | |
| 26/05/22 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 26/05/22 | | 5 | 5.22.3 | **This section has been divided into two subsections:** **“GENERAL PRE-CONDITIONS IN SS.319, 320 & 322” and “PRE-CONDITIONS IN S.323 FOR AN ABORIGINAL CHILD”.** | |
| Commentary on the case of *Re CMR* [2020] VChC 8 has been moved into the first subsection. The second subsection has been significantly rewritten, commentary on the case of *AW* [Melbourne Children's Court, unreported, 03/07/2017] has been expanded and a summary of the case of *JX* [Melbourne Children's Court, unreported, 21/03/2017] has been added. | |
| **A cross-reference to section 5.30.1 has been added.** | |
| 26/05/22 | | 5 | 5.30.1 | A very significant expansion of the text, including references to the cases of *AW* & *JX* (also discussed in 5.22.3) together with a large summary of the legal submissions on the definition of ‘Aboriginality’ which had been filed with the Court in the case of *JX*. | |
| **A cross-reference to section 5.22.3 has been added.** | |
| 26/05/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 26/05/22 | | 9 | 9.2.4/5 | Significant modification to commentary including discussion of *Re Aguer Goback and Goback Goback* [2022] VSC 229. | |
| 26/05/22 | | 9 | 9.4.1.1 | Summaries of *Re Kuron* [2022] VSC 236; *Re Ann-Marie Troselj* [2022] VSC 241. | |
| 26/05/22 | | 9 | 9.4.1.2 | Summary of *Re Kelly* [2022] VSC 232. | |
| 26/05/22 | | 9 | 9.4.1.3 | Summary of *Re Stewart* [2022] VSC 245 and quotes from [56]-[57]. | |
| 26/05/22 | | 9 | 9.4.3 | Reference to *Re Kelly* [2022] VSC 232 at [60] & [75]‑[76]. | |
| 26/05/22 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 26/05/22 | | 10 | 10.6Q | Summary of *Re AB* [2022] VSC 235. | |
| 26/05/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 26/05/22 | | 11 | 11.1.4.4 | Reference to *Salvaggio v The Queen* [2022] VSCA 88 at [119]-[124]. | |
| 26/05/22 | | 11 | 11.2.6 | References to *Ngaa v The Queen* [2015] VSCA 336 at [7]; *Hochkins v The Queen* [2022] VSCA 91 at [23]-[28]; *Rajeev Singh v The Queen* [2022] VSCA 93 at [60]-[68]. | |
| 26/05/22 | | 11 | 11.2.7 | Summary of *Nevkovski v The Queen* [2022] VSCA 86 and extract from [5]-[6]. | |
| 26/05/22 | | 11 | 11.2.12 | Reference to *Webb v The Queen* [2022] VSCA 85 at [26]-[37]. | |
| 26/05/22 | | 11 | 11.2.22.4 | Reference to *DPP v Marrogi* [2022] VSC 210. | |
| 26/05/22 | | 11 | 11.2.23 | References to *DPP v Hennessy* [2022] VSC 244; *R v Lu* [2022] VSC 258. | |
| 26/05/22 | | 11 | 11.2.24.4 | Summary of *Baroch v The Queen; Ater v The Queen* [2022] VSCA 90 and extract from [3]-[5]. | |
| 26/05/22 | | 11 | 11.2.28.1 | Reference to *Keith Clarke (a pseudonym) v The Queen* [2022] VSCA 89. | |
| 26/05/22 | | 11 | 11.2.35 | **Section heading amended to “Theft, theft of firearms and theft of motor vehicle”.** | |
| Summary of and quotation from *Barry v The Queen* [2022] VSCA 94 at [15]-[16]. | |
| 26/05/22 | | 11 | 11.15.4 | Reference to *Webb v The Queen* [2022] VSCA 85. | |
| 26/05/22 | | 11 | 11.18 | Reference to *Ater v The Queen* [2022] VSCA 90 at [44]-[65] and extract from [48]. Reference to *R v Lu* [2022] VSC 258 at [30]. | |
| 26/05/22 | | CHAPTER 12 – CHILDREN’S COURT CLINIC | | | |
| 26/05/22 | | 12 | **This chapter has been significantly updated and rewritten. Former Part 12.4 has been deleted and former Part 12.5 has been renumbered 12.4.** | | |
| 12/05/22 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 12/05/22 | | 2 | 2.7.2 | **Section heading amended to “Sections 28 to 30 of the Open Courts Act 2013.”** | |
| Extensive amendments to text including extracts from *ABC v D1* [2007] VSC 480 at [36]; *XY v Board of Examiners*[2003] VSC 196 at [11]; *Ami Australia Holdings Pty Ltd v Fairfax Media Publications Pty Ltd* [2009] NSWSC 1290 at [6]-[7]; *R v Lodhi* (2006) 199 FLR 270. | |
| 12/05/22 | | 2 | 2.9 | Removal of reference to the role of bail justices in the hearing and determination of out-of-sessions applications for interim accommodation orders being suspended until 26/04/2022. | |
| 12/05/22 | | CHAPTER 3 – COURT OPERATION | | | |
| 12/05/22 | | 3 | 3.1 | Reference to *Tessa v DPP (Cth)* [2022] VSCA 61 esp. at [21]-[29]. | |
| 12/05/22 | | 3 | 3.4.3 | Addition of last paragraph referring to s.215B of the CYFA. | |
| 12/05/22 | | 3 | 3.4.6 | **New section heading: “Duty of judicial officer to assist a self-represented litigant in the Family Division”.** | |
| Added references to *Daher v Bell* [2020] VSC 346 at [8]‑[9]; *Re Rococo Group Pty Ltd (in liq)* [2022] VSC 167 at [7]. | |
| 12/05/22 | | 3 | 3.5.3.7 | Summary of *Singh v Ward* [2022] VSC 155 and extract from [8]-[9]. | |
| 12/05/22 | | 3 | 3.5.6.1 | Reference to *Eumeralla Estate Pty Ltd v Chen* [2022] VSCA 78 at [42]-[68]. | |
| 12/05/22 | | 3 | 3.5.14 | Reference to *Reynolds v Patel* [2022] VSC 211 at [31]-[52]. | |
| 12/05/22 | | 3 | 3.6 | Summary of *Azizi v DPP* [2022] VSCA 71 and extract from [51]-[56]. | |
| 12/05/22 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 12/05/22 | | 4 | 4.8.4 | Added cross-reference to subsections 3.5.3.7 & 3.5.6.1. | |
| 12/05/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 12/05/22 | | 9 | 9.4.1.1 | Summaries of *Re Kerbage* [2022] VSC 179; *Re Ahmar-Smith* [2022] VSC 204. | |
| 12/05/22 | | 9 | 9.4.1.2 | Summary of *Re Sahingoz* [2022] VSC 191. | |
| 12/05/22 | | 9 | 9.4.2.4 | Summary of *Re Goggin* [2022] VSC 221. | |
| 12/05/22 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 12/05/22 | | 10 | 10.2.8 | Addition to text of the outcomes of 11 Category A serious youth offence cases from 2018/19 to 2020/21. | |
| 12/05/22 | | 10 | 10.3.2(4) | Reference to *Hickman (a pseudonym) v The Queen* [2021] VSCA 75 at [41]-[61]. | |
| 12/05/22 | | 10 | 10.7K | Correction of error in and addition to the 2019/20 diversion statistics. | |
| 12/05/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 12/05/22 | | 11 | 11.2.4 | Summary of and extract from Giri v The Queen [2022] VSCA 64 at [21]-[26]. | |
| 12/05/22 | | 11 | 11.2.11.2 | Reference to *Levi Langton (a pseudonym) v The Queen* [2022] VSCA 79 at [32]-[46]. | |
| 12/05/22 | | 11 | 11.2.11.3 | Reference to *Giri v The Queen* [2022] VSCA 64 at [41]-[42]. | |
| 12/05/22 | | 11 | 11.2.18 | Reference to *Rodgerson v The Queen* [2022] VSCA 82 at [64] & [105]-[109]. | |
| 12/05/22 | | 11 | 11.2.25 | Reference to *Dang v The Queen* [2022] VSCA 69. | |
| 12/05/22 | | 11 | 11.2.36.2 | Summary of *Edward-Hayes v The Queen* [2022] VSCA 76. | |
| 12/05/22 | | 11 | 11.15.1.1 | Reference to *Levi Langton (a pseudonym) v The Queen* [2022] VSCA 79. | |
| 12/05/22 | | 11 | 11.15.7 | **Section heading changed to “Causing death [including infanticide]”.** | |
| Summary of *DPP v MA* [2022] VSC 170 and extract from [60]. | |
| 14/04/22 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 14/04/22 | | 2 | 2.7.3 | References to *ABC-1 & ABC-2 v Ring & Ring* [2014] VSC 5; *Karam v The Queen (Ruling No.2)* [2022] VSC 168. | |
| 14/04/22 | | CHAPTER 3 – COURT OPERATION | | | |
| 14/04/22 | | 3 | 3.5.3.7 | Reference to *Re Cassar* [2022] VSC 126 at [200]. | |
| 14/04/22 | | 3 | 3.5.9.1 | Reference to *Arico v The Queen* [2022] VSCA 35. | |
| 14/04/22 | | 3 | 3.5.13 | Reference to *Gant v The Queen; Siddique v The Queen* [2017] VSCA 104 at [59] & [113]. | |
| 14/04/22 | | 3 | 3.5.14 | Reference to *Re Cassar* [2022] VSC 126 at [282]-[290]. | |
| 14/04/22 | | 3 | 3.7.2 | Reference to *A & L Windows Pty Ltd v Yildrim & Ors* [2022] VSCA 46 at [29]-[44]. | |
| 14/04/22 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 14/04/22 | | 5 | 5.2.3  5.18.7 | Addition of citation (2019) 266 CLR 554 to references to case of *Masson v Parsons*. | |
| 14/04/22 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 14/04/22 | | 7 | 7.5.5 | Summary of the Court of Appeal judgment in the jointly heard *Appeals of Fox, Bant & Nunn* [2022] VSCA 38, dismissing appeals from *Fox v DPP* [2021] VSC 226, *Bant v Grant* [2021] VSC 276 & *Nunn v Pezzimenti* [2021] VSCA 313 and involving a lengthy extract from the Court of Appeal judgment at [73]‑[74]. | |
| 14/04/22 | | 7 | 7.5.7 | **Section heading changed to “Criminal Division processing statistics (excluding CAYPINS)”.** | |
| Significant expansion of text. | |
| 14/04/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 14/04/22 | | 9 | 9.4.1.1 | Summaries of *Re BLC* [2022] VSC 128; *Re Hong Hoang* [2022] VSC 135; *Re GA* [2022] VSC 176; *Re DD* [2022] VSC 151. | |
| 14/04/22 | | 9 | 9.4.2.3 | Summaries of *Re SY* [2022] VSC 125; *Re CL* [2022] VSC 151; *Re Brown* [2022] VSC 166. | |
| 14/04/22 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 14/04/22 | | 10 | **Expansion of index for Parts 10.6 & 10.7.** | | |
| 14/04/22 | | 10 | 10.2.8 | **New section entitled “Committal and ‘uplift’ statistics”.** | |
| 14/04/22 | | 10 | 10.1.4 | Added references to [2021] VChC 1; [2019] VChC 7; [2019] VChC 2; [2018] VChC 7. | |
| 14/04/22 | | 10 | 10.3.2(4) | Reference to *Gant v The Queen; Siddique v The Queen* [2022] VSCA 104 at [95]-[113]. | |
| 14/04/22 | | 10 | 10.3.9 | Reference to *Barnard (a pseudonym) v The Queen* [2022] VSCA 42 at [6]-[10]. | |
| 14/04/22 | | 10 | 10.6**W** | Deletion of section entitled “Temporary COVID-19 amendments expire on 25 April 2021”. | |
| 14/04/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 14/04/22 | | 11 | 11.1.4.4 | References to *Sayer v The Queen* [2018] VSCA 177 at [58]-[83]; *Bidong v The Queen* [2022] VSCA 33 at [28]-[43]. | |
| 14/04/22 | | 11 | 11.1.6 | Addition of youth control order statistics and commentary thereon. | |
| 14/04/22 | | 11 | 11.1.16 | Reference to *Chuah v The Queen* [2022] VSCA 51 and extracts from [54] & [64]. | |
| 14/04/22 | | 11 | 11.2.1 | Summary of *Makieng v The Queen* [2022] VSCA 52 and extract from [44]-[45]. | |
| 14/04/22 | | 11 | 11.2.6 | References to *Thuy Thanh Thi Tran v The Queen* [2022] VSCA 44 at [27]-[36]; *Thi Thuy Tam (Lina) Tran v The Queen* [2022] VSCA 45 at [44]-[55]. | |
| 14/04/22 | | 11 | 11.2.8.2 | Summary of *Thuy Thanh Thi Tran v The Queen* [2022] VSCA 44 and extract from [35]‑[36]. | |
| 14/04/22 | | 11 | 11.2.8.3 | Dicta from *Farmer v The Queen* [2020] VSCA 140 at [72] and reference to *Makieng v The Queen* [2022] VSCA 52 at [29]-[35]. | |
| 14/04/22 | | 11 | 11.2.11.2 | Reference to *R v Angela Surtees* [2022] VSC 124 at [47]-[69]. | |
| 14/04/22 | | 11 | 11.2.12 | Reference to *Makieng v The Queen* [2022] VSCA 52 and extract from [50]. | |
| 14/04/22 | | 11 | 11.2.14 | Reference to *Sayer v The Queen* [2018] VSCA 177 at [42]-[57]; *Barnard (a pseudonym) v The Queen* [2022] VSCA 42 at [15]-[17]. | |
| 14/04/22 | | 11 | 11.2.22.1 | Summary of *R v Angela Surtees* [2022] VSC 124. | |
| 14/04/22 | | 11 | 11.2.23 | Reference to *Papagelou v The Queen* [2022] VSCA 53. | |
| 14/04/22 | | 11 | 11.2.25 | Summaries of *Thuy Thanh Thi Tran v The Queen* [2022] VSCA 44; *Thi Thuy Tam (Lina) Tran v The Queen* [2022] VSCA 45; *Chuah v The Queen* [2022] VSCA 51. | |
| 14/04/22 | | 11 | 11.2.27 | * References to *DPP v Wol* [2019] VSCA 268; *Schembri v The Queen* [2022] VSCA 40 at [87]-[94]. * Summary of *Makieng v The Queen* [2022] VSCA 52 and extract from [43]. | |
| 14/04/22 | | 11 | 11.3.3 | Reference to *Sayer v The Queen* [2018] VSCA 177 at [84]-[114]. | |
| 14/04/22 | | 11 | 11.3.8(5) | References to *Worboyes v The Queen* [2021] VSCA 169, *Schaeffer v The Queen* [2021] VSCA 171 & *Chenhall v The Queen* [2021] VSCA 175. | |
| 14/04/22 | | 11 | 11.7.1 | Minor correction of youth control order statistics in Table 1. | |
| 14/04/22 | | 11 | 11.8.1 | Reference to *Bidong v The Queen* [2022] VSCA 33 at [41]-[42]. | |
| 14/04/22 | | 11 | 11.15.1.1 | Reference to *Barnard (a pseudonym) v The Queen* [2022] VSCA 42. | |
| 14/04/22 | | 11 | 11.15.4 | References to *Lugo (a pseudonym) v The Queen* [2020] VSCA 75; *Hinch (a pseudonym) v The Queen* [2021] VSCA 214*;* *DPP v Hum Howard (a pseudonym)* [2022] VSCA 57. | |
| 24/03/22 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 24/03/22 | | 1 | **ADDED NOTE THAT “In these research materials a reference to the “Family Court” or the “Family Court of Australia” is a reference to what is now known as the “Federal Circuit Court and Family Court of Australia”.** | | |
| 24/03/22 | | 1 | 1.4.1 | * Addition of summaries of Practice Directions No.1, 2 & 3 of 2022. * Addition of a note that Practice Directions No.2, 3, 6 & 15 of 2021 are revoked and removal of summaries of those Practice Directions. * Deletion of references to several revoked Practice Directions. | |
| 24/03/22 | | 1 | 1.6.3 | Modification to estimated implementation dates for the CMS project. | |
| 24/03/22 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 24/03/22 | | 2 | 2.10 | Expansion of commentary on services provided by the Salvation Army away from the Court. | |
| 24/03/22 | | 2 | 2.10.7 | Expansion of commentary on the Education Justice Initiative, including an extract from *DPP v Nelis* [2022] VSC 50 at [22]. | |
| 24/03/22 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 24/03/22 | | 4 | 4.1.6 | Expansion of text including-   * a summary of the reasons for the special obligations imposed on a ‘model litigant’; and * examples of ways in which a ‘model litigant’ is expected to act fairly; * a reference to the dicta of Lord Reid in *Rondel v Worsley* [1969] 1 AC 191 at 227. | |
| 24/03/22 | | 4 | 4.3.1 | Minor amendment to text to include a reference to chapter 5. | |
| 24/03/22 | | 4 | 4.3.2 | Further substantial rewrite of section including a discussion of ss.69J & 69GA of the FLA. | |
| 24/03/22 | | 4 | 4.10.1 | Removal of reference to 436 Lonsdale Street Melbourne as a location of conciliation conferences. | |
| 24/03/22 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 24/03/22 | | 5 | 5.3 | Significant amendment to text re jurisdiction under the FLA. | |
| 24/03/22 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 24/03/22 | | 6 | **6.8.8** | Addition of commentary on new s.69(1A) of the FVPA. | |
| 24/03/22 | | 6 | **6FV.13** | Rewrite of first paragraph in this Part. | |
| 24/03/22 | | 6 | **6FV.13.2** | Minor modification to text. | |
| 24/03/22 | | 6 | **6FV.13.3** | Significant modifications to text, including-   * removal of reference to a 21 day time limit which is no longer in s.68T FLA; * substantial rewrite of last paragraph summarising the operation of s.68R FLA in the CCV & MCV. | |
| 24/03/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 24/03/22 | | 9 | 9.4.1.1 | Summaries of *Re Jackson* [2022] VSC 101; *Re CO & IJ* [2022] VSC 138. | |
| 24/03/22 | | 9 | 9.4.2.2 | Summary of *Re ATL* [2022] VSC 104. | |
| 24/03/22 | | 9 | 9.4.2.3 | Summary of *Re Stephan* [2022] VSC 130. | |
| 24/03/22 | | 9 | 9.5.1 | Reference to *Re CO & IJ* [2022] VSC 138 at [90]. | |
| 24/03/22 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 24/03/22 | | 10 | 10.0  10.0.1 | **Part 10.0 is renamed “Preamble” and the material previously contained in it is moved to section 10.0.1 named “Consistent magistrate to oversee criminal proceedings”.** | |
| 24/03/22 | | 10 | 10.0.2 | **New section named “’Model litigant’ obligations of police informants and prosecutors”.** | |
| 24/03/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 24/03/22 | | 11 | 11.2.6 | Summary of *Abela-Rogers* *v The Queen*; *Farrugia v The Queen* [2022] VSCA 34. Reference to *Goh v The Queen* [2022] VSCA 24 at [40]‑[47]. | |
| 24/03/22 | | 11 | 11.2.8.3 | Reference to *Goh v The Queen* [2022] VSCA 24 at [28]-[33]. | |
| 24/03/22 | | 11 | 11.2.14 | Reference to *Mackie v The Queen* [2022] VSCA 28 at [29]-[36]. | |
| 24/03/22 | | 11 | 11.2.22.1 | Summary of *DPP v Nelis* [2022] VSC 50. | |
| 24/03/22 | | 11 | 11.2.27 | Summary of *Goh v The Queen* [2022] VSCA 24. | |
| 24/03/22 | | 11 | 11.2.36 | Summary of *Rankine v The Queen* [2022] VSCA 27 and extracts from [27] & [31]. | |
| 24/03/22 | | 11 | 11.18 | Reference to *Goh v The Queen* [2022] VSCA 24 at [37]‑[39]. | |
| 04/03/22 | | CHAPTER 3 – COURT OPERATION | | | |
| 04/03/22 | | 3 | 3.3.4.3 | Addition of a reference to the ‘best interests’ provisions under the CYFA in the discussion of *DOHS v Y* [2001] VSC 231. | |
| 04/03/22 | | 3 | 3.5.3.7 | **NEW SUBSECTION HEADED “Conflicting evidence – Dangers of demeanour – Fallibility of human memory”.** | |
| **Extract from *Fox v Percy* (2003) 214 CLR 118 at 128-9 and reference to *Insurance Manufacturers of Australia v Villella* [2007] VSC 94 at [26] moved from #3.5.4.** | |
| Substantial new subsection including extracts from an article by Andrew Palmer in (1997) 21 Melbourne University Law Review at 119-120 and from the cases of *Pacreef Investments Pty Ltd v GTW Investments (Aust) Pty Ltd* [2022] VSC 56 at [15] and *Archer v Garcia* [2022] VSC 57 at [127]-[135]. | |
| 04/03/22 | | 3 | 3.5.12.3 | * Modification to text as a consequence of amendments to s.363 CPA. * Summary of *Males v The Queen* [2021] VSCA 159. | |
| 04/03/22 | | 3 | 3.5.14 | Reference to *Archer v Garcia* [2022] VSC 57 at [73]‑[86]. | |
| 04/03/22 | | 3 | 3.10.1 | Addition of reference to the extension of the default commencement date of the amendments referred to in s.1(c) of the *Justice Legislation Amendment (Criminal Appeals) Act 2019*. | |
| 04/03/22 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 04/03/22 | | 4 | **ADDED NOTE THAT “In these research materials a reference to the “Family Court” or the “Family Court of Australia” is a reference to what is now known as the “Federal Circuit Court and Family Court of Australia”.** | | |
| 04/03/22 | | 4 | 4.3.2 | **SECTION HEADING AMENDED TO “Jurisdiction under the Family Law Act 1975 (Cth) [as amended]”.** | |
| Major rewrite of section including a discussion of new ss.515(4) & 588(1)(ab) of the CYFA. | |
| 04/03/22 | | 4 | 4.11.6 | **NEW SECTION HEADED “Sharing of materials between Children’s Court & Family Court”.** | |
| Discussion of and extracts from *Boulton v The Queen* (2014) 46 VR 308; [2014] VSCA 342. Added reference to *DPP v Bowen* [2021] VSCA 355 at [9]-[13]. | |
| 04/03/22 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 04/03/22 | | 5 | 5.3 | Addition of one word to text. | |
| 04/03/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 04/03/22 | | 9 | 9.4.1.1 | * Summaries of *Re Khoshaba* [2022] VSC 54; *Re ML* [2022] VSC 76; *Re Mirukaj* [2022] VSC 82. * Extensive summary of *Re ER* [2022] VSC 88 and quotations from [31] & [42]-[44]. | |
| 04/03/22 | | 9 | 9.4.1.2 | Existing summary of *Re Benjamin Strachan* [2021] VSC 538 expanded and quote from [27] included. | |
| 04/03/22 | | 9 | 9.4.12  9.5.14 | Reference to *Re ER* [2022] VSC 88 and quotation from [31]. | |
| 04/03/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 04/03/22 | | 11 | 11.1.8 | Added reference to *Pawley v Willis* [2022] VSC 85 at [20]-[26]. | |
| 04/03/22 | | 11 | 11.2.11.2 | References to *Dieni v The Queen* [2022] VSCA 16 at [141]-[142]; *R v Fiscalini* [2022] VSC 51 at [45]; *R v Shaptafaj* [2022] VSC 71 at [34]-[66]; *R v Wilio* [2022] VSC 86 at [23]-[72]. | |
| 04/03/22 | | 11 | 11.2.13 | Reference to *R v Fiscalini* [2022] VSC 51 at [44]. | |
| 04/03/22 | | 11 | 11.2.22.4 | * Amendment to summary of *Felicite v The Queen* [2011] VSCA 274 by addition of quote from [20]. * Summary of *R v Shaptafaj* [2022] VSC 71 with specific references to [68] & [99]. * Reference to *R v Wilio* [2022] VSC 86. | |
| 04/03/22 | | 11 | 11.2.30 | Reference to *Dieni v The Queen* [2022] VSCA 16. | |
| 04/03/22 | | 11 | 11.8.1 | Summary of *Dieni v The Queen* [2022] VSCA 16 including quote from [147]. | |
| 04/03/22 | | 11 | 11.15.1.2 | Summary of *DPP v Nwigwe* [2022] VSCA 14. | |
| 04/03/22 | | 11 | 11.18 | Summary of *Hague v The Queen* [2022] VSCA 17 and extract from [28]. | |
| 04/03/22 | | 11 | 11.19 | Reference to *R v Wilio* [2022] VSC 86 at [93]-[100]. | |
| 18/02/22 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 18/02/22 | | 1 | 1.5.1 | * Addition of text of ss.13 & 22 of the Charter. * Summary of *Thompson v Minogue* [2021] VSCA 358. * Reference to *JL v Mental Health Tribunal* [2021] VSC 868 at [81]-[108]. | |
| 18/02/22 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 18/02/22 | | 2 | 2.7.3 | References to *Jane Doe v XYZ* [2019] VSC 176 at [9]; *IJW v Swinburne University of Technology* [2021] VSC 846 at [31]-[42]. | |
| 18/02/22 | | 2 | 2.8.2 | * Extracts from *WEQ (a pseudonym) v Medical Board of Australia* [2021] VSCA 343 at [59]-[67] & [93]. * Reference to *Victorian Institute of Teaching v QDP* [2021] VSC 844. * References to *Re XY* [2018] VSC 456 at [8]; *Re XY (No 3)* [2020] VSC 195 at [61]; *Re XY (No 4)* [2022] VSC 21 at [41]-[48]. | |
| 18/02/22 | | CHAPTER 3 – COURT OPERATION | | | |
| 18/02/22 | | 3 | 3.3.4.2 | Reference to *Gemcan Constructions Pty Ltd v Westbourne Grammar School* [2022] VSC 6 at [45]‑[58]. | |
| 18/02/22 | | 3 | 3.4.4 | Added references to *Re East; ex parte Nguyen* (1998) 196 CLR 354; [1998] HCA 73; *Howard Nichols (a pseudonym) v The Queen* [2021] VSCA 273 at [47]-[60]. | |
| 18/02/22 | | 3 | 3.8 | Reference to *Dimovski v The Queen* [2022] VSCA 6 at [40]‑[44]. | |
| 18/02/22 | | 3 | 3.9 | Added material on s.132 MCA including reference to *Lethbridge v Coburn & Knight* [2003] VSC 259 at [16]‑[17], [26]. | |
| 18/02/22 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 18/02/22 | | 4 | 4.9.6 | * Addition of ICL statistics for 2019/20 & 2020/21. * Summary of and extracts from *JL v Mental Health Tribunal* [2021] VSC 868 at [28]-[32]. | |
| 18/02/22 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 18/02/22 | | 5 | 5.3 | Modification of text and discussion of new ss.515(4) & 588(1)(ab) of the CYFA. | |
| 18/02/22 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 18/02/22 | | 9 | 9.4.1.1 | Summaries of *Re Scott* [2021] VSC 818; *Re ST (No 2)* [2021] VSC 876; *Re Andrew* [2022] VSC 46. | |
| 18/02/22 | | 9 | 9.4.1.2 | Summaries of *Re Fernandez* [2021] VSC 860; *Re NP* [2021] VSC 857; *Re VM* [2021] VSC 874; *Re Quach* [2022] VSC 7; *Re Mizzi* [2022] VSC 14; *Re Kontogeorgis* [2022] VSC 44. | |
| 18/02/22 | | 9 | 9.4.2.2 | Summaries of *Re Anderson* [2021] VSC 835; *Re Barahona* [2021] VSC 852; *Re MD* [2021] VSC 872; *Re Rye* [2021] VSC 875; *Re Tran* [2022] VSC 2; *Re ML* [2022] VSC 10; *Re Oberin* [2022] VSC 17; *Re Buckingham* [2022] VSC 18. | |
| 18/02/22 | | 9 | 9.4.2.3 | Summaries of *Re Gastello* [2021] VSC 861; *Re VR* [2021] VSC 873. | |
| 18/02/22 | | 9 | 9.4.2.4 | Summary of *Re LN* [2022] VSC 11. | |
| 18/02/22 | | 9 | 9.4.3 | Reference to *Re Rye* [2021] VSC 875. | |
| 18/02/22 | | 9 | 9.4.4.2 | Summary of *Re Keene* [2021] VSC 864. | |
| 18/02/22 | | 9 | 9.4.8 | **SUBSECTION RESTRUCTURED WITH SEPARATE PARTS FOR BAIL PENDING APPEAL IN MAGISTRATES’ & CHILDREN’S COURT AND BAIL PENDING APPEAL IN COUNTY & SUPREME COURT.** | |
| Insertion of text of s.265 *Criminal Procedure Act 2009* and summary of *Re ML* [2022] VSC 10. | |
| 18/02/22 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 18/02/22 | | 10 | 10.3.2(4) | Added reference to *Henshaw (a pseudonym) v The Queen* [2021] VSCA 356 at [110]-[114]. | |
| 18/02/22 | | 10 | 10.6**M** | Summary of *DPP v Cardwell* [2021] VSC 832. | |
| 18/02/22 | | 10 | 10.6**U** | Added reference to *Re XY (No 4)* [2022] VSC 21 at [8]-[16] & [36]-[40]. | |
| 18/02/22 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 18/08/22 | | 11 | 11.1.2 | Reference to *DPP v Smith* [2022] VSCA 4 at [82]. | |
| 18/02/22 | | 11 | 11.1.4.3 | **SUBSECTION HEADING AMENDED TO** **“Principle of Proportionality – Relevance of other convictions”.** | |
| * Reference to *Vida (a pseudonym) v The Queen* [2021] VSCA 357 at [87]-[88]. * Extract from *Wilson v The Queen* [2022] VSCA 2 at [20]. | |
| 18/02/22 | | 11 | 11.1.4.4 | * Discussion of *DPP v Bowen* [2021] VSCA 355 and extracts from [6]-[8] & [41]-[42]. * Discussion of *Kulafi v The Queen; Nguyen v The Queen* [2021] VSCA 369 and ex tract from [46]-[47]. * References to *Jenkins v The Queen* [2022] VSCA 1 at [13]-[17]; *Wilson v The Queen* [2022] VSCA 2 at [27]-[37]; *Sang Zung Mang v The Queen* [2022] VSCA 10 at [18]-[24]. | |
| 18/02/22 | | 11 | 11.1.4.5 | **NEW SUBSECTION HEADED “Community correction orders under Part 3A of the Sentencing Act 1991”.** | |
| Discussion of and extracts from *Boulton v The Queen* (2014) 46 VR 308; [2014] VSCA 342. Added reference to *DPP v Bowen* [2021] VSCA 355 at [9]-[13]. | |
| 18/02/22 | | 11 | 11.2.4 | Added reference to *Wilson v The Queen* [2022] VSCA 2 at [22]-[26]. | |
| 18/02/22 | | 11 | 11.2.7 | Summary of *Shaun Page (a pseudonym) v The Queen* [2021] VSCA 364 and extract from [45]-[47]. | |
| 18/02/22 | | 11 | 11.2.11.2 | References to *R v EC* [2021] VSC 843 at [29]-[30]; *Boucher v The Queen* [2022] VSCA 3 at [131]-[139]. | |
| 18/02/22 | | 11 | 11.2.11.4 | Reference to *Shaun Page (a pseudonym) v The Queen* [2021] VSCA 364 at [63]-[66]. | |
| 18/02/22 | | 11 | 11.2.12 | References to *Clark v The Queen* [2021] VSCA 350 at [19]; *Shaun Page (a pseudonym) v The Queen* [2021] VSCA 364 at [57]-[62]. | |
| 18/02/22 | | 11 | 11.2.17 | * Case name *R v Hasan* corrected to *Hasan v The Queen* and (2010) 31 VR 28 added to citation. * Extract from *Clark v The Queen* [2021] VSCA 350 at [14]. | |
| 18/02/22 | | 11 | 11.2.18 | Summary of and extract from *Curtis v The Queen* [2022] VSCA 5 at [21]. | |
| 18/02/22 | | 11 | 11.2.22.1 | Summaries of *DPP v Panagiotou* [2022] VSC 9; *DPP v Walia* [2022] VSC 12. | |
| 18/02/22 | | 11 | 11.2.22.4 | Summaries of *R v EC* [2021] VSC 843; *DPP v Kingdon* [2021] VSC 858. | |
| 18/02/22 | | 11 | 11.2.24.2 | References to *Singh v The Queen* [2021] VSCA 345; *DPP v McNamara* [2021] VSC 845. | |
| 18/02/22 | | 11 | 11.2.24.3 | Reference to *Byast v The Queen* [2021] VSCA 344. | |
| 18/02/22 | | 11 | 11.2.24.6 | Reference to *Clark v The Queen* [2021] VSCA 350 at [21]. | |
| 18/02/22 | | 11 | 11.2.25 | References to *Nguyen v The Queen* [2021] VSCA 346; *Billy Dimovski v The Queen* [2022] VSCA 6; *Johnson v The Queen* [2022] VSCA 9. | |
| 18/02/22 | | 11 | 11.2.26.2 | Discussion of and extract from *Sabbatucci v The Queen* [2021] VSCA 340 at [35]. | |
| 18/02/22 | | 11 | 11.2.27 | Reference to *Sang Zung Mang v The Queen* [2022] VSCA 10 at [13] & [24]. | |
| 18/02/22 | | 11 | 11.2.30 | Discussion of *Alexandra Hill v The Queen* [2021] VSCA 349 and extract from [36]. | |
| 18/02/22 | | 11 | 11.3.5 | Reference to *DPP v Stratton* [2021] VSC 810 at [38]. | |
| 18/02/22 | | 11 | 11.8.1 | Extract from *Wilson v The Queen* [2022] VSCA 2 at [35]-[37]. | |
| 18/02/22 | | 11 | 11.15.1.1 | Reference to *Shaun Page (a pseudonym) v The Queen* [2021] VSCA 364. | |
| 18/02/22 | | 11 | 11.15.2 | References to *DPP (Vic) v Conos* [2021] VSCA 367; *Boucher v The Queen* [2022] VSCA 3. | |
| 18/02/22 | | 11 | 11.15.4 | References to *DPP v Smith* [2022] VSCA 4; *O’Brien v The Queen* [2021] VSCA 11. | |
| 18/02/22 | | 11 | 11.15.6 | Commentary on *R v Hollingsworth*: see [2021] VSCA 354. | |
| 10/12/21 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 10/12/21 | | 1 | PREAMBLE | Commentary on change of Department names, including dicta from *RP and VS v Maryanne Foreman & Ors* [2021] VSCA 115 at [2]. | |
| 10/12/21 | | CHAPTER 3 – COURT OPERATION | | | |
| 10/12/21 | | 3 | 3.1 | * Added material on the role of judicial registrars. * Summary of *Konidaris v The Queen* [2021] VSCA 309 including extract of [89]. * References to *Williams v Hand* [2014] VSC 527 at [97]-[105]; *Cathcart v Wang* [2021] VSC 685. | |
| 10/12/21 | | 3 | 3.5.9.1 | References to *Zirilli v The Queen* [2021] VSCA 174 at [59d]; *Higgs v The Queen* [2021] VSCA 301 at [28a]; *Polimeni v The Queen* [2021] VSCA 329 at [25b]. | |
| 10/12/21 | | 3 | 3.5.13 | Reference to *Hofer v The Queen* [2021] HCA 36 at [26]-[28] & [74]. | |
| 10/12/21 | | 3 | 3.5.14 | Reference to *Cayford v Let Danny Do It Pty Ltd* [2021] VSC 707. | |
| 10/12/21 | | 3 | 3.9 | Reference to *Mole v Mole (No 2)* [2021] VSC 802. | |
| 10/12/21 | | 3 | 3.10 | **SECTION HEADING CHANGED TO “Appeals/ Reviews”.** | |
| 10/12/21 | | 3 | 3.10.1 | **NEW SUBSECTION HEADING “Appeals to higher courts”.** | |
| * Amendments to reflect the repeal on 04/12/2021 of s.328 CYFA which provided a right of *de novo* appeal against most final orders made by the Family Division of the Children’s Court. * Addition of material relating to appeals under the FVPA or PSIA. * Associated changes to the chart outlining the avenues of appeal from the CCV to a higher court. * Addition of a reference to intervention order appeals detailed in section 6.14 and to TAO appeals. * Removal of a long-outdated paragraph referring to now repealed ss. 426(7) & 426(8) and ss.429(4) & 429(5) CYFA and removal of the reference to associated case of *DPP v MN; DPP v JC; DPP v JW* [2009] VSCA 312. | |
| 10/12/21 | | 3 | 3.10.2 | **NEW SUBSECTION HEADED “Reviews of judicial registrars’ determinations”.** | |
| 10/12/21 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 10/12/21 | | 5 | 5.11.1 | Summary of *Sani (a pseudonym) v DFFH* [2021] VSC 366 and extract from [124]-[125]. | |
| 10/12/21 | | 5 | 5.11.16 | Extract from *Sani (a pseudonym) v DFFH* [2021] VSC 366 at [25]. | |
| 10/12/21 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 10/12/21 | | 6 | **6.18.1** | Summary of *DPP v Nathan Hope (a pseudonym)* [2021] VMC 014 and extracts from [46] & [93]-[99]. | |
| 10/12/21 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 10/12/21 | | 9 | 9.4.1 | Summary of and extract from *Re Tiba (No 2)* [2021] VSC 716 at [13]-[15]. | |
| 10/12/21 | | 9 | 9.4.1.1 | Summaries of *DPP (Cth) v Carrick (a pseudonym)* [2021] VSC 696; *Re El Ali* [2021] VSC 713; *Re Harley Brown* [2021] VSC 738 including extract at [63]-[64]; *Re BJ* [2021] VSC 742 including extracts at [5]-[6] & [8]-[9]; *Re Marino* [2021] VSC 769 including extracts of [41]-[43]; *Re AJ (Second bail application)* [2021] VSC 772; *Re Johnson* [2021] VSC 800 including extracts of [63] & [68]. | |
| 10/12/21 | | 9 | 9.4.1.3 | Summaries of *Re Gentile (No 2)* [2021] VSC 781; *Re Nguyen-Huynh* [2021] VSC 791. | |
| 10/12/21 | | 9 | 9.4.2.2 | Summaries of *Re KI* [2021] VSC 736; *Re Madden* [2021] VSC 817; *Re AMR* [2021] VSC 743 including extract from [22]. | |
| 10/12/21 | | 9 | 9.4.3 | **HEADING AMENDED TO “Where likelihood of sentence is less than the time likely to be spent in custody”.** | |
| Added reference to *Re AMR* [2021] VSC 743. | |
| 10/12/21 | | 9 | **9.4.4.1** | **HEADING AMENDED TO “Otherwise unacceptable risk deemed acceptable due to particular circumstances”.** | |
| Extract from *Re AMR* [2021] VSC 743 at [22]. | |
| 10/12/21 | | 9 | **9.4.4.2** | **FORMERLY 9.4.2.5 AND HEADING CHANGED TO “Some cases in which accused with prima facie right to bail was held not to be an unacceptable risk and bail was granted”.** | |
| Added references to *Re LM* [2021] VSC 735; *Re SC* [2021] VSC 770. | |
| 10/12/21 | | 9 | **9.4.4.3** | **FORMERLY 9.4.2.6 AND HEADING CHANGED TO “Some cases in which accused with prima facie right to bail was held to be an unacceptable risk and bail was refused”.** | |
| 10/12/21 | | 9 | 9.5.1 | Commentary on *Re Tiba (No 2)* [2021] VSC 716. | |
| 10/12/21 | | 9 | 9.5.6 | Reference to *Re Tiba (No 2)* [2021] VSC 716. | |
| 10/12/21 | | 9 | 9.5.9.1 | Commentary on *DPP (Cth) v Carrick (a pseudonym)* [2021] VSC 696. | |
| 10/12/21 | | 9 | 9.5.14 | Reference to *DPP Cth v Carrick (a pseudonym)* [2021] VSC 696 at [41]. | |
| 10/12/21 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 10/12/21 | | 10 | 10.3.2(4) | Added references to *M v The Queen* (1994) 181 CLR 487, 493; *Henderson v The Queen* [2021] VSCA 312. | |
| 10/12/21 | | 10 | 10.3.3 | Added reference to *R v Frank (No 2)* [2021] VSC 7. | |
| 10/12/21 | | 10 | 10.3.4 | Minor modification to summary of *DPP v Shoan* [2007] VSCA 220. Added reference to *Jeffrey v Schubert* [2012] VSC 114. | |
| 10/12/21 | | 10 | 10.3.5 | Added material from *Daly v Karamoshos* [2020] VSC 506 [33], [287]-[289]. | |
| 10/12/21 | | 10 | 10.3.12 | Reference to *DPP v Pearson (a pseudonym)* [2021] VSCA 336. | |
| 10/12/21 | | 10 | 10.6**Q** | Reference to *Re WL* [2021] VSC 689; *Re SS* [2021] VSC 779. | |
| 10/12/21 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 10/12/21 | | 11 | 11.1.2 | Citation of *R v Merrett & Ors* changed to *R v Merrett, Piggott & Ferrari* (2007) 14 VR 392; [2007] VSCA 1. | |
| 10/12/21 | | 11 | 11.1.3 | Extract from *DPP v JK (Sentence)* [2020] VSC 510 at [49]. | |
| 10/12/21 | | 11 | 11.1.4.4 | * Summary of *Phongthaihong v The Queen* [2021] VSCA 317 and extract from [35]-[38]. * Reference to *Hazell v The Queen* [2021] VSCA 313. | |
| 10/12/21 | | 11 | 11.2.1 | Reference to *Frecker v The Queen* [2021] VSCA 331 at [81]-[84] & [91]-[95]. | |
| 10/12/21 | | 11 | 11.2.6 | References to *Lucas v The Queen* [2021] VSCA 314 at [23]-[28]; *Judge v The Queen; Dix v The Queen* [2021] VSCA 315 at [111]-[118]. | |
| 10/12/21 | | 11 | 11.2.7 | Summary of *Justin Allison (a pseudonym) v The Queen* [2021] VSCA 308 and extracts at [43] & [46]. | |
| 10/12/21 | | 11 | 11.2.14 | * Extract from *R v Merrett, Piggott & Ferrari* (2007) 14 VR 392; [2007] VSCA 1 at [35]. * Reference to *DPP v Keller (a pseudonym)* [2021] VSCA 334. | |
| 10/12/21 | | 11 | 11.2.22.1 | Summaries of *DPP v Manuel* [2021] VSC 568; *DPP v Cugurno-Pfabe & Nagy* [2021] VSC 749; *DPP v Yassin* [2021] VSC 780. | |
| 10/12/21 | | 11 | 11.2.22.4 | * Summary of *R v Pan* [2021] VSC 703. * Reference to *DPP v Heddergott* [2021] VSC 793. | |
| 10/12/21 | | 11 | 11.2.23 | Reference to *R v Hackett* [2021] VSC 773. | |
| 10/12/21 | | 11 | 11.2.24 | Added commentary on the change on 01/07/2013 in the definitions of “injury” and “serious injury” in s.15 of the *Crimes Act 1958*. | |
| 10/12/21 | | 11 | 11.2.24.1 | Brief summary of *Thornton v The Queen* [2021] VSCA 325. | |
| 10/12/21 | | 11 | 11.2.24.6 | Summary of *DPP v Deakin (a pseudonym)* [2021] VSC 719. | |
| 10/12/21 | | 11 | 11.2.26.1 | Summary of *R v AM* [2021] VSC 397 added under the heading of **ROBBERY** and the reference to this case removed from under the heading of **ARMED ROBBERY**. | |
| 10/12/21 | | 11 | 11.2.27 | References to *Konidaris v the Queen* [2021] VSCA 309; *Lucas v The Queen* [2021] VSCA 314 at [16]‑[18]. | |
| 10/12/21 | | 11 | 11.2.28.1 | * Summary of *Lawrence (a pseudonym) v The Queen* [2021] VSCA 291 at [21]-[27]. * References to *Thornton v The Queen* [2021] VSCA 325; *DPP v Keller (a pseudonym)* [2021] VSCA 334. | |
| 10/12/21 | | 11 | 11.2.32 | References to *R v Kesic* [2001] VSCA 171; *DPP v Arney* [2007] VSCA 126; *DPP v McMaster* (2008) 19 VR 191; [2008] VSCA 102; *R v Hughes* [2005] VSC 312; *DPP v Woodford* [2017] VSCA 312; *DPP v Staples* [2021] VSCA 307. | |
| 10/12/21 | | 11 | 11.2.33 | Summary of *R v Shoma (No 2)* [2021] VSC 797. | |
| 10/12/21 | | 11 | 11.8.1 | Reference to *Staples v The Queen* [2021] VSCA 307 at [80]-[82]. | |
| 10/12/21 | | 11 | 11.15.1.1 | Summaries of *DPP v Howard (a pseudonym)* [2021] VSCA 298; *Geoffrey Boxer (a pseudonym) v The Queen* [2021] VSCA 300. | |
| 10/12/21 | | 11 | 11.19 | Reference to *Phongthaihong v The Queen* [2021] VSCA 317 at [40]-[44]. | |
| 10/12/21 | | 11 | 11.20 | **NEW SECTION HEADED “Alcohol exclusion orders”.** | |
| Commentary on *Frecker v The Queen* [2021] VSCA 331 and extracts from [66] & [80]. | |
| 26/11/21 | | CHAPTER 3 – COURT OPERATION | | | |
| 26/11/21 | | 3 | 3.1 | * Lengthy extract from *Charisteas v Charisteas* [2021] HCA 29 at [11]-[22]. * Reference to *Minister for Home Affairs v Benbrika (No.2)* [2021] VSC 684 at [40]-[44]. | |
| 26/11/21 | | 3 | 3.4.4 | References to *Re East; ex parte Nguyen* (1998) 196 CLR 354; [1998] HCA 73; *Howard Nichols (a pseudonym) v The Queen* [2021] VSCA 273 at [47]-[60]. | |
| 26/11/21 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 26/11/21 | | 4 | 4.9.6 | Addition of MNG statistics for 2020/21. | |
| 26/11/21 | | 4 | 4.10.9 | Addition of CC statistics for 2018/19, 2019/20 & 2020/21. | |
| 26/11/21 | | 4 | 4.17 | Added commentary on the FDTC and addition of 2020/21 statistics. | |
| 26/11/21 | | 4 | 4.18 | **THE AUTHOR OF THESE RESEARCH MATERIALS HAS CONSIDERED DELETING SECTION 4.18 BECAUSE THE PAPERS REFERRED TO ARE NOW QUITE OLD AND MAY NO LONGER BE AVAILABLE FOR PERUSAL. HOWEVER, THE AUTHOR HAS DECIDED TO LEAVE THE SECTION FOR THE TIME BEING IN CASE IT REMAINS A USEFUL RESOURCE FOR ANY READER.** | |
| 26/11/21 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 26/11/21 | | 5 | 5.4.10  5.5  5.5.7  5.11.10  5.13  5.14.8  5.22.9  5.23.6  5.23.9  5.27.3 | Addition of 2020/21 Family Division statistics to all of these paragraphs and minor associated amendments to the text in some of these paragraphs. | |
| 26/11/21 | | 5 | 5.10.4 | Reference to *Maher (a pseudonym) v DFFH* [2021] VSC 747, esp. at [16]-[20]. | |
| 26/11/21 | | 5 | 5.11.16 | Reference to *Maher (a pseudonym) v DFFH* [2021] VSC 747 at [4]-[5]. | |
| 26/11/21 | | 5 | 5.14.1 | Text slightly amended. | |
| 26/11/21 | | 5 | 5.14.2 | Statistics moved to subsection 5.14.8 and text slightly amended. | |
| 26/11/21 | | 5 | 5.14.4 | Addition of second sentence to text. | |
| 26/11/21 | | 5 | 5.14.8 | **NEW SUBSECTION HEADED “Statistics”.** | |
| Statistics moved here from subsection 5.14.2. | |
| 26/11/21 | | 5 | 5.25.1 | The paper version of the blue form is replaced by the electronic version. | |
| 26/11/21 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 26/11/21 | | 6 | **6PS.10.1** | Summary of *Huang v Fitzgerald (Ruling)* [2021] VCC 1280 and extract from [45]-[46]. | |
| 26/11/21 | | 6 | **6.12** | Summary of costs ruling in *Huang v Fitzgerald (Ruling)* [2021] VCC 1280 at [49]-[52]. | |
| 26/11/21 | | 6 | **6.20** | Addition of 2020/21 intervention order statistics. | |
| 26/11/21 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 26/11/21 | | 7 | 7.5.1 | Summary of *DPP v Lamb* [2021] VSC 615 and extracts from [36] & [37]. | |
| 26/11/21 | | 7 | 7.5.5 | Summary of *DPP v Lamb* [2021] VSC 615 and extracts from [53] & [66]. | |
| 26/11/21 | | 7 | 7.5.7 | **NEW SUBSECTION ENTITLED “Criminal Division processing statistics”.** | |
| New chart showing the number of Criminal Division matters initiated, finalised and pending in each of the 13 Court regions for the years 2018/19, 2019/20 & 2020/21. | |
| 26/11/21 | | 7 | 7.11.6 | Addition of Children’s Koori Court statistics for 2020/21. | |
| 26/11/21 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 26/11/21 | | 9 | **SUBSTANTIAL CHANGES HAVE BEEN MADE TO THE NUMBERING OF SECTIONS AND SUBSECTIONS IN THIS CHAPTER AND SOME MATERIAL HAS BEEN RELOCATED AS INDICATED BELOW.** | | |
| 26/11/21 | | 9 | **9.4.1** | * A new introductory paragraph has been added. * The summary of *Re Roberts* [2020] VSC 793 has been moved from 9.4.1.2 and an extract from [20] has been added, together with a summary of and extracts from the appeal in *Roberts v The Queen* [2021] VSCA 28 at [47]‑[48]. * The summary of *Re KE* [2021] VSC 175 has been moved from 9.4.1.2 and extracts from [50] & [51] have been added. * Summary of *Re MJ* [2021] VSC 592 and extracts from [19] & [71]. | |
| 26/11/21 | | 9 | **9.4.1.1** | * Summary of *Re TH* [2021] VSC 597 and extracts from [43] & [49]-[52]. * Summaries of *Re* *Kuol* [2021] VSC 598; *Re LM* [2021] VSC 623; *Re DM* [2021] VSC 631; *Re IK (No 2)* [2021] VSC 636; *Re AK (No 2)* [2021] VSC 637; *Re Villani* [2021] VSC 638; *Re Bolvan* [2021] VSC 664. | |
| 26/11/21 | | 9 | **9.4.1.2** | * Excepts from *Re Roberts* [2020] VSC 793 and *Roberts v The Queen* [2021] VSCA 28. * Summary of *Re Biancotto* [2021] VSC 754. | |
| 26/11/21 | | 9 | **9.4.1.3** | Reference to *Re Kamvissis* [2021] VSC 620. | |
| 26/11/21 | | 9 | **9.4.2 OLD** | **THIS SUBSECTION HEADED “Relationship of Exceptional circs, Show compelling reason & Unacceptable risk” HAS BEEN DELETED AND ITS CONTENTS MAINLY TRANSFERRED TO 9.4.4.1.** | |
| 26/11/21 | | 9 | **9.4.2 NEW** | **FORMERLY 9.4.4.** | |
| 26/11/21 | | 9 | **9.4.2.1** | **FORMERLY 9.4.4.1.** | |
| 26/11/21 | | 9 | **9.4.2.2** | **FORMERLY 9.4.4.4.** | |
| Added summaries of *Re Tito* [2021] VSC 574; *Re DK* [2021] VSC 596; *Re Russell* [2021] VSC 657; *Re Bradley* [2021] VSC 663. | |
| 26/11/21 | | 9 | **9.4.2.3** | **FORMERLY 9.4.4.5.** | |
| 26/11/21 | | 9 | **9.4.2.4** | **FORMERLY 9.4.4.6.** | |
| 26/11/21 | | 9 | **9.4.2.5** | **FORMERLY 9.4.4.7.** | |
| Added reference to *Re Newman* [2021] VSC 656. | |
| 26/11/21 | | 9 | **9.4.2.6** | **FORMERLY 9.4.4.8.** | |
| 26/11/21 | | 9 | **9.4.3 OLD** | **THIS SUBSECTION HEADED** **“Exceptional circumstances – Bail unopposed by informant not a conclusive factor”** **HAS BEEN DELETED AND THE THREE CASES DISCUSSED UNDER THAT HEADING MOVED INTO THE GENERAL COMMENTARY IN PARAGRAPH 9.4.1.** | |
| 26/11/21 | | 9 | **9.4.3 NEW** | **THIS SUBSECTION HEADED “Where likelihood of sentence less than time already spent in custody” WAS FORMERLY 9.4.4.2.** | |
| Added references to *Re TH* [2021] VSC 597, [47]; *Re* *Kuol* [2021] VSC 598, [37] | |
| 26/11/21 | | 9 | **9.4.4 NEW** | **THIS SUBSECTION HEADED “Unacceptable risk” WAS FORMERLY 9.4.4.3 AND A NEW INTRODUCTORY SENTENCE ADDED.** | |
| 26/11/21 | | 9 | **9.4.4.1 OLD** | **RENUMBERED 9.4.2.1.** | |
| 26/11/21 | | 9 | **9.4.4.1 NEW** | **THIS MATERIAL CONTAINED IN THIS NEW SUBSECTION HEADED “Where unacceptable risk becomes acceptable due to changed circumstances” WAS FORMERLY IN 9.4.2.** | |
| 26/11/21 | | 9 | **9.4.4.2OLD** | **RENUMBERED 9.4.3.** | |
| 26/11/21 | | 9 | **9.4.4.3OLD** | **RENUMBERED 9.4.4.** | |
| 26/11/21 | | 9 | **9.4.4.4OLD** | **RENUMBERED 9.4.2.2.** | |
| 26/11/21 | | 9 | **9.4.4.5OLD** | **RENUMBERED 9.4.2.3.** | |
| 26/11/21 | | 9 | **9.4.4.6OLD** | **RENUMBERED 9.4.2.4.** | |
| 26/11/21 | | 9 | **9.4.4.7OLD** | **RENUMBERED 9.4.2.5.** | |
| 26/11/21 | | 9 | **9.4.4.8OLD** | **RENUMBERED 9.4.2.6.** | |
| 26/11/21 | | 9 | **9.4.5** | * Subsection heading changed to **“Whether bail conditions an element of exceptional circumstances/compelling reason”.** * Text of concluding paragraph is significantly changed and extract from *Re KE* [2021] VSC 175 at [53] added. | |
| 26/11/21 | | 9 | **9.4.11** | Reference to *Re TH* [2021] VSC 597 per Fox J, esp. at [49]. | |
| 26/11/21 | | 9 | **9.5.7** | Summary of *Re Monica Smit* [2021] VSC 642. | |
| 26/11/21 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 26/11/21 | | 10 | 10.3.2(4) | References to *M v The Queen* (1994) 181 CLR 487, 493; *Mac Stuart (a pseudonym) v The Queen* [2021] VSCA 260 at [79]-[83]; *Goodfellow* *v The Queen* [2021] VSCA 262; *Henderson v The Queen* [2021] VSCA 312. | |
| 26/11/21 | | 10 | 10.3.12(10) | References to *R v KRA* [1998] 2 VR 708; *GBF v The Queen* [2010] VSCA 135; *Hughes v The Queen* (2017) 263 CLR 338; *Jaxon Dun (a pseudonym) v The Queen* [2021] VSCA 286. | |
| 26/11/21 | | 10 | 10.4.1 | Minor change to wording of the last paragraph. | |
| 26/11/21 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 26/11/21 | | 11 | 11.1.10 | Reference to *Chalker v Baldwin* [2021] VSC 644 at [15]-[17] per Niall JA. | |
| 26/11/21 | | 11 | 11.2.1 | * Extract from *Gommers v The Queen* [2021] VSCA 258 at [45]-[47]. * Reference to *Jawahiri v The Queen* [2021] VSCA 287 at [22]-[23]. | |
| 26/11/21 | | 11 | 11.2.4 | References to *DPP v Ackerley (No 1)* [2021] VSC 189 at [53]; *Panourakis v The Queen* [2021] VSCA 259 at [45]-[55]. | |
| 26/11/21 | | 11 | 11.2.6 | * Extract from *Tawfik v The Queen* [2021] VSCA 289 at [14]-[16]. * References to *Tran v The Queen* [2021] VSCA 278 at [38]-[46]; | |
| 26/11/21 | | 11 | 11.2.7 | Reference to *Sawyer v The Queen* [2021] VSCA 282 at [36]-[61]. | |
| 26/11/21 | | 11 | 11.2.11.2 | References to *Peers v The Queen* [2021] VSCA 264 at [43] & [50]; *Eser v The Queen* [2021] VSCA 287 at [73]; *DPP v Vaisey* [2021] VSC 584 at [63]-[76]. | |
| 26/11/21 | | 11 | 11.2.12 | * Extract from *Pasquale Barbaro v The Queen* [2021] VSCA 277 at [60]-[64]. * References to *Kehayias v The Queen* [2021] VSCA 261; *Eser v The Queen* [2021] VSCA 287 at [73]; *DPP v Vaisey* [2021] VSC 584 at [73]‑[76]; *DPP v Harrison* [2021] VSC 601 at [75]-[84]. | |
| 26/11/21 | | 11 | 11.2.22.1 | References to *R v Ooi* [2021] VSC 591; *DPP v Harrison* [2021] VSC 601. | |
| 26/11/21 | | 11 | 11.2.22.3 | Reference to *DPP v Vaisey* [2021] VSC 584. | |
| 26/11/21 | | 11 | 11.2.22.4 | Extract from *Gommers v The Queen* [2021] VSCA 258 at [44] & [47]. | |
| 26/11/21 | | 11 | 11.2.23 | References to *Peers v The Queen* [2021] VSCA 264; *DPP v Currie* [2021] VSCA 272. | |
| 26/11/21 | | 11 | 11.2.24.1 | Summary of *Jawahiri v The Queen*; *Eser v The Queen* [2021] VSCA 287. | |
| 26/11/21 | | 11 | 11.2.24.6 | Subsection heading changed to “**Sentencing for reckless endangerment / recklessly exposing emergency worker to risk by driving**”. | |
| Summary of *Kehayias v The Queen* [2021] VSCA 261. | |
| 26/11/21 | | 11 | 11.2.25 | Subsection heading changed to **“Sentencing for drug trafficking / cultivation / importation etc”** | |
| * Summaries of *Director of Public Prosecutions (Cth) v Brown* [2017] VSCA 162; *Symons v The Queen* [2021] VSCA 276; *Pasquale Barbaro v The Queen* [2021] VSCA 277; *Tran v The Queen* [2021] VSCA 278; *Awad v The Queen; Tambakakis v The Queen* [2021] VSCA 285; *Tawfik v The Queen* [2021] VSCA 287. * Reference to *Delaci v The Queen* [2020] VSCA 276 changed to *Selaci v The Queen.* | |
| 26/11/21 | | 11 | 11.2.26 | Subsection heading changed to **“Sentencing for armed robbery / robbery / carjacking”.** | |
| 26/11/21 | | 11 | 11.2.26.2 | Subsection heading amended to **“**[**Sentencing for aggravated carjacking**](#_11.2.26.2__)**/carjacking”.** | |
| 26/11/21 | | 11 | 11.2.27 | Subsection heading amended to **“Sentencing for burglary / aggravated burglary / home invasion / agg home invasion”*.*** | |
| Summary of and extract from *Hill v The Queen* [2020] VSCA 220 at [1]-[2]. | |
| 26/11/21 | | 11 | 11.2.28.1 | Reference to *DPP v Daniels (a pseudonym)* [2021] VSCA 272. | |
| 26/11/21 | | 11 | 11.7.1 | Addition of sentencing outcome statistics for 2020/21. | |
| 29/10/21 | | CHAPTER 3 – COURT OPERATION | | | |
| 29/10/21 | | 3 | 3.1 | Reference to *Grahame v Bendigo and Adelaide Bank Ltd* [2021] VSCA 222 at [47]-[58]. | |
| 29/10/21 | | 3 | 3.3.4.2 | Extracts from and commentary on *SL v DFFH* [2021] VSC 523. | |
| 29/10/21 | | 3 | 3.3.4.3 | Extract from and commentary on *DE (a pseudonym) v DFFH* [2021] VSC 691 at [29]. | |
| 29/10/21 | | 3 | 3.9 | Extract from *Manderson v Bensons Property Group Ptd Ltd* [2021] VSCA 227 at [49]. | |
| 29/10/21 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 29/10/21 | | 5 | 5.2.3 | Extract from new case of *Re CP* [CCV-Billings M, 08/10/2021]. | |
| 29/10/21 | | 5 | 5.11.16 | Summary of *Warfe (a pseudonym) v Secretary to DFFH* [2021] VSC 482. | |
| 29/10/21 | | 5 | 5.15.3 | Extract from new case of *Re AR & SR* [2021] VChC 3 at [42]-[43] & [48]. | |
| 29/10/21 | | 5 | 5.24.3 | Extracts from *DE (a pseudonym) v DFFH* [2021] VSC 691 at [31]-[32]. | |
| 29/10/21 | | 5 | 5.24.5 | Substantial amendment to text. Summary of and extracts from *DE (a pseudonym) v DFFH* [2021] VSC 691 at [32], [38], [39] & [41]. | |
| 29/10/21 | | 5 | 5.25.1  5.25.2  5.25.3 | Amendments to Blue Form.  Minor amendment to Mauve Form.  Minor amendment to Orange Form. | |
|  | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 29/10/21 | | 9 | **9.4.1.1** | * Extracts from *Re Ravenhorst* [2021] VSC 481; *Re Hamilton-Green* [2021] VSC 484. * Summaries of *Re Hammoud* [2021] VSC 496; *Re Rizakis* [2021] VSC 550 at [52]; *Re Niyazi* [2021] VSC 556; *Re Tafa* [2021] VSC 557. | |
| 29/10/21 | | 9 | **9.4.1.2** | * Extracts from *Re Jacob Ford* [2021] VSC 519 at [62], [73] & [74] and *Re Hyman* [2021] VSC 491 at [84]. * Summary of *Re Strachan* [2021] VSC 538. | |
| 29/10/21 | | 9 | **9.4.1.3** | Summary of case of *Shannon Taylor v DPP* [2020] VSCA 142 was wrongly included in #9.4.1.2 and has now been moved to #9.4.1.3. | |
| 29/10/21 | | 9 | **9.4.4.2** | Reference to *Re Rizakis* [2021] VSC 550 at [52]. | |
| 29/10/21 | | 9 | **9.4.4.4** | Summaries of *Re Mourad* [2021] VSC 497; *Re Dylan Goodwin* [2021] VSC 504; *Re Foord* [2021] VSC 513; *Re Jock* [2021] VSC 561; *Re Schwarzenberg* [2021] VSC 710. | |
| 29/10/21 | | 9 | **9.5.1** | Reference to *Re Jock* [2021] VSC 561 at [52]. | |
| 29/10/21 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 29/10/21 | | 10 | 10.2.1 | Reference to *Stanczewski v The Queen* [2021] VSCA 232 at [43]-[46]. | |
| 29/10/21 | | 10 | 10.6**U** | Reference to *Re KP (No 2)* [2021] VSC 675. | |
| 29/10/21 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 29/10/21 | | 11 | 1.1.4.4 | Reference to *Bufton v The Queen* [2021] VSCA 228 at [85]. | |
| 29/10/21 | | 11 | 11.2.6 | Reference to *Lam v The Queen* [2021] VSCA 241 at [39]-[65]. | |
| 29/10/21 | | 11 | 11.2.7 | Summary and extracts from *Hutchinson v The Queen* [2021] VSCA 235 at [55]-[57], [62]-[63] & [79]. | |
| 29/10/21 | | 11 | 11.2.8.3 | References to *Quah v The Queen* [2021] VSCA 164; *Al Janabe v The Queen* [2021] VCA 252 at [27]-[34]. | |
| 29/10/21 | | 11 | 11.2.11.2 | References to *Hutchinson v The Queen* [2021] VSCA 235 at [105]-[116]; *Nachar v The Queen* [2021] VSCA 242 at [35]-[39]; *R v Tiba* [2021] VSC 515 at [71]-[84]; *DPP v Moore* [2021] VSC 538 at [60]-[70]. | |
| 29/10/21 | | 11 | 11.2.12 | Reference to *Ellis v The Queen* [2021] VSCA 229 at [55]-[65]. | |
| 29/10/21 | | 11 | 11.2.13 | Extract from *Bufton v The Queen* [2021] VSCA 228 at [85]. | |
| 29/10/21 | | 11 | 11.2.18  11.3.5 | Reference to *Lam v The Queen* [2021] VSCA 241 at [25]-[38]. | |
| 29/10/21 | | 11 | 11.2.22.1 | Summary of *R v Burns* [2021] VSC 518. | |
| 29/10/21 | | 11 | 11.2.22.4 | Reference to *DPP v Moore* [2021] VSC 532. | |
| 29/10/21 | | 11 | 11.2.24.1 | Summary of *R v Tiba* [2021] VSC 515. | |
| 29/10/21 | | 11 | 11.2.24.5 | Summary of *R v Casley* [2021] VSC 503. | |
| 29/10/21 | | 11 | 11.2.26 | Paragraph heading changed to “**Sentencing for armed robbery / robbery / carjacking / home invasion”**. | |
| 29/10/21 | | 11 | 11.2.26.1 | Summary of *R v Kur* [2021] VSC 501. | |
| 29/10/21 | | 11 | 11.2.26.2 | * Paragraph heading changed to “**Sentencing for carjacking (± aggravated) / home invasion (± aggravated)**”. * Summary of *Russo v The Queen* [2021] VSCA 244 and extracts from [49] & [57]. | |
| 29/10/21 | | 11 | 11.2.28.1 | Reference to *Wright v The Queen* [2021] VSCA 243. | |
| 29/10/21 | | 11 | 11.8.1 | Extract from *Russo v The Queen* [2021] VSCA 244 at [64] & [66]-[68]. | |
| 29/10/21 | | 11 | 11.15.4 | References to *Stanczewski v The Queen* [2021] VSCA 232; *Bouris v The Queen* [2021] VSC 245. | |
| 29/10/21 | | 11 | 11.18 | Reference to *Matamata v The Queen* [2021] VSCA 253 at [28]-[31], [71]-[80] & [90]-[93]. | |
| 27/08/21 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 27/08/21 | | 7 | 7.7.2 | Paragraph heading changed to “**Youth offending from 2008/09 to 2020/21**” and statistics and commentary for 2019/20 & 2020/21 included. | |
| 27/08/21 | | 7 | 7.7.3 | Paragraph heading changed to “**Offending by children aged 10-13 inclusive from 2017/18 to 2020/21**” and statistics and commentary for 2019/20 & 2020/21 included. | |
| 13/08/21 | | CHAPTER 3 – COURT OPERATION | | | |
| 13/08/21 | | 3 | 3.1 | Extract from *Kelly v The Queen* [2021] VSCA 216 at [37]. | |
| 13/08/21 | | 3 | 3.3.4.1 | Extract from *Tomlinson v Ramsey Food Processing Pty Ltd* (2015) 256 CLR 507 at [25]-[26] cited in *Yu v Lu & Ors* [2021] VCC 923 at [23]. | |
| 13/08/21 | | 3 | 3.3.4.2 | Extract from *Yu v Lu & Ors* [2021] VCC 923 at [17] containing a quotation from *Blair v Curran* (1939) 62 CLR 464, 531-2. | |
| 13/08/21 | | 3 | 3.8 | Added references to s.412 *Criminal Procedure Act 2009* and the cases of *McDonald v The Queen* [2013] VSCA 89 at [17]; *Smith v The Queen; Droste v The Queen* [2012] VSCA 133 at [32]; *R v Bembo* [2019] VCC 1352; *CMG v The Queen* [2013] VSCA 243 at [129]. Added extract from *DPP v Edwards* [2012] VSCA 293 at [238]. | |
| 13/08/21 | | 3 | 3.9 | Added references to *Piccolotto v The Queen (No 2)* [2015] VSCA 182; *Easwaralingam v Davis & Anor* [2013] VSC 651. | |
| 13/08/21 | | 3 | 3.9.5 | Added reference to *Di Lorenzo v The Magistrates’ Court of Victoria* [2021] VSC 475 at [26]. | |
| 13/08/21 | | 3 | 3.4.2 | Subsection heading amended to “**Program for Intermediaries and Ground Rules Hearings**”. Minor amendments to text. These changes were noted as having occurred on 12/07/21 but were accidentally omitted then and on 23/07/21. | |
| 13/08/21 | | 3 | 3.4.4 | The extract from *DVO16 v Minister for Immigration and Border Protection; BNB17 v Minister for Immigration and Border Protection* [2021] HCA 12 at [4]‑[8] has been moved to 3.4.4 from 2.10.5. This was supposed to have been done on 12/07/21 and again on 23/07/21 but was accidentally omitted. | |
| 13/08/21 | | 3 | 3.7.2 | The extract from *Warburton Environment Inc v VicForests* [2021] VSCA 194 at [89]-[94] which was shown on 23/07/21 as having been added to 3.7.1 was in fact added to 3.7.2. | |
| 13/08/21 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 13/08/21 | | 5 | 5.22.3  5.22.4 | Addition to text of discussion of the relationship between ss.319(1)(b), 321(1)(b) & 321(1)(d) CYFA. Short summary of new case of *Re SD* [CCV-Hubble M, 02/08/2021]. | |
| 13/08/21 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 13/08/21 | | 7 | 7.5.4 | Added extract from case of *Fiore v Magistrates’ Court of Victoria* [2020] VSC 92 at [113]-[117]. | |
| 13/08/21 | | 7 | 7.5.5 | Added reference to *Glenister v Magistrates’ Court of Victoria* [2014] VSC 265 at [61]-[68]. Added extracts from *DPP v Kypri* [2011] VSCA 257 at [24] and *Fazal v Beauchamp & Anor* [2021] VSCA 103 at [18] & [22]. | |
| 13/08/21 | | 7 | 7.13 | This is a new section entitled “[**‘Crossover**](#_7.12_Cases_on) **kids’ & impact of a child’s mental development on offending**”. | |
| 13/08/21 | | 7 | 7.13/7.14 | Former sections 7.13 & 7.14 have been combined as 7.14 and renamed “**Some papers on aspects of the criminal law relating to children**”. | |
|  |
| 13/08/21 | | 9 | **9.4.1.2** | Summaries of *Re Tiba* [2021] VSC 429; *Re Nhat L* [2021] VSC 446, including an extract from [49]-[50]. | |
| 13/08/21 | | 9 | **9.4.11** | Extract from case of *Re Hooper (No.2)* [2021] VSC 476 at [30] & [52]-[54]. | |
| 13/08/21 | | 9 | **9.5.1** | Extract from case of *Re Tiba* [2021] VSC 429 at [34]. Added reference to case of *Re Nhat L* [2021] VSC 446 at [44]-[45] & [54]. | |
| 13/08/21 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 13/08/21 | | 10 | 10.2.1 | Short extract from case of *Gild v Magistrates’ Court of Victoria* [2014] VSC 84 at [42]. | |
| 13/08/21 | | 10 | 10.2.2 | Added reference to case of *Williams v Hand and Anor* [2014] VSC 527 at [57]. | |
| 13/08/21 | | 10 | 10.2.3 | * Added references to cases of *Marwah v Magistrates’ Court of Victoria* [2013] VSC 278 at [17]; *Visser v DPP (Cth)* [2020] VSCA 327 esp. at [37]-[40]. * Amendment to text discussing s.123 CPA. * Addition of a general reference to Order 2A [Rules 2.06A to 2.06V] of the *Children’s Court Criminal Procedure Rules 2019*, plus a specific reference to Rule 2.06L(2). | |
| 13/08/21 | | 10 | 10.3.2 | * Extract from *Martin v The Queen* [2013] VSCA 377 at [44]. * Added references to *R v Davis* [2007] VSCA 276 at [30]-[36]; *Jones (a pseudonym) v DPP* [2015] VSCA 272 at [25]; *DPP v Finn (Ruling No 1)* [2008] VSC 303 at [10]; *Bradley (a pseudonym) v The Queen* [2017] VSCA 332 at [28]; *Gutierrez v The Queen* [2018] VSCA 270. | |
| 13/08/21 | | 10 | 10.3.3 | Added extract from *R v Mocenigo (Ruling No 4)* [2012] VSC 442 at [5]. | |
| 13/08/21 | | 10 | 10.3.4 | Significant addition to text including references to the Sentencing Advisory Council report *Sentence Indication and Specified Sentence Discounts* (2007). | |
| 13/08/21 | | 10 | 10.3.12 | Summaries of new cases of *R v Kannan & Anor (Ruling No 12)* [2021] VSC 39 at [65]-[71]; *Fleming (a pseudonym) v The Queen* [2021] VSCA 203. | |
| 13/08/21 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 13/08/21 | | 11 | 11.1.4.4 | Extract from *Newton v The Queen* [2021] VSCA 207 at [69]. | |
| 13/08/21 | | 11 | 11.2.7 | Extracts from *Kettyle v The Queen* [2019] VSCA 220 at [55] & [84]-[86]. | |
| 13/08/21 | | 11 | 11.2.11.2 | References to *Newton v The Queen* [2021] VSCA 207 at [35]-[45]; *DPP (Cth) v Kannan & Anor* [2021] VSC 439. | |
| 13/08/21 | | 11 | 11.2.11.3 | Reference to *Stevens v The Queen* [2021] VSCA 218 at [31]-[33]. | |
| 13/08/21 | | 11 | 11.2.12 | Reference to *Stevens v The Queen* [2021] VSCA 218 at [22]-[28]. | |
| 13/08/21 | | 11 | 11.2.18 | Extract from *DPP (Cth) v Kannan & Anor* [2021] VSC 439 at [216]. | |
| 13/08/21 | | 11 | 11.2.27 | * Summary of case of *Brown v The Queen* [2021] VSCA 204, including references to 11 cases involving sentences for aggravated burglary. * References to cases of *Newton v The Queen* [2021] VSCA 207; *Stevens v The Queen* [2021] VSCA 218. | |
| 23/07/21 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 23/07/21 | | 1 | 1.3 | Note that *Children, Youth and Families (Children’s Court Judicial Registrars) Rules 2021* [S.R.No.22/2021] has been amended as and from 23/07/2021 by S.R.No.90/2021. | |
| 23/07/21 | | 1 | 1.4.1 | Summary of new P.D.s No.7 & 8 of 2021. | |
| 23/07/21 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 23/07/21 | | 2 | **ALL REFERENCES TO LEGISLATION AND SUBORDINATE LEGISLATION ARE REFORMATTED TO ITALICS WITH “(Vic)” REMOVED WHERE APPROPRIATE.** | | |
| 23/07/21 | | 2 | 2.2 | Further material in relation to judicial registrars and their powers and functions has been added. | |
| 23/07/21 | | 2 | 2.5 | Very minor amendments to text re appointment of judicial registrars and to the list of CCV venues. | |
| 23/07/21 | | 2 | 2.8.1 | Addition of reference to s.534A CYFA and addition of details in relation to s.534(4). | |
| 23/07/21 | | 2 | 2.10 | The material relating to the “**Salvation Army**” which was previously in section 2.10.6 has been moved to the start of section 2.10. Material on the role of the **Court Registry**, the **Court Support Coordinator** and the **Family Violence Practitioner** has been added to section 2.10. | |
| 23/07/21 | | 2 | 2.10.5 | Extract from *DVO16 v Minister for Immigration and Border Protection; BNB17 v Minister for Immigration and Border Protection* [2021] HCA 12 at [4]‑[8] has been moved from 2.10.5 to 3.4.4. | |
| 23/07/21 | | 2 | 2.10.6 | The material relating to the “**Salvation Army**” has been moved to the start of section 2.10 and subsection 2.10.6 has been retitled “**Mental Health Advice and Response Service**” and rewritten. | |
| 23/07/21 | | 2 | 2.10.7 | New subsection 2.10.7 headed “**Education Justice Initiative**”. | |
| 23/07/21 | | CHAPTER 3 – COURT OPERATION | | | |
| 23/07/21 | | 3 | 3.3.1 | Reference to *Victorian Legal Services Board v Thexton (penalty)* [2021] VSC 391. | |
| 23/07/21 | | 3 | 3.4.4 | Correction of error. The extract from *DVO16 v Minister for Immigration and Border Protection; BNB17 v Minister for Immigration and Border Protection* [2021] HCA 12 at [4]‑[8] has been moved to 3.4.4 from 2.10.5. This was supposed to have been done on 12/07/21 but was accidentally omitted. | |
| 23/07/21 | | 3 | 3.7.1 | Extract from *Warburton Environment Inc v VicForests* [2021] VSCA 194 at [89]-[94]. | |
| 23/07/21 | | 3 | 3.13 | New section entitled “**Interstate execution of warrants issued by Australian state courts**”. Reference to case of [*Re Taleb* [2021] VSC 427](https://urldefense.proofpoint.com/v2/url?u=https-3A__jade.io_viewArticle.html-3Faid-3D824417-26pid-3D60654385-26h-3D1107164396&d=DwMCAg&c=JnBkUqWXzx2bz-3a05d47Q&r=GtQXq1oqGhAiTLjCBSq6Gkyvjjd-yppTKu0RR1JCFBQ&m=RS0Rw1AQ2WqMvPZbQkJKQfNT1siCTCG8zjgRqG21POs&s=nPRCBpmncTbsgt-BhU7JXXnSjs0APifo0g7RB2Uhib8&e=). | |
| 23/07/21 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 23/07/21 | | 9 | **9.4.1.1** | Summaries of cases of *Re Stratton* [2021] VSC 415; *Re Bradley* [2021] VSC 431*; Re Windley* [2021] VSC 432. | |
| 23/07/21 | | 9 | **9.4.1.2** | Amendment of summary of *Re Rahman* [2020] VSC 748 by addition to reference to [2021] VSC 402. New summary of *Re Glasby* [2021] VSC 428. | |
| 23/07/21 | | 9 | **9.4.4.4** | Summaries of cases of *Re CO* [2021] VSC 412; *Re Farmer* [2021] VSC 417. | |
| 23/07/21 | | 9 | **9.4.4.7** | Reference to case of Re *AH* [2021] VSC 426. | |
| 23/07/21 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 23/07/21 | | 11 | 11.2.22.1 | Summaries of new cases of *R v Farrell* [2021] VSC 414; *R v Oakley* [2021] VSC 430. | |
| 23/07/21 | | 11 | 11.2.25 | Addition of [2014] HCA 2 to reference to the case of *DPP v Barbaro & Zirrilli* [2012] VSC 47. | |
| 23/07/21 | | 11 | 11.2.26.2 | Summary of and extract from new case of *R v House* [2021] VSC 419. | |
| 23/07/21 | | 11 | 11.2.28.1 | Summary of *Braddock v The Queen* [2021] VSCA 201. | |
| 23/07/21 | | 11 | 11.2.36 | New subsection entitled “**Sentencing for offences involving family violence**” and comprised of 11.2.36.1 “**Sentencing considerations for contravention of an intervention order**” & 11.2.36.2 “**Some relevant cases**”. | |
| 23/07/21 | | 11 | 11.15.1.1 | Added reference to *DPP v Dalgleish (a pseudonym)* [2017] HCA 41. | |
| 12/07/21 | | CHAPTERS 1, 3, 7, 9, 10 & 11 | | | |
| 12/07/21 | | 1, 3, 7, 9, 10, 11 | **ALL REFERENCES TO LEGISLATION AND SUBORDINATE LEGISLATION ARE REFORMATTED TO ITALICS WITH “(Vic)” REMOVED WHERE APPROPRIATE.** | | |
| 12/07/21 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 12/07/21 | | 1 | 1.1.5 | New subsection entitled “**Recommendation to split the CYFA**”. | |
| 12/07/21 | | 1 | 1.2.1 | Amendments to the text describing the *Children, Youth and Families Regulations 2017* [S.R. No.19/2017]. | |
| 12/07/21 | | 1 | 1.2.2  1.2.4 | Minor amendments to text. | |
| 12/07/21 | | 1 | 1.4.1 | Summary of new Practice Direction No.6 of 2021 and deletion of references to 23 earlier Practice Directions which are revoked by it. | |
| 12/07/21 | | 1 | 1.4.2 | Updating of CCV website reference to Court Guidelines. Minor amendments to information about the Intermediary Program. | |
| 12/07/21 | | CHAPTER 3 – COURT OPERATION | | | |
| 12/07/21 | | 3 | 3.1 | Lengthy quotation from new case of *DPP v Fogarty* [2021] VSC 392 at [48]. | |
| 12/07/21 | | 3 | 3.3.4.1 | References to cases of *Connellan v Murphy* [2017] VSCA 116; *Grant v Bird* [2021] VSC 380 at [34]-[60]. | |
| 12/07/21 | | 3 | 3.4.2 | Subsection heading amended to “**Program for Intermediaries and Ground Rules Hearings**”. Minor amendments to text. | |
| 12/07/21 | | 3 | 3.4.4 | Extract from *DVO16 v Minister for Immigration and Border Protection; BNB17 v Minister for Immigration and Border Protection* [2021] HCA 12 at [4]‑[8] has been moved to 3.4.4 from 2.10.5. | |
| 12/07/21 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 12/07/21 | | 7 | 7.5.5 | Added references to cases of *Baiada Poultry Pty Ltd v Glenister* [2015] VSCA 344; *DPP Reference No 2 of 2001* (2001) 4 VR 55; [2001] VSCA 114; *John L Pty Ltd v Attorney General (N.S.W.)* (1987) 163 CLR 508; *Johnson v Miller* (1937) 59 CLR 467; *Southgate Management Pty Ltd v Nitschke* [2018] VSC 236; *Wells v Stillman & Anor* [2020] VSC 51; *DPP v Fox* [2021] VSC 226; *Nunn v Pezzimenti* [2021] VSC 313; *DPP v Fogarty* [2021] VSC 392. | |
| 12/07/21 | | 7 | 7.5.6 | * Subsection heading amended to “**Venue of the Court**”. * Added references to ss.505 & 505A CYFA. | |
| 12/07/21 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 12/07/21 | | 9 | **9.4.1.1** | * Amendment of summary of *Re AJ* [2021] VSC 291 by addition to reference to [2021] VSC 395. * Summaries of cases of *Re Warda* [2021] VSC 323; *R v ST* [2021] VSC 379; *Re Rahman* [2021] VSC 402. | |
| 12/07/21 | | 9 | **9.4.1.2** | Amendment of summary of *Re Rahman* [2020] VSC 748 by addition to reference to [2021] VSC 402. | |
| 12/07/21 | | 9 | **9.5.6.1** | Reference to case of *Re Rahman* [2020] VSC 402 at [9]-[12]. | |
| 12/07/21 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 12/07/21 | | 10 | 10.6**Q & S** | References to new case of *Re Stevanovic (No.2)* [2021] VSC 394. | |
| 12/07/21 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 12/07/21 | | 11 | 11.1.4.4 | Extract from new case of *Osman v The Queen* [2021] VSCA 176 at [102]. | |
| 12/07/21 | | 11 | 11.2.4 | Reference to new case of *R v Chee* [2021] VSC 355 at [6]-[7]. | |
| 12/07/21 | | 11 | 11.2.12 | Reference to new case of *Gencev v The Queen* [2021] VSCA 188 at [43]-[52]. | |
| 12/07/21 | | 11 | 11.2.11.2 | Reference to new case of *DPP v JF* [2021] VSC 328 at [68]. | |
| 12/07/21 | | 11 | 11.2.11.4 | Summary of *Wyatt Tobin (a pseudonym) v The Queen* [2021] VSCA 180 at [43]‑[52]. | |
| 12/07/21 | | 11 | 11.2.17 | Reference to new case of *Hope v The Queen* [2021] VSCA 177 at [36] & [55]. | |
| 12/07/21 | | 11 | 11.2.22.1 | Summary of *R v Horton* [2021] VSC 396. | |
| 12/07/21 | | 11 | 11.2.22.4 | Summary of new case of *DPP v JF* [2021] VSC 328. | |
| 12/07/21 | | 11 | 11.2.24.1 | Reference to new case of *Gencev v The Queen* [2021] VSCA 188. | |
| 12/07/21 | | 11 | 11.2.24.2 | Reference to new case of *R v Chee* [2021] VSC 355. | |
| 12/07/21 | | 11 | 11.2.25 | Extract from case of *Gregory (a pseudonym) v The Queen* [2017] VSCA 151 at [98]. Summary of new case of *Osman v The Queen* [2021] VSCA 176. References to cases of *DPP v Condo* [2019] VSCA 181; *Roxburgh v The Queen* [2021] VSCA 181. | |
| 12/07/21 | | 11 | 11.2.26.1 | * Subsection heading amended to “**Sentencing for armed robbery / robbery**”. * Reference to new case of *R v AM* [2021] VSC 397. | |
| 12/07/21 | | 11 | 11.2.27 | Reference to new case of *Hope v The Queen* [2021] VSCA 177 at [38] & [53]. | |
| 12/07/21 | | 11 | 11.8.1 | Reference to new case of *R v Chee* [2021] VSC 355 at [36]-[37]. | |
| 12/07/21 | | 11 | 11.15.1.1 | * Summary of new case of *Wyatt Tobin (a pseudonym) v The Queen* [2021] VSCA 180. * Reference to new case of *DPP v Tullipan (a pseudonym)* [2021] VSCA 191. | |
| 23/06/21 | | CHAPTER 3 – COURT OPERATION | | | |
| 23/06/21 | | 3 | 3.1 | Lengthy quotation from new case of *Chief Commissioner of Police v IHF & Police Registration and Services Board* [2021] VSCA 147 at [113]-[115]. | |
| 23/06/21 | | 3 | 3.3.1 | * Subsection heading changed to “**Contempt powers conferred by the Magistrates’ Court Act 1989**”. * References to new cases of *Re Albert (a barrister) and McLean (a solicitor)* [2021] VSC 297; *R v The Herald & Weekly Times Pty Ltd* [2021] VSC 253; *Khoury v Kirwan (No 4)* [2021] VSC 333. | |
| 23/06/21 | | 3 | 3.3.4.1 | Reference to new case of *Harper (a pseudonym) v DPP (Cth)* [2021] VSCA 173. | |
| 23/06/21 | | 3 | 3.5.5 | Text updated. | |
| 23/06/21 | | 3 | 3.5.5.1 | * Subsection heading changed to “**Use of recorded evidence-in-chief of a child or cognitively impaired witness**”. * Text updated. | |
| 23/06/21 | | 3 | 3.5.5.2 | * Subsection heading changed to “**Use of recorded evidence-in-chief of complainants generally**”. * Text updated and expanded. | |
| 23/06/21 | | 3 | 3.5.8 | Text updated and expanded to include references to ss.387J & 387K *Criminal Procedure Act 2009.* | |
| 23/06/21 | | 3 | 3.5.9.1 | References to new cases of *Zirilli v The Queen* [2021] VSCA 174; *Khoury v Kirwan (No 4)* [2021] VSC 333 at [4]. | |
| 23/06/21 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 23/06/21 | | 5 | 5.2.3 | Summary of new case of *Re JH* [2021] VChC 2. | |
| 23/06/21 | | 5 | 5.3.2 | Correction to numbering of secondary application types. | |
| 23/06/21 | | 5 | 5.10.4  5.11.16 | References to new case of *Sani (a pseudonym) v DFFH* [2021] VSC 366 per Moore J. | |
| 23/06/21 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 23/06/21 | | 9 | **9.4.1.1** | Summaries of new cases of *Turner v Lill (No 2)* [2021] VSC 255; *Re Yousuf* [2021] VSC 272; *Re Hales* [2021] VSC 274; *Re AJ* [2021] VSC 291; *Re Bailey* [2021] VSC 299; *Re DS* [2021] VSC 332; *Re Charlton* [2021] VSC 342; *Re Minh Trinh* [2021] VSC 356. | |
| 23/06/21 | | 9 | **9.4.1.2** | Summary of new case of *Re Pollard* [2021] VSC 315. | |
| 23/06/21 | | 9 | **9.4.4.2** | Reference to new case of *Re Yousuf* [2021] VSC 272, [52]. | |
| 23/06/21 | | 9 | **9.4.4.4** | Summary of new cases of *Re Tofaris* [2021] VSC 249; *Re AM (No.2)* [2021] VSC 284. | |
| 23/06/21 | | 9 | **9.4.4.6** | Summary of new case of *Re Kur* [2021] VSC 285. | |
| 23/06/21 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 23/06/21 | | 11 | 11.1.4 | Reference to new case of *Butler v The Queen* [2021] VSCA 129. | |
| 23/06/21 | | 11 | 11.1.7 | Extract from new case of *Sinclair v The Queen* [2021] VSCA 144 at [22]-[23]. | |
| 23/06/21 | | 11 | 11.2.1 | Reference to new case of *Bergman (a pseudonym) v The Queen* [2021] VSCA 148 at [91]-[97]. | |
| 23/06/21 | | 11 | 11.2.6 | Reference to new cases of *Salazar v The Queen* [2021] VSCA 125 at [20]-[24]; *Sinclair v The Queen* [2021] VSCA 144 at [13]-[18]; *Lau v The Queen* [2021] VSCA 162 at [26]-[35]. | |
| 23/06/21 | | 11 | 11.2.7 | Extracts from new case of *Atkinson v The Queen* [2021] VSCA 127 at [24], [26] & [30]. References to cases of *Torrefranca v The Queen* [2021] VSCA 157 at [39]; *Wakim v The Queen* [2016] VSCA 301; *SD v The Queen* (2013) 39 VR 487, 494 [31]. | |
| 23/06/21 | | 11 | 11.2.8.2 | Extracts from *Chenhall v The Queen* [2021] VSCA 175 at [33]-[36]; *Worboyes v The Queen* [2021] VSCA 169 at [39]. Reference to *Schaeffer v The Queen* [2021] VSCA 171. | |
| 23/06/21 | | 11 | 11.2.11.2 | References to new cases of *Alexander v The Queen* [2021] VSCA 140 at [35]-[37]; *DPP v Ackerley (No 2)* [2021] VSC 257 at [37]-[41]. | |
| 23/06/21 | | 11 | 11.2.11.3 | Reference to new case of *Carr (a pseudonym) v The Queen* [2021] VSCA 130 at [18]-[26]. | |
| 23/06/21 | | 11 | 11.2.11.4 | Reference to new case of *DPP v Herrmann* [2021] VSCA 160 at [49]-[88]. | |
| 23/06/21 | | 11 | 11.2.12 | Reference to new cases of *Sinclair v The Queen* [2021] VSCA 144 at [28]; *Bergman (a pseudonym) v The Queen* [2021] VSCA 148 at [85]-[90]; *DPP v Herrmann* [2021] VSCA 160 at [35]-[48] & [78]-[88]. | |
| 23/06/21 | | 11 | 11.2.17 | Reference to new case of *Alexander v The Queen* [2021] VSCA 140 at [34]. | |
| 23/06/21 | | 11 | 11.2.22.1 | Summaries of new cases of *DPP v Ackerley (No 2)* [2021] VSC 257; *DPP v Janson* [2021] VSC 298; *DPP v Timoteo & Ors* [2021] VSC 312; *R v Biba* [2021] VSC 327; *R v Volpe* [2021] VSC 353. | |
| 23/06/21 | | 11 | 11.2.22.4 | Added reference to new case of *Eustace v The Queen* [2021] VSCA 142 and deletion of *R v Eustace* [2019] VSC 189 given that the appeal against sentence was allowed. References to new cases of *R v Biba* [2021] VSC 327; *R v Margolis* [2021] VSC 341. | |
| 23/06/21 | | 11 | 11.2.23 | * Section heading changed to “**Sentencing for culpable driving / dangerous driving causing death/serious injury**”. * References to new cases of *Lee v The Queen* [2021] VSCA 156; *Singh v The Queen* [2021] VSCA 161. | |
| 23/06/21 | | 11 | 11.2.24.2 | Reference to new case of *Worboyes v The Queen* [2021] VSCA 169. | |
| 23/06/21 | | 11 | 11.2.24.3 | Reference to new case of *Abbott v The Queen* [2021] VSCA 149. | |
| 23/06/21 | | 11 | 11.2.24.4 | Reference to new case of *Johnie Baker (a pseudonym) v The Queen* [2021] VSCA 158. | |
| 23/06/21 | | 11 | 11.2.24.6 | Reference to new case of *R v LW & Anor* [2021] VSC 278. | |
| 23/06/21 | | 11 | 11.2.25 | References to new cases of *Gayed v The Queen* [2021] VSCA 141; *Quah v The Queen* [2021] VSCA 164. | |
| 23/06/21 | | 11 | 11.2.27 | Extract from new case of *Schaeffer v The Queen* [2021] VSCA 171 at [65]-[69]; reference to new case of *Alexander v The Queen* [2021] VSCA 140 at [28]. | |
| 23/06/21 | | 11 | 11.2.30 | References to new cases of *Mercer (a pseudonym) v The Queen* [2021] VSCA 132; *Johnie Baker (a pseudonym) v The Queen* [2021] VSCA 158. | |
| 23/06/21 | | 11 | 11.15.1.1 | Reference to new case of *Carr (a pseudonym) v The Queen* [2021] VSCA 130. | |
| 23/06/21 | | 11 | 11.15.3 | Reference to *Chenhall v The Queen* [2021] VSCA 175. | |
| 23/06/21 | | 11 | 11.15.4 | Reference to new case of *DPP v Spottiswood* [2021] VSCA 146. | |
| 23/06/21 | | 11 | 11.18 | Reference to new case of *Eustace v The Queen* [2021] VSCA 142 at [7/27] & [28]. | |
| 20/05/21 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 20/05/21 | | 1 | 1.1.4 | Very minor amendments to text. | |
| 20/05/21 | | 1 | 1.2.3 | This paragraph has been updated and most of its previous contents have been deleted as a consequence of the expiry of the Regulations. | |
| 20/05/21 | | 1 | 1.4.1 | References to Practice Directions No.1, 2 & 3/2021 and removal of references to earlier Practice Directions revoked by them. | |
| 20/05/21 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 20/05/21 | | 2 | 2.10.5 | Extract from *DVO16 v Minister for Immigration and Border Protection; BNB17 v Minister for Immigration and Border Protection* [2021] HCA 12 at [4]‑[8]. | |
| 20/05/21 | | CHAPTER 3 – COURT OPERATION | | | |
| 20/05/21 | | 3 | 3.1 | Substantial commentary on and extracts from new case of *Onyeka Evans Nwagbo v The Queen* [2021] VSCA 93 at [22]-[38]. Reference to new case of *Steven Dural (a pseudonym) v The Queen* [2021] VSCA 82. | |
| 20/05/21 | | 3 | 3.3.4.2 | Reference to new case of *Miller v Martin & Ors* [2021] VSCA 108 at [74]-[80]. | |
| 20/05/21 | | 3 | 3.4.4.1 | First paragraph amended, including added reference to new case of *Victoria International Container Terminal Limited v Lunt* [2021] HCA 11 at [18]-[24]. | |
| 20/05/21 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 20/05/21 | | 5 | 5.5.3 | Extract from new case of *RP & VS v Maryanne Foreman & Ors* [2021] VSCA 115 at [33]. | |
| 20/05/21 | | 5 | 5.9 | Section heading changed to **“Service of applications & other documents”**. | |
| 20/05/21 | | 5 | 5.9.1 | * Subsection heading changed to **“Service of notices generally on parent, child or other person”**. * Major amendments to s.594 CYFA included. | |
| 20/05/21 | | 5 | 5.9.8 | Major amendments to s.593(1) CYFA included and insertion of ss.593(1A) & 593(4). | |
| 20/05/21 | | 5 | 5.9.9 | Minor amendment to s.593(2) CYFA noted. | |
| 20/05/21 | | 5 | 5.33 | Section heading changed to **“Orders in the original jurisdiction of the Supreme Court”** and a small introduction added. | |
| 20/05/21 | | 5 | 5.33.1 | New subsection headed **“The *‘parens patriae’* jurisdiction”** containing the material previously in section 5.33. | |
| 20/05/21 | | 5 | 5.33.2 | New subsection headed **“The writ of *‘habeas corpus’*”**. Extracts from case of *RP & Anor v Foreman & Ors* [2020] VSC 522 at [38]-[43] and from the judgment of the Court of Appeal in *RP & VS v Maryanne Foreman & Ors* [2021] VSCA 115 at [29] & [33]-[34]. | |
| 20/05/21 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 20/05/21 | | 9 | **9.4.1.1** | Extract from new case of *Re KL* [2021] VSC 170. Summaries of new cases of *Re Jiang* [2021] VSC 148; *Re Spreckley* [2021] VSC 186; *Re Shea* [2021] VSC 207; *Re Nicholson* [2021] VSC 221. | |
| 20/05/21 | | 9 | **9.4.1.2** | Summary of new cases of *Re KE* [2021] VSC 175; *Re Cameron Oakley* [2021] VSC 183. | |
| 20/05/21 | | 9 | **9.4.4.4** | Discussion of new cases of *Re Gorwell* [2021] VSC 144; *Re Fayyaz* [2021] VSC 208. | |
| 20/05/21 | | 9 | **9.4.8** | Reference to new case of *John William Samuel Higgs v The Queen* [2021] VSCA 90. | |
| 20/05/21 | | 9 | **9.5.3** | * Discussion of new ss.17A & 17B of the *Bail Act 1977* and a rewrite of the first paragraph under the heading “**BAIL UNDERTAKING**”. * Reference to new case of *Re Spreckley* [2021] VSC 186 at [25]-[26]. | |
| 20/05/21 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 20/05/21 | | 11 | 11.1.20 | Reference to *Harvey v The Queen* [2021] VSCA 84 at [18] & [52]-[54]. | |
| 20/05/21 | | 11 | 11.2.1 | Discussion of new case of *Balshaw v The Queen* [2021] VSCA 78 at [57]. Added reference to *Balshaw v The Queen* [2021] VSCA 55. | |
| 20/05/21 | | 11 | 11.2.11.2 | Reference to new cases of *Daniel Thomas v The Queen* [2021] VSCA 97 at [30]-[37]; *R v Dellamarta* [2021] VSC 220 at [36]-[39] & [45]. | |
| 20/05/21 | | 11 | 11.2.22.1 | Summaries of new cases of *R v Taylor* [2021] VSC 219; *R v Dellamarta* [2021] VSC 220. | |
| 20/05/21 | | 11 | 11.2.23 | Reference to new case of *R v Singh* [2021] VSC 182. | |
| 20/05/21 | | 11 | 11.2.24.2 | Reference to new case of *R v Donnelly* [2019] VSC 777 | *Donnelly v The Queen* [2021] VSCA 109. | |
| 20/05/21 | | 11 | 11.2.24.4 | Extract from new case of *Harvey v The Queen* [2021] VSCA 84 at [64] & [66]. | |
| 20/05/21 | | 11 | 11.2.27 | Reference to *Balshaw v The Queen* [2021] VSCA 78. | |
| 20/05/21 | | 11 | 11.2.28.1 | Reference to *DPP v Beck* [2021] VSCA 88. | |
| 19/04/21 | | CHAPTER 3 – COURT OPERATION | | | |
| 19/04/21 | | 3 | 3.1 | Reference to new cases of *Oakey Coal Action Alliance Inc v New Acland Coal P/L* [2021] HCA 2; *Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v AAM17* [2021] HCA 6 at [22]-[44]. | |
| 19/04/21 | | 3 | 3.5.6.4 | * Expansion of text discussing *DOHS v Sanding* [2011] VSC 42; (2011) 36 VR 221. * Small addition to text discussing *DHHS v Children’s Court of Victoria & Ors* [2020] VSC 520 and including a reference to the same case under the name of *Re CL* [Children’s Court of Victoria, 05/02/2021]. | |
| 19/04/21 | | 3 | 3.5.11 | Modifications to text as a consequence of amendments to the Oaths and Affirmations Act 2018 (Vic) and the Electronic Transactions (Victoria) Act 2000. | |
| 19/04/21 | | 3 | 3.5.12  3.5.12.1 | Modifications to text as a consequence of amendments to the Evidence (Miscellaneous Provisions) Act 1958. | |
| 19/04/21 | | 3 | 3.8 | Commentary on new case of *Funston v CCSS Pty Ltd (Costs)* [2021] VSC 100 at [3]-[4]. | |
| 19/04/21 | | 3 | 3.9.1 | Reference to new cases of *Madafferi v The Queen [No.2]* [2021] VSCA 4 and *Zirilli v The Queen [No.2]* [2021] VSCA 5. | |
| 19/04/21 | | 3 | 3.9.5 | Commentary on new case of *Ganesh v National Australia Bank* [2021] VSCA 45. | |
| 19/04/21 | | 3 | 3.12 | New section entitled **“The Children’s Court’s information-sharing role”**. | |
| 19/04/21 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 19/04/21 | | 4 | 4.8.3 | Expansion of text discussing *DOHS v Sanding* [2011] VSC 42; (2011) 36 VR 221. | |
| 19/04/21 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 19/04/21 | | 5 | 5.2.3 | Commentary on new case of *Re CL* [Children’s Court of Victoria, 05/02/2021]. | |
| 19/04/21 | | 5 | 5.5.1  5.14.2 | Reference to new case of *Re CL* [Children’s Court of Victoria, 05/02/2021]. | |
| 19/04/21 | | 5 | 5.17.4/6 | * Subsection heading amended to “**Temporary increase in maximum length of FRO/FRO extension due to COVID-19**”. * Amendment to text, noting that the COVID-19 amendments to the maximum period of an FRO have been extended to 26/04/2023. | |
| 19/04/21 | | 5 | 5.18.7 | Commentary on new case of *Re CL* [Children’s Court of Victoria, 05/02/2021]. | |
| 19/04/21 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 19/04/21 | | 6 | **6FV.15** | Minor modification to text to include a reference to s.534(7) CYFA. | |
| 31/03/21 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 31/03/21 | | 1 | 1.1.4 | * Heading amended to “**COVID-19 amendments to relevant legislation and their aftermath [2020/21]”.** * Major modifications to text, in particular a commentary on the Justice Legislation Amendment (System Enhancements and Other Matters) Act 2021 (No.11/2021) is added. | |
| 31/03/21 | | 1 | 1.2.3 | This paragraph has been updated and most of its previous contents have been deleted. | |
| 31/03/21 | | 1 | 1.3 | Updating of paragraph to add material about the rule-making power in relation to judicial registrars and the addition of a reference to new Children, Youth and Families (Children’s Court Judicial Registrars) Rules 2021. | |
| 31/03/21 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 31/03/21 | | 2 | 2.2 | Expansion of text relating to the powers and duties of judicial registrars and registrars of the ChCV. | |
| 31/03/21 | | 2 | 2.5 | Significant amendments to text. | |
| 31/03/21 | | 2 | 2.7.1 | Minor modification to text re amendments to the Open Courts Act 2010. | |
| 31/03/21 | | 2 | 2.9 | Minor modification to text. | |
| 31/03/21 | | CHAPTER 3 – COURT OPERATION | | | |
| 31/03/21 | | 3 | 3.1 | Reference to new cases of *Oakey Coal Action Alliance Inc v New Acland Coal P/L* [2021] HCA 2; *Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v AAM17* [2021] HCA 6 at [22]-[44]. | |
| 31/03/21 | | 3 | 3.5.11 | Modifications to text as a consequence of amendments to the Oaths and Affirmations Act 2018 (Vic) and the Electronic Transactions (Victoria) Act 2000. | |
| 31/03/21 | | 3 | 3.5.12  3.5.12.1 | Modifications to text as a consequence of amendments to the Evidence (Miscellaneous Provisions) Act 1958. | |
| 31/03/21 | | 3 | 3.8 | Commentary on new case of *Funston v CCSS Pty Ltd (Costs)* [2021] VSC 100 at [3]-[4]. | |
| 31/03/21 | | 3 | 3.9.1 | Reference to new cases of *Madafferi v The Queen [No.2]* [2021] VSCA 4 and *Zirilli v The Queen [No.2]* [2021] VSCA 5. | |
| 31/03/21 | | 3 | 3.9.5 | Commentary on new case of *Ganesh v National Australia Bank* [2021] VSCA 45. | |
| 31/03/21 | | CHAPTER 6 – FAMILY DIV’N–INTERVENTION ORDERS | | | |
| 31/03/21 | | 6 | **6.15.1** | Reference to new case of *Attorney-General (Victoria) v Whittingham* [2021] VSC 91 at [125]-[149]. | |
| 31/03/21 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 31/03/21 | | 9 | **9.2.2** | Discussion of new case of *HA (a pseudonym) v The Queen* [2021] VSCA 64 at [35], [36] & [55]. | |
| 31/03/21 | | 9 | **9.2.7** | Reference to new case of *Re Blackmore* [2021] VSC 93. | |
| 31/03/21 | | 9 | **9.4.1.1** | Very detailed summary of new case of *HA (a pseudonym) v The Queen* [2021] VSCA 64. Summary of new case of *Re Dinatale* [2021] VSC 104. | |
| 31/03/21 | | 9 | **9.4.1.3** | Summary of new case of *Andrew James Price* [2021] VSC 31. | |
| 31/03/21 | | 9 | **9.4.2** | **SOME OF THE MATERIAL IN THIS PARAGRAPH HAS BEEN REPOSITIONED.** | |
| Discussion of new case of *HA (a pseudonym) v The Queen* [2021] VSCA 64 at [6]-[7]. | |
| 31/03/21 | | 9 | **9.4.4.2** | Discussion of new case of *HA (a pseudonym) v The Queen* [2021] VSCA 64 at [62]-[66]. References to new cases of *Re Dinatale* [2021] VSC 104; *Re Key* [2021] VSC 109; *Re Blackmore* [2021] VSC 111. | |
| 31/03/21 | | 9 | **9.4.4.4** | Summaries of new cases of *Justin Blackmore* [2021] VSC 93; *Mayek Key* [2021] VSC 109; *Massimiliano Macri* [2021] VSC 111; | |
| 31/03/21 | | 9 | **9.4.11** | Discussion of new case of *HA (a pseudonym) v The Queen* [2021] VSCA 64 at [58]-[60]. | |
| 31/03/21 | | 9 | **9.4.12** | Reference to new case of *HA (a pseudonym) v The Queen* [2021] VSCA 64. | |
| 31/03/21 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 31/03/21 | | 10 | 10.3.2 | Reference to new case of *Spurritt v The Queen* [2021] VSCA 7. | |
| 31/03/21 | | 10 | 10.3.3 | Discussion of new case of *R v Frank (No 2)* [2021] VSC 7. | |
| 31/03/21 | | 10 | 10.6**Q** | Brief discussion of new case of *Re CJA* [2021] VSC 86. | |
| 31/03/21 | | 10 | 10.6**W** | Heading changed and text significantly amended. | |
| 31/03/21 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 31/03/21 | | 11 | 11.2.6 | References to new cases of *Hennig v The Queen* [2021] VSCA 40 at [35]-[48]; *Roe v The Queen* [2021] VSCA 54 at [36]-[46]. | |
| 31/03/21 | | 1 | 11.2.8.21 | Discussion of new case of *Noori v The Queen* [2021] VSCA 46 at [49]-[50]. | |
| 31/03/21 | | 11 | 11.2.11.2 | References to new cases of *Bava v The Queen* [2021] VSCA 34 at [38]-[43] & [83]-[93]; *McPherson v The Queen* [2021] VSCA 53 at [28]-[29]. | |
| 31/03/21 | | 11 | 11.2.12 | Reference to new case of *Bava v The Queen* [2021] VSCA 34 at [38]-[43] & [83]-[93]. | |
| 31/03/21 | | 11 | 11.2.15 | Reference to new case of *Kovacevic v The Queen* [2021] VSCA 49 at [47]. | |
| 31/03/21 | | 11 | 11.2.22.1 | Reference to new case of *R v Scott* [2021] VSC 81. | |
| 31/03/21 | | 11 | 11.2.22.4 | Discussion of new case of *Noori v The Queen* [2021] VSCA 46 at [49]-[50]. | |
| 31/03/21 | | 11 | 11.2.24.1 | Added reference to *Packard v The Queen* [2021] VSCA 56. | |
| 31/03/21 | | 11 | 11.2.25 | Added references to *Dukic v The Queen* [2021] VSCA 18; *Rahmani v The Queen* [2021] VSCA 51; *Gregory* *(a pseudonym) v The Queen* [2017] VSCA 151; *Arico v The Queen* [2018] VSCA 135. | |
| 31/03/21 | | 11 | 11.2.26.1 | Comment on new case of *Damon Fraser v The Queen* [2021] VSCA 52. | |
| 31/03/21 | | 11 | 11.2.27 | References to new cases of *Bava v The Queen* [2021] VSCA 34 at [50]-[68]; *Hatzis v The Queen* [2021] VSCA 43 at [26]; *Balshaw v The Queen* [2021] VSCA 55. | |
| 31/03/21 | | 11 | 11.3.4 | Minor restructure of text. Discussion of new case of *Thurlow v The Queen* [2021] VSCA 71 at [41]-[42]. | |
| 31/03/21 | | 11 | 11.8.1 | Extract from new case of *Rahmani v The Queen* [2021] VSCA 51 at [38]-[40]. | |
| 31/03/21 | | 11 | 11.15.1.1 | Reference to new case of *Victor Williams (a pseudonym) v The Queen* [2021] VSCA 35. | |
| 31/03/21 | | 11 | 11.15.4 | Reference to new case of *McPherson v The Queen* [2021] VSCA 53. | |
| 31/03/21 | | 11 | 11.18 | Reference to new case of *Hatzis v The Queen* [2021] VSCA 43 at [27]. | |
| 31/03/21 | | 11 | 11.19 | Discussion of new case of *McPherson v The Queen* [2021] VSCA 53, esp at [31]. | |
| 12/02/21 | | CHAPTER 3 – COURT OPERATION | | | |
| 12/02/21 | | 3 | 3.3.4.2 | Extract from case of *DOHS v Ms B & Mr G* [2008] VChC 1. | |
| 12/02/21 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 12/02/21 | | 4 | 4.9.6 | * Subsection heading amended to **“Marram-Ngala Ganbu Program”**. * Amendment to text including new references to Shepparton Children’s Court. | |
| 12/02/21 | | 4 | 4.17 | Updating of text and statistics re Family Drug Treatment Court operation. | |
| 08/02/21 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 08/02/21 | | 1 | 1.6.3 | Very minor amendment to text. | |
| 08/02/21 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 08/02/21 | | 2 | 2.10.1 | Minor amendment to the description of the court role of Youth Justice. | |
| 08/02/21 | | CHAPTER 3 – COURT OPERATION | | | |
| 08/02/21 | | 3 | 3.4.5 | Discussion of new case of *She v RMIT University & Anor* [2021] VSC 2. | |
| 08/02/21 | | 3 | 3.5.9.1 | * Lengthy extract from *Madafferi v The Queen* [2021] VSCA 1 at [27]-[40] added. * Reference to *Zirilli v The Queen* [2021] VSCA 2 added. | |
| 08/02/21 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 08/02/21 | | 5 | 5.35 | New section entitled **“Protocol between DFFH and Federal Circuit Court”**. | |
| 08/02/21 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 08/02/21 | | 9 | **9.4.1** | Discussion of new case of *Re Granata* [2020] VSC 879 especially at [24]-[25]. | |
| 08/02/21 | | 9 | **9.4.1.1** | Summaries of new cases of *McNamara v DPP* [2020] VSC 844; *Re Raffoul* [2020] VSC 848; *Re Boo* [2020] VSC 882; *Re Brett* [2021] VSC 10; *Re GG* [2021] VSC 12. | |
| 08/02/21 | | 9 | **9.4.4.4** | Summary of new cases of *Clarke v Scanlon* [2021] VSC 19; | |
| 08/02/21 | | 9 | **9.4.4.6** | Summary of new case of *Re Brown* [2020] VSC 870. | |
| 08/02/21 | | 9 | **9.4.8** | Brief discussion of new case of *Agresta v The Queen* [2020] VSCA 334. | |
| 08/02/21 | | 9 | **9.5.1** | Discussion of case of *Re Oldis* [2020] VSC 769. References to the cases of *Bail application by Fadi Haddara* [2014] VSC 284 and *Re Nagy* [2020] VSC 878. | |
| 08/02/21 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 08/02/21 | | 10 | 10.3.12 | Correction of error in citation of *Re Murdoch (Ruling No.2)* changed from [2020] VSC 882 to [2019] VSC 882. | |
| 08/02/21 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 08/02/21 | | 11 | 11.2.6 | Added references to cases of *R v Rodden* [2005] VSCA 24; *Director of Public Prosecutions (Cth) v Peng* [2014] VSCA 128; *Director of Public Prosecutions (Vic) v O’Brien* [2019] VSCA 254; *Taleb v The Queen* [2020] VSCA 329. | |
| 08/02/21 | | 11 | 11.2.12  11.2.22.1 | Added reference to new case of *Stacey Edwards v The Queen* [2020] VSCA 339. | |
| 08/02/21 | | 11 | 11.2.22.1 | Brief summary of new case of *DPP v Wang (No 2)* [2020] VSC 884. | |
| 08/02/21 | | 11 | 11.2.27 | References to new cases of *Taleb v The Queen* [2020] VSCA 329; *Bava v The Queen [*2021] VSCA 34 at [50]-[68]. | |
| 08/02/21 | | 11 | 11.2.28.1 | Summary of new case of *DPP v Jayadev Patil (a pseudonym)* [2020] VSCA 337. | |
| 08/02/21 | | 11 | 11.18 | Reference to new case of *DPP v Jayadev Patil (a pseudonym)* [2020] VSCA 337 at [60]. | |
| 01/02/21 | | CHAPTERS 1, 2, 3, 4, 5 & 10 | | | |
| 01/02/21 | | 1, 2, 3, 4, 5, 10 | **SAVE FOR QUOTATIONS AND CASE NAMES ALL RELEVANT REFERENCES TO THE “DEPARTMENT OF HUMAN SERVICES” [DHS OR DOHS] AND THE “DEPARTMENT OF HEALTH AND HUMAN SERVICES” [DHHS] ARE CHANGED TO THE DEPARTMENT OF “FAMILIES, FAIRNESS AND HOUSING” [DFFH], CONSEQUENT UPON A FORMAL NAME CHANGE OF THE DEPARTMENT ON 01/02/2021.** | | |
| 01/02/21 | | 2 | **ALL RELEVANT REFERENCES TO THE “DEPARTMENT OF JUSTICE” ARE CHANGED TO THE “DEPARTMENT OF JUSTICE AND COMMUNTY SAFETY”.** | | |
| 01/02/21 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 01/02/21 | | 1 | At the start of the chapter | Added text: **“The Victorian child protection authority has changed its name several times in the last 30 years. In 1989 it was called Community Services Victoria. Subsequently its name changed to the Department of Human Services (DHS or DOHS), then to the Department of Health and Human Services (DHHS) and from 01/02/2021 the Department of Families, Fairness and Housing (DFFH). Colloquially it is sometimes simply called ‘the Department’”.** | |
| 01/02/21 | | 1 | 1.4.1 | * Added reference to Practice Direction No.1 of 2021. * References to a number of revoked Practice Directions have been removed. | |
| 01/02/21 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 01/02/21 | | 5 | At the start of the chapter | Added text: **“The Victorian child protection authority has changed its name several times in the last 30 years. In 1989 it was called Community Services Victoria. Subsequently its name changed to the Department of Human Services (DHS or DOHS), then to the Department of Health and Human Services (DHHS) and from 01/02/2021 the Department of Families, Fairness and Housing (DFFH). Colloquially it is sometimes simply called ‘the Department’”.** | |
| 01/02/21 | | 5 | 5.25.1  5.25.2  5.26 | Notes added that electronic versions of the **blue**, **mauve** and **pink** forms can be downloaded from the Children’s Court website. | |
| 01/02/21 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 01/02/21 | | 10 | 10.1.2/.6  10.2.4  10.3.1 | References to the “six death offences” changed to the “seven death offences” and description of these offences updated in several places. | |
| 01/02/21 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 01/02/21 | | 11 | 11.3.5 | Added reference to case of *Sara Borg v The Queen* [2020] VSCA 191 at [47]-[49]. | |
| 14/01/21 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 14/01/21 | | 5 | 5.13 | Additions in the table to the relevant paragraphs of s.275(1). | |
| 14/01/21 | | 5 | 5.14.2 | Minor change to text. | |
| 14/01/21 | | 5 | 5.15.1 | Added reference to *DHHS and C siblings* [2019] VChC 6. | |
| 14/01/21 | | 5 | 5.27.1 | Significant expansion of text. | |
| 14/01/21 | | 5 | 5.27.3 | Addition of various statistics re issued s.598 warrants. | |
| 06/01/21 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 06/01/21 | | 1 | 1.1.3 | Change of ChCV website reference to Court publications. | |
| 06/01/21 | | 1 | 1.5.2 | Discussion of new case of *Gebrehiwot v State of Victoria* [2020] VSCA 315. Added references to the cases of *R v DA* [2016] VSCA 325 at [44] per Ashley, Redlich and McLeish JJA; *Nguyen v DPP* (2019) 59 VR 27; [2019] VSCA 20; *Momcilovic* (2011) 245 CLR 1; [2011] HCA 34; *Slaveski v Smith* (2012) 34 VR 206; [2012] VSCA 25; *Hogan v Hinch* (2011) 243 CLR 506; [2011] HCA 4; *Castles v Secretary, Department of Justice* (2010) 28 VR 141; [2010] VSC 310 (Emerton J). | |
| 06/01/21 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 06/01/21 | | 2 | **IN THE TABLE OF CONTENTS LINKS HAVE BEEN CREATED TO ALL SECTION AND SUBSECTION HEADINGS.** | | |
| 06/01/21 | | 2 | 2.2 | Update of Judicial & Administrative officers of the Court. | |
| 06/01/21 | | 2 | 2.3 | Update of Organisational Structure of the Children's Court at Melbourne. | |
| 06/01/21 | | 2 | 2.5 | Update of text. | |
| 06/01/21 | | 2 | 2.6 | Extract from *Cardell (a pseudonym) v DHHS* [2019] VSC 781 at [40]-[41] per Maxwell P. | |
| 06/01/21 | | 2 | 2.7.1 | Amendments to text including an added reference to Division 3 of Part IIA of the Evidence (Miscellaneous Provisions) Act 1958. | |
| 06/01/21 | | 2 | 2.7.2 | Text amended to include a reference to the advice of the Director of Criminal Law Policy of the Department of Justice to the Principal Registrar of the Children’s Court. | |
| 06/01/21 | | 2 | 2.7.4 | * Subsection heading amended to **“Media applications for copies of court documents in Criminal Division cases”.** * Change of ChCV website reference to the form for an “Application for Access to Material”. | |
| 06/01/21 | | 2 | 2.7.5 | Subsection heading changed to **“Media applications for copies of audio or audio visual recordings of police interviews”.** | |
| 06/01/21 | | 2 | 2.9 | Added note that bail justice hearings of interim accommodation order proceedings are temporarily suspended during the COVID-19 pandemic. | |
| 06/01/21 | | 2 | 2.10.2 | Former subsection 2.10.6 entitled “**Child Witness Service”** is renumbered 2.10.2. | |
| 06/01/21 | | 2 | 2.10.6 | Former subsection 2.10.2 entitled **“Salvation Army”** is renumbered 2.10.6 and significant modifications made to text. | |
| 06/01/21 | | CHAPTER 3 – COURT OPERATION | | | |
| 06/01/21 | | 3 | 3.1 | Minor amendment to text, including a specific link to section 3.5.6.4. | |
| 06/01/21 | | 3 | 3.3 | Section heading amended to **“Children’s Court Judicial Powers”**. | |
| 06/01/21 | | 3 | 3.3.2 | * Former subsection 3.3.2 headed **“Powers conferred by the CYFA or any other legislation”** is renumbered 3.3.3. * New subsection 3.3.2 is headed **“Powers conferred by the Vexatious Proceedings Act 2014”.** | |
| 06/01/21 | | 3 | 3.3.3  3.3.3.1  3.3.3.2  3.3.3.3 | * Former subsection 3.3.3 headed **“Implied powers to govern the process of the Court”** is renumbered 3.3.4. * Former paragraphs 3.3.3.1 to 3.3.3.3 are renumbered 3.3.4.1 to 3.3.4.3 respectively. * New subsection 3.3.3 is now headed **“Powers conferred by the CYFA or any other legislation”.** | |
| 06/01/21 | | 3 | 3.3.4 | New subsection 3.3.4 is headed **“Implied powers to govern the process of the Court”.** | |
| 06/01/21 | | 3 | 3.5.6.2 | * Paragraph heading changed to **“Informal procedure – s.215(1) of the CYFA”**. * Added reference to s.215(1)(d) of the CYFA. | |
| 06/01/21 | | 3 | 3.5.6.3 | * Paragraph heading changed to **“Management of child protection proceedings – s.215B of the CYFA”**. * Correction of error in the last paragraph: “s.215(1)(c)” changed to “s.215B(1)(c)”. | |
| 06/01/21 | | 3 | 3.5.6.4 | Paragraph heading changed to **“Obligation to accord procedural fairness in ‘best interests’ context”** and the paragraph is substantially rewritten with new references to the cases of *DHHS v Children’s Court of Victoria & Ors* [2020] VSC 520 at [61] and *DHHS v Children’s Court of Victoria & Ors* [2020] VSC 520 at [20]-[22] plus inclusion of dicta from *Sanding’s Case* at [135]-[137]. | |
| 06/01/21 | | 3 | 3.5.7 | Minor amendment to text. | |
| 06/01/21 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 06/01/21 | | 5 | 5.2.3 | Summary of new case of *Re CMR* [2020] VChC 8 and extract from this case at [75]-[76]. | |
| 06/01/21 | | 5 | 5.18.3 | Extract from *DHHS v Children’s Court of Victoria & Ors* [2020] VSC 520 at [47]. | |
| 06/01/21 | | 5 | 5.22.3 | Summary of new case of *Re CMR* [2020] VChC 8 and extract from this case at [66]-[74]. | |
| 06/01/21 | | 5 | 5.33 | Minor modification to text. | |
| 06/01/21 | | 5 | 5.34 | New section entitled **“‘Watch List’ order/request to prevent child being removed from Australia”**. | |
| 06/01/21 | | CHAPTER 6 – FAMILY DIV’N – INTERVENTION ORDERS | | | |
| 06/01/21 | | 6 | **6.15.1** | Reference to new case of *Murch & Ors v Annesley & Ors* [2020] VSC 837. | |
| 06/01/21 | | CHAPTER 8 – CRIMINAL DIVISION – INVESTIGATION | | | |
| 06/01/21 | | 8 | **IN THE TABLE OF CONTENTS LINKS HAVE BEEN CREATED TO ALL SECTION AND SUBSECTION HEADINGS.** | | |
| 06/01/21 | | 8 | **8.4.3.4**  **8.4.3.8** | Note that ss.464U(11) & 464V(6) have been amended to allow a child to appear by audio visual link as an alternative to being physically present at court. | |
| 06/01/21 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 06/01/21 | | 9 | **9.4.1.1** | Summary of new case of *Re Kake* [2020] VSC 852. | |
| 06/01/21 | | 9 | **9.4.1.2** | Summary of new case of *Re Candice Harper* [2020] VSC 851. | |
| 06/01/21 | | 9 | **9.4.1.3** | Summary of new case of *Re Benjamin Zohs* [2020] VSC 827. | |
| 06/01/21 | | 9 | **9.4.4.4** | Summary of new case of *Re Gurkan* [2020] VSC 855. | |
| 06/01/21 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 06/01/21 | | 10 | 10.3.3 | Added reference to *The Queen v The Herald & Weekly Times Pty Ltd & Ors (Ruling No 2)* [2020] VSC 800 at [72]-[75] per John Dixon J. | |
| 06/01/21 | | 10 | 10.3.12 | * Subsection heading amended to **“Joinder or severance of charges and cases”**. * Added summary of *Re Murdoch (Ruling No.2)* [2020] VSC 882. | |
| 06/01/21 | | 10 | 10.6**U** | Added reference to cases of *Re Friedman (a pseudonym)* [2019] VSC 251; *Re Stein* [2020] VSC 843 at [69]; *R v Munze (No 3)* [2020] VSC 846. | |
| 06/01/21 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 06/01/21 | | 11 | 11.1.4 | Reference to new case of *Julian Lockyer (a pseudonym) v The Queen* [2020] VSCA 321. | |
| 06/01/21 | | 11 | 11.2.4 | Reference to new case of *Director of Public Prosecutions v Devey (No 1)* [2020] VSC 826. | |
| 06/01/21 | | 11 | 11.2.12 | Reference to new case of *Julian Lockyer (a pseudonym) v The Queen* [2020] VSCA 321 at [62]-[65]. | |
| 06/01/21 | | 11 | 11.2.28.1 | References to new cases of *DPP v Mokhtari* [2020] VSCA 161 at [41]; *Julian Lockyer (a pseudonym) v The Queen* [2020] VSCA 321 at [66]. | |
| 06/01/21 | | 11 | 11.2.32 | Reference to new case of *DPP v McDonald* [2020] VSC 845. | |
| 06/01/21 | | 11 | 11.2.33 | Discussion of new case of *DPP (Cth) v Ali* [2020] VSCA 330 and summaries of some of cases referred to therein. Reference to new case of *CDPP v Galea* [2020] VSC 750. | |
| 06/01/21 | | 11 | 11.19 | Extract from new case of *Julian Lockyer (a pseudonym) v The Queen* [2020] VSCA 321 at [67]-[69]. | |
| 17/12/20 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 17/12/20 | | 1 | 1.1 | Section heading amended to **“Acts”**. | |
| 17/12/20 | | 1 | 1.2  1.2.1 | Section 1.2 heading amended to **“Regulations”**. The first two lines formerly in section 1.2 have been shifted into subsection 1.2.1 and a new sentence included in 1.2. | |
| 17/12/20 | | 1 | 1.2.4 | New subsection entitled **“Criminal Procedure Regulations 2020”** and a summary of these Regulations. | |
| 17/12/20 | | 1 | 1.6.3 | Minor modification of information re rollout of eDocs. | |
| 17/12/20 | | CHAPTER 3 – COURT OPERATION | | | |
| 17/12/20 | | 3 | 3.3.3.1 | * New paragraph heading **“Power to prevent an abuse of the Court’s own judicial process”.** * Reference to new case of*Neville Donohue v The Queen (No.3)* [2020] VSCA 302. | |
| 17/12/20 | | 3 | 3.3.3.2 | * New paragraph heading **“*Res judicata*, cause of action estoppel, claim estoppel & *Anshun* estoppel”**. * Discussion of the new cases of *Clayton v Bant* [2020] HCA 44 and *DHHS v C1, C2 & C3* [2020] VChC 7 at [5]. | |
| 17/12/20 | | 3 | 3.3.3.3 | New paragraph heading **“Requirement of leave by the Children’s Court to withdraw a protection application”**. | |
| 17/12/20 | | 3 | 3.4.2 | Minor modification to text involving reference to the Criminal Procedure Regulations 2020. | |
| 17/12/20 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 17/12/20 | | 5 | 5.5.3 | * Subsection heading amended to **“Determination whether a child is in need of protection”**. * **Substantial and important addition to text including discussion of new case of *DHHS v C1, C2 & C3* [2020] VChC 7.** * Brief discussion of *DHHS and Sakin (a pseudonym)* [2020] VChC 4. * Minor change to wording of description of s.215A of the CYFA. | |
| 17/12/20 | | 5 | 5.5.7 | Minor change of wording of the last paragraph. | |
| 17/12/20 | | 5 | 5.17.9 | Added reference to *DHHS and Oliver (a pseudonym)* [2019] VChC 5. | |
| 17/12/20 | | 5 | 5.19.7 | Added reference to *DHHS and Oscar (a pseudonym)* [2019] VChC 4. | |
| 17/12/20 | | CHAPTER 10 – CRIMINAL DIVISION - PROCEDURE | | | |
| 17/12/20 | | 10 | 10.3.2 | Reference to new case of *Hubbard v The Queen* [2020] VSCA 303*.* | |
| 17/12/20 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 17/12/20 | | 11 | 11.2.11.4 | Reference to new case of *Steven Cooper v The Queen* [2020] VSCA 300 at [16]-[26]. | |
| 17/12/20 | | 11 | 11.15.1.1 | * Discussion of *DPP v Jason Amaral (a pseudonym)* [2020] VSCA 290. * Reference to new case of *Dean Harmer (a pseudonym) v The Queen* [2020] VSCA 310. | |
| 17/12/20 | | 11 | 11.15.1.2 | Removal of reference to *DPP v Pell (Sentence)* [2019] VCC 260 in light of the appeal against conviction being upheld by the High Court. | |
| 09/12/20 | | CHAPTER 6 – FAMILY DIV’N – INTERVENTION ORDERS | | | |
| 09/12/20 | | 6 | * **IN THE TABLE OF CONTENTS LINKS HAVE BEEN CREATED TO ALL SECTION AND SUBSECTION HEADINGS.** * **A SUBSTANTIAL UPGRADE HAS BEEN MADE TO THIS CHAPTER FOR THE FIRST TIME FOR OVER 4 YEARS.** | | |
| 09/12/20 | | 6 | **PREAMBLE**  **6.19.1**  **6.19.2** | * **References to Family Violence Protection Regulations 2008 [No.153/2008] replaced by Family Violence Protection Regulations 2018 [No.161/2018].** * **References to Children’s Court (Family Violence Protection) Rules 2008 [No.157/2008] replaced by Children’s Court (Family Violence Protection) Rules 2018 [No.169/2018].** | |
| 09/12/20 | | 6 | **6.1.2** | Addition of references to s.84 of the FVPA and s.107 of the PSIA. | |
| 09/12/20 | | 6 | **6.1.3** | Removal of some text re transitional provisions in FVPA/PSIA which are no longer relevant. | |
| 09/12/20 | | 6 | **6.2.1 & former 6.2.2** | Subsection heading amended to **“Under the CFVA 01/12/1987 – 28/05/1990 & 19/05/1990 – 09/12/2008”** and the contents of 6.2.1 and former 6.2.2 are combined. | |
| 09/12/20 | | 6 | **6.2.3** | Former subsection 6.2.3 headed **“Current jurisdiction under the FVPA and the PSIA”** is renumbered 6.2.2. | |
| 09/12/20 | | 6 | **6.2.4** | Former subsection 6.2.4 headed **“Transfer of applications from the Magistrates’ Court to the Children’s Court or v.v.”** is renumbered 6.2.3. | |
| 09/12/20 | | 6 | **6.5.2** | * Subsection heading amended to **“Family violence intervention order/DVO to prevail in event of inconsistency”.** * Text amended to include reference to DVO. | |
| 09/12/20 | | 6 | **6.6.2** | Text amended to include reference to DVO. | |
| 09/12/20 | | 6 | **6.6.3** | * Subsection heading amended to **“****Relationship between bail conditions and orders/notices under the FVPA”.** * Text amended to include references to ss.175AA, 175AB & 175AC of the FVPA. | |
| 09/12/20 | | 6 | **6.6.4** | * Subsection heading amended to **“Relationship between orders under the Sentencing Act and orders under FVPA/PSIA”**. * Text re-written to add references to s.175A of the FVPA & s.130A of the PSIA. | |
| 09/12/20 | | 6 | **6.7.1** | Text relating to service under the FVPA and under s.16 of the Service and Execution of Process Act 1992 (Cth) is updated. | |
| 09/12/20 | | 6 | **6.7.4** | Minor modification to text re s.201 of the FVPA. | |
| 09/12/20 | | 6 | **6.8.1** | * Change of rule number for general power of amendment from 14.03 to 14.02. * Addition of reference to Order 3 of the CATR. | |
| 09/12/20 | | 6 | **6.8.5** | Minor addition to description of s.65(1)(b) of the CYFA. | |
| 09/12/20 | | 6 | **6.8.7** | Minor amendment to circumstances in which a child may give evidence without leave. | |
| 09/12/20 | | 6 | **6.9** | Reference to ss.73B-73H of the FVPA changed to ss.73B-73I. | |
| 09/12/20 | | 6 | **6.10.1** | Minor addition to text re ‘best interests’ legal representation. | |
| 09/12/20 | | 6 | **6FV.4.2** | Addition of references to ss.53AA, 53AB, 77A & 77B of the FVPA. | |
| 09/12/20 | | 6 | **6FV.6.1** | Addition of references to s.17(2)(b) of the FVPA & reg.6 of the FVPR and other amendments to the text. | |
| 09/12/20 | | 6 | **6FV.6.2** | Significant additions to the text. | |
| 09/12/20 | | 6 | **6FV.7** | Amendment to text relating to making an application for a FVIO, including addition of reference to Order 3 of the CATR. | |
| 09/12/20 | | 6 | **6FV.7.4** | Minor amendment to text re s.51. | |
| 09/12/20 | | 6 | **6FV.7.5** | Amendment to text re s.31(3). | |
| 09/12/20 | | 6 | **6FV.7.6** | Significant amendment of text with Rule 11.01 of the CFVR replacing s.44 of the FVPA. | |
| 09/12/20 | | 6 | **6FV.9.1** | Addition to text of discussion of ss.52A, 53AA & 53AB of the FVPA. | |
| 09/12/20 | | 6 | **6FV.9.2** | * Subsection heading amended to **“Interim order for protection of children”.** * Subsection has been substantially rewritten. | |
| 09/12/20 | | 6 | **6FV.9.3** | Minor amendment to text. | |
| 09/12/20 | | 6 | **6FV.9.4** | Amendments to text. | |
| 09/12/20 | | 6 | **6FV.10.1** | Minor amendment to text. | |
| 09/12/20 | | 6 | **6FV.10.4** | * Subsection heading amended to **“Final order for protection of children”.** * Subsection has been substantially rewritten, including discussion of ss.77, 77A & 77B. | |
| 09/12/20 | | 6 | **6FV.10.5** | Minor amendment to text. | |
| 09/12/20 | | 6 | **6FV.11.4** | * Minor amendment to text. * “DHHS” replaced by “DFFH”. | |
| 09/12/20 | | 6 | **6FV.11.5** | Minor amendment to text. | |
| 09/12/20 | | 6 | **6FV.11.9** | Minor upgrade to Courtlink conditions. | |
| 09/12/20 | | 6 | **6FV.12** | * Addition of Shepparton & Moorabbin as specialist family violence divisions of the Magistrates’ Court. * Addition of reference to reg.8 of the FVPR prescribing for the purpose of s.139(2) of the FVPA certificates of non-attendance at an assessment of eligibility for counselling ordered pursuant to s.129 or of non-attendance at counselling ordered pursuant to s.130. | |
| 09/12/20 | | 6 | **6FV.14.1 & former 6FV.14.2** | Subsection 6FV.14.1 is amended to **“Variation, revocation or extension”** and the contents of 6FV.14.1 and former 6FV.14.2 are combined.Minor amendment to text. | |
| 09/12/20 | | 6 | **6FV.14.3** | Former subsection 6FV.14.3 headed **“If applicant is not protected person”** is renumbered 6FV.14.2. | |
| 09/12/20 | | 6 | **6FV.15** | New section entitled **“The Family Violence Information Sharing Scheme”** which discusses the new Parts 5A & 5B of the FVPA. | |
| 09/12/20 | | 6 | **6FV.16** | New section entitled **“The Family Violence Risk Assessment & Risk Management Framework”** which refers to Part 11 of the FVPA and | |
| 09/12/20 | | 6 | **6FV.17** | * New *section entitled* ***“Own motion interim orders in bail or criminal proceedings”****.* * Chart summarizing the subject matter of ss.60A-60L of the FVPA. | |
| 09/12/20 | | 6 | **6PS.7** | * Amendment to rule description relating to making an application for a PSIO. * Addition of reference to Order 3 of the CATR and to s.16A of the PSIA. | |
| 09/12/20 | | 6 | **6PS.7.5** | Minor amendment to text. | |
| 09/12/20 | | 6 | **6PS.7.6** | Significant amendment of text with Rule 11.01 of the CPSR replacing s.14 of the PSIA. | |
| 09/12/20 | | 6 | **6PS.9.1** | Minor amendments to text. | |
| 09/12/20 | | 6 | **6PS.9.2** | * Subsection heading amended to **“Interim PS intervention order where existing FV intervention order or recognised DVO.”** * Minor corresponding amendment to subsection. | |
| 09/12/20 | | 6 | **6PS.9.4** | Minor amendment to text. | |
| 09/12/20 | | 6 | **6PS.10.2** | Minor amendment to text. | |
| 09/12/20 | | 6 | **6PS.10.4** | Minor amendment to text. | |
| 09/12/20 | | 6 | **6PS.10.5** | * Subsection heading amended to **“No power to make final PS intervention order if existing equivalent FV order or recognised DVO.”** * Minor corresponding amendment to subsection. | |
| 09/12/20 | | 6 | **6PS.11.3** | Minor amendments to text including “DHHS” replaced by “DFFH”. | |
| 09/12/20 | | 6 | **6PS.11.8** | Minor upgrade to Courtlink conditions. | |
| 09/12/20 | | 6 | **6PS.12** | Modifications to text. | |
| 09/12/20 | | 6 | **6PS.12.2** | Significant modifications to text. | |
| 09/12/20 | | 6 | **6PS.12.3** | Minor modifications to text. | |
| 09/12/20 | | 6 | **6PS.13** | Minor modifications to text. | |
| 09/12/20 | | 6 | **6.11.1**  **6.11.2**  **6.11.3** | Major modifications to text. | |
| 09/12/20 | | 6 | **6.12** | Change of vexatious litigant terminology and other minor changes to text. | |
| 09/12/20 | | 6 | **6.13** | Correction of error: r.12.03 changed to r.12.01(3) and other minor modifications. | |
| 09/12/20 | | 6 | **6.14** | * Change to reference to the rule number for appeals under the CPSR. * Correction of error: r.13.2 & 13.3 changed to 13.02. * Added reference to ss.118A & 118B of the FVPA. | |
| 09/12/20 | | 6 | **6.16** | Section heading changed to **“Intervention-type orders made in other jurisdictions”**. | |
| 09/12/20 | | 6 | **6.16.1** | New subsection headed **“National Domestic Violence Order [DVO] Scheme”.** | |
| 09/12/20 | | 6 | **6.16.2** | * New subsection headed **“Registration of corresponding New Zealand orders under the FVPA”.** * Some modifications to text. | |
| 09/12/20 | | 6 | **6.16.3** | New subsection headed **“Registration of corresponding interstate & New Zealand orders under the PSIA”.** | |
| 09/12/20 | | 6 | **6.17.1**  **6.17.2** | Minor modifications to text. | |
| 09/12/20 | | 6 | **6.18.1** | Significant modifications to text. | |
| 09/12/20 | | 6 | **6.18.3** | Minor modifications to text. | |
| 09/12/20 | | 6 | **6.19.3** | **References to Magistrates’ Court (Family Violence Protection) Rules 2008 [No.157/2008] replaced by Magistrates’ Court (Family Violence Protection) Rules 2018 [No.182/2018].** | |
| 09/12/20 | | 6 | **6.19.4** | Major updating of information about prescribed Forms in the FVPR & PSIR. | |
| 09/12/20 | | 6 | **6.20** | Statistics updated to 2019/20. | |
| 09/12/20 | | CHAPTER 9 – CUSTODY & BAIL | | | |
| 09/12/20 | | 9 | **9.4.1.1** | Summary of new case of *VN, AK & CN* [2020] VSC 782. | |
| 09/12/20 | | 9 | **9.4.1.2** | Summary of new cases of *JL* [2020] VSC 785; *Jason Roberts* [2020] VSC 793; *Omar Kakar* [2020] VSC 806. | |
| 09/12/20 | | 9 | **9.4.4.4** | Summary of new case of *Turner v Lill* [2020] VSC 812. | |
| 09/12/20 | | CHAPTER 10 – CRIMINAL DIVISION - PROCEDURE | | | |
| 09/12/20 | | 10 | 10.1.4 | Summary of *AH v DPP* [2019] VChC 3. | |
| 09/12/20 | | 10 | 10.6E  10.6L  10.6M  10.6N | Detailed discussion of *Kirk Reese (a pseudonym) v Victoria Police* [2020] VChC 6. References to *Richards (a pseudonym) v The Queen [No.2]* [2017] VSCA 174 at [30]; *NOM v Director of Public Prosecutions* (2012) 38 VR 618; [2012] VSCA 198 at [68]. | |
| 09/12/20 | | 10 | 10.6V | Reference to *Re D* [2020] VSC 788. | |
| 23/11/20 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 23/11/20 | | 1 | 1.2.1 | Minor amendment to text. | |
| 23/11/20 | | 1 | 1.2.3 | Added commentary on the COVID-19 Omnibus (Emergency Measures) (Criminal Proceedings and Other Matters) and (Integrity Entities) Amendment Regulations 2020 [S.R. No.120/2020] which commenced 04/11/2020. | |
| 23/11/20 | | 1 | 1.3 | Description of new Statutory Rules: S.R. No.126/2020 & S.R. No.127/2020 which commenced operation on 17/11/2020. | |
| 23/11/20 | | 1 | 1.4.1 | * Description of new Practice Directions 14/2020, 15/2020 which commence operation at Melbourne on 23/11/2020 and at all other venues on 09/12/2020. * Note that Practice Directions 1/2020, 6/2020 & 9/2020 are revoked upon Practice Directions 14/2020 & 15/2020 coming into effect. | |
| 23/11/20 | | 1 | 1.6 | New section entitled **“Towards an Electronic Court [eCourt]”** containing the following subsections:  **1.6.1** **Remote hearings using Webex**  **1.6.2 Courtlink & Bridge**  **1.6.3** **Case Management System (CMS) including eDocs** | |
| 23/11/20 | | CHAPTER 3 – COURT OPERATION | | | |
| 23/11/20 | | 3 | **IN THE TABLE OF CONTENTS LINKS HAVE BEEN CREATED TO ALL SECTION AND SUBSECTION HEADINGS** | | |
| 23/11/20 | | 3 | 3.1 | References to *Elliott v Lindholm* [2020] VSC 567; [2020] VSCA 260. | |
| 23/11/20 | | 3 | 3.5.9.2 | Commentary on the new case of *Cvetanovski v The Queen* [2020] VSCA 272. | |
| 23/11/20 | | 3 | 3.7.2 | Reference to new case of *Makeham v Sheppard* [2020] VSCA 242. | |
| 23/11/20 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 23/11/20 | | 5 | 5.4.10  5.5  5.5.7  5.11.10  5.13  5.14.2  5.22.9  5.23.6  5.23.9  5.27.3 | * Addition of 2019/20 Family Division statistics. * A breakdown of the grounds on the **5,881** protection applications issued in 2019/20 has been added to section 5.5.7. * A snapshot of the safe custody search warrants issued by the on-call magistrate in the period 07-14/11/2020 has been added to section 5.27.3. | |
| 23/11/20 | | 5 | 5.11.16 | References to *DHHS v Children’s Court of Victoria* [2020] VSC 527; *GG v DHHS* [2020] VSC 740. | |
| 23/11/20 | | 5 | 5.14.1  5.15.1  5.17.1 | Minor updating of text to extend commentary to 2019/20. | |
| 23/11/20 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 23/11/20 | | 7 | 7.7.2 | Addition of some 2019/20 offender statistics. | |
| 23/11/20 | | 7 | 7.11.6 | Addition of 2019/20 statistics for the Koori Court. | |
| 23/11/20 | | CHAPTER 9 – CUSTODY & BAIL | | | |
| 23/11/20 | | 9 | **IN THE TABLE OF CONTENTS LINKS HAVE BEEN CREATED TO ALL SECTION AND SUBSECTION HEADINGS** | | |
| 23/11/20 | | 9 | 9.4.1.1 | * Summaries of new cases of *JS* [2020] VSC 447; *Byron Exner* [2020] VSC 453; *John Assaad* [2020] VSC 561; *Abrhm Chol* [2020] VSC 580; *JS* [2020] VSC 606; *Lindim Aliti* [2020] VSC 647; *Emmanuel Deng* [2020] VSC 686; *Tomas Cugurno-Pfabe* [2020] VSC 687; *Harry Dickensen* [2020] VSC 721; *AP, IT, NT, DP & JR* [2020] VSC 730. * References to new cases of *Re Sleiman* [2020] VSC 469; *Re Ning* [2020] VSC 609; *Re Denaye Whitfield* [2020] VSC 632; Re Oldis [2020] VSC 769. | |
| 23/11/20 | | 9 | 9.4.1.2 | References to new cases of *Re Hamad* [2020] VSC 440; *Re Baker* [2020] VSC 460; *Re McHenry* [2020] VSC 462; *Re Scott Goldsworthy* [2020] VSC 500; *Re Hokafonu* [2020] VSC 543; *Re AM* [2020] VSC 569; *Re Shane McKay* [2020] VSC 558; *Re James* [2020] VSC 602; *Re Cohrs* [2020] VSC 607; *Re Dixon* [2020] VSC 665; *Re Wilio* [2020] VSC 677; *Re MM* [2020] VSC 691; *Re Rahman* [2020] VSC 748; *Re De Camillis* [2020] VSC 761. | |
| 23/11/20 | | 9 | 9.4.1.3 | * New section entitled “**SOME CASES IN WHICH EXCEPTIONAL CIRCUM-STANCES WERE FOUND BUT BAIL WAS REFUSED BECAUSE ACCUSED WAS DEEMED AN UNACCEPTABLE RISK**”. * Summaries of new cases of *KN (No.2)* [2020] VSC 490; *Albert Biba* [2020] VSC 536. | |
| 23/11/20 | | 9 | 9.4.4.4 | Summaries of new cases of *Re Karl Bacash* [2020] VSC 365; *Re Lily Goodwin* [2020] VSC 459; *Re Yousif Elias* [2020] VSC 502; *Re Brett Taylor* [2020] VSC 526; *Re Marco Gastello* [2020] VSC 548; *Re AK* [2020] VSC 625; *Re Griffin* [2020] VSC 626; *Re David Chambers* [2020] VSC 758. | |
| 23/11/20 | | 9 | 9.4.4.5 | Summary of case of *Re Lowe* [2020] VSC 584. | |
| 23/11/20 | | 9 | 9.4.4.6 | References to new cases of *Re Krishna Menon* [2020] VSC 565; *Re SS* [2020] VSC 618. Summary of *Re Rajasekar* [2020] VSC 774. | |
| 23/11/20 | | 9 | 9.4.4.7 | Reference to new case of *Re Busari* [2020] VSC 572. | |
| 23/11/20 | | 9 | 9.4.8 | Summary of new case of *Zirilli v The Queen* [2020] VSCA 261. | |
| 23/11/20 | | 9 | 9.5.1 | Extract from new case of *Re Noah Zreika* [2020] VSC 648 at [74]. Reference to new case of *Re Oldis* [2020] VSC 769 at [41]-[52]. | |
| 23/11/20 | | 9 | 9.5.9.1 | Summary of new case of *DPP v Mikael* [2020] VSC 492. | |
| 23/11/20 | | 9 | 9.5.18 | New subsection entitled “**Extradition Bail**”. Extract from new case of *Formica & Forni v Victoria Police* [2020] VSC 719 at [83]. | |
| 23/11/20 | | CHAPTER 10 – CRIMINAL DIVISION - PROCEDURE | | | |
| 23/11/20 | | 10 | 10.1.1 | Reference to new case of *Treloar v Richardson* [2020] VSCA 216 | |
| 23/11/20 | | 10 | 10.3.2(4) | References to cases of *Azzopardi v The Queen* (2001) 205 CLR 50 at [71]-[73] & *GBF v The Queen* [2020] HCA 40. | |
| 23/11/20 | | 10 | 10.3.10 | References to cases of *Leigh Milner (a pseudonym) v DPP (Cth)* [2020] VSCA 207; *DPP v Walker & Simmons (Ruling No.2)* [2020] VSC 519. | |
| 23/11/20 | | 10 | 10.3.12 | Reference to case of *Le Huynh v The Queen* [2020] VSCA 222 at [33]-[54]. | |
| 23/11/20 | | 10 | 10.6E | Detailed discussion of *R v Dellamarta* [2020] VSC 745. | |
| 23/11/20 | | 10 | 10.7K | Addition of Criminal Division diversion statistics for 2019/2020. | |
| 23/11/20 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 23/11/20 | | 11 | **IN THE TABLE OF CONTENTS LINKS HAVE BEEN CREATED TO ALL SECTION AND SUBSECTION HEADINGS** | | |
| 23/11/20 | | 11 | 11.1.2  11.1.7  11.2.1  11.2.27 | References to and extracts from the new case of *Jiaming Gui v The Queen* [2020] VSCA 273. | |
| 23/11/20 | | 11 | 11.1.4.1  11.13 | Discussion of *LS (a pseudonym) v CDPP* [2020] VSC 484. | |
| 23/11/20 | | 11 | 11.1.4.3 | Reference to case of *Nelson v The Queen* [2020] VSCA 219 at [38]-[39]. | |
| 23/11/20 | | 11 | 11.1.4.4 | References to *Zampatti v The Queen* [2020] VSCA 285; *Byrne v The Queen* [2020] VSCA 289. | |
| 23/11/20 | | 11 | 11.1.20 | Reference to new case of *R v Harvey* [2020] VSC 496. | |
| 23/11/20 | | 11 | 11.2.1  11.2.11.2  11.2.12  11.2.18 | Reference to *Haberman v DPP* [2020] VSCA 286. | |
| 23/11/20 | | 11 | 11.2.4  11.2.6  11.3.8 | References to and extracts from the new case of *Alejandro Mendieta-Blanco v The Queen*; *Chey Tenenboim v The Queen* [2020] VSCA 265 at [22]-[24]. | |
| 23/11/20 | | 11 | 11.2.6 | Reference to *Brad Freedman (a pseudonym) v The Queen* [2020] VSCA 287 at [22]-[26]. | |
| 23/11/20 | | 11 | 11.2.7 | Reference to new case of *McMillan v The Queen* [2020] VSCA 189 at [22]. | |
| 23/11/20 | | 11 | 11.2.11.2  11.3.5 | Reference to new case of *Akon Guode v The Queen* [2020] VSCA 257. | |
| 23/11/20 | | 11 | 11.2.11.2 | Added note that *DPP v O’Neill* (2015) 47 VR 395; [2015] VSCA 325 is no longer good law. | |
| 23/11/20 | | 11 | 11.2.11.4 | * New subsection entitled “**Effect of personality disorder**”. * Note that *DPP v O’Neill* is not good law. * Discussion of new case of Brown v The Queen [2020] VSCA 212. | |
| 23/11/20 | | 11 | 11.2.18 | Summary of new case of *Sara Borg v The Queen* [2020] VSCA 191. | |
| 23/11/20 | | 11 | 11.2.21 | Summaries of new cases of *DPP v Williams & Godfrey* [2020] VSC 483; *DPP v Dolhugey* [2020] VSC 704. | |
| 23/11/20 | | 11 | 11.2.22.3 | Reference to new cases of *DPP v Sugar* [2020] VSC 338; *R v Mikhail* [2020] VSC 681. | |
| 23/11/20 | | 11 | 11.2.22.4 | Reference to new case of *R v Hayden Wentworth (pseudonym)* [2020] VSC 435. | |
| 23/11/20 | | 11 | 11.2.23 | Reference to new cases of *DPP v Reid* [2020] VSCA 247; *Victorsen v The Queen* [2020] VSCA 248. | |
| 23/11/20 | | 11 | 11.2.24.1 | Reference to new case of *Anne Marie Hart v The Queen* [2020] VSCA 194. | |
| 23/11/20 | | 11 | 11.2.24.4 | References to new cases of *Didier Lam Kee Shau v The Queen* [2020] VSCA 252; *R v Ball* [2020] VSC 623. | |
| 23/11/20 | | 11 | 11.2.24.6 | Extract from *Cooper v The Queen* [2020] VSCA 288 at [74]. | |
| 23/11/20 | | 11 | 11.2.25 | References to *Roach v The Queen* [2020] VSCA 205; *Delaci v The Queen* [2020] VSCA 276. | |
| 23/11/20 | | 11 | 11.2.26.1 | Extract from *Agoc Deng Shok v The Queen* [2020] VSCA 294 at [38]-[40] & [44]. Reference to *Mendelle v The Queen* [2018] VSCA 204. | |
| 23/11/20 | | 11 | 11.2.27 | References to new cases of *Hill v The Queen* [2020] VSCA 220; *DPP v JK* (aged 17) [2020] VSC 510. | |
| 23/11/20 | | 11 | 11.2.31 | References to new cases of *Andrew Nolch v The Queen* [2020] VSCA 195 at [26]-[27]; *Salmi v The Queen* [2020] VSCA 250 at [41]-[45]. | |
| 23/11/20 | | 11 | 11.2.32 | Reference to *DPP v Staples* [2020] VSC 683. | |
| 23/11/20 | | 11 | 11.2.35 | * New subsection entitled “**Sentencing for theft and theft of motor vehicle compared**”. * *Chamma v The Queen; El Houli v The Queen* [2020] VSCA 232 at [71]. | |
| 23/11/20 | | 11 | 11.6.6 | Addition of Group Conference statistics for 2019/20. | |
| 23/11/20 | | 11 | 11.7.1 | Addition of Criminal Division sentencing statistics for 2019/20. | |
| 23/11/20 | | 11 | 11.15.1.2 | References to *Zampatti v The Queen* [2020] VSCA 285; *DPP v Allen* [2020] VSCA 292. | |
| 23/11/20 | | 11 | 11.15.4 | Reference to new cases of *Schembri v The Queen* [2020] VSC 217; *Conor Meyer (a pseudonym) v The Queen [No.2]* [2020] VSCA 206. | |
| 23/11/20 | | 11 | 11.15.5 | Reference to *Conor Meyer (a pseudonym) v The Queen [No.2]* [2020] VSCA 206. | |
| 23/11/20 | | 11 | 11.15.7 | Summary of new case of *Akon Guode v The Queen* [2020] VSCA 257. | |
| 24/10/20 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 24/10/20 | | 1 | **IN THE TABLE OF CONTENTS LINKS HAVE BEEN CREATED TO ALL SECTION AND SUBSECTION HEADINGS** | | |
| 24/10/20 | | 1 | 1.1.4 | Heading changed to “**COVID-19 temporary amendments to relevant legislation [25/04/2020 to 25/04/2021]**”. Substantial amendment to text, including new material on the COVID-19 Omnibus (Emergency Measures) and Other Acts Amendment Act 2020. | |
| 24/10/20 | | 1 | 1.2.3 | New subsection headed **“COVID-19 temporary Regulations”** which also contains some material transferred from subsection 1.1.4. | |
| 24/10/20 | | 1 | 1.4.1 | Updating of Practice Directions. | |
| 24/10/20 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 24/10/20 | | 4 | **IN THE TABLE OF CONTENTS LINKS HAVE BEEN CREATED TO ALL SECTION AND SUBSECTION HEADINGS** | | |
| 24/10/20 | | 4 | 4.2 | The contents of this “thumbnail sketch” have been updated and the statistics previously contained in it have been removed. | |
| 24/10/20 | | 4 | 4.4 | The discussion of the meaning of ‘child’ and of ‘parent’ has been expanded and references to the cases of *Masson v Parsons* [2019] HCA 21 and *Re D* [MCC-15/10/2019] have been added. | |
| 24/10/20 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 24/10/20 | | 5 | **IN THE TABLE OF CONTENTS LINKS HAVE BEEN CREATED TO ALL SECTION AND SUBSECTION HEADINGS** | | |
| 24/10/20 | | 5 | 5.3.2 | Minor amendment to correct an error in the text. | |
| 24/10/20 | | 5 | 5.11.2 | Name of subsection has been temporarily changed to “**Power of Bail Justice to make an IAO (Temporarily suspended by COVID-19 legislation)**”. | |
| 24/10/20 | | 5 | 5.17.4  5.17.6 | Minor amendments in connection with new temporary subsection 5.17.4/6. | |
| 24/10/20 | | 5 | 5.17.4/6 | New temporary subsection entitled “**Temporary increase in maximum length of FRO/FRO extension by COVID-19 legislation**”. | |
| 24/10/20 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 24/10/20 | | 10 | **IN THE TABLE OF CONTENTS LINKS HAVE BEEN CREATED TO ALL SECTION AND SUBSECTION HEADINGS** | | |
| 24/10/20 | | 10 | 10.3.5 | Name of subsection has been changed to “**Summary case conference**”. | |
| Text of subsection has been substantially changed. The former text was wrong in some material respects. | |
| 24/10/20 | | 10 | 10.6 | * Minor amendments to text have been made in paragraphs **A, B,** **D,** **O, P,,Q** & **R.** * Added to paragraph **J** are commentaries on the cases of *R v Langley* (2008) 19 VR 90; [2008] VSCA 81 especially at [23]-[24]; *Madafferi v The Queen* [2017] VSC 302 at [6]; *Camurtay v The Queen* [2020] VSCA 221 especially at [81] & [86]. * Commentary on case of *R v Fairest, Fields & Toohey (Rulings-Fitness to be tried)* [2016] VSC 329 is moved from paragraph **L** to paragraph **K**. * Added reference in paragraph **M** to [https://www.judicialcollege.vic.edu.au/eManuals /CCB/19084.htm](https://www.judicialcollege.vic.edu.au/eManuals%20/CCB/19084.htm) relating to the defence of mental impairment for adults. * Some significant changes made to the text in paragraph **M**, including addition of a heading **PROOF OF THE ELEMENTS OF MENTAL IMPAIRMENT** which includes summaries of the cases of *R v Stiles* (1990) 50 A Crim R and *Hawkins v R* (1994) 179 CLR 500 and references to the cases of *Sodeman v R* (1936) 55 CLR 192; *R v Porter* (1933) 55 CLR 182; *DPP v Soliman* [2012] VCC 658; *R v Grant* [2009] NSWSC 833; *R v Tarantello* [2011] NSWSC 383; *R v Toki* [2003] NSWCCA 125; *R v Minani* (2005) 63 NSWLR 490; *Garrett v R* [1999] WASCA 169; *Ward v R* (2000) 118 A Crim R 78; *R v Nolan* WA CCA 22/5/97 & *Stanton v R* (2001) 24 WAR 233. * Reference to case of *Re Toohey* [2020] VSC 660 added to paragraph **Q**. * New paragraph **W** added which details temporary COVID-19 amendments. | |
| 24/10/20 | | 10 | 10.7 | Addition of text to-   * paragraph **F** (presumptions, standard of proof etc. re fitness); and * paragraph **K** (statistics)**.** | |
| 07/09/20 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 07/09/20 | | 7 | **THE EARLIER PART OF THIS CHAPTER HAS BEEN SUBSTANTIALLY RESTRUCTURED AND EXPANDEDE** | | |
| 07/09/20 | | 7 | **IN THE TABLE OF CONTENTS LINKS HAVE BEEN CREATED TO ALL SECTION AND SUBSECTION HEADINGS** | | |
| 07/09/20 | | 7 | 7.1 | Section name changed to **“Jurisdiction of Criminal Division”** and contains the material formerly contained in sections 7.1 & 7.2. This section now contains the following subsections and a minor change has been made to 7.1.3 as detailed: | |
| 7.1.1 | **Classification of offences** | |
| 7.1.2 | **Age of ‘child’ for hearing of a charge** | |
| 7.1.3 | **No criminal responsibility of a child under 10** | |
| Text slightly amended to include references to the age of criminal responsibility in Germany & New Zealand. | |
| 7.1.4 | **Transfer of the hearing of a charge to or from Magistrates’ Court** | |
| 7.1.5 | **Age of ‘child’ for breach, variation & revocation proceeding** | |
| 07/09/20 | | 7 | 7.1 | Addition of the new offence of homicide by firearm to the list of offences which the CCV cannot hear and determine summarily. | |
| 07/09/20 | | 7 | 7.2 | New section 7.2 entitled **“Powers of arrest”**. | |
| 07/09/20 | | 7 | 7.3 | New section 7.3 entitled **“Victoria Police Powers to search children & adults”** which contains the following subsections: | |
| 7.3.1 | [**Personal searches of adults and children generally**](#_7.3.1_Personal_searches) | |
| 7.3.2 | **Legal analysis of police powers to search adults and children** | |
| 7.3.3 | **Three types of personal search described** | |
| 7.3.4 | **Statutory police powers to search a child whether or not under arrest** | |
| 7.3.5 | **Personal searches of persons under arrest** | |
| 7.3.6 | **Personal searches of children in custodial institutions** | |
| 07/09/20 | | 7 | 7.5.6 | New section entitled “**Proper venue**” contains the material formerly contained in section 7.6. | |
| 07/09/20 | | 7 | 7.7 | Former section 7.3 changed to 7.7 and section name changed to **“Youth and adult offending statistics”**. This section now contains the following subsections: | |
| 7.7.1 | **Youth and adult offending in 2008/09, 2009/10 & 2010/11** | |
| Several very minor amendments have been made to the text of what was formerly section 7.3. | |
| 7.7.2 | **Youth offending from 2008/09 to 2019/20** | |
| This is an entirely new subsection. | |
| 7.7.3 | **Offending by children aged 10-13 inclusive** | |
| This is an entirely new subsection. | |
| 07/09/20 | | 7 | 7.11.6 | Addition of 2017/18 & 2018/19 Koori Court statistics. | |
| 08/07/20 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 08/07/20 | | 1 | 1.1.2 | Extract from new case of *AA v DHHS & Ors* [2020] VSC 400 at [68]-[69]. | |
| 08/07/20 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 08/07/20 | | 5 | 5.10.1  5.10.2 | Minor amendments to text. | |
| 08/07/20 | | 5 | 5.10.6 | * Minor amendment to text. * Summary of new case of *AA v DHHS & Ors* [2020] VSC 400. | |
| 08/07/20 | | 5 | 5.18.1 | Extract from new case of *AA v DHHS & Ors* [2020] VSC 400 at [82]-[83] in relation to care by Secretary orders. | |
| 08/07/20 | | 5 | 5.18.6 | Summary of new case of *AA v DHHS & Ors* [2020] VSC 400 in relation to s.289A of the CYFA. | |
| 08/07/20 | | 5 | 5.29.3 | Summary of new case of *AA v DHHS & Ors* [2020] VSC 400 in relation to case plan reviews. | |
| 08/07/20 | | 5 | 5.29.4 | Very minor updating of text. | |
| 08/07/20 | | 5 | 5.32 | Section name changed to **“Additional provisions applicable to Aboriginal children”**. | |
| 08/07/20 | | 5 | 5.32.1 | New section headed **“Cultural plans for Aboriginal children”** which contains the material formerly in section 5.32. | |
| 08/07/20 | | 5 | 5.32.2 | New section headed **“Other relevant provisions”** which contains material provided by Magistrate Bowles. | |
| 01/07/20 | | CHAPTER 10 – CRIMINAL DIVISION - PROCEDURE | | | |
| 01/07/20 | | 10 | 10.1.1  10.1.2  10.1.3 | Addition of the new offence of “homicide by firearm” to the list of offences which cannot be heard and determined summarily and to the list of Category A serious youth offences. | |
| 01/07/20 | | 10 | 10.2.3 | Minor amendment to text related to s.127 CPA. | |
| 01/07/20 | | 10 | 10.2.4 | Addition of the new offence of “homicide by firearm” to the list of offences which can be the subject to a joint committal for adult and child coaccused. | |
| 29/06/20 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 29/06/20 | | 1 | 1.1.4 | Minor modification to text to include a reference to the COVID-19 Omnibus (Emergency Measures)(Electronic Signing and Witnessing) Regulations 2020. | |
| 29/06/20 | | 1 | 1.4.1 | * Note that PD No.3 of 2020 has been revoked. * Addition of reference to PD No.7 of 2020. | |
| 29/06/20 | | CHAPTER 3 – COURT OPERATION | | | |
| 29/06/20 | | 3 | 3.9 | Addition to text, including reference to rule 63.34.2(1) in Order 63 of the Magistrates’ Court General Civil Procedure Rules 2010 and the decision of the Court of Appeal in *Mainieri & Anor v Cirillo* [2014] VSCA 227. | |
| 29/06/20 | | 3 | 3.9.3  3.9.5  3.9.6 | * Former section 3.9.5 entitled “**Enforcement of costs orders made in the Family Division**” is renumbered 3.9.6. * New section 3.9.5 headed “**Very limited entitlement of self-represented litigants to costs**”contains the summary of *P v RM & Ors* [2004] VSC 78 formerly contained in section 3.9.3. It also contains an amended summary of *LG & EG v Melbourne Health* [2019] VSC 183 and a summary of the appeal [2020] VSCA 64. * New section 3.9.5 also contains a detailed summary of *Bell Lawyers Pty Ltd v Pentelow* (2019) 93 ALJR 1007; [2019] HCA 29 at [1]-[3]. | |
| 29/06/20 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 29/06/20 | | 5 | 5.23.4 | Correction to text on Therapeutic Treatment (Placement) Orders. | |
| 29/06/20 | | CHAPTER 9 – CUSTODY & BAIL | | | |
| 29/06/20 | | 9 | 9.4.1 | Summary of new case of *Re Diab* [2020] VSC 196 in which Beach JA listed a number of cases in which the relevance of COVID-19 in the establishment of exceptional circumstances had been discussed as well as the way in which the current pandemic may be relevant in a bail application and set out 4 propositions distilled from these cases. | |
| 29/06/20 | | 9 | 9.4.1.1 | Summary of new cases of *Re Nicholls* [2020] VSC 189, *Re Felicia Thomas* [2020] VSC 206; | |
| 29/06/20 | | 9 | 9.4.1.2 | Summary of new cases of *Shannon Taylor v DPP* [2020] VSCA 142; *Re Velluto* [2020] VSC 188; *Re Sepehrnia* [2020] VSC 247; *Re DR* [2020] VSC 282; *DPP v Lee* [2020] VSC 275; *Re Mazzitelli* [2020] VSC 288; *Re Barker* [2020] VSC 321. | |
| 29/06/20 | | 9 | 9.4.4.3 | Discussion of new case of *Ali El Nasher v DPP* [2020] VSCA 144 esp. at [51]-[52]. | |
| 29/06/20 | | 9 | 9.4.4.4 | Summary of new cases of *Re Guinane* [2020] VSC 208; *Re Che Ashton* [2020] VSC 231; *Re Hu* [2020] VSC 285; *Re Brzezowski* [2020] VSC 294. | |
| 29/06/20 | | 9 | 9.4.4.5 | Summary of new case of *Re Richardson* [2020] VSC 289. | |
| 29/06/20 | | 9 | 9.4.4.6 | Summary of new cases of *DPP v Chesterman (a pseudonym)* [2020] VSC 255; *Re Griffin* [2020] VSC 312. | |
| 29/06/20 | | 9 | 9.4.8 | Summary of new case of *Cvetanovski v DPP* [2020] VSCA 126. | |
| 29/06/20 | | 9 | 9.4.11 | Summary of new case of *Re Dwayne Kennedy* [2020] VSC 187. | |
| 29/06/20 | | 9 | 9.5.9 | Section heading changed to **“Appeal to Supreme Court”**. | |
| 29/06/20 | | 9 | 9.5.9.1 | New subsection entitled **“Appeal by DPP”** contains the material formerly contained in section 9.5.9. | |
| 29/06/20 | | 9 | 9.5.9.2 | New subsection entitled **“Appeal by remandee”** contains summary of new case of *Shannon Taylor v DPP* [2020] VSCA 142. | |
| 26/05/20 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 26/05/20 | | 1 | 1.1.4 | New section entitled **“COVID-19 temporary amendments to relevant legislation [25/04/2020 to 24/10/2020]”**. | |
| 26/05/20 | | 1 | 1.4.1 | PD Nos. 4, 5 & 6 of 2020 have been added. These introduce further temporary measures necessitated by the COVID-19 pandemic to enable the Children’s Court to continue its critical role in the administration of justice for the children, young people and families of the State of Victoria. | |
| 26/05/20 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 26/05/20 | | 4 | 4.9 | Minor amendment to text re omission of Readiness Hearings from the chart. | |
| 26/05/20 | | 4 | 4.9.3 | Minor amendment to text re judicial resolution conferences. | |
| 26/05/20 | | 4 | 4.9.4A | New section entitled **“Readiness Hearing”** which details a new type of hearing as a temporary measure for the management of proceedings in the Family Division necessitated by the COVID-19 pandemic. | |
| 26/05/20 | | CHAPTER 9 – CUSTODY & BAIL | | | |
| 26/05/20 | | 9 | 9.2.2 | Short extract from new case of *Re DR* [2020] VSC 282 at [53]. | |
| 26/05/20 | | 9 | 9.2.3 | Extract from case of *Robinson v R* (2015) 47 VR 226; [2015] VSCA 161 at [47]. | |
| 26/05/20 | | 9 | 9.4.1.1 | Summary of new case of *Re JF* [2020] VSC 250. | |
| 26/05/20 | | 9 | 9.4.4.4 | Summary of new case of *Re JB* [2020] VSC 184. | |
| 15/04/20 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 15/04/20 | | 1 | 1.4.1 | PD Nos. 1, 2 & 3 of 2020 have been added. These introduce temporary measures necessitated by the COVID-19 pandemic to enable the Children’s Court to continue its critical role in the administration of justice for the children, young people and families of the State of Victoria. | |
| 15/04/20 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 15/04/20 | | 5 | 5.10.4 | * New text discussing the impact of the COVID-19 State of Emergency on the determination of ‘unacceptable risk’. * Added references to the cases of *Mokbel v DPP (No.3)* [2002] VSC 393; *Robinson v R* [2015] VSCA 161; *Haidy v DPP* [2004] VSC 247. * Summaries of the new cases of *Secretary DHHS v Children’s Court of Victoria & Emily Powell (a pseudonym)* [2020] VSC 144 and *DHHS v TH & CH* [2020] VChC 1. * Addition of a brief commentary on an oral IAO decision of Kune M at Broadmeadows Children’s Court on 27/03/20. * Addition of a quotation from *Storie v Storie* (1945) 80 CLR 597 at 603. | |
| 15/04/20 | | 5 | 5.11.16 | Reference to new case of *Secretary DHHS v Children’s Court of Victoria & Emily Powell (a pseudonym)* [2020] VSC 144 at [37]. | |
| 15/04/20 | | 5 | 5.26 | Addition of a standard condition for possible use during the currency of the COVID-19 pandemic. | |
| 15/04/20 | | CHAPTER 9 – CUSTODY & BAIL | | | |
| 15/04/20 | | 9 | 9.4.1.1 | * Summary of new case of *Re Broes* [2020] VSC 128 and quotation from [46]-[47]. * Summary of new case of *Re McCann* [2020] VSC 138 and quotation from [39]-[41]. | |
| 15/04/20 | | 9 | 9.4.1.2 | Summaries of new cases of *Anthony Bertucci* [2020] VSC 88; *Sarah Azimi* [2020] VSC 118; *Re Lado* [2020] VSC 132; *Re El-Refei [No.2]* [2020] VSC 164 (including reference to *Re El-Refei* [2020] VSC 65). | |
| 15/04/20 | | 9 | 9.4.2 | Correction to text describing *Robinson v R* [2015] VSCA 161. | |
| 15/04/20 | | 9 | 9.4.4.4 | Summary of new case of *Re JK* [2020] VSC 160 and quotations from [22]-[26]. | |
| 15/04/20 | | 9 | 9.4.11 | Summary of new case of *Re Foster* [2020] VSC 62 and quotations from [33]-[36]. | |
| 15/04/20 | | 9 | 9.5.3 | Discussion of ‘curfew’ conditions in the cases of *Re McCann* [2020] VSC 138 and *X5* [Children’s Court of Victoria-Gibson M, 01/04/2020]. | |
| 15/04/20 | | CHAPTER 10 – CRIMINAL DIVISION - PROCEDURE | | | |
| 15/04/20 | | 10 | 10.3.2(4) | Added reference to new case of *George Pell v DPP* [2020] HCA 12. | |
| 15/04/20 | | 10 | 10.3.10 | Added reference to new case of *Jethro Morton (a pseudonym) v The Queen* [2020] VSCA 49. | |
| 15/04/20 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 15/04/20 | | 11 | 11.1.4.4 | * Summary of new case of *Hung Anh Vu v The Queen* [2020] VSCA 59 at [52]-[53]. * Reference to new case of *Lachlan Pitt (a pseudonym) v The Queen* [2020] VSCA 73. | |
| 15/04/20 | | 11 | 11.2.4 | * Summary of new case of *Strbak v The Queen* [2020] HCA 10 at [1], [13], [32] & [44]. * Conclusion of the High Court in the case of *KMC v Director of Public Prosecutions (SA)* [2020] HCA 6 at [34]. | |
| 15/04/20 | | 11 | 11.2.6 | Added references to cases of *Philp v The Queen* [2017] VSCA 320 at [5]; *Levy v The Queen* [2020] VSCA 44 at [70]‑[84]; *Charlie Galea v The Queen* [2020] VSCA 69 at [19]-[23]. | |
| 15/04/20 | | 11 | 11.2.8 | Added reference to new case of *DPP v Bourke* [2020] VSC 130 at [32]. | |
| 15/04/20 | | 11 | 11.2.8.3 | * Section heading changed to “**Assistance to authorities (Informer’s discount)**”. * Reference to new case of *Levy v The Queen* [2020] VSCA 44 at [73]‑[75]. | |
| 15/04/20 | | 11 | 11.2.11.2 | Added reference to *The Queen v Guode* [2020] HCA 8 at [6]. | |
| 15/04/20 | | 11 | 11.2.12 | * Error in citation of *DPP v Green* [2020] VSCA 23 fixed. * Added quotation from *Marrah v The Queen* [2014] VSCA 119 at [16]. * Reference to new case of *R v Wills* [2020] VSC 155 at [80] & [81]. | |
| 15/04/20 | | 11 | 11.2.22.1 | Added references to new cases of *R v Awad* [2019] VSC 706; *DPP v White* [2020] VSCA 37; *Naddaf v The Queen* [2020] VSCA 41; *Levy v The Queen* [2020] VSCA 44; *Esmaili v The Queen* [2020] VSCA 63; *R v Ashman* [2020] VSC 105. | |
| 15/04/20 | | 11 | 11.2.22.4 | * Summary of new case of *Todd v The Queen* [2020] VSCA 46. * Added reference to new case of *R v Wardlaw* [2020] VSC 83. | |
| 15/04/20 | | 11 | 11.2.23 | Reference to new case of *Pan v The Queen* [2020] VSCA 42. | |
| 15/04/20 | | 11 | 11.2.24.2 | Summary of new case of *Atem v The Queen* [2020] VSCA 35 at [61], [63] & [67]. | |
| 15/04/20 | | 11 | 11.2.25 | Reference to new case of *Brown (aka Davis) v The Queen* [2020] VSCA 60. | |
| 15/04/20 | | 11 | 11.2.26 | * Section heading changed to “**Sentencing for armed robbery / aggravated carjacking / aggravated home invasion**”. * New subsection 11.2.26.1 headed **“Sentencing for armed robbery**”. * New subsection 11.2.26.2 headed “**Sentencing for aggravated carjacking / aggravated home invasion**”. Summary of new case of *Jason Mammoliti v The Queen* [2020] VSCA 52. | |
| 15/04/20 | | 11 | 11.2.27 | * Section heading changed to “**Sentencing for burglary / aggravated burglary / home invasion**”. * Added reference to new case of *Frost & Deen v The Queen* [2020] VSCA 53. | |
| 15/04/20 | | 11 | 11.2.28.2 | Reference to new case of *Guirguis v The Queen* [2020] VSCA 48, esp. at [33]-[37]. | |
| 15/04/20 | | 11 | 11.2.31 | Reference to new case of *Maddocks v The Queen* [2020] VSCA 47. | |
| 15/04/20 | | 11 | 11.3.5 | * Quotation from *R v Markovic & Pantelic* (2010) 30 VR 589; [2010] VSCA 105 at [1]. * Reference to new case of *DPP v Michaela Snow (a pseudonym)* [2020] VSCA 67 at [80]-[89], esp. at [86]. | |
| 15/04/20 | | 11 | 11.3.8 | * New section entitled “**Effect of the COVID-19 pandemic on sentencing”.** * References to cases of *Brown (aka Davis) v The Queen* [2020] VSCA 60; *R v Markovic & Pantelic* (2010) 30 VR 589; [2010] VSCA 105; *Sazimanoska v The Queen* [2020] VSCA 66; *Nguyen v The Queen* [2020] VSCA 76; *R v Madex* [2020] VSC 145; *DPP (Cth) v Politpoulos* [2020] VCC 338; *DPP v Morey (a pseudonym)* [2020] VCC 320; *DPP v Tennison* [2020] VCC 343; *DPP v Hersi* [2020] VCC 347; *DPP v Bourke* [2020] VSC 130. | |
| 15/04/20 | | 11 | 11.15.1.1 | Reference to new cases of *DPP v Michaela Snow (a pseudonym)* [2020] VSCA 67; *Lachlan Pitt (a pseudonym) v The Queen* [2020] VSCA 73. | |
| 15/04/20 | | 11 | 11.15.7 | Addition of reference to the High Court decision in *The Queen v Guode* [2020] HCA 8 at [31]. | |
| 15/04/20 | | 11 | 11.18 | Reference to new case of *Akot v The Queen* [2020] VSCA 55 at [33]-[40]. | |
| 06/03/20 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 06/03/20 | | 1 | 1.1 | Significant expansion of text. | |
| 06/03/20 | | 1 | 1.2.2 | Family Violence Protection Regulations 2018 [S.R. No.161 of 2018] replace the 2008 regulations. | |
| 06/03/20 | | 1 | 1.3 | Update to list of current Rules. | |
| 06/03/20 | | 1 | 1.4.1 | Revoked Practice Directions have been removed from this list. PD No.1/2019 has been added. | |
| 06/03/20 | | CHAPTER 3 – COURT OPERATION | | | |
| 06/03/20 | | 3 | 3.5.2 | * Former section 3.5.2 is deleted and the information contained in it is moved to the first paragraph of section 3.1. * New section 3.5.2 headed “**Mention**” contains material formerly contained in section 3.5.3. | |
| 06/03/20 | | 3 | 3.5.3 | New section 3.5.3 headed “**Evidence**” and new introductory text. | |
| 06/03/20 | | 3 | 3.5.3.1 | New section headed “**Admissibility of evidence generally**”. | |
| 06/03/20 | | 3 | 3.5.3.2 | New section headed “**Admissibility of evidence in a contested criminal case**”. | |
| 06/03/20 | | 3 | 3.5.3.3 | New section headed “**Admissibility of evidence in a Family Division case**” contains much of the material that is also in sections 4.8.2 & 4.9.5. | |
| 06/03/20 | | 3 | 3.5.3.4 | * Section 3.5.16 entitled “**The hearsay rule and exceptions thereto**” is renumbered 3.5.3.4 and transferred accordingly. * Reference to new case of *Colin Stevenson (a pseudonym) v The Queen* [2020] VSCA 27 at [60] & [81]. | |
| 06/03/20 | | 3 | 3.5.3.5 | New section headed “**Illegally obtained evidence**”. Detailed summary of new case of *Kadir v The Queen; Grech v The Queen* [2020] HCA 1 and cross-reference to section 8.2.10. | |
| 06/03/20 | | 3 | 3.5.3.6 | New section headed “**Other cases involving the admissibility of evidence**” and summary of new case of *Colin Stevenson (a pseudonym) v The Queen* [2020] VSCA 27. | |
| 06/03/20 | | 3 | 3.5.4 | Minor amendment to text. | |
| 06/03/20 | | 3 | 3.5.16 | Section entitled “**The hearsay rule and exceptions thereto**” is renumbered 3.5.3.4 and former section 3.5.16 is deleted. | |
| 06/03/20 | | 3 | 3.7.2 | Summary of new case of *Bookless v Smith* [2020] VSC 56 at [23]-[27] per Priest JA. | |
| 06/03/20 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 06/03/20 | | 4 | 4.9.5 | Minor amendment to text re submissions hearing. | |
| 06/03/20 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 06/03/20 | | 5 | 5.2.3 | Amendment to text on the meaning of ‘parent’ in the CYFA and added comments made by Parkinson M in the case of *Re D* (Melbourne Children’s Court, 15/10/2019). | |
| 06/03/20 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 06/03/20 | | 7 | 7.5.1 | Summary of new case of *Wells v Stillman & Anor* [2020] VSC 51 esp. at [13], [60] & [75]. | |
| 06/03/20 | | CHAPTER 8 – INVESTIGATION | | | |
| 06/03/20 | | 8 | 8.2.10 | Brief summary of new case of *Kadir v The Queen; Grech v The Queen* [2020] HCA 1 and cross-reference to section 3.5.3.5. | |
| 06/03/20 | | CHAPTER 9 – CUSTODY & BAIL | | | |
| 06/03/20 | | 9 | 9.4.1.1 | Summary of new case of *Re KN* [2020] VSC 35. | |
| 06/03/20 | | 9 | 9.4.1.2 | Summary of new case of *Re El-Refei* [2020] VSC 65. | |
| 06/03/20 | | 9 | 9.4.4.4 | Summary of new case of *Re Mihalitsis* [2020] VSC 6. | |
| 06/03/20 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 06/03/20 | | 11 | 11.1.4.1 | Reference to new case of *DPP v Green* [2020] VSCA 23 at [94]-[97]. | |
| 06/03/20 | | 11 | 11.1.9.1 | Reference to new case of *Koukoulis v The Queen* [2020] VSCA 19 at [17]-[24]. | |
| 06/03/20 | | 11 | 11.2.6 | Reference to new case of *Zaia v The Queen* [2020] VSCA 9 at [83]-[97]. | |
| 06/03/20 | | 11 | 11.2.7 | Reference to new case of *Fox v The Queen* [2020] VSCA 3 at [30]. | |
| 06/03/20 | | 11 | 11.2.8 | Reference to new case of *DPP v Green* [2020] VSCA 23 at [74]-[78]. | |
| 06/03/20 | | 11 | 11.2.10 | Reference to new case of *Treloar v The Queen* [2020] VSCA 6 at [20]-[21]. | |
| 06/03/20 | | 11 | 11.2.11.2 | Reference to new case of *R v Eckersley* [2020] VSC 22 at [62]-[63] & [91]. | |
| 06/03/20 | | 11 | 11.2.12 | Summary of new case of *DPP v Green* [2020] VSCA 23 esp. at [83]-[84]. | |
| 06/03/20 | | 11 | 11.2.22.1 | Summary of new case of *DPP v Kilpatrick*; *DPP v SW* [2019] VSC 779. | |
| 06/03/20 | | 11 | 11.2.22.4 | Reference to new case of *R v Eckersley* [2020] VSC 22 esp. at [110]-[114]. | |
| 06/03/20 | | 11 | 11.2.24 | Heading changed to “**Sentencing for intentionally / recklessly / negligently causing serious injury, intentionally / recklessly causing injury, affray/riot & reckless endangerment**”. | |
| 06/03/20 | | 11 | 11.2.24.1 | Summary of *R v Kane* [2010] VSCA 213 moved to this section from former section 11.2.24.5. | |
| 06/03/20 | | 11 | 11.2.24.3 | Summary of new case of *Fox v The Queen* [2020] VSCA 3. | |
| 06/03/20 | | 11 | 11.2.24.4 | * Former section 11.2.24.5 is renumbered 11.2.24.4 and its heading is changed to “**Sentencing for intentionally / recklessly causing injury**”. * Summary of new case of *Rivera v The Queen* [2020] VSCA 5. | |
| 06/03/20 | | 11 | 11.2.24.5 | Former section 11.2.24.4 headed “**Sentencing for affray/riot**” is renumbered 11.2.24.5. | |
| 06/03/20 | | 11 | 11.2.25 | Reference to new case of *Dang v The Queen* [2020] VSCA 24. | |
| 06/03/20 | | 11 | 11.2.27 | Summary of new case of *Comensoli v The Queen* [2020] VSCA 2. | |
| 06/03/20 | | 11 | 11.7.1 | Statistics tracing the youth offender rate in Victoria in the 10-year period up to 31/03/2019. | |
| 06/03/20 | | 11 | 11.8.1 | Reference to new case of *Carter v The Queen* [2020] VSCA 13. | |
| 06/03/20 | | 11 | 11.15.3 | Summary of new case of *Carter v The Queen* [2020] VSCA 13. | |
| 06/03/20 | | 11 | 11.15.4 | Summary of new case of *R v Kunsevitsky* [2020] VSC 41. | |
| 06/03/20 | | 11 | 11.15.5 | Reference to new case of *R v Treloar* [2020] VSCA 6. | |
| 06/03/20 | | 11 | 11.19 | Reference to new case of *R v Eckersley* [2020] VSC 22 esp. at [68]-[69]. | |
| 17/02/20 | | CHAPTER 3 – COURT OPERATION | | | |
| 17/02/20 | | 3 | 3.1 | References to *Gild v The Queen* [2017] VSCA 367; *Bayley North (a pseudonym) v DPP (Cth)* [2020] VSCA 1 at [39]-[49] | |
| 17/02/20 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 17/02/20 | | 7 | 7.7 | Addition of CAYPINS statistics for 2017/18 & 2018/19. | |
| 17/02/20 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 17/02/20 | | 10 | 10.3.1 | Correction of error: “536” -> “356”. | |
| 17/02/20 | | 10 | 10.3.10 | * Summary of new case of *Stocks v Johns (No.2)* [2019] VSC 854. * Reference to new case of *DPP v Lenny Terrell (a pseudonym)* [2019] VSCA 306, esp. at [42]-[54]. | |
| 17/02/20 | | 10 | 10.3.12 | References to new case of *Bembo v The Queen* [2019] VSCA 308 at [130]-[147]. | |
| 17/02/20 | | 10 | 10.4.5 | Summary of case of *Johnson v The Queen* [2018] HCA 48. | |
| 17/02/20 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 17/02/20 | | 11 | 11.1.4.4 | * Summary of new case of *Grant Berry v The Queen* [2019] VSCA 291. * Reference to new case of *DPP v Drake* [2019] VSCA 293 at [18]-[24]. | |
| 17/02/20 | | 11 | 11.2.1 | Reference to new case of *Le v The Queen* [2019] VSCA 299 at [28]-[29]. | |
| 17/02/20 | | 11 | 11.2.6 | References to new cases of *Topal v The Queen* [2019] VSCA 289 at [21]-[28]; *Chatters v The Queen* [2019] VSCA 309 at [20]-[24]. | |
| 17/02/20 | | 11 | 11.2.11.2 | Reference to new case of *DPP v Gilmour* [2019] VSC 766 at [43]-[45]. | |
| 17/02/20 | | 11 | 11.2.11.3 | Reference to new case of *Bertram Morin v The Queen* [2019] VSCA 301 at [37]-[45]. | |
| 17/02/20 | | 11 | 11.2.13 | Reference to new case of *DPP v Drake* [2019] VSCA 293 at [10]-[13] & [30]-[34]. | |
| 17/02/20 | | 11 | 11.2.14 | Reference to new case of *Mush v The Queen* [2019] VSCA 307 at [96]-[98]. | |
| 17/02/20 | | 11 | 11.2.18 | Reference to new case of *Cross v The Queen* [2019] VSCA 310 at [49]-[54]. | |
| 17/02/20 | | 11 | 11.2.22.1 | Reference to new case of *R v Amy Tran* [2019] VSC 822. | |
| 17/02/20 | | 11 | 11.2.22.4 | Reference to new case of *R v Pozzebon* [2019] VSC 631. | |
| 17/02/20 | | 11 | 11.2.24.2 | Reference to new case of *DPP v Gilmour* [2019] VSC 766. | |
| 17/02/20 | | 11 | 11.2.25 | Reference to new case of *Bembo v The Queen* [2019] VSCA 308 at [167]-[168]. | |
| 17/02/20 | | 11 | 11.2.28 | References to new cases of *DPP v Drake* [2019] VSCA 293; *Mush v The Queen* [2019] VSCA 307. | |
| 17/02/20 | | 11 | 11.3.1 | Reference to new case of *Brown v The Queen* [2019] VSCA 286 at [13]-[18]. | |
| 17/02/20 | | 11 | 11.7.1 | Addition of sentencing statistics for 2017/18 & 2018/19. | |
| 17/02/20 | | 11 | 11.15.1.2 | Summary of new case of *Fichtner v The Queen* [2019] VSCA 297, esp. at [67]-[69]. | |
| 17/02/20 | | 11 | 11.19 | New section entitled **“The ‘standard sentence’ scheme”**. Summary of new case of *Brown v The Queen* [2019] VSCA 286 at [1]-[8]. Reference to new cases of *DPP v Drake* [2019] VSCA 293 at [14]-[17]; *R v Pozzebon* [2019] VSC 631 at [39]-[44]. | |
| 07/01/20 | | CHAPTER 3 – COURT OPERATION | | | |
| 07/01/20 | | 3 | 3.1 | References to new cases of *Austin v Dobbs* [2019] VSCA 296; *Shadi Farah v The Queen* [2019] VSCA 300 at [72]-[80]; *CNY17 v Minister for Immigration and Border Protection* [2019] HCA 50; *In the Matter of Kornucopia Pty Ltd (No 2)* [2019] VSC 802; *Celsius Fire Services Pty Ltd v Magistrates’ Court of Victoria & anor* [2019] VSC 835 at [36]-[44]. | |
| 07/01/20 | | 3 | 3.7.1 | References to new cases of *Ata Dundar v. Yucel Bas (trading as Bas Brothers Marble and Granite) & Ors* [2019] VSCA 315 at [44]-[73]; *Celsius Fire Services Pty Ltd v Magistrates’ Court of Victoria & anor* [2019] VSC 835 at [25]-[35]. | |
| 07/01/20 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 07/01/20 | | 4 | 4.9.6 | New paragraph headed **“Marram-Ngala Ganbu Pilot Program”** containing a summary of a report entitled *Evaluation of Marram-Ngala Ganbu* (November 2019). | |
| 07/01/20 | | CHAPTER 9 – CUSTODY & BAIL | | | |
| 07/01/20 | | 9 | 9.4.1.1 | Summary of new case of *Re Brown* [2019] VSC 751. | |
| 07/01/20 | | 9 | 9.4.4.4 | Summary of case of *Re McAsey* [2019] VSC 88. | |
| 07/01/20 | | 9 | 9.4.4.5 | Summary of new case of *Re Hughes* [2019] VSC 750. | |
| 07/01/20 | | 9 | 9.4.4.8 | Summary of new case of *Re Leigh-Jones* [2019] VSC 845. | |
| 07/01/20 | | 9 | 9.4.12 | Summary of new case of *Re LJ* [2019] VSC 765. | |
| 11/12/19 | | CHAPTER 3 – COURT OPERATION | | | |
| 11/12/19 | | 3 | 3.1 | * Quotation of Socrates added. * *AB v XYZ Pty Ltd* [2019] VSC 788 at [38]‑[58]. | |
| 11/12/19 | | 3 | 3.3.3 | Added reference to *Pound v The Queen* [2019] VSCA 279 at [114]-[115]. | |
| 11/12/19 | | 3 | 3.5.6.4 | Added reference to *HT v The Queen* [2019] HCA 40 at [17]-[52]. | |
| 11/12/19 | | CHAPTER 9 – CUSTODY & BAIL | | | |
| 11/12/19 | | 9 | 9.2.2  9.4.1 | Summary of new case of *Re HAH* [2019] VSC 776. | |
| 11/12/19 | | 9 | 9.4.1.1 | Summary of new cases of *Re Aucello* [2019] VSC 358; *Re Fleming* [2019] VSC 615; *Re LW* [2019] VSC 616; *Re Petrov* [2019] VSC 709; *Re Barda* [2019] VSC 716. | |
| 11/12/19 | | 9 | 9.4.1.2 | Summary of new case of *Re Ghanim* [2019] VSC 358. | |
| 11/12/19 | | 9 | 9.4.4 | Additional text included from the case of *Re Rodgers* [2019] VCA 214 at [43]. | |
| 11/12/19 | | 9 | 9.4.4.1 | Summary of new case of *Re Rodgers [No 2]* [2019] VSC 760. | |
| 11/12/19 | | 9 | 9.4.4.2 | Added references to cases of *Re DR* [2019] VSC 151; *Re Dillon* [2019] VSC 80; *Re Logan* [2019] VSC 134; *Re Fleming* [2019] VSC 615 (Lasry J); *Re DG* [2019] VSC 622; *Re Barda* [2019] VSC 716; *Re Rodgers [No 2]* [2019] VSC 760. | |
| 11/12/19 | | 9 | 9.4.4.4 | Summary of new cases of *Re Mohamed* [2019] VSC 83; *Re DG* [2019] VSC 622; *Re Koshani* [2019] VSC 678. | |
| 11/12/19 | | 9 | 9.4.11 | Summary of new case of *Re LW* [2019] VSC 616 especially at [1], [20] & [50]-[53]. | |
| 11/12/19 | | 9 | 9.5.1 | Summary of new cases of *Re Politis* [2019] VSC 780; *Re O’Shea* [2019] VSC 791. | |
| 03/12/19 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 03/12/19 | | 5 | 5.10.3  5.33 | Summary of and extracts from new case of *Cardell (a pseudonym) v Secretary DHHS* [2019] VSC 781. | |
| 03/12/19 | | 5 | 5.17.9 | Reference to new case of *Cardell (a pseudonym) v Secretary DHHS* [2019] VSC 781. | |
| 03/12/19 | | 5 | 5.33 | Summary of new case of *JT v Secretary to DHHS* [2019] VSC 783. | |
| 20/11/19 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 20/11/19 | | 4 | 4.7.4 | Addition of 2018/19 statistics for ICL appointments. | |
| 20/11/19 | | 4 | 4.17 | Addition of commentary about the FDTC from the Children’s Court 2018/19 Annual Report. | |
| 20/11/19 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 20/11/19 | | 5 | 5.4.10  5.5.7  5.13  5.23.6  5.27.3 | Addition of 2018/19 Family Division statistics with some consequential minor amendments to text. | |
| 20/11/19 | | 5 | 5.11.10  5.14.2  5.22.9  5.23.9 | Addition of 2018/19 Family Division statistics. | |
| 14/11/19 | | CHAPTER 3 – COURT OPERATION | | | |
| 14/11/19 | | 3 | 3.5.4 | Extracts from and reference to the new case of *Anile v The Queen* [2019] VSCA 235. | |
| 01/11/19 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 01/11/19 | | 1 | 1.3 | Added reference to *Children's Court (Evidence - Audio Visual and Audio Linking) Rules* 2018 [S.R.15/2018] revoking S.R.11/2008. | |
| 01/11/19 | | CHAPTER 3 – COURT OPERATION | | | |
| 01/11/19 | | 3 | 3.4.3 | Commentary re-written and substantially expanded. | |
| 01/11/19 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 01/11/19 | | 5 | 5.2.3 | The last paragraph of this section has been rewritten and includes an added discussion of the case of *Re D* [Melbourne Children’s Court-Parkinson M, 14/10/2019]. | |
| 01/11/19 | | 5 | 5.5.3 | Significant additions to commentary, including extracts from the cases of *DHHS v A* [Broadmeadows Children’s Court-Power M, 13/12/2018]; *The Queen v A2*; *The Queen v Magennis*; *The Queen v Vaziri* [2019] HCA 35 at [23]. | |
| 01/11/19 | | CHAPTER 9 – CUSTODY & BAIL | | | |
| 01/11/19 | | 9 | 9.2.2 | Added quotation from *Re SD* [2019] VSC 369 at [19]. | |
| 01/11/19 | | 9 | 9.2.3 | Chart of the ‘two-step’ process added. | |
| 01/11/19 | | 9 | 9.2.4/5 | Minor amendment to commentary. | |
| 01/11/19 | | 9 | 9.4.1.1 | Summary of new case of *Re SD* [2019] VSC 369. | |
| 01/11/19 | | 9 | 9.4.1.2 | Summary of new case of *Re K M Nguyen* [2019] VSC 698. | |
| 01/11/19 | | 9 | 9.4.4 | Reference to new case of *Rodgers v The Queen* [2019] VSCA 214 at [43]. | |
| 01/11/19 | | 9 | 9.4.4.3 | Minor change to commencement of text. | |
| 01/11/19 | | 9 | 9.4.4.4 | Summaries of new cases of *Re Mallouk* [2019] VSC 661; *Re Ebertowski* [2019] VSC 676. | |
| 01/11/19 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 01/11/19 | | 10 | 10.6M | Added reference to new case of *DPP v CB* [2019] VSC 677. | |
| 01/11/19 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 01/11/19 | | 11 | 11.2.8.3 | Reference to new case of *Niko Robers (a pseudonym) v DPP Cth* [2019] VSCA 230 at [7] & [12]-[15]. | |
| 01/11/19 | | 11 | 11.2.11.2 | References to new cases of *Bausch v The Queen* [2019] VSCA 235 at [39]; *Sanyasi v The Queen* [2019] VSCA 227 at [37] & [44]; *R v Solmaz* [2019] VSC 530 at [84]-[100]. | |
| 01/11/19 | | 11 | 11.2.22.4 | Reference to new cases of *R v Solmaz* [2019] VSC 530; *DPP v Mean* [2019] VSC 675. | |
| 01/11/19 | | 11 | 11.2.27 | Paragraph heading amended to “**Sentencing for burglary / aggravated burglary / attempted aggravated burglary”** | |
| 01/11/19 | | 11 | 11.2.32 | Summary of new case of *R v Vinaccia* [2019] VSC 683. | |
| 19/08/19 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 19/08/19 | | 1 | 1.5.1 | Commentary on case of *DPP v SL* [2016] VSC 714; 263 A Crim R 193 at [13] added. | |
| 19/08/19 | | CHAPTER 3 – COURT OPERATION | | | |
| 19/08/19 | | 3 | 3.4.1 | Commentary on case of *DPP v SL* [2016] VSC 714; 263 A Crim R 193 at [13] added. | |
| 19/08/19 | | 3 | 3.4.2 | Minor modification to text on the Pilot Program for Intermediaries and Ground Rules Hearings. | |
| 19/08/19 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 19/08/19 | | 10 | 10.1.5 | Added reference to *DPP v E* [2016] VChC 4. | |
| 19/08/19 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 19/08/19 | | 11 | 11.1.13 | Very minor addition to text in re *CDPP v TK* [2018] VChC 4. | |
| 19/08/19 | | 11 | 11.2.24.1 | Brief summary of *R v AH* [2016] VChC 1 added. | |
| 19/08/19 | | 11 | 11.14 | Reference to *R v M & Ors* [2008] VChC 4 at [24]-[27] added. | |
| 12/08/19 | | CHAPTER 3 – COURT OPERATION | | | |
| 12/08/19 | | 3 | 3.4.2 | New section 3.4.2 entitled “**Pilot Program for** **Intermediaries and Ground Rules Hearings**”. | |
| 12/08/19 | | 3 | 3.4.3 | Former section 3.4.2 entitled “**Standing to participate as a party**” is renumbered 3.4.3. | |
| 12/08/19 | | 3 | 3.4.4 | Former section 3.4.3 entitled “**Interpreter**” is renumbered 3.4.4. | |
| 12/08/19 | | 3 | 3.4.5 | Former section 3.4.4 entitled “**Representation of adults in the Family Division**” is renumbered 3.4.5. | |
| 12/08/19 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 12/08/19 | | 10 | 10.1.2 | Paragraph heading amended to “**Serious youth offences – ss.356(6), 356(7) & 356(8) of the CYFA**”. | |
| 12/08/19 | | 10 | 10.1.4 | * Paragraph heading amended to “**Whether** **Uplift – Caselaw re Category A & Category B serious youth offences**”. * Case of *Victoria Police v CA* [Children’s Court of Victoria–Magistrate Coghlan, 03/07/2019] moved to 10.1.5. | |
| 12/08/19 | | 10 | 10.1.5 | * Paragraph heading amended to “**Whether Uplift – Caselaw relating to ‘exceptional circumstances’**”. * Introduction to this paragraph substantially reworded. * Added summary of case of *DPP v JM* [2018] VChC 5 [Children’s Court of Victoria–Magistrate Stylianou, 01/11/2018] and numbered case **10**. * Case of *Victoria Police v CA* [Children’s Court of Victoria–Magistrate Coghlan, 03/07/2019] moved from paragraph 10.1.4 and number amended to **11**. | |
| 12/08/19 | | 10 | 10.3.12 | New section 10.3.12 entitled “**Orders for separate summary hearings of charges and/or co-accused**”. | |
| 12/08/19 | | 10 | 10.3.13 | Former section 10.3.12 entitled “**Transfer of proceedings from Supreme or County Court to Children’s Court**” is renumbered 10.3.13. | |
| 12/08/19 | | 10 | 10.5 | * Section heading amended to “**Effect of therapeutic treatment order or similar voluntary treatment on criminal proceedings**”. * Addition of text on the Court’s power under CYFA/s.248 to make a therapeutic treatment order. | |
| 12/08/19 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 12/08/19 | | 11 | 11.1.3 | * Paragraph heading amended to “**Sentencing of children**”. * Replace “**constructiveness**” by “**stigma minimisation**”. * Minor change to text. | |
| 12/08/19 | | 11 | 11.1.4.1 | Added reference to *DPP v SI (a child)* [2018] VChC3 at [37]-[39]. | |
| 12/08/19 | | 11 | 11.1.5 | * Minor changes to tables containing details of the Children’s Court’s sentencing orders. * Major change to text describing “Detention Centres for Young Offenders/Remandees”. | |
| 12/08/19 | | 11 | 11.1.11  11.4.1  11.5  11.9  11.12.1 | “Secretary” changed to “Secretary DJCS”. DJCS=Department of Justice & Community Safety [formerly Department of Justice & Regulation]. | |
| 12/08/19 | | 11 | 11.2.24.1 | * Paragraph heading amended to “**Sentencing for intentionally causing serious injury / intentionally causing serious injury in circumstances of gross violence**”. * Summary of new case of *R v Gencev & Newman* [2019] VSC 502. | |
| 12/08/19 | | 11 | 11.2.33 | Summary of new case of *R v Mohamed, Chaarani & Moukhaiber* [2019] VSC 498 at [1]. | |
| 29/07/19 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 29/07/19 | | 2 | 2.2 | Note that the CC Liaison Office is now entitled “Strategic Communications and Engagement”. | |
| 29/07/19 | | 2 | 2.7.1 | Quotation from new case of *Mareangareu v The Queen* [2019] VSCA 101 at [59]. | |
| 29/07/19 | | 2 | 2.8.2 | Discussion of new case of *Chairperson of the Royal Commission into the Management of Police Informants v Chief Commissioner of Victoria Police* [2019] VSCA 154. | |
| 29/07/19 | | 2 | 2.8.3 | * New section 2.8.3 entitled “**’Take down’ orders**”. * Reference to case of *R v Cerantonio & Ors (Ruling No 14)* [2018] VSC 84. * Summary of and extracts from case of *R v Cerantonio & Ors (Ruling No 17)* [2018] VSC 106 at [16] & [18]. | |
| 29/07/19 | | 2 | 2.8.4 | Former section 2.8.3 entitled “**Section 10(5) of the Witness Protection Act**” is renumbered 2.8.4. | |
| 29/07/19 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 29/07/19 | | 5 | 5.11.16 | Reference to new case of *PR v DHHS* [2019] VSC 326. | |
| 29/07/19 | | CHAPTER 8 – CRIMINAL DIVISION – INVESTIGATION | | | |
| 29/07/19 | | 8 | 8.2.5 | * Subsection heading amended to “**Questioning within reasonable time, information re offence and right to silence**”. * Addition of reference to s.464A(1) of the Crimes Act 1958. * Significant additions to text, including discussion of new case of *DPP v Dalton (Ruling No 1)* [2019] VSC 226. | |
| 29/07/19 | | 8 | 8.2.10 | Added material from new case of *DPP v Dalton (Ruling No 1)* [2019] VSC 226. | |
| 29/07/19 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 29/07/19 | | 9 | 9.1 | Minor amendment to table to include reference to s.346(3) of the CYFA. | |
| 29/07/19 | | 9 | 9.4.1.1 | Summary of case of *TP* [2018] VSC 748. | |
| 29/07/19 | | 9 | 9.4.4.4 | Summaries of new cases of *Re Sisper* [2019] VSC 344; *Re MI* [2019] VSC 347. | |
| 29/07/19 | | 9 | 9.4.11 | Summaries of cases of *Re AB* [2016] VSC 446; *LD* [2019] VSC 457. | |
| 29/07/19 | | 9 | 9.4.12 | Added cross-references to sections 9.2.1, 9.2.2 & 9.5.14. | |
| 29/07/19 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 29/07/19 | | 10 | 10.1.4 | Summary of new case of *Victoria Police v CA* [Children’s Court of Victoria-Magistrate Coghlan, 03/07/2019]. | |
| 29/07/19 | | 10 | 10.3.9 | Reference to new case of *DPP v Za Lian & Hlawnceu* [2019] VSCA 75 at [54]-[57]. | |
| 29/07/19 | | 10 | 10.3.10 | Added references to cases of *CDPP v Brady & Ors* [2016] VSC 334; *Tony Strickland (a pseudonym) & Ors v Commonwealth Director of Public Prosecutions* [2018] 93 ALJR 1, [2018] HCA 53; *CDPP v Brady and Ors (costs)* [2019] VSC 397. | |
| 29/07/19 | | 10 | 10.6Q | Brief summary of new case of *Re Niall (a pseudonym)* [2019] VSC 251. Reference to new case of *Re XY [No 2]* [2019] VSC 268. | |
| 29/07/19 | | 10 | 10.7J | * New subsection **J** entitled “Secretary has no power to issue a negative assessment under Working with Children Act 2005 where charges dealt with by diversion.” * Discussion of new case of *GHJ v Secretary to the Department of Justice and Community Safety (No 2)* [2019] VSC 411. | |
| 29/07/19 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 29/07/19 | | 11 | 11.1.4.1 | * Paragraph heading changed to “**General deterrence is not applicable as a sentencing principle in Children’s Court**”. * Material on the cases of *DPP v Anderson* [2013] VSCA 45 and *Erik Fuller (a pseudonym) v The Queen* [2013] VSCA 186 moved into new paragraph 11.1.4.2. | |
| 29/07/19 | | 11 | 11.1.4.2 | * New paragraph entitled “**Powers of the Supreme Court and County Court in sentencing a child**”. * Added summary of the case of *Dale Cairns (a Pseudonym) v The Queen* [2018] VSCA 333. * Detailed discussion of the difficulties in reconciling some of the dicta in the various Court of Appeal judgments or some of the legislative provisions and preferred interpretations suggested. | |
| 29/07/19 | | 11 | 11.1.4.2  11.2.23 | Name of the case of *R v EF* changed to *Erik Fuller (a pseudonym) v The Queen*. | |
| 29/07/19 | | 11 | 11.2.6 | Reference to dicta in *Kim v The Queen* [2019] VSCA 149 at [21] applying *Collins v The Queen* [2015] VSCA 106 at [23]. References to new cases of *Miller v The Queen* [2019] VSCA 108; *Qui v The Queen*; *Ng v The Queen* [2019] VSCA 147; *Piacentino v The Queen* [2019] VSCA 153 at [43]-[47]. | |
| 29/07/19 | | 11 | 11.2.11.2 | Reference to new case of *Campbell v The Queen* [2019] VSCA 158 at [42] & [57]. | |
| 29/07/19 | | 11 | 11.2.11.3 | References to new cases of *Luchian v The Queen* [2019] VSCA 145 at [45]-[48]; *Piacentino v The Queen* [2019] VSCA 153 at [18]-[34]; *Ng v The Queen* [2019] VSCA 147 at [67]-[73]. | |
| 29/07/19 | | 11 | 11.2.22.1 | Summaries of new cases of *DPP v Esmali* [2019] VSC 218; *R v Stacey Edwards* [2019] VSC 234; *DPP v Ristevski* [2019] VSC 253. | |
| 29/07/19 | | 11 | 11.2.22.4 | References to new cases of *R v Pyliotis* [2019] VSC 231; *R v Stone* [2019] VSC 452. | |
| 29/07/19 | | 11 | 11.2.22.5 | Reference to new case of *R v Ramos* [2019] VSC 79. | |
| 29/07/19 | | 11 | 11.2.23 | Summary of new case of *DPP v Huby* [2019] VSCA 106. | |
| 29/07/19 | | 11 | 11.2.24.1 | Summaries of new cases of *DPP v Pham* [2019] VSC 245; *DPP v Dalton* [2019] VSC 468. | |
| 29/07/19 | | 11 | 11.2.24.2 | Summary of new case of *DPP v* *Betrayhani* [2019] VSCA 150. | |
| 29/07/19 | | 11 | 11.2.25 | Extracts from new cases of *Kim v The Queen* [2019] VSCA 149 at [31] & *Qui v The Queen*; *Ng v The Queen* [2019] VSCA 147 at [58]-[61]. Reference to new case of *Cuthbertson v The Queen* [2019] VSCA 104, | |
| 29/07/19 | | 11 | 11.2.28 | Heading amended to “**Sentencing for rape / other sexual offences**”. | |
| 29/07/19 | | 11 | 11.2.28.1 | * New subsection entitled “**Sentencing for rape**”. * Reference to new case of *DPP v Za Lian & Hlawnceu* [2019] VSCA 75. | |
| 29/07/19 | | 11 | 11.2.28.2 | * New subsection entitled “**Sentencing for other sexual offences**”. * Summary of new case of *AS v The Queen* [2019] VSC 260. | |
| 29/07/19 | | 11 | 11.2.34 | * New subsection entitled “**Sentencing for firearms offences: importation**”. * Summary of new case of *DPP v Moore* [2019] VSCA 89. | |
| 29/07/19 | | 11 | 11.3.5 | Reference to new case of *DPP v Huby* [2019] VSCA 106 at [68]. | |
| 29/07/19 | | 11 | 11.8.1 | Reference to new case of *DPP v Huby* [2019] VSCA 106 at [70]-[101] and the numerous cases cited therein. | |
| 29/07/19 | | 11 | 11.15.1.2 | Reference to new case of *Gill v The Queen* [2019] VSCA 92. | |
| 29/07/19 | | 11 | 11.15.2 | Summary of new case of *Campbell v The Queen* [2019] VSCA 158, esp. at [52]. | |
| 29/07/19 | | 11 | 11.18 | * Summary of new case of *AS v The Queen* [2019] VSC 260 at [54]. * References to new cases of *Foley v The Queen* [2019] VSCA 99 at [21]-[25]; *Magedi v The Queen* [2019] VSCA 102 at [55]-[60]. | |
| 08/07/19 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 08/07/19 | | 2 | 2.8.1 | Discussion of new case of *Victoria Police v AY & NA (pseudonyms)* [Melbourne Children’s Court, 29/05/2019]. | |
| 08/07/19 | | CHAPTER 3 – COURT OPERATION | | | |
| 08/07/19 | | 3 | 3.1 | Discussion of new case of *Austin v Dobbs* [2019] VSC at [86]-[90]. | |
| 08/07/19 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 08/07/19 | | 5 | 5.2.3 | Significant addition to text involving discussion of “parent” in s.3(1) of the CYFA in the light of the Status of Children Act 1974 (Vic) and the new case of *Masson v Parsons* [2019] HCA 21. Reference to case of *In* *re G (Children)*, Baroness Hale of Richmond [2006] 1 WLR 2305 at 2316-2317 [33]-[37]; [2006] 4 All ER 241 at 252-253. | |
| 08/07/19 | | 5 | 5.11.16 | Reference to new case of *PR v DHHS* [2019] VSC 326. | |
| 08/07/19 | | 5 | 5.15.1 | “2015/16” changed to “2017/18”. | |
| 08/07/19 | | 5 | 5.15.3 | Significant addition to text discussing s.281 of the CYFA. | |
| 08/07/19 | | CHAPTER 8 – CRIMINAL DIVISION – INVESTIGATION | | | |
| 08/07/19 | | 8 | 8.2.5 | Reference to new case of *DPP v Karen Hollis (a pseudonym) & Alex Hull (a pseudonym)* [2019] VSCA 110 at [10]-[13]. | |
| 08/07/19 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 08/07/19 | | 9 | 9.4.1 | Summaries of new cases of *Re Sisper* [2019] VSC 344; *Re MI* [2019] VSC 347. | |
| 08/07/19 | | 9 | 9.4.4.8 | Reference to new case of *Re LK* [2019] VSC 349. | |
| 08/07/19 | | 9 | 9.4.11 | Summary of new case of *Re Martyn Moore* [2019] VSC 344. | |
| 08/07/19 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 08/07/19 | | 10 | 10.1 | This section has been restructured and 6 subsections have been created. Consequential amendment to introductory paragraph. | |
| 08/07/19 | | 10 | 10.1.1 | New subsection heading: “**Sections 356(3), 356(4) & 356A of the CYFA**”. | |
| 08/07/19 | | 10 | 10.1.2 | New subsection heading: “**Sections 356(6), 356(7) & 356(8) of the CYFA**”. | |
| 08/07/19 | | 10 | 10.1.3 | New subsection heading: “**Summary of uplift (via committal) provisions – Section 356 of the CYFA**”. | |
| 08/07/19 | | 10 | 10.1.4 | New subsection heading: “**Principles relating to uplift in caselaw from 05/04/2018**”. | |
| * Added reference to *PT v DPP* [2019] VCC 836. * Substantial discussion of new case of *WB v DPP* [2019] VChC 1. | |
| 08/07/19 | | 10 | 10.1.5 | New subsection heading: “**Principles relating to uplift in caselaw prior to 05/04/2018**”. | |
| Amendment to introduction to subsection. | |
| 08/07/19 | | 10 | 10.1.6 | New subsection heading: “**Transfer back from Supreme or County Court to Children’s Court**”. | |
| 08/07/19 | | 10 | 10.3.3 | Reference to new case of *R v Bufton (Ruling No 3)* [2019] VSC 396. | |
| 08/07/19 | | 10 | 10.3.11 | New section 10.3.11 entitled “**Abuse of process for DPP to present directly to circumvent summary hearing**”. Summary of new case of *Lisha Maya (a pseudonym) v DPP* [2019] VSCA 117. | |
| 08/07/19 | | 10 | 10.3.12 | Former section 10.3.11 entitled “**Transfer of proceedings from Supreme or County Court to Children’s Court**” is renumbered 10.3.12. | |
| 08/07/19 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 08/07/19 | | 11 | 11.1.5 | Added cross-reference to section 11.1.7 [s.362B of the CYFA]. | |
| 08/07/19 | | 11 | 11.1.15 | Discussion of new case of *Nguyen v The Queen; Ho v The Queen* [2019] VSCA 134 at [61]. | |
| 08/07/19 | | 11 | 11.2.4 | Heading to paragraph amended to “**Factual basis of sentencing – Relevance of uncharged acts”.** Discussion of cases of *Elsayed v The Queen* [2019] VSCA 113; *R v Newman & Turnbull* (1997) 1 VR 146. References to cases of *R v Teremoana* (1990) 54 SASR 30; *R v Birnie* (2002) 5 VR 426; *Semaan v The Queen* [2017] VSCA 261 [91]; *Rodriguez v DPP* (2013) 40 VR 436, 444 [27]-[29]; *R v Heblos* (2000) 117 A Crim R 49, 55 [33] (Eames AJA); *DPP v McMaster* (2008) 19 VR 191, 200 [41] (Ashley JA); *Pollard v The Queen* [2010] VSCA 156 [23]. | |
| 08/07/19 | | 11 | 11.2.6 | References to new cases of *Gorman v The Queen* [2019] VSCA 128 at [41]; *Butler v The Queen* [2019] VSCA 132 at [18]-[39]; *Adam Williamson v The Queen* [2019] VSCA 138. | |
| 08/07/19 | | 11 | 11.2.8 | Reference to recently published case of *DPP v Duhovic* [2017] VSC 689 at [65]-[70]. | |
| 08/07/19 | | 11 | 11.2.11.2 | References to new cases of *Teryaki v The Queen* [2019] VSCA 124 at [60]; *R v Willis* [2019] VSC 398 at [34]-[40] & [53]. | |
| 08/07/19 | | 11 | 11.2.14 | Reference to new case of *Nicos Kiril (a pseudonym) v The Queen* [2019] VSCA 133 at [40]-[45]. | |
| 08/07/19 | | 11 | 11.2.17 | Reference to new case of *R v Duca* [2019] VSC 371 at [45]-[54]. | |
| 08/07/19 | | 11 | 11.2.19 | Reference to new case of *Walker v The Queen; Dargan v The Queen* [2019] VSCA 137 at [41], [57], [69] & [74]. | |
| 08/07/19 | | 11 | 11.2.22.1 | References to new cases of *DPP v Russo* [2019] VSCA 129 esp at [56]-[68]; *R v Samaras* [2019] VSC 120; *DPP v White* [2019] VSC 400 esp at [74]. | |
| 08/07/19 | | 11 | 11.2.22.2 | Note added that the offence of defensive homicide was abolished in November 2014. | |
| 08/07/19 | | 11 | 11.2.22.3 | Reference to new case of *DPP v Jensen* [2019] VSC 327. | |
| 08/07/19 | | 11 | 11.2.22.4 | References to new cases of *DPP v Stone* [2019] VSC 322; *R v Davsanoglu* [2019] VSC 332; *R v Considine and anor* [2019] VSC 386. | |
| 08/07/19 | | 11 | 11.2.22.5 | Summary of new case of *R v Duca* [2019] VSC 371. Reference to new case of *R v Considine and anor* [2019] VSC 386. | |
| 08/07/19 | | 11 | 11.2.24.2 | Reference to new case of *DPP v McKinnin* [2019] VSCA 114. | |
| 08/07/19 | | 11 | 11.2.24.6 | Summary of new cases of *Butler v The Queen* [2019] VSCA 132; *Nicos Kiril (a pseudonym) v The Queen* [2019] VSCA 133. | |
| 08/07/19 | | 11 | 11.2.25 | References to cases of *Nguyen v The Queen* [2016] VSCA 198; *Kennedy v The Queen* [2019] VSCA 127; *Nguyen v The Queen; Ho v The Queen* [2019] VSCA 134 at [61]. | |
| 08/07/19 | | 11 | 11.2.26 | References to new cases of *DPP v Heyfron* [2019] VSCA 130; *Walker v The Queen; Dargan v The Queen* [2019] VSCA 137. | |
| 08/07/19 | | 11 | 11.2.27 | Reference to new case of *Zhen Jiang v The Queen* [2019] VSCA 126. | |
| 08/07/19 | | 11 | 11.2.33 | New section entitled “**Sentencing for terrorism offence**”. | |
| Discussion of new case of *R v Shoma* [2019] VSC 367. | |
| 08/07/19 | | 11 | 11.3.4 | Summary of new case of *Sahhitanandan v The Queen* [2019] VSCA 115. | |
| 08/07/19 | | 11 | 11.15.5 | Summary of new case of *Best v The Queen* [2019] VSCA 124. | |
| 08/07/19 | | 11 | 11.18 | * Added dicta from *Guden v The Queen* (2010) 28 VR 228; [2010] VSCA 196. * Reference to new case of *R v Shoma* [2019] VSC 367 at [100]-[105]. | |
| 18/06/19 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 18/06/19 | | 10 | 10.1 | Discussion of new case of *PT v DPP* [2019] VCC 836. | |
| 18/06/19 | | 10 | 10.3.11 | Reference to new case of *PT v DPP* [2019] VCC 836 and cross-reference back to section 10.1. | |
| 23/04/19 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 23/04/19 | | 11 | 11.2.6 | Reference to new case of *Simpson v The Queen* [2019] VSCA 82 at [26]-[31]. | |
| 09/04/19 | | CHAPTER 2 – COURT OVERVIEW | | | |
| 09/04/19 | | 2 | 2.7.3 | References to new cases of *XBA (ex parte)* [2019] VSC 49 at [4]-[17]; *GHJ v Secretary to the Department of Justice and Community Safety* [2019] VSC 89. | |
| 09/04/19 | | 2 | 2.8.2 | References to new cases of:   * *AB (a pseudonym) v CD (a pseudonym) & EF (a pseudonym)* [2019] VSCA 28 esp. at [64]-[80] & [85]-[89]; * *AB (a pseudonym) v CD (a pseudonym); EF (a pseudonym) v CD (a pseudonym)* [2019] HCA 6. | |
| 09/04/19 | | CHAPTER 3 – COURT OPERATION | | | |
| 09/04/19 | | 3 | 3.9.3 | Reference to new case of *Danyl Hammond (a pseudonym) v Secretary to the Department of Health and Human Services; The Attorney-General of Victoria v DPP [No 2]* [2019] VSCA 45 at [3]. | |
| 09/04/19 | | CHAPTER 8 – CRIMINAL DIVISION – INVESTIGATION | | | |
| 09/04/19 | | 8 | 8.3.3.1  8.4.3.1 | Minor modification to s.464M(2) & 464U(3) of the *Crimes Act* 1958 (Vic) permitting applications to be supported by affirmation as well as by oath or by affidavit. Note that ss.464SA & 464SB do not apply to children. | |
| 09/04/19 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 09/04/19 | | 10 | 10.3.10 | Reference to new case of *Raphael Shannon (a pseudonym) v The Queen* [2019] VSCA 27. | |
| 09/04/19 | | 10 | 10.6 **Q** | Discussion of new case of *Danyl Hammond (a pseudonym) v Secretary to the Department of Health and Human Services; The Attorney-General of Victoria v DPP [No 2]* [20189] VSCA 356. | |
| 09/04/19 | | 10 | 10.6 **U** | Extracts from case of *NOM v Director of Public Prosecutions* (2012) 38 VR 618 at [47] & [58]. Reference to new case of *Danyl Hammond (a pseudonym) v Secretary to the Department of Health and Human Services; The Attorney-General of Victoria v DPP [No 2]* [2019] VSCA 356 at [39] & [48]. | |
| 09/04/19 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 09/04/19 | | 11 | 11.1.4.3 | Reference to new case of *Arnautovic v The Queen* [2019] VSCA 31 at [37]-[44]. | |
| 09/04/19 | | 11 | 11.1.12 | Minor modification to s.464ZF(8) of the *Crimes Act* 1958 permitting the Court to make such inquiries on oath **or by affirmation** or otherwise as it considers desirable. | |
| 09/04/19 | | 11 | 11.1.20 | Reference to new case of *Wood v The Queen; Bell v The Queen* [2019] VSCA 39 at [37] & [90]. | |
| 09/04/19 | | 11 | 11.2.6 | References to new cases of *Ghannoum v The Queen* [2019] VSCA 25 at [47]-[65]; *Shakhanov v The Queen* [2019] VSCA 38; *Wood v The Queen; Bell v The Queen* [2019] VSCA 39 at [76]-[79]; *Anderson v The Queen; Smith v The Queen* [2019] VSCA 42 at [82]. | |
| 09/04/19 | | 11 | 11.2.7 | Reference to new case of *Price v R (No 2)* [2019] VSCA 44 at [52]-[60], [62], [64] & [66]. | |
| 09/04/19 | | 11 | 11.2.8 | Section title amended to **“Effect of guilty plea, remorse, admission of offence, assistance to authorities”.** | |
| 09/04/19 | | 11 | 11.2.8.1 | New section 11.2.8.1 entitled **“Remorse”**. Extract from case of *Lyddy v The Queen* [2019] VSCA 35 at [62]-[69]. | |
| 09/04/19 | | 11 | 11.2.8.2 | Former section 11.2.8.1 entitled **“Discount for guilty plea and/or admission of offence”** is renumbered 11.2.8.2. | |
| 09/04/19 | | 11 | 11.2.8.3 | Former section 11.2.8.2 entitled **“Informer’s discount”** is renumbered 11.2.8.3. Reference to new case of *Anderson v The Queen* [2019] VSCA 42 at [66]-[69] & [76]. | |
| 09/04/19 | | 11 | 11.2.8.4 | Former section 11.2.8.3 entitled “**Undertaking to give evidence against co-accused”** is renumbered 11.2.8.4. | |
| 09/04/19 | | 11 | 11.2.11.2 | References to new cases of *Price v R* [2019] VSCA 8 at [19]+[35]-[68]; *R v Natale* [2019] VSC 30 at [35]-[44]; *R v Missen* [2019] VSC 32 at [58]-[73]; *R v Giannioudis* [2019] VSC 75 at [43]-[45], *R v Astbury* [2019] VSC 97 at [28]-[32] & [36]-[38]; *R v Phan* [2019] VSC 153 at [43]-[55] & *DPP v Tuite* [2019] VSC 159 at [33]-[34]. | |
| 09/04/19 | | 11 | 11.2.12 | Extract from new case of *R v Giannioudis* [2019] VSC 75 at [41]-[42]. Reference to new case of *DPP v Hodgson [*2019] VSCA 49, esp. at [46] & [73]-[77]. | |
| 09/04/19 | | 11 | 11.2.13 | Discussion of cases of *R v Barci and Asling* (1994) A Crim R 103 and *R v Natale* [2019] VSC 30 at [45]-[49]. | |
| 09/04/19 | | 11 | 11.2.14 | Reference to new case of *DPP v Tuite* [2019] VSC 159 at [38]-[39]. | |
| 09/04/19 | | 11 | 11.2.16 | Extract from new case of *R v Giannioudis* [2019] VSC 75 at [40]. | |
| 09/04/19 | | 11 | 11.2.22.1 | Summaries of new cases of *DPP v Yucel* [2019] VSCA 53; *R v Allan* [2019] VSC 18; *R v Giannioudis* [2019] VSC 75; *R v BA & Stanley* [2019] VSC 90; *R v Phan* [2019] VSC 153; *DPP v Colton* [2019] VSC 154. | |
| 09/04/19 | | 11 | 11.2.22.4 | References to new cases of *R v Missen* [2019] VSC 32; *DPP v Gargasoulas* [2019] VSC 87; *DPP v Clover* [2019] VSC 123; *R v Robertson* [2019] VSC 145; *DPP v Noori* [2019] VSC 172; *R v Eustace* [2019] VSC 189. | |
| 09/04/19 | | 11 | 11.2.23 | Extracts from new case of *Guseli v The Queen* [2019] VSCA 29 at [5], [40]-[41], [44] & [76]. Reference to case of *George v The Queen* (2017) 80 MVR 436. | |
| 09/04/19 | | 11 | 11.2.24.6 | Discussion of new case of *R v Natale* [2019] VSC 30. | |
| 09/04/19 | | 11 | 11.2.25 | Reference to new case of *Volkan v The Queen* [2019] VSCA 33. | |
| 09/4/19 | | 11 | 11.2.26 | Reference to new case of *DPP v Hodgson [*2019] VSCA 49, esp. at [70], [72] & [76]-[77]. | |
| 09/04/19 | | 11 | 11.2.27 | References to new cases of *Wood v The Queen; Bell v The Queen* [2019] VSCA 39 at [90]-[93]; *DPP v Tuite* [2019] VSC 159. | |
| 09/04/19 | | 11 | 11.2.28 | References to new cases of *Hayden Samuels (a pseudonym) v The Queen* [2019] VSCA 14; *Bolton v The Queen* [2019] VSCA 21. | |
| 09/04/19 | | 11 | 11.2.31 | Discussion of new case of *Grajewski v Director of Public Prosecutions (NSW)* [2019] HCA 8. | |
| 09/04/19 | | 11 | 11.15.1.1 | Reference to new case of *DPP v Shearer (a pseudonym)* [2019] VSCA 47. | |
| 09/04/19 | | 11 | 11.15.1.2 | Reference to new case of *DPP v Pell (Sentence)* [2019] VCC 260. | |
| 09/04/19 | | 11 | 11.15.3 | Reference to new case of *DPP v Watton* [2019] VSCA 10. | |
| 09/04/19 | | 11 | 11.18 | Reference to new case of *Loftus v The Queen* [2019] VSCA 24 at [65]-[83]. | |
| 02/04/19 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 02/04/19 | | 1 | 1.5 | Discussion of new case of *LG v Melbourne Health* [2019] VSC 183 at [73]-[82]. | |
| 02/04/19 | | CHAPTER 3 – COURT OPERATION | | | |
| 02/04/19 | | 3 | 3.1 | References to cases of *Trkulja v Markovic* [2015] VSCA 298 at [37]-[39] per Kyrou & Kaye JJA and Ginnane AJA; *Roberts v Harkness* (2018) 85 MVR 314; *Davies v The Queen* [2019] VSCA 66 at [518]‑[581], esp. [523] per Kaye, McLeish & T Forrest JJA; *David Hingst v Construction Engineering (Aust) Pty Ltd* [2019] VSCA 67 at [67]-[76] per Priest AP & Beach JA; *Katherine Jackson v The Queen* [2019] VSCA 67*.* | |
| 02/04/19 | | 3 | 3.7.2 | Reference to new case of *LG v Melbourne Health* [2019] VSC 183 at [42]-[54]. | |
| 02/04/19 | | 3 | 3.9.3 | Discussion of new case of *LG v Melbourne Health* [2019] VSC 183 at [111]-[115]. | |
| 02/04/19 | | CHAPTER 7 – CRIMINAL DIVISION – GENERAL | | | |
| 02/04/19 | | 7 | 7.2.3 | Correction of typographical error: Under heading “Mandatory Transfer from Magistrates’ Court”, the second reference to the Children’s Court changed to Magistrates’ Court. | |
| 02/04/19 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 02/04/19 | | 9 | 9.4.1.1 | Discussion of new case of *DR* [2019] VSC 151 where bail was granted for a 16 year old child who had to show exceptional circumstances. | |
| 02/04/19 | | 9 | 9.4.4.4 | Discussion of new case of *JM* [2019] VSC 156 where bail was granted for a 16 year old child who had to show a compelling reason. | |
| 02/04/19 | | 9 | 9.4.4.6 | Reference to new case of *Re Mongan (No 2)* [2019] VSC 119. | |
| 02/04/19 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 02/04/19 | | 10 | 10.3.3 | Discussion of new case of *Director of Public Prosecutions Reference No 1 of 2017* [2019] HCA 9 in which the High Court held unequivocally that a *Prasad direction* was contrary to law and should not be administered to a jury in a criminal trial. | |
| 02/04/19 | | 10 | 10.5.1  10.5.2 | Amendments to text to bring it into line with section 5.23.8, itself rewritten to reflect the major expansion of the TTO regime as and from 29/03/2019. | |
| 02/04/19 | | 10 | 10.5.3 | Addition of reference to child participating voluntarily in an appropriate therapeutic treatment program. | |
| 02/04/19 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 02/04/19 | | 11 | 11.1.2  11.2.9  11.3.5 | Extract from and reference to new case of *DPP v Milson* [2019] VSCA 55. | |
| 02/04/19 | | 11 | 11.2.6 | * Discussion of case of *Hilder v The Queen* [2011] VSCA 192 at [37]-[38] and reference to case of *Collins v R* [2015] VSCA 106 at [23]. * References to new cases of *Wood v The Queen* [2019] VSCA 39 at [76]-[79]; *Neil v R* [2019] VSCA 64 at [31] & [39]-[44]. | |
| 02/04/19 | | 11 | 11.2.11.2 | Extract from new case of *Davies v The Queen* [2019] VSCA 66 at [689] & [699]. | |
| 02/04/19 | | 11 | 11.2.14 | Reference to new case of *Davies v The Queen* [2019] VSCA 66 at [700]-[713] & [769]. | |
| 02/04/19 | | 11 | 11.2.28 | Reference to new case of *DPP v Elfata* [2019] VSCA 63. | |
| 02/04/19 | | 11 | 11.2.32 | Reference to new case of *Davies v The Queen* [2019] VSCA 66. | |
| 02/04/19 | | 11 | 11.3.4 | Reference to new case of *Pang v R* [2019] VSCA 56. | |
| 29/03/19 | | CHAPTER 4 – FAMILY DIVISION – GENERAL | | | |
| 29/03/19 | | 4 | 4.4 | Amendment to the definition of ‘child’ for the purpose of therapeutic treatment and related proceedings. | |
| 29/03/19 | | CHAPTER 5 – FAMILY DIVISION – CHILD PROTECTION | | | |
| 29/03/19 | | 5 | 5.8  5.8.1  5.8.2  5.23  5.23.1 | Amendments to therapeutic treatment order [‘TTO’] & therapeutic treatment (placement) order [‘TTPO’] regimes to extend their availability to 15-17 year old children. | |
| 29/03/19 | | 5 | 5.8.1 | Section title amended to **“Applications only by the Secretary – Referral by the Court to the Secretary”.** | |
| 29/03/19 | | 5 | 5.18.1  5.19.1 | Minor amendment to text to reflect the new definition of child for the purposes of therapeutic treatment and related proceedings. | |
| 29/03/19 | | 5 | 5.23.2  5.23.4  5.23.6 | Substantial amendments to text to reflect the major expansion of the TTO & TTPO regimes as and from 29/03/2019. | |
| 29/03/19 | | 5 | 5.23.7 | New section entitled **“Therapeutic Treatment Planning by DHHS”**. | |
| 29/03/19 | | 5 | 5.23.8 | * Former section 5.23.7 entitled “**Effect of TTO or similar voluntary program on associated criminal proceedings”** is renumbered 5.23.8. * Major amendment to text to reflect the major expansion of the TTO regime as and from 29/03/2019. | |
| 29/03/19 | | 5 | 5.23.9 | Former section 5.23.8 entitled **“Statistics”** is renumbered 5.23.9. | |
| 29/03/19 | | 5 | 5.23.10 | Former section 5.23.9 entitled **Therapeutic treatment service providers”** is renumbered 5.23.10. | |
| 29/03/19 | | 5 | 5.25.2 | Minor amendment to page 2 of mauve form. | |
| 29/03/19 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 29/03/19 | | 10 | 10.3.10 | Discussion of cases of *Hermanus (a pseudonym) v The Queen* (2015) 44 VR 355; [2015] VSCA 2 and *Davin Carson (a pseudonym) v DPP* [2019] VSCA 4. | |
| 29/03/19 | | CHAPTER 11 – CRIMINAL DIVISION – SENTENCING | | | |
| 29/03/19 | | 11 | 11.1.20 | New section entitled “Vigilantism”. Discussion of new case of *Hamid v The Queen* [2019] VSCA 5 applying dicta of Brooking JA in *Director of Public Prosecutions v Whiteside* (2000) 1 VR 331, 339 [24]. | |
| 26/03/19 | | CHAPTER 1 – ACTS, REGULATIONS, RULES | | | |
| 26/03/19 | | 1 | 1.3 | Notes re amendments to Children, Youth & Families (Children’s Court Family Division) Rules 2017 [S.R. No.20/2017], including addition of rules 9, 9AA & 9A-9H (Witness summons) and rule 10 (Application to the Court – publication of proceedings). | |
| 26/03/19 | | 1 | 1.4.1 | Addition of references to Practice Directions 6/2018, 7/2018, 8/2018 & 1/2019. | |
| 26/03/19 | | CHAPTER 9 – CRIMINAL DIVISION – CUSTODY & BAIL | | | |
| 26/03/19 | | 9 | 9.2.2  9.4.1 | Discussion of case of *Re TP* [2018] VSC 748. | |
| 26/03/19 | | 9 | 9.4.1.1 | Discussion of new cases of:   * *DB* [2019] VSC 53; * *NB* [2019] VSC 37; * *Rebecca Dillon* [2019] VSC 80; * [2019] VSC 134; * *LT* [2019] VSC 143. | |
| 26/03/19 | | 9 | 9.4.1.1 | Addition to discussion of case of *Hall v Pangemanan* [2018] VSC 533. | |
| 26/03/19 | | 9 | Moved to 9.4.1.1 from 9.4.4.4 | Discussion of the cases of *Zackariah Gloury-Hyde* per Priest JA: No.1 – [2018] VSC 393 & No.2 – [2018] VSC 520 moved to 9.4.1.1 [exceptional circumstances] from 9.4.4.4 [compelling reason]. | |
| 26/03/19 | | 9 | 9.4.4 | Addition to discussion of *Re Ceylan* [2018] VSC and new material from cases of *Re Alsulayhim* [2018] VSC 570 and *Re Kurt Gaylor* [2019] VSC 46 at [15]. | |
| 26/03/19 | | 9 | 9.4.4.2 | Reference to new case of *Re Dib* [2019] VSC 11 at [10]. | |
| 26/03/19 | | 9 | 9.4.4.5 | * New section entitled “CASE IN WHICH A COMPELLING REASON WAS SHOWN BUT BAIL WAS REFUSED BECAUSE ACCUSED DEEMED AN UNACCEPTABLE RISK”. * Discussion of new case of *Re Dib* [2019] VSC 11. | |
| 26/03/19 | | 9 | 9.4.4.6 | Former section 9.4.4.5 “SOME CASES IN WHICH COMPELLING REASON (CAUSE) WAS NOT SHOWN AND BAIL WAS REFUSED” is renumbered 9.4.4.6. | |
| 26/03/19 | | 9 | 9.4.4.7 | Former section 9.4.4.6 “SOME CASES IN WHICH ACCUSED WAS HELD NOT TO BE AN UNACCEPTABLE RISK AND BAIL WAS GRANTED” is renumbered 9.4.4.7. | |
| 26/03/19 | | 9 | 9.4.4.8 | Former section 9.4.4.7 “SOME CASES IN WHICH ACCUSED WAS HELD TO BE AN UNACCEPTABLE RISK AND BAIL WAS REFUSED” is renumbered 9.4.4.8. | |
| 26/03/19 | | 9 | 9.4.8 | Discussion of new case of *Victor Martin (a pseudonym) v The Queen* [2019] VSCA 15. | |
| 26/03/19 | | 9 | 9.4.11 | Reference to new case of *Re Tara Egglestone* [2019] VSC 81 at [69]. | |
| 26/03/19 | | 9 | 9.4.12 | Extract from case of *Re Gloury-Hyde* [2018] VSC 393 at [35]. | |
| 26/03/19 | | 9 | 9.5.9 | Reference to new cases of *Re Brent Reker, Tara Egglestone and Pierce Williams* [2019] VSC 81 and *Re Martinow* [2019] VSC 118. | |
| 26/03/19 | | CHAPTER 10 – CRIMINAL DIVISION – PROCEDURE | | | |
| 26/03/19 | | 10 | 10.3.4 | Slight amendment to text. | |
| 26/03/19 | | 10 | 10.3.9 | Extracts from new case of *Justin Crouch (a pseudonym) v The Queen* [2019] VSCA 30 at [36] & [37]. | |
| 14/01/19 | | 3 | 3.5.8 | Section significantly rewritten. | |
| 14/01/19 | | 5 | 5.11.16 | Reference to new case of *Edwards (a pseudonym) v DHHS & Anor* [2018] VSC 716. | |
| 14/01/19 | | 9 | 9.4.1 | Extract from new case of *Re Afram* [2018] VSC 708 at [24]-[25]. | |
| 14/01/19 | | 9 | 9.4.1.2 | Discussion of new cases of:   * *Re Afram* [2018] VSC 708; * *Re Frank* [2018] VSC 718. | |
| 14/01/19 | | 9 | 9.4.4.5 | Discussion of new cases of:   * *Re Mongan* [2018] VSC 638; * *Re Abaker* [2018] VSC 714. | |
| 14/01/19 | | 9 | 9.4.4.6 | Discussion of new case of *Re Farah* [2018] VSC 649. | |
| 14/01/19 | | 11 | 11.2.6 | References to new cases of:   * *Ah-Kau v The Queen; Ofamooni v The Queen* [2018] VSCA 296; * *Buovac v The Queen* [2018] VSCA 302 at [54]-[65]. | |
| 14/01/19 | | 11 | 11.2.22.1 | Discussion of new case of *R v Anthony Smith* [2018] VSC 684. | |
| 14/01/19 | | 11 | 11.2.22.4 | Reference to new case of *R v Peter Smith* [2018] VSC 656. | |
| 14/01/19 | | 11 | 11.2.23 | Discussion of new case of *Woldesilassie v The Queen* [2018] VSCA 285. | |
| 14/01/19 | | 11 | 11.2.24.2 | Discussion of new case of *DPP v McKay* [2018] VSCA 292. | |
| 14/01/19 | | 11 | 11.2.25 | Reference to new cases of:   * *Muaremov v The Queen* [2018] VSCA 298; * *Tuan Pham v The Queen* [2018] VSCA 308; * *Quan Quan Le v The Queen* [2018] VSCA 309. | |
| 14/01/19 | | 11 | 11.15.1 | Reference to new case of *Ryan Shawcross (a psueodnym) v The Queen* [2018] VSCA 295. | |
| 14/01/19 | | 11 | 11.15.3 | Reference to new cases of :   * *Hawke v The Queen* [2018] VSCA 287; * *DPP v Ramos* [2018] VSCA 290. | |
| 09/01/19 | | 3 | 3.4.2 | Significant amendment to text on joinder. | |
| 09/01/19 | | 3 | 3.4.4 | Extract from new case of *Austin v Dwyer* [2018] VSC 770 in relation to the Court’s duty to an unrepresented litigant. | |
| 09/01/19 | | 3 | 3.5.9.3 | Minor amendment to text. | |
| 09/01/19 | | 9 | 9.2.3 | **‘ONE STEP’ PROCESS FOR BAIL DETERMINATION REJECTED – *ASMAR* NOT GOOD LAW**  The text under the above heading has been amended to include a summary of what was formerly in section 9.4.4.1. | |
| 09/01/19 | | 9 | 9.2.4/5 | * New section entitled “Meaning of ‘serving a sentence’ for the tests in 9.2.4 & 9.2.5.” * Discussion of new case of *Application for Bail by Allen Matemberere* [2018] VSC 762. | |
| 09/01/19 | | 9 | 9.4.1.1 | * Reference to new case of *Re Naughten* [2018] VSC 806. | |
| 09/01/19 | | 9 | 9.4.1.2 | Discussion of new case of *BA* [2018] VSC 665. | |
| 09/01/19 | | 9 | 9.4.4.1 | * The text that was formerly in section 9.4.4.1 has been removed and summarized in section 9.2.3. * Paragraph heading changed to “How does an accused show compelling reason (show cause)”. * The text that was formerly in section 9.4.4.2 has been removed into section 9.4.4.1. | |
| 09/01/19 | | 9 | 9.4.4.2 | * Paragraph heading changed to “Where likelihood of sentence is less than the time already spent in custody”. * Extracts from new case of *Re Johnstone [No 2]* [2018] VSC 803 at | |
| 09/01/19 | | 9 | 9.4.4.4 | * Summary of case of *DA* [Emerton J-26/07/2018]. * Reference to new case of *Re Walker* [2018] VSC 804. | |
| 09/01/19 | | 9 | 9.5.3 | **CONDUCT CONDITIONS**  Extract from new case of *Re Johnstone [No 2]* [2018] VSC 803 AT [26]-[27]. | |
| 09/01/19 | | 11 | 11.1.4.3 | Reference to new case of *Wheeldon v The Queen* [2018] VSCA 344 at [21]-[25]. | |
| 09/01/19 | | 11 | 11.2.6 | Reference to new case of *Moresco v The Queen* [2018] VSCA 336. | |
| 09/01/19 | | 11 | 11.2.7 | Reference to new case of *Dale Cairns (a Pseudonym) v The Queen* [2018] VSCA 333 at [39]-[40]. | |
| 09/01/19 | | 11 | 11.2.8.2 | Discussion of new case of *Safi Haamid (a pseudonym) v The Queen* [2018] VSCA 330 at [24]-[27] & [34]-[48]. | |
| 09/01/19 | | 11 | 11.2.11.2 | * Discussion of case of *DPP v O’Neill* (2015) 47 VR 395; [2015] VSCA 325. * Reference to new case of *Wheeldon v The Queen* [2018] VSCA 344 at [33]. | |
| 09/01/19 | | 11 | 11.2.22.1 | Reference to new case of *Lee v The Queen* [2018] VSCA 343. | |
| 09/01/19 | | 11 | 11.2.23 | Discussion of new case of *Dale Cairns (a Pseudonym) v The Queen* [2018] VSCA 333. | |
| 09/01/19 | | 11 | 11.2.24.2 | Reference to new case of *Moresco v The Queen* [2018] VSCA 336. | |
| 09/01/19 | | 11 | 11.2.24.3 | Reference to new case of *DPP v Walsh* [2018] VSCA 334. | |
| 09/01/19 | | 11 | 11.2.24.4 | Discussion of new case of *DPP v Freeburn* [2018] VSC 616. | |
| 09/01/19 | | 11 | 11.2.24.6 | Discussion of new case of *DPP v Graoroski* [2018] VSCA 332. | |
| 09/01/19 | | 11 | 11.2.28 | Discussion of new cases of *Wheeldon v The Queen* [2018] VSCA 344; *James Forbes (a pseudonym) v The Queen* [2018] VSCA 341. | |
| 09/01/19 | | 11 | 11.15.4 | New reference to *Tuting v The Queen* [2018] VSCA 338. | |
| 03/01/19 | | 4 | 4.7.4 | * Minor amendments to text. * Addition of statistics for ICL appointments from 2014/15 to 2017/18. | |
| 03/01/19 | | 5 | 5.4.10  5.5.7  5.13  5.23.6  5.27.3 | Addition of 2017/18 Family Division statistics and consequential minor amendments to text. | |
| 03/01/19 | | 5 | 5.11.10  5.14.2  5.22.9  5.23.8 | Addition of 2017/18 Family Division statistics. | |
| 03/01/19 | | 5 | 5.17.2  5.17.4 | Discussion of and extracts from new case of *DHHS v Brown* [2018] VSC 775. | |
| 01/11/18 | | 2 | 2.3 | Update of list of Children’s Court executive office holders. | |
| 01/11/18 | | 2 | 2.5 | Extract from new case of *R v Allan (Change of Venue)* [2018] VSC 571 at [5]. Added reference to case of *R v Vjestica* [2008] VSCA 47. | |
| 01/11/18 | | 2 | 2.7.3 | Reference to new case of *Giurina v Giurina* [2018] VSC 599 at [24]-[32]. | |
| 01/11/18 | | 3 | 3.3.1 | New material relating to the Court’s Contempt powers, including references to the new cases of *R v Nationwide News Pty Ltd* [2018] VSC 572 and the annexure thereto & *Moira Shire Council v Sidebottom Group Pty Ltd (No.3)* [2018] VSC 556. | |
| 01/11/18 | | 9 | 9.4.4.5 | Extract from new case of *Re Roberts* [2018] VSC 554. | |
| 01/11/18 | | 11 | 11.2.1 | Short extract from new case of *Salapura v The Queen* [2018] VSCA 255 at [77]. | |
| 01/11/18 | | 11 | 11.2.6 | Short extract from *Salapura v The Queen* [2018] VSCA 255 at [77]. | |
| 01/11/18 | | 11 | 11.2.7 | Reference to new cases of *Salapura v The Queen* [2018] VSCA 255 at [40]-[68]. | |
| 01/11/18 | | 11 | 11.2.8 | Reference to new cases of co-offenders *Jesse Deacon (a pseudonym) v The Queen* [2018] VSCA 257 at [154] and *Jenni Smith v The Queen* [2018] VSCA 258 at [85]. | |
| 01/11/18 | | 11 | 11.2.22.2 | References to new cases of cooffenders *R v Smart* [2018] VSC 568 & *R v Levy* [2018] VSC 567. | |
| 01/11/18 | | 11 | 11.2.28 | Reference to *Hayden Samuels (a pseudonym) v The Queen* [2018] VSCA 251. | |
| 01/11/18 | | 11 | 11.15.1.1 | Short extracts from cases of co-offenders *Jesse Deacon (a pseudonym) v The Queen* [2018] VSCA 257 at [162] and *Jenni Smith v The Queen* [2018] VSCA 258 at [91]. | |
| 01/11/18 | | 11 | 11.15.4 | Comment on new case of *Tuting v R* [2018] VSCA 250. | |
| 15/10/18 | | 3 | 3.5.6.3 | Text substantially rewritten. | |
| 15/10/18 | | 3 | 3.5.6.4 | * Paragraph heading amended to “Obligation to accord procedural fairness/natural justice”. * Amendments to text. * References to new cases of *Roberts v Harkness & Anor* [2018] VSCA 215; *Doughty-Cowell v Kyriazis & Anor* [2018] VSCA 216. | |
| 15/10/18 | | 3 | 3.5.7 | * Section heading amended to “The Less Adversarial Trial approach of the Family Court of Australia”. * Very minor amendment to text. | |
| 15/10/18 | | 3 | 3.5.9.3 | Very minor amendment to text. | |
| 15/10/18 | | 7 | 7.2 | Reference to new case of *CDPP v TK* [2018] VChC 4 and cross-reference to new section 11.1.13. | |
| 15/10/18 | | 9 | 9.2.2 | Reference to new case of *Re BKT* [2018] VSC 240 at [17]. | |
| 15/10/18 | | 9 | 9.4.1.1 | Discussion of new case of *Hall v Pangemanan* [2018] VSC 533. | |
| 15/10/18 | | 9 | 9.4.4.4 | Reference to new case of *Re Alsulayhim* [2018] VSC 570. | |
| 15/10/18 | | 9 | 9.4.4.6 | Reference to new case of *Re Menna* [2018] VSC 538. | |
| 15/10/18 | | 10 | 10.1 | * Addition of citation [2018] VChC 1 to case of ***Le v JA***. * Addition of citation [2017] VChC 1 to case of ***DPP v A & Ors***. | |
| 15/10/18 | | 11 | 11.1  11.1.3  11.1.4.1  11.2.2  11.2.6  11.2.14  11.7.2 | Addition of citation (2011) 32 VR 641 to references to *CNK v The Queen* [2011] VSCA 228. | |
| 15/10/18 | | 11 | 11.1.3 | Reference to *DPP v SI (a child)* [2018] VChC 3 at [37]-[39] per Judge Chambers. | |
| 15/10/18 | | 11 | 11.1.4.1 | * Reference to new case of *CDPP v TK* [2018] VChC 4 per Stylianou M and cross-reference to new section 11.1.13. * Minor amendment to text discussing the case of *R v EF* [2013] VSCA 186. | |
| 15/10/18 | | 11 | 11.1.5 | Reference to new case of *DPP v SI (a child)* [2018] VChC 3 at [46]. | |
| 15/10/18 | | 11 | 11.1.9.1 | Addition of citation [2018] VChC 2 to the case of *Victoria Police v FT*. | |
| 15/10/18 | | 11 | 11.1.10 | References to cases of *Neuss v Magistrates’ Court of Victoria & Currey* [2013] VSC 321; *DPP v Quick & Taylor* [2015] VSCA 273; *CDPP v TK* [2018] VChC 4 at [9] per Stylianou M. | |
| 15/10/18 | | 11 | 11.1.13 | * New section entitled “Sentencing of children for Commonwealth offences”. * Discussion of and extract from new case of *CDPP v TK* [2018] VChC 4 at [29] & [33]‑[41] per Stylianou M. | |
| 15/10/18 | | 11 | 11.1.14 | Section 11.1.13 “Sentencing powers of Supreme Court or County Court” is renumbered 11.1.14. | |
| 15/10/18 | | 11 | 11.1.15 | Section 11.1.14 “Sentencing court not bound by agreement between Crown and defence” is renumbered 11.1.15. | |
| 15/10/18 | | 11 | 11.1.16 | Section 11.1.15 “Procedural fairness” is renumbered 11.1.16. | |
| 15/10/18 | | 11 | 11.1.17 | Section 11.1.16 “Relevance of United Nations Convention on the Rights of the Child” is renumbered 11.1.17. | |
| 15/10/18 | | 11 | 11.1.18 | Section 11.1.17 “Sentencing for conspiracy compared with sentencing for completed offence” is renumbered 11.1.18. | |
| 15/10/18 | | 11 | 11.1.19 | Section 11.1.18 “Offending in a custodial setting is a relevant sentencing consideration” is renumbered 11.1.19. | |
| 15/10/18 | | 11 | 11.2.6 | Reference to new case of *Azaan Rosales (a pseudonym) v The Queen* [2018] VSCA 130. | |
| 15/10/18 | | 11 | 11.2.7 | Reference to new case of *Jakob Sutic v The Queen* [2018] VSCA 246 at [82]-[90]. | |
| 15/10/18 | | 11 | 11.2.8.2 | * Extract from new cases of *Azaan Rosales (a pseudonym) v The Queen* [2018] VSCA 130 at [23]-[25]. * Discussion of new case of *Collins (a pseudonym) v The Queen* [2018] VSCA 131. | |
| 15/10/18 | | 11 | 11.2.11 | Section heading changed to “Effect of mental illness / mental disorder / intellectual disability”. | |
| 15/10/18 | | 11 | 11.2.11.1 | Paragraph heading changed to “Effect of mental illness/mental disorder – Cases prior to *R v Verdins* (2007) 16 VR 269”. | |
| 15/10/18 | | 11 | 11.2.11.2 | * Paragraph heading changed to “Effect of mental illness/mental disorder – *R v Verdins* (2007) 16 VR 269 & later cases”. * Reference to new cases of *Bret Wilson v The Queen* [2018] VSCA 219 at [53] & [59]-[60]; *Alexander Holland (a pseudonym) v The Queen* [2018] VSCA 241 at [21]-[22] & [29]-[31]. | |
| 15/10/18 | | 11 | 11.2.11.3 | * New paragraph headed “Effect of intellectual disability”. * Material from section 11.2.12 moved into section 11.2.11.3. | |
| 15/10/18 | | 11 | 11.2.12 | * New section headed “Effect of deprived background”. * Extract from new case of *DPP v Lyons & Lyons* [2018] VSC 488 at [73]. * Extract from case of *Bugmy* [2013] HCA 37 at [37] & [42]-[45]. | |
| 15/10/18 | | 11 | 11.2.13 | Reference to new case of *Tony Smith v The Queen* [2018] VSCA 208 at [28]-[35]. | |
| 15/10/18 | | 11 | 11.2.16 | Extract from new case of *Jamel Mohtadi v The Queen* [2018] VSCA 238 at [39]-[41]. | |
| 15/10/18 | | 11 | 11.2.22.1 | References to new cases of *DPP v Brandon Osborn* [2018] VSCA 207; *Shengliang Wan v The Queen* [2018] VSCA 217; *DPP v Curtin* [2018] VSC 493. | |
| 15/10/18 | | 11 | 11.2.22.3 | Reference to new case of *R v Telford* [2018] VSC 476 and the cases referred to in footnote 5 thereof. | |
| 15/10/18 | | 11 | 11.2.22.4 | References to new cases of *R v Tang* [2018] VSC 460; *R v Lyons & Lyons* [2018] VSC 488. | |
| 15/10/18 | | 11 | 11.2.23 | References to new cases of *McGrath v R* [2018] VSCA 134; *DPP v Weybury* [2018] VSCA 120. | |
| 15/10/18 | | 11 | 11.2.24.3 | Reference to new case of *Jakob Sutic v The Queen* [2018] VSCA 246. | |
| 15/10/18 | | 11 | 11.2.24.6 | Discussion of new case of *DPP v SI (a child)* [2018] VChC 3. | |
| 15/10/18 | | 11 | 11.2.25 | * Extract from new case of *Sarah Ellis v The Queen* [2018] VSCA 221, including reference to *DPP v Maxwell* [2013] VSCA 50. * Extracts from new cases of *Frank Blango v The Queen* [2018] VSCA 210 at [55]; *Ban Joo Teoh v The Queen* [2018] VSCA 239 at [49]-[50] and [55]-[58]. * References to new cases of *Rocco Arico v The Queen* [2018] VSCA 135; *DPP v Brandon Osborn* [2018] VSCA 207; *Jamel Mohtadi v The Queen* [2018] VSCA 238. * Quote from new case of *DPP v Fatho, Van & Huynh* [2019] VSCA 311 at [70]. | |
| 15/10/18 | | 11 | 11.3.4 | Extracts from new cases of *Underwood (a Pseudonym) v R (No 2)* [2018] VSCA 87 at [37]; *R v Sahhitanandan* [2018] VSC 550 at [49]-[55]/ | |
| 15/10/18 | | 11 | 11.8.1 | Reference to new case of *McLean v The Queen* [2018] VSCA 209. | |
| 15/10/18 | | 11 | 11.15.1.1 | Reference to new case of *Alexander Holland (a pseudonym) v The Queen* [2018] VSCA 241. | |
| 15/10/18 | | 11 | 11.15.7 | Extracts from new cases of *DPP v Lindsey (Sentence)* [2018] VSC 239 at [34]-[36]; *DPP v Noy* [2018] VSC 466 at [65]. | |
| 15/10/18 | | 11 | 11.18 | * New section entitled “Relevance of prospect of deportation”. * Extracts from new cases of *Mohamed Allouch v The Queen* [2018] VSCA 244 at [39]-[41]; *R v Kumar* [2018] VSC 241 at [68]. * Reference to cases of *R v Mann* [2011] VSCA 189; *Guden v The Queen* [2010] VSCA 196; *R v Strestha* (1991) 173 CLR 48, 57; *R v Hutton* [2011] VSC 484; *R v Wunan Yu* [2005] VSCA 18. | |
| 01/10/18 | | 5 | 5.5 | Added quotation from *DOHS v Sanding* [2011] VSC 42; 36 VR 221 at [185]. | |
| 01/10/18 | | 5 | 5.5.1 | Added reference to case of *DHHS v County Court* [2018] VSC 322. | |
| 01/10/18 | | 5 | 5.5.3 | Added quotation from *DHHS v County Court* [2018] VSC 322 AT [65]. | |
| 01/10/18 | | 5 | 5.5.6 | Material added to discussion of and quotation from case of *DHHS v County Court* [2018] VSC 322. | |
| 01/10/18 | | 5 | 5.10.3  5.10.7  5.11.11  5.12.1  5.17.1  5.17.9 | Addition of (2011) 36 VR 221 citation to references to case of *DOHS v Sanding* [2011] VSC 42. | |
| 01/10/18 | | 5 | 5.33 | * New section entitled “Superior Courts’ *parens patriae* jurisdiction. * Material from case of *Re Beth* [2013] VSC 189; (2013) 42 VR 124. * Material from case of *Mercy Hospitals Victoria Ltd v D1 & D2* [2018] VSC 519. | |
| 01/10/18 | | 9 | 9.0 | Addition of material on the third tranche of amendments to the **BA**. | |
| 01/10/18 | | 9 | 9.1 | Minor amendment to text re **BA**/s.10A(6). | |
| 01/10/18 | | 9 | 9.2.1 | Addition of example of non-compliance with **BA**/s.5AAA(2)(a). | |
| 01/10/18 | | 9 | 9.2.2  9.4.1  9.4.12  9.5.14 | New case of *Re JO* [2018] VSC 438. | |
| 01/10/18 | | 9 | 9.2.2  9.4.4.3  9.4.12  9.5.14 | New case of *Re FA* [2018] VSC 372. | |
| 01/10/18 | | 9 | 9.2.3 | * Amendment to text, addition of **BA**/s.4AA, amendments to ss.4A, 4C & 4D and repeal of s.4B. * Addition of **BA**/s.8AA. * Replacement of previous flow charts with four new flow charts. | |
| 01/10/18 | | 9 | 9.2.4 | * Paragraph renamed “Step 1 – exceptional circumstances test”. * Amendments to text and to reference to **BA**/s.13. | |
| 01/10/18 | | 9 | 9.2.5 | * Paragraph renamed “Step 1 – show compelling reason test”. * Minor amendment to text. | |
| 01/10/18 | | 9 | 9.4.4.2 | Discussion of new cases of *Re McNally* [2018] VSC 522; *Re CT* [2018] VSC 559. | |
| 01/10/18 | | 9 | 9.4.4.3 | Discussion of new case of *Re BKT* [2018] VSC 240. | |
| 01/10/18 | | 9 | 9.4.4.4 | Discussion of new cases of *Re Gloury-Hyde (No 1)* [2018] VSC 393 & *Re Gloury-Hyde (No 2)* [2018] VSC 520. | |
| 01/10/18 | | 9 | 9.4.4.5 | Reference to new case of *Re Garou* [2018] VSC 418. | |
| 01/10/18 | | 9 | 9.4.4.7 | Reference to new case of *Re Guirguis* [2018] VSC 430. | |
| 01/10/18 | | 9 | 9.5.5 | Minor changes to text. | |
| 01/10/18 | | 9 | 9.5.14 | Minor changes to text and reference to new case of *Re FA* [2018] VSC 372 at [23]. | |
| 01/10/18 | | 9 | 9.5.17 | Text re bail support programs in the Children’s Court has been completely rewritten. | |
| 01/10/18 | | 11 | 11.1.4.3 | References to new cases of *Sovolos v The Queen* [2018] VSCA 149 at [34] & [39]; *Mendelle v The Queen* [2018] VSCA 204 at [12]-[13]; *Oliver Harlow (a pseudonym) v The Queen* [2018] VSCA 234. | |
| 01/10/18 | | 11 | 11.1.5 | Reference to new case of *R v Ford (a pseudonym)* [2018] VSC 491. | |
| 01/10/18 | | 11 | 11.1.14 | Reference to new case of *DL v The Queen* [2018] HCA 32. | |
| 01/10/18 | | 11 | 11.1.15 | References to new cases of *DL v The Queen* [2018] HCA 32; *Mendelle v The Queen* [2018] VSCA 204. | |
| 01/10/18 | | 11 | 11.2.1 | Reference to new case of *DPP (Cth) & DPP v Dylan Hutchison (a pseudonym)* [2018] VSCA 153. | |
| 01/10/18 | | 11 | 11.2.6 | References to new cases of *Terry Darren Mitchell v The Queen* [2018] VSCA 158 at [46]-[53]; *Maele & Ors v The Queen* [2018] VSCA 206 at [32]. | |
| 01/10/18 | | 11 | 11.2.8.3 | Reference to new case of *Bonnie Kate Sawyer-Thompson v The Queen* [2018] VSCA 161 at [48]-[56] per Maxwell P & Tate JA. | |
| 01/10/18 | | 11 | 11.2.11 | References to new cases of *R v Pavlis* [2018] VSC 440 at [27]-[29]; *R v Naddaf* [2018] VSC 429 at [86]-[92]. | |
| 01/10/18 | | 11 | 11.2.14 | References to case of *Stalio v R* (2012) 46 VR 426, 441; *R v Hague* [2018] VSC 323 at [44]-[45]. | |
| 01/10/18 | | 11 | 11.2.22.1 | References to new cases of *R v Russo* [2018] VSC 395; *R v Kerry Jones* [2018] VSC 415; *R v Naddaf* [2018] VSC 429; *R v Yucel* [2018] VSC 506 and *R v O’Connor* [2018] VSC 516. | |
| 01/10/18 | | 11 | 11.2.22.4 | References to new cases of *R v Hague* [2018] VSC 323; *DPP v Jones* [2018] VSC 329; *DPP v Kamalasanan & Sam* [2018] VSC 340; *R v Pavlis* [2018] VSC 440; *R v Kelson* [2018] VSC 442. | |
| 01/10/18 | | 11 | 11.2.24 | Extract from new case of *Bradley Nicholson v The Queen* [2018] VSC 146 at [30]-[32]. | |
| 01/10/18 | | 11 | 11.2.24.2 | Reference to new case of *McKeon-Muller v The Queen* [2018] VSCA 199. | |
| 01/10/18 | | 11 | 11.2.25 | References to new cases of *Romano Falzon v The Queen* [2018] VSCA 179; *Anthony Pham v The Queen* [2018] VSCA 200; *Djordjic v The Queen* [2018] VSCA 227. | |
| 01/10/18 | | 11 | 11.2.27 | References to new cases of *Kargar v The Queen* [2018] VSCA 148; *Sovolos v The Queen* [2018] VSCA 149 at [43] and *Jamie Fisher v The Queen* [2018] VSCA 222. | |
| 01/10/18 | | 11 | 11.2.32 | * New paragraph entitled “Sentencing for child homicide”. * Reference to new case of *R v Rowe* [2018] VSC 490. | |
| 01/10/18 | | 11 | 11.15.1.1 | * Discussion of new case of *Oliver Harlow (a pseudonym) v The Queen* [2018] VSCA 234. * Reference to new case of *DPP v Max Walsh (a pseudonym)* [2018] VSCA 172. | |
| 01/10/18 | | 11 | 11.15.3 | Reference to new case of *Adrian Robert Finley v The Queen* [2018] VSCA 202. | |
| 01/10/18 | | 11 | 11.15.4 | Reference to new case of *DPP v Clinton James Osborne* [2018] VSCA 160. | |
| 01/10/18 | | 11 | 11.15.7 | Discussion of new cases of *DPP v UA* [2018] VSC 423; *Akon Guode v The Queen* [2018] VSCA 205 and extract from judgment in latter case at [73]-[74]. | |
| 01/10/18 | | 11 | 11.16 | * New section entitled “Sentencing for child sexual abuse committed as a child”. * Discussion of new case of *DPP (Cth) & DPP v Dylan Hutchison (a pseudonym)* [2018] VSCA 153. | |
| 01/10/18 | | 11 | 11.17 | Section 11.16 “Sentencing of adults for offence against protective worker” is renumbered 11.17. | |
| 21/09/18 | | 7 | 7.2 | Removal of reference to defensive homicide. | |
| 21/09/18 | | 7 | 7.6 | * Cross-reference to new section 7.11.5 added. * Reference to case of *Rossi v Martland* (1994) 75 A Crim R 411 added. | |
| 21/09/18 | | 7 | 7.7 | Addition of CAYPINS statistics for 2015/16 and 2016/17. | |
| 21/09/18 | | 7 | 7.8.3 | Addition of reference to ”Youth control order”. | |
| 21/09/18 | | 7 | 7.11.1 | Reference to case of *Cemino v Cannan* [2018] VSC 535 added. | |
| 21/08/18 | | 7 | 7.11.2 | Material from *Honeysett v The Queen* [2018] VSCA 214 at [47] added. | |
| 21/09/18 | | 7 | 7.11.4 | Text updated. | |
| 21/09/18 | | 7 | 7.11.5 | * New paragraph headed “Case law”. * References to and discussion of new cases of *Cemino v Cannan* [2018] VSC 535 and *Honeysett v The Queen* [2018] VSCA 214. * New subparagraphs:   7.11.5.1 TRANSFER TO KOORI COURT  7.11.5.2 THE KOORI COURT IS NOT A SOFT OPTION  7.11.5.3 WEIGHT TO BE GIVEN TO THE ACCUSED’S PARTICIPATION IN KOORI COURT  7.11.5.4 WHETHER PRE-SENTENCE REPORTS SHOULD BE MANDATORY IN KOORI COURTS | |
| 21/09/18 | | 7 | 7.11.6 | * New paragraph headed “Statistics”. * Children’s Koori Court statistics for 2015/16 & 2016/17 added. | |
| 16/07/18 | | 1 | 1.4 | Section heading changed to “Practice Directions, Practice Notes & Guidelines”. | |
| 16/07/18 | | 1 | 1.4.1 | * New heading “Practice Directions & Practice Notes”. * Minor amendment to text re s.592 of the CYFA. * Amendment to entry for Practice Direction 5/2016. * Addition of reference to Practice Directions 3/2018, 4/2018 & 5/2018. | |
| 16/07/18 | | 1 | 1.4.2 | * New heading “Guidelines”. * “Guidelines for Video Conferencing” dated 20/04/2015 are deleted. * Addition of information about “Guidelines for Conciliation Conferences”. * Addition of information about “Multi-jurisdictional Court guidelines for the intermediary pilot program: Intermediaries and Ground Rules Hearings. * Addition of reference to the new “Guidelines” tab on the “Legal” tab on the website of the Children’s Court of Victoria [www.childrenscourt.vic.gov.au](http://www.childrenscourt.vic.gov.au). | |
| 16/07/18 | | 5 | 5.4.10 | Amendment to text to include 2016/17 statistics. | |
| 16/07/18 | | 5 | 5.5.1 | * Cross-reference to new section 5.5.6. * Added cross-reference to section 4.8.4. | |
| 16/07/18 | | 5 | 5.5.6 | * Paragraph 5.5.6 “Statistics” is renumbered 5.5.7. * New paragraph headed “Meaning of ‘sexual abuse’. Summary of and extract from the new case of *DHHS v County Court* [2018] VSC 322. | |
| 16/07/18 | | 5 | 5.5.7 | * Renumbered paragraph – formerly 5.5.6. * Addition of 2016/17 statistics. | |
| 16/07/18 | | 5 | 5.11.10  5.14.2  5.22.9  5.23.8  5.27.3 | Addition of 2016/17 statistics. | |
| 16/07/18 | | 5 | 5.13 | Addition of 2016/17 statistics and consequential amendment to text. | |
| 16/07/18 | | 5 | 5.23.6 | Addition of statistics for extension of TTOs in 2014/15, 2015/16 & 2016/17. | |
| 01/07/18 | | 9 | **MAJOR CHANGES HAVE BEEN MADE TO CHAPTER 9 TO REFLECT AMENDMENTS TO THE BAIL ACT 1977 MADE BY THE BAIL AMENDMENT (STAGE TWO) ACT 2018 COMMENCING ON 01/07/18. APART FROM THOSE DETAILED BELOW, THESE CHANGES ARE TOO NUMEROUS TO SPECIFY INDIVIDUALLY. SUFFICE TO SAY AMENDMENTS HAVE BEEN MADE TO SECTIONS 9.0, 9.1, 9.2.1, 9.2.7, 9.2.8, 9.3, 9.4, 9.4.2, 9.4.5, 9.4.6, 9.4.7, 9.4.11, 9.5.3 & 9.5.5.** | | |
| 01/07/18 | | 9 | 9.1.1 | Reference to the Children, Youth and Families Regulations 2007 [S.R. No.21/2007] replaced by reference to the Children, Youth and Families Regulations 2017 [S.R. No.21/2017]. | |
| 01/07/18 | | 9 | 9.2.3 | * Paragraph heading changed to “*Prima facie* entitlement to bail and exceptions thereto – Flow charts”. * Material from the old paragraph 9.2.4 has been incorporated into 9.2.3. | |
| 01/0718 | | 9 | 9.2.4 | Paragraph heading changed to “Schedule 1 offences – Exceptional Circumstances”. Text changed accordingly. | |
| 01/0718 | | 9 | 9.2.5 | Paragraph heading changed to “Schedule 2 offences – Show compelling reason”. Text changed accordingly. | |
| 01/07/18 | | 9 | 9.2.6 | Paragraph heading changed to “Additional powers of a bail decision maker”. Text changed accordingly. | |
| 01/07/18 | | 9 | 9.2.8 | Paragraph heading changed to “Requirement for reasons when bail granted for Schedule 1 or 2 offence”. | |
| 01/07/18 | | 9 | 9.2.9 | New paragraph entitled “Accused (not child, vulnerable adult or Aboriginal) on 2 or more bail undertakings”. | |
| 01/0718 | | 9 | 9.3 | * Cross-reference to section 9.2.3 was an error. It has been corrected to 9.2.2. * Reference to s.1B of the **BA** and to the new case of *Re Ceylan* [2018] VSC 361. | |
| 01/07/18 | | 9 | 9.4.4 | * Text substantially rewritten to reflect new ss.4 & 4A-4F of the **BA**. * Discussion of new case of *Re Ceylan* [2018] VSC 361. | |
| 01/0718 | | 9 | 9.4.4.1 | Minor addition to text to emphasise that *Asmar’s Case* and the cases that followed it are no longer good law. | |
| 01/07/18 | | 9 | 9.5.15 | Paragraph 9.5.15 heading changed to “Bail applications by persons aged 18 or over in a remand centre” and the text is changed accordingly. | |
| 01/07/18 | | 9 | 9.5.16 | New paragraph entitled “Power to return accused to youth justice centre”. | |
| 01/07/18 | | 9 | 9.5.17 | Paragraph headed “Limited bail support programs in Children’s Court” has been renumbered and the text slightly amended. It was previously paragraph 9.5.15. | |
| 29/06/18 | | 10 | 10.0 | New section headed “Consistent magistrate to oversee criminal proceedings” which details s.522A of the CYFA. | |
| 29/06/18 | | 10 | 10.3.1 | Correction of error: References to s.536 amended to s.356. | |
| 29/06/18 | | 10 | 10.3.2 | * Proof of attempt in lieu of proof of completed offence: References to ss.29 & 76 of the CPA replaced by reference to s.356(5) of the CYFA. * Added reference to s.522A(3) of the CYFA. | |
| 29/06/18 | | 11 | 11.1.3 | Added reference to s.362(1)(h) of the CYFA. | |
| 29/06/18 | | 11 | 11.1.4.1 | Paragraph heading changed to “General deterrence not applicable in Children’s Court”. | |
| 29/06/18 | | 11 | 11.1.5 | * Updated value of 1 penalty unit for 2018-2019 financial year. * Prescribed forms for the sentencing orders are now in the *Children’s Court Criminal Procedure Rules 2009*. * Minor amendments to some of the texts describing the sentencing orders. * Addition of youth control orders [YCO] to the list of sentencing order, including a number of “further notes on youth control orders”. | |
| 29/06/18 | | 11 | 11.1.6 | Addition to text of discussion about YCOs and the respective mandatory requirements and optional special requirements for such orders. | |
| 29/06/18 | | 11 | 11.1.7 | Paragraph heading changed to “Power to impose an aggregate sentence of YRC/YJC detention under the CYFA”. Text in paragraph completely re-written. | |
| 29/06/18 | | 11 | 11.7.1 | * Victorian Children’s Court Criminal Division statistics for 2015/16 & 2016/17 added. * Minor amendments to commentary. | |
| 29/06/18 | | 11 | 11.8.1  11.11 | All references to the Youth Residential Board (which has been abolished some time ago and whose functions have been vested in the Youth Parole Board) removed. | |
| 29/06/18 | | 11 | 11.8.1 | * Changed references to s.458(4) and added references to s.458A of the CYFA. * Updated reference to the relevant regulations referred to in s.458(4)(a). | |
| 29/06/18 | | 11 | 11.8.2 | Reference to reg.34 in the 2007 regulations changed to reg.37 in the *Children, Youth and Families Regulations 2017* [S.R.No.19/2017]. | |
| 29/06/18 | | 11 | 11.12.1 | * Expansion of text detailing method and time of commencement of breach proceedings. * Addition of commentary relating to proceedings relating to breach/revocation of youth control orders. | |
| 29/06/18 | | 11 | 11.12.2 | Heading amended to “Powers upon proof of breach of CYFA sentencing order (other than YCO & fine default)”. | |
| 29/06/18 | | 11 | 11.12.3 | * Old paragraph 11.12.3 is renumbered 11.12.4. * Addition of new paragraph 11.12.3 entitled “Revocation of YCO and consequences thereof”. | |
| 29/06/18 | | 11 | 11.12.4 | * Paragraph headed “Fine defaults” renumbered 11.12.4. * Minor amendments made to commentary. | |
| 21/05/18 | | 9 | **MAJOR CHANGES HAVE BEEN MADE TO CHAPTER 9 TO REFLECT MAJOR AMENDMENTS TO THE BAIL ACT 1977 MADE BY THE BAIL AMENDMENT (STAGE ONE) ACT 2017 COMMENCING ON 21/05/18 AND TO FORESHADOW SOME AMENDMENTS TO BE MADE BY THE BAIL AMENDMENT (STAGE 2) ACT 2017 COMMENCING ON 01/07/2018.** | | |
| 21/05/18 | | 9 | **APART FROM THOSE SET OUT BELOW, THESE CHANGES ARE TOO NUMEROUS TO SPECIFY INDIVIDUALLY. SUFFICE TO SAY THEY HAVE BEEN MADE TO SECTIONS 9.1, 9.1.1, 9.1.3, 9.2.1, 9.2.2, 9.2.3, 9.4, 9.4.2, 9.4.4, 9.4.4.1, 9.4.4.2, 9.4.6, 9.4.11, 9.5.2, 9.5.5, 9.5.6, 9.5.7, 9.5.8, 9.5.11 & 9.5.14.** | | |
| 21/05/18 | | 9 | 9.0 | New section headed “Major amendments to the Bail Act in 2018”. | |
| 21/05/18 | | 9 | 9.2.4 | New paragraph entitled “Exceptions to an accused’s *prima facie* entitlement to bail”. | |
| 21/05/18 | | 9 | 9.2.5 | New paragraph entitled “Adjournment of bail hearing where accused seriously affected by alcohol/drug”. | |
| 21/05/18 | | 9 | 9.2.6 | New paragraph entitled “Bail where accused is serving sentence of imprisonment for some other cause”. | |
| 21/05/18 | | 9 | 9.2.7 | New paragraph entitled “Bail application where possible family violence issue”. | |
| 21/05/18 | | 9 | 9.2.8 | New paragraph entitled “Requirement for reasons when bail granted for Schedule 2 offence”. | |
| 21/05/18 | | 9 | 9.4 | Section heading changed to “Bail - 'Exceptional circumstances', 'Show compelling reason', 'Unacceptable risk'”. | |
| 21/05/18 | | 9 | 9.4.2 | Paragraph heading changed to “Relationship of Exceptional circs, Show compelling reason & Unacceptable risk” | |
| 21/05/18 | | 9 | 9.4.4 | Paragraph heading changed to “Show compelling reason (Show cause) / Unacceptable risk”. | |
| 21/05/18 | | 9 | 9.4.4.1 | * Sub-paragraph heading changed to “Showing compelling reason is a ‘two step’ process” * Sub-paragraph substantially rewritten as a consequences of amendments to s.4 of the Act due to commence on 01/07/2018. | |
| 21/05/18 | | 9 | 9.4.4.2 | Sub-paragraph heading changed to “How does an accused show compelling reason (show cause)”. | |
| 21/05/18 | | 9 | 9.4.4.4 | Sub-paragraph heading changed to “SOME CASES IN WHICH COMPELLING REASON (CAUSE) WAS SHOWN AND BAIL WAS GRANTED” | |
| 21/05/18 | | 9 | 9.4.4.5 | Sub-paragraph heading changed to “SOME CASES IN WHICH COMPELLING REASON (CAUSE) WAS NOT SHOWN AND BAIL WAS REFUSED” | |
| 21/05/18 | | 9 | 9.4.5 | Paragraph heading changed to “Whether or not conditions of bail an element of showing compelling reason”. | |
| 21/05/18 | | 9 | 9.5.3 | Paragraph heading changed to “Bail undertaking, Conduct conditions & Sureties” | |
| 21/05/18 | | 9 | 9.6 | This section previously headed “Law Reform Commission Review of the Bail Act” has been deleted. | |
| 26/04/18 | | 5 | 5.10.3  5.10.4  5.11.11  5.11.16 | References to and extracts from new case of *Secretary* *to DHHS v Children’s Court of Victoria, Rosa Darcy (A Pseudonym) & Walter Ronny (A Psuedonym)* [2018] VSC 183. | |
| 26/04/18 | | 5 | 5.11.11 | * Section renamed “Hearings [evidence-based or by submissions]”. * References to Practice Directions 5/2013, 6/2014 & 6/2015 added. * Cross-reference to section 4.8.3 added. | |
| 26/04/18 | | 5 | 5.12.1  5.12.2 | * Commentary on case of *DHHS v Mrs SG* [Children’s Court of Victoria-Power M, unreported, 08/06/2016] moved from 5.12.2 to 5.12.1. * Commentary on case of *The C & K Siblings* [Children’s Court of Victoria-Power M, unreported, 23/04/2018, pp.36-37] added to 5.12.1. | |
| 26/04/18 | | 5 | 5.17.4 | Extract from the case of *The C & K Siblings* [Children’s Court of Victoria-Power M, unreported, 23/04/2018, pp.38-39] added. | |
| 05/04/18 | | 1 | 1.4 | * Added reference to Practice Note No.1 of 2018. * Added reference to Practice Note No.2 of 2018. | |
| 05/04/18 | | 10 | 10.1 | * Section substantially rewritten to reflect significant amendments to s.356 of the CYFA. * Added cases of ***Le v JA*** [Children’s Court of Victoria – Judge Chambers, 31/01/2018]; ***DPP v A & Ors*** [Children’s Court of Victoria – Judge Chambers, 14/03/2017]. | |
| 05/04/18 | | 10 | 10.7 | Some of the material contained in new paragraph 11.1.9.2 has been inserted into this paragraph under heading “INCOMPATIBILITY OF DIVERSION AND LICENCE CANCELLATION/SUSPENSION” | |
| 05/04/18 | | 11 | 11.1.3 | Amendment to s.362(1)(g) of the CYFA. | |
| 05/04/18 | | 11 | 11.1.9.1 | Paragraph substantially rewritten to reflect the judgment of Bowles M in ***Victoria Police v FT*** [Children’s Court of Victoria, 06/03/2018]. | |
| 05/04/18 | | 11 | 11.1.9.2 | New paragraph entitled “Incompatibility of diversion and licence cancellation or suspension”. | |
| 05/04/18 | | 11 | 11.1.9.3 | Paragraph renumbered – formerly 11.1.9.2. | |
| 05/04/18 | | 11 | 11.7.1  11.7.2 | Material on youth offending rates published by the Australian Bureau of Statistics on 08/02/2018 for the financial year 2016/17 has been added to the statistical commentary. | |
| 27/02/18 | | 10 | 10.7 | * Section renamed “Court diversion of child offender”. * Section completely rewritten to reflect the insertion of new Division 3A in Part 5.2 of the CYFA providing for Diversion (which came into operation on 20/12/2017) and to discuss the creation and operation of the Children’s Court Youth Diversion Service [CCYDS]. | |
| 27/02/18 | | 11 | 11.1.5 | Amendments to s.413(2) of the CYFA to increase the maximum period of a youth justice centre order to 3 years for a single offence and s.413(3)(b) to increase the aggregate maximum term of detention in a youth justice centre to 4 years for more than one offence. | |
| 11/01/18 | | 1 | 1.4 | Addition of reference to Practice Direction No.6 of 2014. | |
| 11/01/18 | | 1 | 1.5.3 | Added reference to case of *ZD v DHHS* [2017] VSC 806. | |
| 11/01/18 | | 5  [new] | 5.11.7 | Added summary of case of *ZD v DHHS* [2017] VSC 806. | |
| 11/01/18 | | 5  [new] | 5.11.16 | Added reference to case of *ZD v DHHS* [2017] VSC 806. | |
| 21/07/17 | | 1 | 1.1.3 | Added paragraph heading “Amendments to the Children, Youth and Families Act 2005 (Vic) in March 2016”. Minor amendments to the text detailing the amendments. | |
| 21/07/17 | | 1 | 1.2.1 | Heading changed to “Children, Youth and Families Regulations 2017”. Text substantially changed to reflect the new regulations. | |
| 21/07/17 | | 1 | 1.3 | * Text substantially updated to reflect amendments to s.588 of the CYFA. * Updated list of rules to include the Children, Youth and Families (Children’s Court Family Division) Rules 2017 which replaced the 2007 rules as and from 18/04/2017. | |
| 21/07/17 | | 1 | 1.4 | Updated list of Practice Directions. | |
| 21/07/17 | | 9 | 9.2.2 | Added case of *Application for Bail by JR* {Supreme Court of Victoria- Lasry J, February [2017]. Added reference to case of *DPP v SE* [2017] VSC 13. | |
| 21/07/17 | | 9 | 9.4.11 | Added cases of *DPP v Hume* [2015] VSC 695, *TM v AH & Ors* [2014] VSC 560, *An Application for Bail by Patricia Mitchell* [2013] VSC 59, *Kirby v The Queen* [2013] VSC 602, *DPP v SE* [2017] VSC 13. | |
| 20/07/17 | | 4 | 4.2, 4.4, 4.5.1, 4.5.2, 4.7.3, 4.8.6 & 4.9 (chart) | Amendments to text – and in section 4.9 to the chart – consequent upon the amendments to the *CYFA* which came into operation on 01/03/2016. | |
| 20/07/17 | | 5  [new] | Whole chapter has been rewritten | This new chapter sets out the law applicable from 01/03/2016. See the old chapter 5 for Child Protection law before 01/03/2016. | |
| 20/07/17 | | 5  [old] | New heading to page 1 | This chapter sets out the law applicable from 01/03/2016. See the new chapter 5 for Child Protection law applicable from 01/03/2016. | |
| 23/01/17 | | 9 | 9.2.3 | Aggravated burglary under s.77 of the Crimes Act 1958, home invasion under s.77A, aggravated home invasion under s.77B or aggravated carjacking under s.79A added to the list of offences for which the applicant must show cause. | |
| 23/01/17 | | 9 | 9.4.1.2 | Added cases of *Omer v DPP* [2016] VSC 762 & *Murat Kaya* [2016] VSC 712. | |
| 23/01/17 | | 9 | 9.4.4.4 | Added cases of *Riko Tomas* [2016] VSC 476, *Application for Bail by Ibrahim El-Sayah* [2016] VSC 716 & *Application for Bail by Jaydon Reynolds* [2016] VSC 730. | |
| 23/01/17 | | 9 | 9.4.4.5 | Added cases of *Re Kazim Kuzu; An application for Bail* [2016] VSC 710, *Re Casper De Waij* [2016] VSC 805 *& Re Abdullah (Bail Application)* [2016] VSC 745. | |
| 23/01/17 | | 9 | 9.4.4.7 | Added case of *KWLD v DPP* [2016] VSC 709. | |
| 23/01/17` | | 9 | 9.4.10 | * Amendment to quotation from dicta of Bell J in *Woods v DPP* [2014] VSC 1. * Added case of In *IMO an Application for Bail by HL* [2016] VSC 750. | |
| 23/12/16 | | 10 | 10.4.2 | Paragraph heading changed to “Earlier Australian authorities”. | |
| 23/12/16 | | 10 | 10.4.3 | Paragraph heading changed to “Demise of *doli incapax* in England”. | |
| 23/12/16 | | 10 | 10.4.4 | Text changed to note that in *RP v The Queen* [2016] HCA 53 at [9] the High Court has described one aspect of the decision in *R v ALH* as “wrong”. | |
| 23/12/16 | | 10 | 10.4.5 | New paragraph headed “The principle stated and applied by the High Court of Australia”. Detailed discussion of new case of *RP v The Queen* [2016] HCA 53. | |
| 07/10/16 | | 6 | 6.4 | Added reference to case of *YY v ZZ & Anor* [2013] VSC 743 at [45]. | |
| 07/10/16 | | 6 | 6FV.8.2 | Added reference to dicta from case of *Slaveski v Smith* [2012] VSCA 25 at [17]. | |
| 07/10/16 | | 6 | 6PS.10.1 | Added reference to Hansard. | |
| 07/10/16 | | 6 | 6.15 | * Section heading changed to “Vexatious Proceedings Act 2014”. * The previous content of this section is deleted and it is replaced with new commentary in paragraphs 6.15.1 to 6.15.6. | |
| 07/10/16 | | 6 | 6.15.1 | New paragraph entitled “Extended Litigation Restraint Order”. | |
| 07/10/16 | | 6 | 6.15.2 | New paragraph entitled “Acting in Concert Order”. | |
| 07/10/16 | | 6 | 6.15.3 | New paragraph entitled “Appeal Restriction Order”. | |
| 07/10/16 | | 6 | 6.15.4 | New paragraph entitled “Application for leave to proceed under ELRO”. | |
| 07/10/16 | | 6 | 6.15.5 | New paragraph entitled “Variation / Revocation of ELRO”. | |
| 07/10/16 | | 6 | 6.15.6 | New paragraph entitled “Variation or Revocation Application Prevention Order”. | |
| 07/10/16 | | 6 | 6.15.7 | New paragraph entitled “Publication of orders under the VPA”. | |
| 07/10/16 | | 6 | 6.20 | Statistics for 2013/14 added. Statistics for 2003/04 deleted due to lack of space. | |
| 07/10/16 | | 10 | 10.1  10.2.4  10.3.1 | References to defensive homicide removed as that offence has been repealed. | |
| 07/10/16 | | 10 | 10.1 | Commentary on *K v Children’s Court of Victoria* [2015] VSC 645. | |
| 07/10/16 | | 10 | 10.4.4 | Commentary on *DPP v Peter Martin (a pseudonym)* [2016] VSCA 219 and the distinction between it and *R v ALH* (2003) 6 VR 276. | |
| 21/07/16 | | 2 | 2.7.3 | Commentary on and extract from new case of *XYZ v State of Victoria & Others* [2016] VSC 339. | |
| 21/07/16 | | 2 | 2.8.1 | * Minor amendment to s.534(1)(b) of the CYFA noted. * Addition of s.534(1A) noted, * Commentary on and extract from *Herald & Weekly Times Pty Ltd v AB* [2008] VChC 3. * Commentary on and extract from *HWT v DM & Ors* [2016] VChC 3. * Information about Media Warning issued by Judge Grant on 28/05/2009 re the interpretation of s.534(1)(b)of the CYFA. | |
| 21/07/16 | | 2 | 2.8.2 | Commentary on and extract from new case of *Re Williams (a pseudonym) (No.2)* [2016] VSC 364. | |
| 21/07/16 | | 11 | 11.1.4.3 | Reference to new case of *DPP v Charlie Dalgleish (a pseudonym)* [2016] VSCA 148. | |
| 21/07/16 | | 11 | 11.2.6 | Reference to new case of *Jeremy Cox (A Pseudonym) v The Queen* [2016] VSCA 134. | |
| 21/07/16 | | 11 | 11.2.11.2  11.2.26 | Reference to new case of *Christopher Dean Binse v The Queen* [2016] VSCA 145. | |
| 21/07/16 | | 11 | 11.2.22.4 | Commentary on new case of *DPP v Browning* [2016] VSCA 152. | |
| 21/07/16 | | 11 | 11.2.22.5 | New paragraph entitled “Sentencing for statutory murder”. Commentary on and extract from new case of *DPP v Gavin Perry; Gavin Perry v The Queen* [2016] VSCA 152. | |
| 21/07/16 | | 11 | 11.2.22.6 | Paragraph entitled “Sentencing for being accessory to murder” renumbered. It was previously 11.2.22.5. | |
| 21/07/16 | | 11 | 11.15.1.1 | Commentary on and extracts from new case of *DPP v Charlie Dalgleish (a pseudonym)* [2016] VSCA 148. | |
| 14/07/16 | | 9 | 9.2.2 | Commentary on new case of *Re E.A.* [2016] VSC 378. | |
| 14/07/16 | | 9 | 9.4.4.5 | Commentary on new case of *Re B H; An application for Bail* [2016] VSC 369. | |
| 14/07/16 | | 9 | 9.4.4.5 | Reference to new case of *Re Application for bail by Christopher Sharp* [2016] VSC 238. | |
| 14/07/16 | | 9 | 9.5.9 | Reference to new case of *DPP v Spiteri* [2016] VSC 335. | |
| 14/07/16 | | 10 | 10.3.3 | Reference to new case of *DPP v Byrne No.3* [2016] VSC 346. | |
| 14/07/16 | | 10 | 10.6L | Commentary on new case of *R v Fairest, Fields & Toohey (Rulings-Fitness to be tried)* [2016] VSC 329. | |
| 14/07/16 | | 10 | 10.6M | Reference to new case of *DPP v Al-Salami* [2016] VSC 353. | |
| 05/07/16 | | 2 | 2.3 | Updated list of Children’s Court Office Holders | |
| 05/07/16 | | 2 | 2.7.4 | New section entitled “Media applications for copies of court documents”. | |
| 05/07/16 | | 2 | 2.7.5 | New section entitled “Media applications for copies of audio or audiovisual recordings”. References to cases of *R v Hemming (Ruling 1)* [2015] VSC 351; *DPP v Angela Maree Williams (Ruling No.1)* [2015] VSC 107; *R v Reed-Robertson* [2016] VSC 236. | |
| 05/07/16 | | 3 | 3.5.8 | Amendment to text. | |
| 05/07/16 | | 7 | 7.7 | Statistics on finalized CAYPINS cases updated to include 2011/12, 2012/13, 2013/14 & 2014/15. | |
| 05/07/16 | | 7 | 7.11.4 | Amendment to text on sitting times and locations of Children’s Koori Courts. | |
| 05/07/16 | | 10 | 10.3.4 | Minor amendment to text. | |
| 05/07/16 | | 10 | 10.3.5 | Amendment to text. | |
| 05/07/16 | | 10 | 10.8 | Material about the “ROPES” program has been transferred from chapter 11.15 into new chapter 10.8. | |
| 05/07/16 | | 11 | 11.1.3 | Commentary on and extract from important new case of *Bradley Webster (a pseudonym) v The Queen* [2016] VSCA 66. Some material moved from 11.1.4. | |
| 05/07/16 | | 11 | 11.1.4 | Paragraph renamed “Some general sentencing principles”. Some material moved to 11.1.3. | |
| 05/07/16 | | 11 | 11.1.5 | Value of one penalty unit for the 2016-2017 financial year is $155.46. | |
| 05/07/16 | | 11 | 11.1.7 | References to new cases of *Oleyar v R* [2015] VSCA 134 & *Finn v Wallace* *& Stewart* [2016] VSC 10. | |
| 05/07/16 | | 11 | 11.1.9.1 | Major rewrite of commentary in which the writer now takes a different view from the one he expressed previously. | |
| 05/07/16 | | 11 | 11.2.1 | New reference to case of *Ludwig v The Queen* [2015] VSCA 35 at [27]-[38]. | |
| 05/07/16 | | 11 | 11.2.6 | New references to cases of *Khoa v The Queen* [2015] VSCA 80; *Roujnikov v The Queen* [2015] VSCA 97 [24]-[25]; *Collins v The Queen* [2015] VSCA 106 [23]; *Anthony v The Queen* [2016] VSCA 22. Brief commentary on new case of *Leo Clayton (a pseudonym) v The Queen* [2016] VSCA 88 [32]. | |
| 05/07/16 | | 11 | 11.2.8.3 | New references to cases of *DPP v Tong Yang* [2011] VSCA 161; *DPP (Cth) v Carey* [2012] VSCA 15 at [42]. | |
| 05/07/16 | | 11 | 11.2.28 | Commentary on and extract from important new case of *Bradley Webster (a pseudonym) v The Queen* [2016] VSCA 66. | |
| 05/07/16 | | 11 | 11.7.1  11.7.2 | Statistics updated by addition of 2013/14 & 2014/15 sentencing orders. | |
| 05/07/16 | | 11 | 11.13 | Section entitled “Breach of sentencing orders made under the Sentencing Act” is deleted. | |
| 05/07/16 | | 11 | 11.13 | Section entitled “Sunset provision for Children’s Court priors” has been renumbered. It was previously 11.14. | |
| 05/07/16 | | 11 | 11.14 | Section entitled “The MAPPS Program” has been renumbered. It was previously 11.16. | |
| 05/07/16 | | 11 | 11.15 | Section about the “ROPES” program has been transferred to chapter 10.8. | |
| 05/07/16 | | 11 | 11.15 | Section entitled “Sentencing of adults for child abuse” has been renumbered. It was previously 11.17. All its paragraphs have been renumbered accordingly. | |
| 05/07/16 | | 11 | 11.16 | Section entitled “Sentencing of adults for offence against protective worker” has been renumbered. It was previously 11.18. | |
| 01/03/16 | | 4 | 4.1.4 | Addition of 2013-2014 statistics and minor consequential amendments to text. | |
| 01/03/16 | | 4 | 4.5 | Section heading amended to “Parental responsibility & contact”. | |
| 01/03/16 | | 4 | 4.5.1 | Paragraph heading amended to “Parental responsibility – Major long-term issues”. Consequential amendments to text. | |
| 01/03/16 | | 4 | 4.5.2 | Paragraph heading amended to “Where carer may exercise parental responsibility”. Consequential amendments to text. | |
| 01/03/16 | | 4 | 4.5.3 | Minor amendment to text. | |
| 01/03/16 | | 4 | 4.6.4  4.6.5 | Addition of 2013-2014 statistics and minor consequential amendments to text. | |
| 01/03/16 | | 4 | 4.7.3 | Minor amendment to text. | |
| 01/03/16 | | 4 | 4.8.6 | Amendment to names of certain protection orders. | |
| 01/03/16 | | 4 | 4.9 | Inclusion of reference to Broadmeadows Children’s Court. | |
| 01/03/16 | | 4 | 4.9.1 | Minor amendment to text. | |
| 01/03/16 | | 4 | 4.10.1 | Major amendment to text, | |
| 01/03/16 | | 4 | 4.10.5 | Minor amendment to text. | |
| 01/03/16 | | 4 | 4.10.6.1 | Deletion of sub-heading and text. | |
| 01/03/16 | | 4 | 4.10.6.2 | Deletion of sub-heading. Minor amendment to text which is combined into section 4.10.6. | |
| 01/03/16 | | 4 | 4.10.9 | Major amendment to text, | |
| 01/03/16 | | 4 | 4.17 | New section entitled “Family Drug Treatment Court” contains a description of the establishment and operation of the FDTC. | |
| 01/03/16 | | 4 | 4.18 | This section entitled “Some other relevant papers” has been renumbered. It was previously 4.17. | |
| 01/03/16  Last update 19/06/15 | | 5 | Page 5.1 | The following note has been placed on the first page of Chapter 5:  **“FROM 01/03/2016 THIS CHAPTER SHOULD BE READ IN CONJUNCTION WITH A PAPER ON THE WEBSITE ENTITLED “AMENDMENTS TO THE CYFA – FEBRUARY 2016.” IN DUE COURSE THE PAPER WILL BE MERGED INTO THIS CHAPTER AND ANY OBSOLETE MATTERS WILL BE DELETED.”** | |
| 10/02/16 | | 2 | 2.2 | Updated commentary on Presidents of the Children’s Court. | |
| 10/02/16 | | 2 | 2.3 | Updated list of Office Holders – Children’s Court of Victoria | |
| 10/02/16 | | 2 | 2.5 | Updated commentary on venues of the Court, *inter alia* to include Broadmeadows as a Family Division venue. | |
| 10/02/16 | | 3 | 3.6 | Minor amendment to list of the most frequently cited statutes in Children’s Court cases. | |
| 10/02/16 | | 3 | 3.8 | * New extracts from cases of *Burrell v The Queen* (2008) 238 CLR 218 at 224-225; [2008] HCA 34 at [21] and *CSR Ltd v Eddy* (2005) 226 CLR 1 at 34-36. * New references to *Achurch v The Queen* (2014) 253 CLR 141 at 154; *Gould v Vaggelas* (1985) 157 CLR 215 at 275; *Certain Lloyd’s Underwriters v Cross & Ors* [2015] HCA 52. | |
| 10/02/16 | | 3 | 3.9 | Amendments to discussion relating to costs orders under the Personal Safety Intervention Orders Act 2010. | |
| 29/07/15 | | 9 | 9.4.1.1 | New cases of *Hang Cao* [2015] VSC 198; *Re Steven Domotor* [2015] VSC 100; *Re Robert Penny* [2015] VSC 155; *Re Georgia Fields* [2015] VSC 309. | |
| 29/07/15 | | 9 | 9.4.2 | * Title of section changed to **“Relationship of Exceptional circumstances / Show cause & Unacceptable risk**”. * New case of *Robinson v R* [2015] VSCA 161. | |
| 29/07/15 | | 9 | 9.4.4.1 | New case of *Robinson v R* [2015] VSCA 161. | |
| 29/07/15 | | 9 | 9.4.4.3 | New case of *Robinson v R* [2015] VSCA 161. | |
| 29/07/15 | | 9 | 9.4.4.4 | New cases of *Robinson v R* [2015] VSCA 161; *Luke James* [2015] VSC 175; *Nguyen v R* [2015] VSC 69; *Giurguis* [2015] VSC 242; *SG v TA* [2015] VSC 264. | |
| 29/07/15 | | 9 | 9.4.5 | New case of *Robinson v R* [2015] VSCA 161. | |
| 29/07/15 | | 9 | 9.4.12 | New case of *SG v TA* [2015] VSC 264. | |
| 22/06/15 | | 11 | 11.5  11.6.4  11.6.5 | Belated amendment of sections relating to Deferral of sentencing and Group Conferences. | |
| 19/06/15 | | 5  5 | 5.17.5  5.18.5 | Addition of citation [Children’s Court of Victoria-Power M, 11/01/2012]. | |
| 02/06/15 | | 10 | 10.3.2 | Additional material on Children’s Court diversion. | |
| 02/06/15 | | 10 | 10.7 | New section entitled “Court diversion of youth offender”. | |
| 28/04/15 | | 5 | 5.23.3 | Paragraph renumbered 5.23.4. | |
| 28/04/15 | | 5 | 5.23.4 | Paragraph renumbered 5.23.5. | |
| 28/04/15 | | 5 | 5.23.5 | Paragraph renumbered 5.23.6. | |
| 28/04/15 | | 5 | 5.23.6 | Paragraph renumbered 5.23.7. | |
| 28/04/15 | | 5 | 5.23.7 | Paragraph renumbered 5.23.8. | |
| 28/04/15 | | 5 | 5.23.8 | Paragraph renumbered 5.23.9. | |
| 28/04/15 | | 5 | 5.23.3 | New paragraph entitled “The meaning of ‘sexually abusive behaviours’”. Quotations from and discussion of *DoHHS v J* [2015] VChC 1. | |
| 27/04/15 | | 10 | 10.1 | Reference to new case of *C v Children’s Court of Victoria & Anor* [2015] VSC 45. | |
| 27/04/15 | | 10 | 10.2.5 | Reference to new case of *Gild v Magistrates’ Court of Victoria* [2015] VSC 84. | |
| 26/03/15 | | 1 | 1.4 | New Practice Direction No.2 of 2015 added. | |
| 19/03/15 | | 1 | 1.4 | New Practice Direction No.1 of 2015 added. | |
| 19/03/15 | | 2 | 2.2, 2.4 | Addition of statutory material on judicial registrars. | |
| 19/03/15 | | 2 | 2.3 | Updating of material on the Organization of the Children’s Court at Melbourne. | |
| 19/03/15 | | 2 | 2.5 | Removal of reference to Moe Court which is now completely closed. | |
| 19/03/15 | | 2 | 2.9 | Updated to reflect the provisions of the Honorary Justices Act 2014 (Vic). | |
| 19/03/15 | | 3 | 3.8 | Added reference to new case of *Vinton v Sim (No.2)* [2015] VSC 79. | |
| 19/03/15 | | 6 | 6FV.13.1 | Additional reference to judgment of Bell J in *AA v BB* [2013] VSC 120. | |
| 19/03/15 | | 6 | 6.20 | Added Victorian statistics for 2012/13 [statistics for 2002/03 deleted because of lack of space]. | |
| 19/03/15 | | Chapter 12 | | Chapter updated including addition of statistics for 2007/2008 to 2013/2014. | |
| 19/03/15 | | Chapters 2, 3, 4, 5, 6, 12 | | Where appropriate references to “DOHS” and/or “Department of Human Services” are changed to “DHHS” and/or “Department of Health & Human Services”. | |
| 22/01/15 | | 9 | 9.4.1.1 | Added reference to case of *Re Gregory Rodin* [2014] VSC 656. | |
| 22/01/15 | | 9 | 9.4.1.2 | Added reference to case of *Re Duc Truong Nguyen* [2014] VSC 631. | |
| 22/01/15 | | 9 | 9.4.4.4  9.4.11 | Added reference to case of *TM v AH & Ors* [2014] VSC 560. | |
| 22/01/15 | | 9 | 9.4.5 | Added reference to case of *Spiteri v DPP* [2014] VSC 566. | |
| 22/01/15 | | 9 | 9.4.8 | Added reference to case of *Re Tara Egglestone* [2014] VSC 666. | |
| 22/01/15 | | 9 | 9.5.9 | Added reference to case of *DPP v Semaan* [2014] VSC 658. | |
| 22/01/15 | | 11 | 11.1.4.1 | * Change of wording in commentary on *CNK v The Queen* [2011] VSCA 228. * Added references to cases of *DPP v Anderson* [2013] VSCA 45; *R v EF* [2013] VSCA 186; *R v JH* [2012] VSC 13. | |
| 22/01/15 | | 11 | 11.1.4.3 | Added references to cases of *DPP v Dickson* [2011] VSCA 222 at [11]; *DPP v TP* [2012] VSCA 166 at [82]-[84]; *DPP v CA* [2012] VSCA 199 at [14]-[18]; *R v Contin* [2012] VSCA 247; *R v Kasey McCartney* [2012] VSCA 268 at [92]-[101]; *R v Buck & Willcocks* [2012] VSC 489; *DPP v Roberts* [2012] VSCA 313 at [95]-[119]; *Waugh v The Queen* [2013] VSCA 36 at [14]-[35]; *R v Gavanas* [2013] VSCA 178 at [102]-[105]; *John Gordon v The Queen* [2013] VSCA 343 at [44]-[67]; *Berry v The Queen* [2013] VSCA 349 at [6]-[14]; *Bowden v The Queen* [2013] VSCA 382 at [17]; *Pasinis v The Queen* [2014] VSCA 97 at [41]-[42] & [62]-[78]; *Zotos v The Queen* [2014] VSCA 324 at [19]; *Fridey v The Queen* [2014] VSCA 271 at [31]-[59]. | |
| 22/01/15 | | 11 | 11.1.8 | Added reference to case of *Shepherd & anor v Kell & anor* [2013] VSC 24. | |
| 22/01/15 | | 11 | 11.1.9 | Added reference to case of *Markovski v DPP* [2014] VSCA 35. | |
| 22/01/15 | | 11 | 11.1.14 | Added reference to case of *Kapkidis v The Queen* [2013] VSCA 35. | |
| 22/01/15 | | 11 | 11.2.1 | Added references to cases of *R v Scott* [2012] VSC 514; *R v Nguyen & Deing* [2014] VSC 203; *Mogoai & Another v The Queen* [2014] VSCA 219 | |
| 22/01/15 | | 11 | 11.2.4 | Added reference to case of *R v Formosa* [2012] VSCA 298. | |
| 22/01/15 | | 11 | 11.2.6 | Added references to cases of *Green v The Queen; Quinn v The Queen* [2011] HCA 49; (2011) 244 CLR 462 and to *Sammy Taleb v The Queen* [2014] VSCA 96 and the cases discussed therein; *Poutai v The Queen* [2011] VSCA 382; *Smith v The Queen* [2012] VSCA 5 at [37]-[40]; *R v Saab* [2012] VSCA 165 at [64]-[68]; *DPP v Bonacci and Vasile* [2012] VSCA 170 at [34]-[48]; *R v Morrison* [2012] VSCA 222 at [22]; *DPP v Carr* [2012] VSCA 299 at [75]-[81]*; R v Ulutui* [2012] VSCA 301 at [46]-[54]; *R v Charters* [2012] VSCA 318 at [42]-[48]; *Dawid v DPP* [2013] VSCA 64 at [41]-[48]; *Joseph v The Queen* [2014] VSCA 343 at [62]-[82]; *Johnson v The Queen* [2014] VSCA 283 at [47]-[58]; *Sayeed Hashmi* *v The Queen* [2014] VSCA 291 at [127]-[134]; *Le v The Queen* [2014] VSCA 283 at [31]-[32]. | |
| 22/01/15 | | 11 | 11.2.7 | Added references to cases of *RR v The Queen* [2013] VSCA 147; *Lecornu v The Queen* [2012] VSCA 137; *Lipp v The Queen* [2013] VSCA 384; *Dang v The Queen* [2014] VSCA 49; [22]; *R v Langdon* (2004) 11 VR 18; *Shields v The Queen* [2011] VSCA 386; *DPP v El-Waly* [2012] VSCA 184; *Nguyen v The Queen* [2013] VSCA 63; *Lipp v The Queen* [2013] VSCA 384; *Kruzenga v The Queen* [2014] VSCA 10; *Buddle v The Queen* [2014] VSCA 232; *Mustica v The Queen; DPP v Mustica* (2011) 31 VR 367 and *Trajkovski v The Queen* (2011) 32 VR 587. | |
| 22/01/15 | | 11 | 11.2.8 | Added references to cases of *Va v The Queen* [2011] VSCA 426; *R v Kells* [2012] VSC 53; *DPP v Carr* [2012] VSCA 299; *Dawid v DPP* [2013] VSCA 64. | |
| 22/01/15 | | 11 | 11.2.8.1 | Added references to cases of *JBM v The Queen* [2013] VSCA 69; *John Gordon v The Queen* [2013] VSCA 343; *Hunter v The Queen* [2013] VSCA 385; *SD v The Queen* [2013] VSCA 133; *R v Saab* [2012] VSCA 165. | |
| 22/01/15 | | 11 | 11.2.8.3 | Added references to cases of *DPP v Tong Yang* [2011] VSCA 161; *DPP (Cth) v Carey* [2012] VSCA 15. | |
| 22/01/15 | | 11 | 11.2.11.2 | Added references to cases of at [51]-[55]; *R v Shaw* [2012] VSCA 78 at [44]-[50]**;** *R v Sikaloski* [2012] VSCA 130 at [26]-[43]; *R v DM* [2012] VSCA 227; *DPP v Lucas* [2012] VSCA 245; *R v NJ* [2012] VSCA 256; *DPP v Rancie* [2012] VSCA 258; *R v Hill* [2012] VSC 353; *R v Oakley* [2012] VSC 392; *R v Kosian* [2012] VSC 426; *R v Potter* [2012] VSC 511; *R v Scott* [2012] VSC 514; *R v Van Zoelen* [2012] VSC 605; *O’Toole v The Queen* [2013] VSCA 62; *R v Benjamin* [2013] VSC 668; *R v Wallis* [2013] VSC 721; *R v West* [2013] VSC 737; *Barton v The Queen* [2013] VSCA 360; *Johnston v The Queen* [2013] VSCA 362; *Aggelidis v The Queen* [2014] VSCA 6; *TS v The Queen* [2014] VSCA 24; *Monaghan v The Queen* [2014] VSCA 82; *R v Kemp* [2014] VSC 631; *R v Umar* [2014] VSC 645; *Jason William Caldwell v The Queen* [2014] VSCA 274; *Lee James Matthews v The Queen*; *Tuyet Thi Vu v The Queen* [2014] VSCA 291; *Jamieson v The Queen* [2014] VSCA 294. | |
| 22/01/15 | | 11 | 11.2.12 | Added references to cases of *DPP v Miller* [2012] VSCA 265; *DPP v Hamdache* [2014] VSC 158. | |
| 22/01/15 | | 11 | 11.2.13 | Added references to cases of *R v Bollen* [2014] VSC 651; *R v CCR* [2012] VSCA 163; *R v Brennan* [2012] VSCA 151; *Director of Public Prosecutions (Cth) v Barbaro & Zirilli* [2012] VSCA 288. | |
| 22/01/15 | | 11 | 11.2.14 | Added references to cases of [22]; *R v Tansey* [2012] VSC 221; *DPP v TP* [2012] VSCA 166; *DPP v Miller* [2012] VSCA 265; *Russell O’Brien (a pseudonym) v The Queen* [2014] VSCA 94. | |
| 22/01/15 | | 11 | 11.2.16 | Added reference to case of *R v Broad; R v Freeman* [2013] VSC 454. | |
| 22/01/15 | | 11 | 11.2.17 | Added references to cases of *R v Dong* [2012] VSC 525; *R v Morrison* [2012] VSCA 222; *R v Grant* [2013] VSC 53. | |
| 22/01/15 | | 11 | 11.2.18 | Added references to cases of *Johnson v The Queen* [2014] VSCA 283; *R v El-Hage* [2012] VSCA 309; *Ramezanian v The Queen* [2013] VSCA 71; *R v Johnson* [2014] VSC 175. | |
| 22/01/15 | | 11 | 11.2.19 | Added reference to case of *Bugmy v The Queen* [2013] HCA 37. | |
| 22/01/15 | | 11 | 11.2.22.1 | Added references to cases of *R v SV* [2012] VSC 478; *Derek Bedson v The Queen* [2011] VSCA 379; *DPP (Vic) v Smith* [2012] VSC 314; *DPP v Kelly* [2012] VSC 398; *R v Drummond* [2012] VSC 505; *R v Scott* [2012] VSC 514; *R v Pitt* [2012] VSC 591; *R v Borthwick* [2012] VSCA 180 *R v Kells* [2013] VSCA 7; *R v Carleton* [2014] VSC 19; *R v Parker* [2013] VSC 479; *R v Torun* [2014] VSC 146; *R v Howard* [2014] VSC 194. | |
| 22/01/15 | | 11 | 11.2.22.2 | Added references to cases of *R v Creamer* [2012] VSCA 182; *R v Talatonu* [2012] VSC 270; *DPP v Chen* [2013] VSC 296; *Dambitis v The Queen* [2013] VSCA 329; *R v Koltuniewicz* [2013] VSC 650; *R v Copeland* [2014] VSC 39; *R v Drayton* [2014] VSC 92. | |
| 22/01/15 | | 11 | 11.2.22.4 | Added references to cases of *R v Jie Zhu* [2013] VSCA 102; *R v ZN* [2012] VSC 616; *Smith v The Queen* [2012] VSCA 5; *R v Grant* [2013] VSC 53; *R v West* [2013] VSC 737; *R v Giles* [2014] VSC 210; *R v Hemming* [2014] VSC 521; *R v Lowe* [2014] VSC 543; *R v Meade* [2013] VSC 682; *DPP v Borg* [2013] VSCA 181; *Xypolitos v The Queen* [2014] VSCA 339. | |
| 22/01/15 | | 11 | 11.2.23 | Added references to cases of *R v EF* [2013] VSCA 186; *Shields v The Queen* [2011] VSCA 386; *Paszynk v The Queen* [2014] VSCA 87; *DPP v Janson* (2011) 31 VR 222; *Board v The Queen* [2013] VSCA 91; *Rowe v The Queen* [2013] VSCA 140. | |
| 22/01/15 | | 11 | 11.2.24.1 | Added references to cases of *R v El-Haouli* [2014] VSCA 5; *R v Marshall* [2012] VSC 587; *R v Hale* [2012] VSC 386; *R v Nash* [2012] VSC 507; *R v O’Brien & Hudson* [2012] VSC 592; *R v Wallis* [2013] VSC 721; *R v Freeman* [2013] VSC 454; *DPP v Hamdache* [2014] VSC 158; *DPP v Tran* [2014] VSC 223. | |
| 22/01/15 | | 11 | 11.2.24.2 | Added references to cases of *DPP v Batich* [2012] VSC 524; *Ejupi v The Queen* [2014] VSCA 2; *DPP v Russell* [2014] VSCA 308; *DPP v Leys & Leys* [2012] VSCA 304; *R v Kovacs* [2012] VSC 647; *R v El Ali* [2013] VSC 172; *Mogoai & Another v The Queen* [2014] VSCA 219. | |
| 22/01/15 | | 11 | 11.2.24.3 | Added reference to case of *DPP v Miller* [2012] VSCA 265. | |
| 22/01/15 | | 11 | 11.2.24.4 | Added references to cases of *R v Musa & Wubneh* [2014] VSC 15; *DPP v McCloskey-Sharp* [2014] VSC 634. | |
| 22/01/15 | | 11 | 11.2.24.6 | Added reference to case of *R v Oakley* [2012] VSC 392. | |
| 22/01/15 | | 11 | 11.2.25 | Added references to cases of *Samuel Bass (A pseudonym) v The Queen* [2014] VSCA 350; *Kapkidis v The Queen* [2013] VSCA 35; *R v Yim & Ors* [2012] VSC 325; *Polimeni v The Queen* [2014] VSCA 72; *Dao v The Queen; Tran v The Queen* [2014] VSCA 93; *Barton v The Queen* [2013] VSCA 360; ; *R v Kneifati, R v Taha* [2012] VSCA 124; *Alavy v The Queen* [2014] VSCA 25; *Hibgame v The Queen* [2014] VSCA 26; *Lee James Matthews v The Queen*; *Tuyet Thi Vu v The Queen* & *Sayeed Hashmi* *v The Queen* [2014] VSCA 291. | |
| 22/01/15 | | 11 | 11.2.26 | Added reference to case of *DPP v Rancie* [2012] VSCA 258. | |
| 22/01/15 | | 11 | 11.2.27 | Added references to cases of *R v* *Aujla & Anor* [2012] VSC 503; *R v Ray & Vella* [2014] VSC 165; *Hogarth v The Queen* (2012) 37 VR 658; [2012] VSCA 302; *DPP v Meyers* [2014] VSCA 314; *R v Denman* [2012] VSCA 261; *DPP v Bonacci and Vasile* [2012] VSCA 170*; Saxon v The Queen* [2014] VSCA 296. | |
| 22/01/15 | | 11 | 11.2.28 | Added references to cases of ; *R v Werry* [2012] VSCA 208; *DPP v Roberts* [2012] VSCA 313. | |
| 22/01/15 | | 11 | 11.2.30 | Added references to cases of *DPP v Thymiopoulos* [2012] VSCA 220*; R v Pantazis & Ors* [2012] VSCA 160; *Zotos v The Queen* [2014] VSCA 324. | |
| 22/01/15 | | 11 | 11.2.31 | * New paragraph entitled “**Sentencing for property damage**”. * Added reference to case of *DPP v Eade* [2012] VSCA 142. | |
| 22/01/15 | | 11 | 11.3.2 | Added references to cases of *Shields v The Queen* [2011] VSCA 386; *Alavy v The Queen* [2014] VSCA 25; *Hili v The Queen* (2010) 242 CLR 520; *Barbaro v The Queen* [2014] HCA 2. | |
| 22/01/15 | | 11 | 11.3.3 | Added references to cases of *Bowden v The Queen* [2013] VSCA 382; *Singh v The Queen* [2013] VSCA 300; *WBM v Chief Commissioner of Police* [2012] VSCA 159. | |
| 22/01/15 | | 11 | 11.3.4 | Added reference to case of *R v Gavanas* [2013] VSCA 178. | |
| 22/01/15 | | 11 | 11.3.5 | Added reference to case of *Ramezanian v The Queen* [2013] VSCA 71. | |
| 22/01/15 | | 11 | 11.3.7 | * New paragraph entitled “**Effect of an injury sustained by offender while committing a crime**”. * Added reference to case of *Khoja v The Queen* [2014] VSCA 9. | |
| 22/01/15 | | 11 | 11.4.4 | Added references to cases of *Director of Public Prosecutions (Cth) v Barbaro & Zirilli* [2012] VSCA 288; *Barbaro v The Queen; Zirilli v The Queen* (2014) 305 ALR 323; [2014] HCA 2; *Lee James Matthews v The Queen*; *Tuyet Thi Vu v The Queen* & *Sayeed Hashmi* *v The Queen* [2014] VSCA 291. | |
| 22/01/15 | | 11 | 11.4.5 | Added references to cases of *SD v The Queen* [2013] VSCA 133; *DPP v QPX* [2014] VSC 133. | |
| 22/01/15 | | 11 | 11.7.1 | * Added Victorian statistics for 2011/12 & 2012/13. | |
| 22/01/15 | | 11 | 11.8.1 | Added references to cases of *R v Borthwick* [2012] VSCA 180; *R v Yost* [2012] VSCA 181; *DPP v Kumova* [2012] VSCA 212; *R v MA* [2012] VSCA 214; *John Gordon v The Queen* [2013] VSCA 343. | |
| 22/01/15 | | 11 | 11.17.1 | Added references to cases of *R v Dibbs* [2012] VSCA 224; *PG v The Queen* [2013] VSCA 9; | |
| 22/01/15 | | 11 | 11.17.1.1 | Added references to cases of *PG v The Queen* [2013] VSCA 9; *Ling Seng Soo v The Queen* [2014] VSCA 304; *PRW v The Queen* [2011] VSCA 381; *DLJ v The Queen* [2011] VSCA 389; *R v MA* [2012] VSCA 214; *R v DM* [2012] VSCA 227; *DPP v SJ* [2012] VSCA 237; *DPP v DRS* [2012] VSCA 276; *R v ISJ* [2012] VSCA 321; *BM v R* [2013] VSCA 3; *DPP v CJA* [2013] VSCA 18; *Martin v The Queen* [2013] VSCA 377; *Wallace Cummins (a pseudonym) v The Queen* [2014] VSCA 352; *McDonald v The Queen* [2014] VSCA 80; *Christopher Avery (a pseudonym) v The Queen* [2014] VSCA 86; *Morgan v The Queen* [2014] VSCA 303; *George Bussell (a pseudonym) v The Queen* [2014] VSCA 310. | |
| 22/01/15 | | 11 | 11.17.1.2 | Added references to cases of *R v Szeto* [2012] VSCA 155; *Ha v The Queen* [2014] VSCA 335. | |
| 22/01/15 | | 11 | 11.17.2 | Added reference to case of *DPP v Chatterton* [2014] VSCA 1. | |
| 22/01/15 | | 11 | 11.17.3 | * Paragraph heading amended to “**Possession/production/transmission of child pornography”.** * Added references to cases of *DPP v SJ* [2012] VSCA 237; *R v Gibbs* [2012] VSCA 241; *Warren v The Queen* [2013] VSCA 372; *DPP v Guest* [2014] VSCA 29; *DPP (Cth) v Zarb* [2014] VSCA 347. | |
| 22/01/15 | | 11 | 11.17.4 | Added references to cases of *R v NJ* [2012] VSCA 256; *DPP v Macfie* [2012] VSCA 314; *R v Chatterton* [2014] VSCA 1; *McPherson v The Queen* [2014] VSCA 59. | |
| 22/01/15 | | 11 | 11.17.7 | Added reference to case of *R v Ta Vuong* [2014] VSC 574. | |
| 19/01/15 | | 2 | 2.7.3 | * New paragraph entitled “Pseudonym orders”. * Added references to cases of *AS v Minister for Immigration and Border Protection* [2014] VSC 486; *ABC v D1 and Others; Ex Parte The Herald Sun & Weekly Times Limited* [2007] VSC 480; *TTT & JJJ v The State of Victoria* [2013] VSC 162. | |
| 14/01/15 | | 10 | 10.1 | * Added references to cases of *Victoria Police v CB* [2010] VChC 3; *OPP v BW* [2010] VChC 2. * Extract from new case of *Williams v Hand and Anor* [2014] VSC 527 and associated summary. | |
| 13/01/15 | | 4 | 4.6.4 | * Paragraph heading amended to “Trends in child protection reports 1989-1990 to 2012-2013”. * Addition of 2012-2013 statistics and minor changes to text. | |
| 13/01/15 | | 4 | 4.6.5 | Addition of 2012-2013 statistics and minor changes to text. | |
| 12/01/15 | | 2 | 2.8.1 | Added reference to and discussion of *ABC and DOHS & others* [2014] VChC 1. | |
| 12/01/15 | | 5 | 5.4.10  5.5  5.5.6  5.11.10  5.13  5.14.2  5.20.6  5.22.7  5.23.7  5.27.3 | Addition of statistics for 2012/13. In some instances small consequential changes have been made to the commentary to reflect updated statistics. Deletion of statistics for 2003/04 due to space constraints. | |
| 12/01/15 | | 5 | 5.10.3  5.10.5  5.18.5  5.30.3  5.32 | Added references to case of *DOHS and K siblings* [2013] VChC 1. | |
| 12/01/15 | | 5 | 5.10.4  5.11.16 | Extract from new case of *Secretary* *to DOHS v Children’s Court of Victoria & Ors* [2014] VSC 609 per Macaulay J. | |
| 23/10/14 | | 10 | 10.6 | Minor changes to commentary, included added references to case of *R v Falconer* (1990) 171 CLR 30*; R v Sebalj* [2003] VSC 181 at [14]; *R v R* [2003] VSC 187; *R v Gemmill* [2004] VSCA 72; *R v Martin (No.1)* [2005] VSC 518; *DPP v Taleski* [2007] VSC 183. | |
| 02/10/14 | | 3 | 3.1 | New case of *Grima v MacCallum* [2014] VSC 473. | |
| 02/10/14 | | 3 | 3.5.5 | Change acronym for to “Video and Audio Recorded Evidence” to “VARE”. Reference to *Martin v The Queen* [2013] VSCA 377 at [20]-[58] per Redlich JA and at [3]-[5] per Neave JA. | |
| 02/10/14 | | 10 | 10.3.3 | Reference to new case of *R v Ray & Vella (Ruling No.3)* [2014] VSC 178. | |
| 02/10/14 | | 10 | 10.6 | Section heading amended to “Unfitness to be tried & Mental impairment”. | |
| 02/10/14 | | 10 | 10.6 | Commentary rewritten to reflect the amendments to the Crimes (Mental Impairment and Unfitness to be Tried Act) 1997 (Vic) commencing 31/10/2014. | |
| 02/10/14 | | 10 | 10.6.1 & 10.6.2 | Paragraph headings deleted. | |
| 30/09/14 | | 1 | 1.1.2 | * Removal of dated material in the commentary about the CYFA. * Addition of commentary on the amendments to the CYFA contained in the Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014 (Vic) [No.61 of 2014]. | |
| 30/09/14 | | 1 | 1.4 | Addition of references to Practice Directions No.5 of 2013 and No.1-4 of 2014. | |
| 17/06/14 | | 7 | 7.4 | Additional statistics re Police Cautioning Program. | |
| 17/06/14 | | 7 | 7.11.4 | Updated commentary on Children’s Koori Courts. | |
| 17/06/14 | | 9 | 9.4.1.1 | New commentary on cases of *Bail Application – Jason Yuen* [2014] VSC 197 & *Bail Application – Dalton* [2013] VSC 690. | |
| 17/06/14 | | 9 | 9.4.2 | New case of *Application for Bail by Tyler Foxwell* [2013] VSC 716. | |
| 17/06/14 | | 9 | 9.4.4.1 | New reference to decision of Kaye J in *Bail Application – Bunning* [2013] VSC 618 at [35]-[38]. | |
| 17/06/14 | | 9 | 9.4.4.4 | Commentaries on new cases of *Peter John Hewat* [2014] VSC 240; *Michael Murray* [2014] VSC 249; *Sanchez v DPP* [2013] VSC 707 & *Smith v DPP* [2014] VSC 60. | |
| 17/06/14 | | 9 | 9.4.4.5 | Commentaries on new cases of *Bail Application – Bunning* [2013] VSC 681; *Re Jan Visser* [2013] VSC 736 & *Re PI* [2014] VSC 64. | |
| 30/05/14 | | 2 | 2.8.2 | Commentary on and extract from new case of *DPP v QPX* [2014] VSC 211. | |
| 04/03/14 | | 9 | 9.4.11 | New case of *Re Chafer-Smith: An Application for Bail* [2014] VSC 51 especially at [27]. | |
| 27/02/14 | | 2 | 2.3 | * Paragraph heading changed to “Organizational structure of the Children’s Court of Victoria”. * Updating of office holders. | |
| 27/02/14 | | 2 | 2.5 | * Removal of reference to Preston & Moonee Ponds Magistrates’ Courts which are now closed. * Addition to commentary on role of Moorabbin JC. | |
| 27/02/14 | | 2 | 2.7.1 | New paragraph heading: “Section 523 of the CYFA”. Minor amendments to previous commentary as a consequence of the commencement of the Open Courts Act 2013. | |
| 27/02/14 | | 2 | 2.7.2 | New paragraph entitled “Sections 28-32 of the Open Courts Act 2013”. | |
| 27/02/14 | | 2 | 2.8.1 | * Paragraph heading amended to “Statutory prohibition on publication of identifying particulars and/or pictures”. * Removal of some references to the CYPA. * Commentary on *R v SJK & GAS* [2002] VSC 94 moved to paragraph 2.8.2. * Amendments to previous commentary. | |
| 27/02/14 | | 2 | 2.8.2 | * Paragraph heading amended to “Suppression orders”. * Commentary on *R v SJK & GAS* [2002] VSC 94 moved from paragraph 2.8.1. * Amendments to previous commentary. | |
| 27/02/14 | | 2 | 2.8.3 | New paragraph entitled “Section 10(5) of the Witness Protection Act”. The material in this paragraph has been moved from the end of paragraph 2.7. | |
| 27/02/14 | | 2 | 2.10.1 | Paragraph heading amended to “Youth Justice”. Amendments to commentary. | |
| 27/02/14 | | 2 | 2.10.2 | Amendment to commentary on the Salvation Army Court support service. | |
| 27/02/14 | | 3 | 3.1 | Added reference to *Wain & Ors v Drapac & Ors (No 3)* [2014] VSC 23. | |
| 27/02/14 | | 3 | 3.7.2 | Added reference to *Gray v Brimbank City Council* [2014] VSC 13 at [35]-[56] per Rush J. | |
| 27/02/14 | | 9 | 9.3 | * Paragraph heading changed to “Bail – History, Questions, Factors & Principles”. * Four sub-headings introduced. * Cases of *Renate Mokbel v DPP (Vic) and DPP (Cth)* [2006] VSC 487 at [33]-[34]; *Bail Application by Michael Paterson* [2006] VSC 268 and *R v Griffey* [2006] VSC 86 moved from section 9.4. * A number of extracts from the judgment of Bell J in *DPP v Woods* [2014] VSC 1 have been added to this paragraph. | |
| 27/02/14 | | 9 | 9.4 | Added reference to *DPP v Woods* [2014] VSC 1 at [34]. | |
| 27/02/14 | | 9 | 9.4.1.1 | * The paragraph detailing “Some Cases in which exceptional circumstances were found and bail was granted” is numbered 9.4.1.1. * Added references to cases of *Armstrong v R* [2013] VSC 111; *Re Michael Pickergill* [2013] VSC 715. | |
| 27/02/14 | | 9 | 9.4.1.2 | The paragraph detailing “Some Cases in which exceptional circumstances were not found and bail was refused” is numbered 9.4.1.2. | |
| 27/02/14 | | 9 | 9.4.4.1 | * New paragraph heading “Whether showing cause is a ‘one step’ or a ‘two step’ process”. * New case of *Woods v DPP* [2014] VSC 1 at [55]-[56]. | |
| 27/02/14 | | 9 | 9.4.4.2 | * New paragraph heading “How does an accused show cause”. * New case of *Woods v DPP* [2014] VSC 1 at [51]. * New case of *MA v EM* [2014] VSC 11. | |
| 27/02/14 | | 9 | 9.4.4.3 | * New paragraph heading “Unacceptable risk”.” * New introduction to *DPP v Haidy* {aka *Vasailley*} [2004] VSC 247 and some of the previous commentary moved into paragraph 9.4.4.2. * New case of *Woods v DPP* [2014] VSC 1 at [25], [27] & [28]. | |
| 27/02/14 | | 9 | 9.4.4.4 | * The paragraph detailing “Some cases in which cause was shown and bail was granted” is numbered 9.4.4.4. * New case of *Nicholas Kiourellis* [2014] VSC 1 at [109]-[119]. * New case of *MA v EM* [2014] VSC 11. | |
| 27/02/14 | | 9 | 9.4.4.5 | * The paragraph detailing “Some cases in which cause was not shown and bail was refused” is numbered 9.4.4.5. * New case of *Lirim Salievski* [2014] VSC 1 at [102]-[108]. | |
| 27/02/14 | | 9 | 9.4.4.6 | * The paragraph detailing “Some cases in which accused was held not to be an unacceptable risk and bail was granted” is numbered 9.4.4.6. * New case of *Deng Mawn* [2014] VSC 1 at [120]-[133]. | |
| 27/02/14 | | 9 | 9.4.4.7 | The paragraph detailing “Some cases in which accused was held to be an unacceptable risk and bail was refused” is numbered 9.4.4.7. | |
| 27/02/14 | | 9 | 9.4.10 | New case of *Woods v DPP* [2014] VSC 1 at [21]. | |
| 27/02/14 | | 9 | 9.4.12 | * New paragraph entitled “Relevance of youth”. * New case of *Woods v DPP* [2014] VSC 1 at [96]-[100]. | |
| 27/02/14 | | 9 | 9.5.3 | * New s.5(2A) of the Bail Act 1977. * Updated Children’s Court Courtlink standard bail conditions. | |
| 27/02/14 | | 9 | 9.5.6 | Added references to ss.18(4) & 18AK of the Bail Act 1977. | |
| 27/02/14 | | 9 | 9.5.6.1 | The paragraph detailing “Some cases in which new facts and circumstances were discussed” is numbered 9.5.6.1. | |
| 27/02/14 | | 9 | 9.5.7 | Added reference to s.18AK of the Bail Act 1977. | |
| 27/02/14 | | 9 | 9.5.12 | Added references to new ss.30A & 30B of the Bail Act 1977. | |
| 02/12/13 | | 3  4 | 3.5.6.3  4.3.2  4.8.1 | Amendment to commentary on new s.215B of the CYFA. | |
| 01/12/13 | | 1 | 1.2.1 | Minor amendment to Children, Youth and Families Regulations 2007 made by S.R. No.140/2013. | |
| 01/12/13 | | 1 | 1.3 | Major amendment to Children, Youth and Families (Children’s Court Family Division) Rules 2007 which prescribe certain matters together with 40 forms for the purposes of the Family Division of the Court. | |
| 01/12/13 | | 1 | 1.4 | * New Practice Direction 4 of 2009 relating to all child protection applications by apprehension at Melbourne Children’s Court. * Practice Direction 1 of 2008 is revoked. | |
| 01/12/13 | | 3 | 3.5.6 | This section, headed “**Contested Family Division cases**” has been extensively re-written and four separate paragraphs have been created. | |
| 01/12/13 | | 3 | 3.5.6.1 | New paragraph heading **“The usual procedure”** | |
| 01/12/13 | | 3 | 3.5.6.2 | New paragraph heading **“Informal procedure”.** | |
| 01/12/13 | | 3 | 3.5.6.3 | New paragraph heading **“Section 215B of the CYFA”**. | |
| 01/12/13 | | 3 | 3.5.6.4 | New paragraph heading **“Obligation to afford procedural fairness”**. | |
| 01/12/13 | | 3 | 3.7.1 & 3.7.2 | Sections combined into a new 3.7.1 with heading **“Explanation & Reasons”**. | |
| 01/12/13 | | 3 | 3.7.3 | Paragraph renumbered 3.7.2. | |
| 01/12/13 | | 3 | 3.8.5 | New paragraph entitled **“Enforcement of costs orders made in the Family Division”** and referring to new s.528A of the CYFA, ss.154 & 170(2) of the FVPA and ss.111 & 126(2) of the PSIA. | |
| 01/12/13 | | 4 | 4.1.4 | Added statistics for 2010-2011. | |
| 01/12/13 | | 4 | 4.2 | Very minor amendments to text. | |
| 01/12/13 | | 4 | 4.3.1 | Replacement of reference to Stalking Intervention Orders Act 2008 by Personal Safety Intervention Orders Act. | |
| 01/12/13 | | 4 | 4.3.2 | Added reference to s.215B of the CYFA. | |
| 01/12/13 | | 4 | 4.4 | Replacement of reference to Stalking Intervention Orders Act 2008 by Personal Safety Intervention Orders Act. | |
| 01/12/13 | | 4 | 4.5 | Heading amended to“**Custody, guardianship & contact**”. | |
| 01/12/13 | | 4 | 4.5.3 | Heading amended to “**Contact**”. Minor amendments to text. | |
| 01/12/13 | | 4 | 4.8.1  4.8.2 | Material relating to new s.215B of the CYFA added to paragraph 4.8.1. Some of the text relating to the Less Adversarial Trial provisions of the Family Law Act 1975 (Cth) and specifically the reference to the case of *T v T* [2008] FamCAFC 4; (2008) FLC 93-360; (2008) 38 Fam LR 614 moved into para. 4.8.1 from 4.8.2. | |
| 01/12/13 | | 4 | 4.8.3 | Added reference to *DOHS v DR* [2013] VSC 579 at [56] per Elliott J. Change “access” in text to “contact”. | |
| 01/12/13 | | 4 | 4.8.4 | * This paragraph headed “**Findings on balance of probabilities**” has been substantially re-written because of the repeal of s.215(1)(c) of the CYFA and its replacement by new s.215A. * Added references to the balance of probabilities test referred to in ss.53(1)(a), 74(1), 76(1)(b), 77(2) & 106(2) of the FVPA and ss.35(1)(a), 61(1) & 83(2) of the PSIA. * Discussion of new s.162(3) of the CYFA and its relationship with the common law test of whether or not a child is **likely** to suffer harm in the future, a test enunciated in *In re H. & Others (Minors)(Sexual Abuse: Standard of Proof)* [1996] AC 563 at 585 in relation to English legislation in similar terms to s.162(1) of the CYFA. * Extract from judgment of Beach J in *Helou v Shaya* [2013] VSC 297 at [22]. | |
| 01/12/13 | | 4 | 4.8.5 | References to “access” changed to “contact” in the text. | |
| 01/12/13 | | 4 | 4.8.6 | New paragraph entitled “**Attendance of child at Court**” with text primarily based on new s.216A of the CYFA. | |
| 01/12/13 | | 4 | 4.9 | * Updated diagram of court processes. * Information about DOHS’ representation in the Family Division moved from 4.9.5 and updated. | |
| 01/12/13 | | 4 | 4.9.1 | Paragraph title changed to “**Apprehension - Hearing after child placed in emergency care**” and text substantially re-written to reflect legislative changes which make it uncommon for a child to be required to attend the Family Division. | |
| 01/12/13 | | 4 | 4.9.2 | Obsolete reference to “pre-hearing conference” changed to “conciliation conference”. | |
| 01/12/13 | | 4 | 4.9.3 | Paragraph renamed “Conciliation” and minor changes to text. | |
| 01/12/13 | | 4 | 4.9.4 | Paragraph renamed “**First directions hearing & Directions hearing preceding a contest”** and substantially reworded. | |
| 01/12/13 | | 4 | 4.10 | Section renamed “**Alternative Dispute Resolution**”. | |
| 01/12/13 | | 4 | 4.10.1 to 4.10.9 | * Amendments to text to reflect change of name from “dispute resolution conference” to “conciliation conference”. * Text substantially revised and updated. | |
| 01/12/13 | | 4 | 4.10.4 | Paragraph renamed “**Repeal of advisory conference provisions**” and contents completely changed to reflect repeal. | |
| 01/12/13 | | 4 | 4.10.5 | Reworded text including new s.226(7) of the CYFA. | |
| 01/12/13 | | 4 | 4.10.6.1 | Paragraph renamed “**Guidelines for the old model of conciliation conference**”. | |
| 01/12/13 | | 4 | 4.10.6.2 | Paragraph renamed “**Guidelines & procedure for the new model of conciliation conference**”. | |
| 01/12/13 | | 4 | 4.10.9.1  4.10.9.2 | Sub-paragraph headings deleted and text combined into a single paragraph 4.10.9. | |
| 01/12/13 | | 4 | 4.10.10 | Minor amendment to definition of “judicial resolution conference”. | |
| 01/12/13 | | 4 | 4.13 | Reference to “access” changed to “contact”. | |
| 01/12/13 | | 4 | 4.14 | * Section renamed “**Frequency of contact between young child and parent**”. * References to “access” changed to “contact” except in quotations and the like. | |
| 01/12/13 | | 4 | 4.14.4 | Paragraph renamed “**Contact conditions are an integral part of a court order**”. | |
| 01/12/13 | | 5 | 5.2  5.11.7  5.16.4  5.17.5  5.18.5  5.20.2  5.22.1  5.22.4  5.23.3 | Very minor amendment to text involving “contact” replacing “access”. | |
| 01/12/13 | | 5 | 5.4.10 | Update of Temporary Assessment Order statistics. | |
| 01/12/13 | | 5 | 5.5 | * Text amended to refer reflect amendments to ss.240-243 of the CYFA. * Addition of statistics for 2011/2012 showing the percentage of protection applications initiated by placement in emergency care. Deletion of statistics for 2004/05 due to space constraints. * Addition of reference to amended s.587 of the CYFA. | |
| 01/12/13 | | 5 | 5.5.3 | Addition to commentary on proof of protection application to reflect addition of s.215A of the CYFA. | |
| 01/12/13 | | 5 | 5.5.4 | Paragraph heading amended to **Meaning of “likely to suffer harm” and “unlikely to protect”**. Addition to commentary on proof of protection application to reflect addition of s.162(3) of the CYFA. | |
| 01/12/13 | | 5 | 5.5.6  5.11.10  5.13  5.14.2  5.15.1  5.15.3  5.17.1  5.17.2  5.20.6  5.22.7  5.23.7  5.27.3 | Addition of statistics for 2011/12. In some instances small consequential changes have been made to the commentary to reflect updated statistics. Deletion of statistics for 2002/03 due to space constraints. | |
| 01/12/13 | | 5 | 5.8.1 | Addition to text to note that an application for a TTO is one of the very few applications which still requires the child to attend Court. Cross-reference to paragraph 4.8.6. | |
| 01/12/13 | | 5 | 5.8.2 | Very minor amendments to text. | |
| 01/12/13 | | 5 | 5.10.3 | “Contact” replacing “access” in s.10(3)(k) of the CYFA. Cross–reference to paragraph 5.11.6 for commentary on the law relating to s.10(3)(g) of the CYFA. | |
| 01/12/13 | | 5 | 5.10.4 | * New paragraph entitled **“Section 10(3)(g)–Child not to be removed from parent unless unacceptable risk of harm”** * Commentary on *DPP v Haidy* [2004] VSC 247; *DPP v Stewart* [2004] VSC 405 and *DOHS v SM* [2006] VSC 129 moved into this paragraph from paragraph 5.11.6. | |
| 01/12/13 | | 5 | 5.10.5 | Renumbered paragraph – formerly 5.10.4. | |
| 01/12/13 | | 5 | 5.10.6 | Renumbered paragraph – formerly 5.10.5. | |
| 01/12/13 | | 5 | 5.10.7 | Renumbered paragraph – formerly 5.10.6. | |
| 01/12/13 | | 5 | 5.11 | Change to the form number for the prescribed forms for IAOs. | |
| 01/12/13 | | 5 | 5.11.1  5.11.2 | “Taken into safe custody” replaced by “placed in emergency care” where it occurs. | |
| 01/12/13 | | 5 | 5.11.6 | Rewording of text, including removal of a part of the commentary cases involving “unacceptable risk of harm” and its placement in paragraph 5.10.4. Reference to new case of *DOHS v DR* [2013] VSC 579 at [59]-[63]. | |
| 01/12/13 | | 5 | 5.11.11 | * “Taken into safe custody” replaced by “placed in emergency care” where it occurs. * Changes to text relating to ss.242(2) & 242(3) of the CYFA. * Change to cut-off time at Melbourne & Moorabbin CC from 2.00pm to 1.00pm. | |
| 01/12/13 | | 5 | 5.11.13 | Reference to new s.269(8). | |
| 01/12/13 | | 5 | 5.11.16 | Discussion of and extract from new case of *DOHS v DR* [2013] VSC 579 at [64]-[65]. | |
| 01/12/13 | | 5 | 5.12.3 | Amend “dispute resolution conference” to “conciliation conference”. | |
| 01/12/13 | | 5 | 5.15.1 | Note that the definition of “parent” does not include an ex domestic partner of a birth parent. | |
| 01/12/13 | | 5 | 5.15.7 | Small change to text to remove reference to s.95(6) of the CYPA. | |
| 01/12/13 | | 5 | 5.16.11 | Small change to text to remove reference to ss.95(6) & 98(4) of the CYPA. | |
| 01/12/13 | | 5 | 5.17.2 | Commentary on dicta of Ashley J in *SJF v DOHS* [2001] VSC 252R, expanded with the name of and a long quotation from the judgment included. | |
| 01/12/13 | | 5 | 5.17.3 | Small change to text. | |
| 01/12/13 | | 5 | 5.20.1 | Removal of reference to and commentary on *Department of Human Services v The Children's Court at Melbourne & Others* [Supreme Court of Victoria, unreported, 11/11/1997] as it applied to the CYPA and is not relevant to the CYFA. | |
| 01/12/13 | | 5 | 5.20.5 | Significant changes to text including references to new ss.291(3A) & 291(7) of the CYFA. | |
| 01/12/13 | | 5 | 5.23.2 | Significant amendments to commentary. | |
| 01/12/13 | | 5 | 5.23.3 | Minor amendment to commentary. | |
| 01/12/13 | | 5 | 5.24.6 | Minor addition to commentary. | |
| 01/12/13 | | 5 | 5.25.1 | Minor modifications to Blue form. | |
| 01/12/13 | | 5 | 5.25.3 | New orange form providing pro forma orders for appointment of Independent Children’s Lawyer [ICL] and for costs orders. | |
| 01/12/13 | | 5 | 5.26 | Minor modifications to Pink form. | |
| 01/12/13 | | 5 | 5.27 | Heading to section 5.27 amended to “**Emergency care search warrants**”. Throughout the various paragraphs, references to “safe custody warrants” are changed to “emergency care search warrants”. | |
| 01/12/13 | | 5 | 5.27.1 | Significant changes to text as a consequence of the child not being required to attend Court in most circumstances. | |
| 01/12/13 | | 5 | 5.27.2 | Heading of paragraph amended to **“Warning: Bail justices must not issue emergency care search warrants”**. | |
| 01/12/13 | | 5 | 5.27.5 | Major change to commentary on what happens upon the execution of the search warrant. | |
| 01/12/13 | | 5 | 5.29.1  5.29.2  5.29.4 | References to “access” changed to “contact”. | |
| 01/12/13 | | 6 | 6.2 | Additional commentary comparing the intervention order jurisdiction of the Magistrates’ Court with that of the Children’s Court. | |
| 01/12/13 | | 6 | 6.2.3 | Additional concurrent jurisdiction conferred from 01/12/2013 by s.147A of the FVPA and s.104A of the PSIA. | |
| 01/12/13 | | 6 | 6.8.5 | Changes to commentary including:   * reference to fact that new s.215B of the CYFA is not intended to apply to the conduct of intervention order proceedings; and * reference to repeal of s.215(1)(c) and to the fact that its replacement – s.215A – does not in its terms apply to intervention order proceedings. | |
| 01/12/13 | | 6 | 6FV.6 | Minor clarification inserted into commentary. | |
| 01/12/13 | | 6 | 6FV.7.5 | General period of validity of FV safety notice increased to 120 hours. | |
| 01/12/13 | | 6 | 6PS.5.2  6PS.5.3.1  6PS.5.3.4 | Reference to new case of *RR v The Queen* [2013] VSCA 147 per Ashley JA. | |
| 01/12/13 | | 6 | 6PS.8 | Replace “registrar” by “court official”. | |
| 01/12/13 | | 6 | 6.10.1 | Minor amendment to commentary. | |
| 01/12/13 | | 6 | 6.12 | Commentary amended to add new provisions relating to the enforcement of costs orders under the FVPA & PSIA:   * New s.528A of the CYFA confers an mechanism for enforcing costs orders made in the Family Division of the Children’s Court. * New s.170(2) of the FVPA and s.126(2) of the PSIA make applicable the Magistrates’ Court Act 1989 and relevant rules in proceedings for the enforcement of costs orders made under the FVPA and the PSIA. | |
| 01/12/13 | | 6 | 6.14 | Minor amendment to s.116(4) of the FVPA & s.93(4) of the PSIA. | |
| 02/08/13 | | 1 | 1.4 | Updated list of Practice Direction and Practice Notes. | |
| 02/08/13 | | 3 | 3.1 | Reference to new case of *Waddington v Magistrates’ Court of Victoria & Kha (No. 2)* [2013] VSC 340 at [51]-[61]. | |
| 02/08/13 | | 3 | 3.7.3 | Reference to new cases of *Murray Goulburn Coop Co Limited v Filliponi* [2012] VSCA 230; *Helou v Shaya* [2013] VSC 297 at [23]-[27]. | |
| 02/08/13 | | 9 | 9.1 | Section 346(5) of the CYFA amended to allow remand for a period not exceeding 21 **clear** days. | |
| 02/08/13 | | 9 | 9.4.1 | Added reference to case of *Armstrong v R* [2013] VSC 111. | |
| 02/08/13 | | 9 | 9.4.4 | Added references to cases of *RS* [2013] VSC 350; *Roque Pasqua* [2013] VSC 132; *Re Mark Anthony Handler* [2013] VSC 166*; Mohammad El Ali* [2013] VSC 216. | |
| 30/07/13 | | 10 | 10.1 | Extract from and commentary on new case of *DPP v Michael Anderson* [2013] VSCA 45. | |
| 30/07/13 | | 10 | 10.6 | Reference to Victorian Law Reform Commission review of the MIUT Act. | |
| 01/05/13 | | 2 | 2.2 | Amendments to contents to reflect a new President of the Children’s Court. Added reference to Media & Communications Manager of the Children’s Court. | |
| 01/05/13 | | 2 | 2.2  2.5 | Amendments to reflect the change in title of “acting magistrate” to “reserve magistrate”. | |
| 01/05/13 | | 2 | 2.3 | New organizational chart for Children’s Court and new list of office holders as at 01/05/2013. | |
| 01/05/13 | | 2 | 2.8.2 | New references to cases of *Commonwealth DPP v Magistrates’ Court of Victoria* [2011] VSC 593; *Lew v Priester (No.2)* [2012] VSC 152. | |
| 26/04/13 | | 6 | 6.10.1 | Contents changed to reflect amendments to ss.524(1)(a), 524(1A), 524(1B) & 525 of the CYFA which came into operation on 27/03/2013. | |
| 26/04/13 | | 6 | 6FV.2 | Added reference to *AA v BB* [2013] VSC 120 at [79]-[82]. | |
| 26/04/13 | | 6 | 6FV.12 | Contents changed to reflect amendments to the FVPA which came into operation on 17/04/2013. | |
| 26/04/13 | | 6 | 6FV.13.1 | Added reference to *AA v BB* [2013] VSC 120 at [14]-[27] & [87]. | |
| 26/04/13 | | 6 | 6.18.1 | Addition to contents to reflect amendments to the FVPA which have resulted in 3 additional contravention offences as from 17/04/2013. | |
| 26/04/13 | | 6 | 6.20 | Intervention order statistics for 2011-2012 added. | |
| 09/04/13 | | 4 | 4.6.4 | Paragraph title changed to “Trends in child protection reports 1989-1990 to 2011-2012”. Addition of statistics for 2011-2012. | |
| 09/04/13 | | 4 | 4.6.5 | Addition of statistics for 2011-2012. | |
| 09/04/13 | | 4 | 4.7.1 | Removal of reference to and extract from *A & B v Children’s Court of Victoria* [2012] VSC 589. | |
| 09/04/13 | | 4 | 4.7.2 | Renumbered paragraph – formerly 4.7.5. | |
| 09/04/13 | | 4 | 4.7.3 | Paragraph renumbered – formerly 4.7.2 – and title changed to “Child usually represented if aged 10 years or more”. Contents substantially changed to reflect amendments to ss.524(1)(a), 524(1A), 524(1B) & 525 of the CYFA which came into operation on 27/03/2013. | |
| 09/04/13 | | 4 | 4.7.4 | Paragraph renumbered – formerly 4.7.3 – and title changed to “Representation of child under 10 or not mature enough to give instructions”. Contents substantially changed to reflect amendments to ss.524(1)(a), 524(1A), 524(1B) & 524(4) which came into operation on 27/03/2013. | |
| 09/04/13 | | 4 | 4.7.5 | Renumbered paragraph – formerly 4.7.4. | |
| 09/04/13 | | 4 | 4.7.6 | Contents slightly changed to reflect amendments to s.524 which came into operation on 27/03/2013 and because of the re-writing of what are now paragraphs 4.7.3 & 4.7.4. Some of the commentary on *A & B v Children’s Court of Victoria* [2012] VSC 589 which was previously in paragraph 4.7.7 has been moved into this paragraph. | |
| 09/04/13 | | 4 | 4.7.7 | Old paragraph 4.7.7 deleted. Old paragraph 4.7.8 renumbered 4.7.7. | |
| 09/04/13 | | 4 | 4.7.8 | Old paragraph 4.7.9 renumbered 4.7.8. | |
| 09/04/13 | | 4 | 4.7.9 | Old paragraph 4.7.10 renumbered 4.7.9. Small change to commentary to reflect amendments to ss.524(1)(a), 524(1A), 524(1B) & 524(4) which came into operation on 27/03/2013. | |
| 09/04/13 | | 4 | 4.7.10 | Old paragraph 4.7.11 renumbered 4.7.10. | |
| 08/03/13 | | 9 | 9.1 & 9.2.1 | Statutory amendment of maximum remand period from “21 days” to “21 clear days”. | |
| 08/03/13 | | 9 | 9.1.2 | Addition of reference to Sch.3. | |
| 08/03/13 | | 9 | 9.4.1 | Added cases of *Nathan Scott* [2011] VSC 674; *Re Erol Ramazanoglu* [2012] VSC 645; *Re Carl Redenbach* [2012] VSC 646. | |
| 08/03/13 | | 9 | 9.4.4 | Added cases of *Re Application for Bail by Patricia Mitchell* [2013] VSC 59; *Luke Clegg* [2012] VSC 317; Re *Marcus Aaron Held* [2012] VSC 648. | |
| 08/03/13 | | 9 | 9.4.7 | Change heading of paragraph to “Bail pending per-sentence or other report”. Added case of *AW v R* [2013] VSC 56. | |
| 06/03/13 | | 3 | 3.1 | Reference to cases of *Michael Wilson & Partners Limited v Nicholls* [2011] HCA 48; *Flavel v Morsby* [2012] VSC 433. | |
| 06/03/13 | | 3 | 3.5.9.1 | Reference to *Dolheguy v Lane* [2012] VSC 328 at [16]-[23]. | |
| 06/03/13 | | 3 | 3.5.13 | Reference to *Pasqualotto v Pasqualotto* [2013] VSCA 16 at [177] & [221]-[273]. | |
| 06/03/13 | | 3 | 3.9 | Reference to cases of *Knight v FP Special Assets Ltd* (1992) 174 CLR 178; *Bischof v Adams* [1992] 2 VR 198; *Victorian Workcover Authority v Roman Catholic Trusts Corporation for Archdiocese of Melbourne & Anor* [2013] VSC 26; *Brown v Glen Eira (No. 2)* [2012] VSC 273. | |
| 19/02/13 | | 4 | 4.8.5 | Reference to case of *MA v The Queen* [2013] VSCA 20. | |
| 19/02/13 | | 10 | 10.3.2(3) | Added commentary on alternative arrangements for witnesses to give evidence in various circumstances:  1. ss.42D-42I of the Evidence (Miscellaneous Provisions) Act 1958 and associated cases;  2. ss.366-368A of the CPA and associated cases;  3. ss.353-358 of the CPA  4. ss.339-352 of the CPA and associated cases. | |
| 19/02/13 | | 10 | 10.3.3 | References to new cases of *R v Mocenigo (Ruling No. 4)* [2012] VSC 442; *DPP v Gillespie (Ruling No 2)* [2012] VSC 553. Extract from new case of *R v Bond (Ruling No 15)* [2012] VSC 119 referring to “tension” between *R v Cengiz* [1998] 3 VR 720 at 735 and *Attorney-General’s Reference (No 1 of 1983)* [1983] 2 VR 410 at 415. Material on “*Prasad* direction” in *DPP v Gillespie (Ruling No 2)* [2012] VSC 553 at [9]-[11]. Extract from new case of *DPP v Singh* [2012] VSCA 167 at [8]. Added references to cases of *R v Cheng* (1999) 48 NSWLR 616; *DPP (Vic) v Garde-Wilson* (2006) 15 VR 640; *R v Stone* (2005) 64 NSWLR 413. | |
| 09/01/13 | | 4 | 4.7.10 | New paragraph entitled “Recommendations by the ‘Cummins Inquiry’.” Commentary on Recommendations 53 & 54 of the Inquiry. | |
| 09/01/13 | | 4 | 4.7.11 | Renumbered paragraph – formerly 4.7.10. | |
| 08/01/13 | | 8 | 8.2.1 | Added commentary on s.84 of the Evidence Act 2008 and extract from new case of *R v Aujla & anor* [2012] VSC 213 at [4]. | |
| 08/01/13 | | 8 | 8.2.2 | Change paragraph title to “Regulation of conduct by investigating official”. | |
| 08/01/13 | | 8 | 8.2.10 | Added commentary on s.138 of the Evidence Act 2008 and extract from new case of *R v Aujla & anor* [2012] VSC 213 at [4]. | |
| 17/12/12 | | 3 | 3.1 | References to new cases of *Danne v Coroner* [2012] VSC 454 at [20]-[26] per Kyrou J; *Eaton v Dental Board of Australia* [2012] VSC 510 at [25]-[32] per Kyrou J. | |
| 17/12/12 | | 3 | 3.7.3 | Extract from new case of *Secretary to the Department of Justice v Yee* [2012] VSC 447. Reference to new case of *Ta v Thompson & Anor* [2012] VSC 446 per Whelan J. | |
| 17/12/12 | | 3 | 3.9.1 | Commentary on new case of *R v Payara* [2012] VSCA 266. | |
| 17/12/12 | | 4 | 4.6.4 | Change paragraph title to: “Trends in child protection reports 1989-1990 to 2010-2011”. Various statistics for 2010-2011 added to 3 tables in this paragraph. | |
| 17/12/12 | | 4 | 4.6.5 | Various statistics for 2010-2011 added to 2 tables in this paragraph. | |
| 17/12/12 | | 4 | 4.7.1 | Added commentary on new case of *A & B v Children’s Court of Victoria* [2012] VSC 589. | |
| 17/12/12 | | 4 | 4.7.2 | Added commentary on case of *J v Lieschke* (1987) 162 CLR 447 at 456. | |
| 17/12/12 | | 4 | 4.7.4 | Paragraph formerly entitled “Representation of child who is not respondent or applicant under the FVPA” moved to 4.7.10. | |
| 17/12/12 | | 4 | 4.7.4 | New paragraph entitled “Representing more than one child in a proceeding” and containing new commentary on case of *A & B v Children’s Court of Victoria* [2012] VSC 589. Added references to cases of *Bolkiah v KPMG* [1999] 2 AC 222; *Giannarelli v Wraith* (1988) 165 CLR 543 at [555]-[556] and *McVeigh v Linen House Pty Ltd* [1999] 3 VR 394, 398. | |
| 17/12/12 | | 4 | 4.7.7 | New paragraph entitled “Test whether representation to be by ‘instructions’ or ‘best interests’. Extracts from new case of *A & B v Children’s Court of Victoria* [2012] VSC 589. | |
| 17/12/12 | | 4 | 4.7.8 | Renumbered paragraph – formerly 4.7.7. | |
| 17/12/12 | | 4 | 4.7.9 | Renumbered paragraph – formerly 4.7.8. | |
| 17/12/12 | | 4 | 4.7.10 | New paragraph (formerly 4.7.4) entitled “Representation of child who is not respondent or applicant under the FVPA”. Minor change to content of former 4.7.4. | |
| 17/12/12 | | 4 | 4.8.3 | Commentary on new case of DOHS v Children’s Court of Victoria & Ors” [2012] VSC 422. | |
| 17/12/12 | | 4 | 4.8.4 | Commentary on new case of *Douglass v The Queen* [2012] HCA 34. | |
| 17/12/12 | | 4 | 4.10.1 | Small amendments to commentary. | |
| 17/12/12 | | 4 | 4.10.3 | Small amendments to commentary. | |
| 10/12/12 | | 5 | 5.11.11 | Reference to new case of *DOHS v Children’s Court of Victoria & Ors* [2012] VSC 422 at [22]-[27] per Dixon J. | |
| 10/12/12 | | 5 | 5.17.5 | Reference to case of *DOHS v The D Children* [2012] VChC 1. | |
| 10/12/12 | | 5 | 5.17.7 | Correction of typographical error. | |
| 10/12/12 | | 5 | 5.18.5 | Addition of citation [2012] VChC 1 to reference to the case of *DOHS v The D Children.* | |
| 10/12/12 | | 5 | 5.25.1 | Minor amendments to the Blue Form. | |
| 17/09/12 | | 3 | 3.1 | New references to *J v Lieschke* (1987) 162 CLR 447 at 457 per Brennan J (Mason, Wilson, Deane & Dawson JJ agreeing); *DPP v Sanding* [2011] VSC 42 at [135]-[147] per Bell J*; DOHS v Children’s Court of Victoria & Ors* [2012] VSC 422 at [12]-[21], [29] & [32] per Dixon J. | |
| 10/09/12 | | 3 | 3.1 | New references to cases of *AB v Magistrates’ Court at Heidelberg* [2011] VSC 61 at [93]; *Zigouris v Sunshine Magistrates’ Court* [2012] VSC 183 at [24]-[27]; *Bahonko v Moorfields Community* [2012] VSCA 89; *R v Vasiliou* [2012] VSC 216 at [9]-[11]. | |
| 10/09/12 | | 3 | 3.5.9.1 | New cases of *Commissioner of the Australian Federal Police v Magistrates’ Court of Victoria* [2011] VSC 3 at [28]; *Victoria v Lane* [2012] VSC 328 at [17]-[21]; *R v Debono* [2012] VSC 350 at [194]-[224]; *Smith v Victoria Police* [2012] VSC 374 at [58]. | |
| 10/09/12 | | 3 | 3.5.13 | Reference to new case of *R v Michael Peter Smith* [2012] VSCA 187 at [49]-[53] and small change in wording of commentary. | |
| 10/09/12 | | 3 | 3.5.14 | Extracts from new cases of *Tenth Vandy Pty Ltd & Anor v Natwest Markets Australia Pty Ltd* [2012] VSCA 102 at [154]-[156]; *R v Ahmed* [2012] VSCA 200 at [16]. | |
| 10/09/12 | | 3 | 3.8 | Extract from new case of *Hodgson v Amcor (No.8)* [2012] VSC 162 at [25]. | |
| 10/09/12 | | 3 | 3.9 | Reference to cases of *Gippsreal Limited v Kurek Investments Pty Ltd* [2009] VSC 344 at [2]; *IMO Fehring Livestock Pty Ltd* [2012] VSC 326 at [41]-[52]. | |
| 12/07/12 | | 11 | 11.1.3 | Reference to new case of *DPP v McGuigan* [2012] VSCA 121. | |
| 12/07/12 | | 11 | 11.1.4 | Added reference to *Muldrock v The Queen* [2011] HCA 39; (2011) 244 CLR 120. Minor changes to commentary. | |
| 12/07/12 | | 11 | 11.1.4.1 | Reference to new case of *DPP v Eade* [2012] VSCA 142. | |
| 12/07/12 | | 11 | 11.1.4.3 | Added extract from cases of *Mill v The Queen* (1988) 166 CLR 59 at 62-63 and *DPP v Eagles* [2012] VSCA 102 at [61]. Reference to new cases of *R v Tran* [2011] VSCA 363; *R v Charles* [2011] VSCA 399; *R v DHC* [2012] VSCA 52; *R v Arnautovic* [2012] VSCA 112; *DPP v McGuigan* [2012] VSCA 121; *DPP v Gangur* [2012] VSCA 139. | |
| 12/07/12 | | 11 | 11.1.5 | New reference to case of *R v P & Ors* [2007] VChC 3. | |
| 12/07/12 | | 11 | 11.1.8 | New reference to cases of *DPP (Vic) v Energy Brix Australia Corporation Pty Ltd* (2006) 14 VR 345; *Chalmers v Liang & Zhu* [2011] VSCA 439; *Shepherd & anor v Kell & anor* [2012] VSC 80; *Koeleman v Nolan* [2012] VSC 128. | |
| 12/07/12 | | 11 | 11.1.9 | Reference to new case of *R v Chalmers* [2011] VSCA 436. | |
| 12/07/12 | | 11 | 11.1.9.1 | Reference to new case of *R v Charles* [2011] VSCA 399. | |
| 12/07/12 | | 11 | 11.1.16 | Deletion of reference to dicta of Cummins J in *Farquharson’s Case* consequent on an appeal being allowed. | |
| 12/07/12 | | 11 | 11.1.18 | New paragraph entitled “Offending in a custodial setting is a relevant sentencing consideration”. Extract from new case of *DPP v De Castres; DPP v Kent* [2011] VSCA 377. | |
| 12/07/12 | | 11 | 11.2.1 | References to new cases of *R v Taskiran; R v Nabalarua* [2011] VSCA 358 and *R v Filippi, Kosterman and Vergados* [2011] VSCA 438. | |
| 12/07/12 | | 11 | 11.2.2 | Extract from new case of *DPP v DDH* [10/11/2011]. | |
| 12/07/12 | | 11 | 11.2.6 | Change to structure of paragraph and in particular to the discussion of the case of *R v Dwayne Andrew Evans* [2003] VSCA 223. References to new cases of *DPP(Cth) v Graziosi* [2011] VSCA 418; *R v Nguyen* [2012] VSCA 119. | |
| 12/07/12 | | 11 | 11.2.7 | Extract from new case of *DPP (Vic) v LeCornu* [2012] VSCA 123. References to new cases of *R v Tran* [2011] VSCA 363; *R v Charles* [2011] VSCA 399; *R v White* [2011] VSCA 441; *R v Orbit Drilling Pty Ltd; R v Smith* [2012] VSCA 82; *DPP v Gangur* [2012] VSCA 139. | |
| 12/07/12 | | 11 | 11.2.8 | Added extracts from cases of *R v P & Ors* [2007] VChC 3; *R v Pajic* (2009) 23 VR 527; *R v Phillips* [2012] VSCA 140 | |
| 12/07/12 | | 11 | 11.2.11.2 | Added extract from case of *R v Charles* [2011] VSCA 399. References to new cases of *R v Downey* [2011] VSC 672; *R v Filippi, Kosterman and Vergados* [2011] VSCA 438; *R v Shaw* [2012] VSCA 78;*R v Sikaloski* [2012] VSCA 130. | |
| 12/07/12 | | 11 | 11.2.12 | Addition of CLR reference to *Muldrock v The Queen*. Extract from new case of *R v Tran* [2012] VSCA 110. References to new cases of *R v Filippi, Kosterman and Vergados* [2011] VSCA 438; *R v Sokaluk* [2012] VSC 167. | |
| 12/07/12 | | 11 | 11.2.13 | References to new cases of *R v Charles Hargrave* [2011] VSCA 404; *R* *v AWP* [2012] VSCA 41; *R v RSJ* [2012] VSCA 148. | |
| 12/07/12 | | 11 | 11.2.14 | Reference to new case of *R v Tansey* [2012] VSC 221. | |
| 12/07/12 | | 11 | 11.2.18  11.2.21 | Reference to new case of *R v HAT & Ors* [2011] VSCA 427. | |
| 12/07/12 | | 11 | 11.2.22.1 | Amended commentary following the judgment of the Court of Appeal in *R v RPJ* [2012] VSCA 50. Reference to new case of *R v Saleh* [2012] VSC 120. | |
| 12/07/12 | | 11 | 11.2.22.2 | Extract from new case of *R v Edwards* [2012] VSC 138. References to new cases of *R v Monks* [2011] VSC 626; *Director of Public Prosecutions v Luke John Middendorp* [2012] VSCA 45. | |
| 12/07/12 | | 11 | 11.2.22.3 | Reference to new case of *R v Nguyen* [2011] VSC 632. | |
| 12/07/12 | | 11 | 11.2.22.4 | References to new cases of *R v JLE* [2011] VSC 669; *R v Sengoz* [2011] VSC 652. | |
| 12/07/12 | | 11 | 11.2.22.5 | New sub-paragraph entitled “Sentencing for being accessory to murder”. Reference to case of *R v MRN* [2010] VSC 671. | |
| 12/07/12 | | 11 | 11.2.23 | Extract from new case of *R v Hill* [2012] VSCA 144. References to new cases of *DPP (Vic) v Pesa* [2012] VSCA 109; *DPP v Gangur* [2012] VSCA 139. | |
| 12/07/12 | | 11 | 11.2.24.1 | Reference to new case of *R v Ian Robbins* [2012] VSCA 34. | |
| 12/07/12 | | 11 | 11.2.24.2 | Addition of VR reference to *R v Winch*. Extract from new case of *R v Ashdown* [2011] VSCA 408. Reference to new case of *R v Sindoni* [2012] VSC 238. | |
| 12/07/12 | | 11 | 11.2.24.3 | Reference to new case of *R v Gorladenchearau* [2011] VSCA 432. | |
| 12/07/12 | | 11 | 11.2.25 | References to new cases of *R v Scott Wilson; DPP v Sassine; DPP v Kalakias; R v Vicki Wilson* [2012] VSCA 141; *DPP v Barbaro & Zirrilli* [2012] VSC 47; *R v A Mokbel (sentence)* [2012] VSC 255. Extracts from new cases of *R v Son Ahn Pham and R v Ken Tang* [2012] VSCA 101; *DPP v OPQ* [2012] VSCA 115. | |
| 12/07/12 | | 11 | 11.2.26 | Reference to new case of *R v Raccosta* [2012] VSCA 59. | |
| 12/07/12 | | 11 | 11.3.1 | Added reference to case of *Muldrock v The Queen* [2011] HCA 39; (2011) 244 CLR 120. Added commentary on *DPP v OPQ* [2012] VSCA 115. | |
| 12/07/12 | | 11 | 11.3.3 | Commentary on new case of *Victoria Police v MA* [2011] VChC 7. | |
| 12/07/12 | | 11 | 11.3.6 | New sub-paragraph entitled “Conviction or non-conviction”. Extract from case of *R v P & Ors* [2007] VChC 3. | |
| 12/07/12 | | 11 | 11.4.4 | Heading of sub-paragraph changed to “Prosecutor’s submissions & duty”. Added VR reference to *R v MacNeil-Brown. References to new cases of DPP v Eagles* [2012] VSCA 102; *R v A Mokbel (sentence)* [2012] VSC 255. | |
| 12/07/12 | | 11 | 11.7.1 | New paragraph heading “Victorian statistics”. Substantial re-writing of commentary and associated tables. | |
| 12/07/12 | | 11 | 11.7.2 | New paragraph heading “Australian & world statistics”. Substantial re-writing of commentary and associated tables. | |
| 12/07/12 | | 11 | 11.8.1 | Reference to new case of *DPP (Vic) v Wallace* [2012] VSCA 114. | |
| 12/07/12 | | 11 | 11.12.1 | Change to commentary on “Constitution of Children’s Court hearing a CYFA breach proceeding” as a consequence of legislative amendments. | |
| 12/07/12 | | 11 | 11.16 | New paragraph entitled “The MAPPS Program”. Extract from case of *R v P & Ors* [2007] VChC 3. | |
| 12/07/12 | | 11 | 11.17  11.17.x | Section and paragraphs renumbered – previously 11.16 & 11.16.x | |
| 12/07/12 | | 11 | 11.17.1 | Added extract from case of *DPP v HRA* [2012] VSCA 88. | |
| 12/07/12 | | 11 | 11.17.1.1 | Added commentary on new cases of *R v PDI* [2011] VSCA 446; *R v ED* [2011] VSCA 397; *R v RSJ* [2012] VSCA 148. References to new cases of *DPP v DPC* [2011] VSCA 395; *R v FC* [2012] VSCA 22; ; *R v CGT* [2012] VSCA 23; *R v AWP* [2012] VSCA 41. | |
| 12/07/12 | | 11 | 11.17.1.2 | Reference to new case of *R v DHC* [2012] VSCA 52. | |
| 12/07/12 | | 11 | 11.17.2 | Reference to new case of *R v Bryan Cooper* [2012] VSCA 32. | |
| 12/07/12 | | 11 | 11.17.3 | Extract from new case of *R v Rivo* [2012] VSCA 117. | |
| 12/07/12 | | 11 | 11.18 | Section renumbered – previously 11.17. | |
| 09/07/12 | | 7 | 7.3 | Minor changes to commentary plus addition of chart showing Australian youth offender rates from 2008-2011. | |
| 09/07/12 | | 7 | 7.4 | Very minor changes to commentary. | |
| 09/07/12 | | 7 | 7.7 | Minor changes to commentary and addition of statistics for 2009/10 & 2010/11. | |
| 09/07/12 | | 7 | 7.11.4 | Paragraph re-titled: “Sitting times and locations”. Update of commentary. | |
| 09/07/12 | | 7 | 7.12.3 | New paragraph entitled “Arson”. Commentary on new case of *DPP v Eade* [2012] VSCA 142. | |
| 22/06/12 | | 10 | 10.1 | Added case of *Victoria Police v CB* [2010] VChC 3. | |
| 22/06/12 | | 10 | 10.2.5 | Correction of one word in quotation from *Thorpe v Abbotto* (1992) 106 ALR 239 at 245. | |
| 22/06/12 | | 10 | 10.5.2 | Added extract from the case of *Victoria Police v HW* [2010] VChC 1. | |
| 07/06/12 | | 1 | 1.1.2 | Two minor corrections to text to remove comments that the Therapeutic Treatment order provisions were not currently in operation. | |
| 07/06/12 | | 1 | 1.4 | Updated list of Practice Directions & Practice Notes. | |
| 28/05/12 | | 5 | 5.4.10 | Updated statistics to include 2010/11. | |
| 28/05/12 | | 5 | 5.5  5.5.6  5.11.10  5.13  5.14.2  5.15.1  5.17.1  5.20.6  5.22.7  5.27.3 | Addition of statistics for 2010/11. In some instances small consequential changes have been made to the commentary to reflect updated statistics. Deletion of statistics for 2001/02 due to space constraints. | |
| 28/05/12 | | 5 | 5.10.1 | Reference to new case of *DOHS v The D Children* [Children’s Court of Victoria-Power M, 11/01/2012] at pp.21-23, 48-49, 124, 138, 148-149, 174 & 176. | |
| 28/05/12 | | 5 | 5.10.3 | Reference to new case of *DOHS v The D Children* [Children’s Court of Victoria-Power M, 11/01/2012] at p.189. | |
| 28/05/12 | | 5 | 5.16.12 | Updated commentary on statistics for custody to third party and supervised custody orders. | |
| 28/05/12 | | 5 | 5.17.2 | Reference to an unnamed case in which Ashley J held otiose a condition on a custody to Secretary order providing for the child “to live as directed by DOHS”. | |
| 28/05/12 | | 5 | 5.18.5 | Extract from new case of *DOHS v The D Children* [Children’s Court of Victoria-Power M, 11/01/2012] at p.196. | |
| 28/05/12 | | 5 | 5.23.2 | Some material previously in 5.23.3 has been moved to this paragraph, | |
| 28/05/12 | | 5 | 5.23.3 | Renumbered paragraph which combines former paragraphs 5.23.4 & 5.23.5. | |
| 28/05/12 | | 5 | 5.23.4 | Renumbered paragraph – formerly 5.23.6. | |
| 28/05/12 | | 5 | 5.23.5 | Renumbered paragraph – formerly 5.23.7. | |
| 28/05/12 | | 5 | 5.23.6 | Paragraph entitled “Effect of TTO on associated criminal proceedings” contains some material formerly in old paragraph 5.23.3 together with an added extract from the case of *Victoria Police v HW* [2010] VChC 1. | |
| 28/05/12 | | 5 | 5.23.7 | Renumbered paragraph – formerly 5.23.8. Updated statistics to include 2010/11. | |
| 28/05/12 | | 5 | 5.23.8 | Renumbered paragraph – formerly 5.23.9. | |
| 28/05/12 | | 6 | 6FV.9.1 | New reference to cases of *Zion-Shalom v Magistrates’ Court of Victoria & Ors (No.1)* [2009] VSC 476 & *Zion-Shalom v Magistrates’ Court of Victoria & Ors (No.2)* [2009] VSC 477. | |
| 28/05/12 | | 6 | 6FV.9.4 | Extract from case of *Zion-Shalom v Magistrates’ Court of Victoria & Ors (No.2)* [2009] VSC 477 at [9], [10] & [12]. | |
| 28/05/12 | | 6 | 6PS.5 | Reference to new case of *R v Bouras* [2012] VSC 77. | |
| 28/05/12 | | 6 | 6.18.3 | Extract from new case of *R v Bouras* [2012] VSC 77 at [52]. | |
| 28/05/12 | | 6 | 6.20 | Addition of statistics for 2010/11. Small consequential change to the commentary. Deletion of statistics for 2001/02 due to space constraints. | |
| 02/05/12 | | 10 | 10.3.4 | New case of *Jeffrey v Schubert & Anor* [2012] VSC 144. | |
| 02/05/12 | | 10 | 10.3.7 | New paragraph entitled “Withdrawal of guilty plea”. New case of *R v Mokbel (Change of Pleas)* [2012] VSC 86 at [259]-[261]. | |
| 02/05/12 | | 10 | 10.3.8 | Renumbered paragraph – formerly 10.3.7. | |
| 02/05/12 | | 10 | 10.3.9 | Renumbered paragraph – formerly 10.3.8. | |
| 02/05/12 | | 10 | 10.3.10 | Renumbered paragraph – formerly 10.3.9. | |
| 26/03/12 | | 3 | 3.5.13 | Reference to case of *R v Edward Drash* [2012] VSCA 33 at [64]-[89]. | |
| 26/03/12 | | 3 | 3.5.14 | New paragraph entitled “The rule in Jones v Dunkel”. Cases of *Jones v Dunkel* (1959) 101 CLR 298; *Goddard Elliott v Fritsch* [2012] VSC 87 at [35], [45], [46] & [49] per Bell J; *O’Donnell v Reichard* [1975] VR 919 at 929. | |
| 26/03/12 | | 3 | 3.5.15 | Renumbered paragraph – formerly 3.5.14. | |
| 26/03/12 | | 3 | 3.5.16 | Renumbered paragraph – formerly 3.5.15. | |
| 26/03/12 | | 3 | 3.7.3 | New reference to case of *Dimatos v Coombe & Ors* [2011] VSC 619 at [20]-[25] per Beach J. | |
| 23/03/12 | | 2 | 2.3 | Changes to Organizational structure of the Children’s Court | |
| 17/10/11 | | 2 | 2.8.1 | Update on case of *R v SJK & GAS* [2011] VSC 431. | |
| 17/10/11 | | 3 | 3.1 | New references to cases of *[CL] v [RP] (Ruling)* [2011] VSCA 297; *Velissaris v Bruno Distributors Pty Ltd* [2011] VSC 395; *Moorfields Community & Ors v Stanislawa Bahonko* [2011] VSCA 295. | |
| 17/10/11 | | 3 | 3.5.6 | Minor rewording of the 7th paragraph. | |
| 17/10/11 | | 3 | 3.5.9.1 | New case of *Hodgson v Amcor Ltd; Amcor Ltd v Barnes (No.4)* [2011] VSC 269. | |
| 17/10/11 | | 4 | 4.1.6 | Added reference to *Solak v Registrar of Titles (No 2)* [2011] VSCA 279 at [85]-[88]. | |
| 17/10/11 | | 6 | 6PS.2 | Minor rewording of commentary. | |
| 17/10/11 | | 6 | 6PS.4.2 | Addition of reference to “bullying”. | |
| 17/10/11 | | 6 | 6.18.3 | New case of *R v Johnson* [2011] VSCA 288. | |
| 17/10/11 | | 6 | 6.18.4 | New paragraph entitled “The importance of treatment for stalkers”. References to “*Stalking by law: Damaging victims and rewarding offenders*” (2004) 12 JLM 103; “*Management and Treatment of Stalkers: Problems, Options, and Solutions*” Behav. Sci Law (2011). | |
| 05/09/11 | | 1 | 1.2.2 | Reference to Personal Safety Intervention Orders Regulations 2011 in lieu of Stalking Intervention Orders Regulations 2008. | |
| 05/09/11 | | 1 | 1.3 | Added references to s.154 of the Personal Safety Intervention Orders Act 2010 and to Children’s Court (Personal Safety Intervention Orders) Rules 2011. Added reference to amendments to the Children’s Court (Family Violence Protection) Rules 2008 as amended by S.R.93/2011. | |
| 05/09/11 | | 6 | ALL | This chapter has been completely restructured and partly rewritten to reflect the replacement of the Stalking Intervention Orders Act 2008 by the Personal Safety Intervention Orders Act 2011. | |
| 16/08/11 | | 10 | 10.1 | Added references to new case of *DPP (Vic) v Hills* [2011] VSCA 228 at [83]-[85]. | |
| 16/08/11 | | 10 | 10.6.1 | New case of *CL, a minor (by his litigation guardian) v Director of Public Prosecutions (on behalf of Tim Lee) & Ors* [2011] VSCA 227 at [47]-[49]. | |
| 25/07/11 | | 3 | 3.4.4 | New case of *Westpac Banking Corporation v Angela Barrett & Ors* [2011] VSC 326 at [13]. | |
| 25/07/11 | | 3 | 3.5.9.1 | New case of *Hodgson v Amcor Ltd; Amcor Ltd v Barnes (No.4)* [2011] VSC 269. | |
| 18/07/11 | | 6 | 6A.19.1 | New paragraph in section on “Contravention” entitled “Proof, procedure & consequences”. | |
| 18/07/11 | | 6 | 6A.19.2 | New paragraph entitled “Sentencing for contravention or for offences constituting contravention” New references to cases of *R v Xe Van Pham* [2005] VSCA 57 at [21]; *R v Yasso* [2007] VSCA 306 at [60]; .*El Tahir v R* [2011] VSCA 46 at [23]. A number of other cases moved to this paragraph from earlier parts of section 6A.19. | |
| 18/07/11 | | 6 | 6B.3.1 | Amendments to the definition of stalking in ss.4(1) & 4(2) of the Stalking Intervention Orders Act 2008. Addition of s.4(3) providing that mental harm includes psychological harm and suicidal thoughts. | |
| 12/05/11 | | 4 | 4.1.6 | Added reference to the final report of the Victorian Law Reform Commission on “Protection Applications in the Children’s Court” [No.19, 30 June 2010] at pp.395-397. Added references to cases of *Noone*, *Director of Consumer Affairs Victoria v Operation Smile (Australia) Inc & Ors (No 2)* [2011] VSC 153; *E v Secretary of State for the Home Department* [2004] QB 1044, 1070 and *SH (Afghanistan) v Secretary of State for the Home Department* [2007] EWCA Civ 1197. | |
| 12/05/11 | | 4 | 4.6.1 | Renumbered paragraph – formerly 4.6.4. | |
| 12/05/11 | | 4 | 4.6.2 | Renumbered paragraph – formerly 4.6.5. Change to commentary on s.182 of the CYFA. | |
| 12/05/11 | | 4 | 4.6.3 | Renumbered paragraph – formerly 4.6.1. Change of paragraph heading to “Child protection reports by report source – 1999-2000 & 2007-2010”. Added statistics on the source of investigated child protection reports in Victoria in 2007-2008, 2008-2009 & 2009-1010. | |
| 12/05/11 | | 4 | 4.6.4 | Renumbered paragraph – formerly 4.6.2. Change of paragraph heading to “Trends in child protection reports 1989-1990 to 2009-2010”. Added statistics on Victorian notifications/reports from 1997-1998 to 2009-2010. Added statistics on the of indigenous/non-indigenous substantiated reports in Victoria from 2006-2007 and Australia-wide in 2008-2009 & 2009-2010. | |
| 12/05/11 | | 4 | 4.6.5 | Renumbered paragraph – formerly 4.6.3. New reference to CIS Policy Monograph 97 entitled “Fatally Flawed: The Child Protection Crisis in Australia”, Jeremy Sammut & Toby O’Brien at p.vii. Added statistics for reports and substantiated reports Australia-wide in 2008-2009 & 2009-2010. | |
| 12/05/11 | | 4 | 4.7.1 | New paragraph entitled “Obligation to afford child a fair hearing. New case of *DOHS v Sanding* [2011] VSC 42 at [209]-[214]. | |
| 12/05/11 | | 4 | 4.7.2 | Renumbered paragraph – formerly 4.7.1. | |
| 12/05/11 | | 4 | 4.7.3 | Renumbered paragraph – formerly 4.7.2. | |
| 12/05/11 | | 4 | 4.7.4 | Renumbered paragraph – formerly 4.7.3. | |
| 12/05/11 | | 4 | 4.7.5 | Renumbered paragraph – formerly 4.7.4. | |
| 12/05/11 | | 4 | 4.7.6 | Renumbered paragraph – formerly 4.7.5. | |
| 12/05/11 | | 4 | 4.7.7 | Renumbered paragraph – formerly 4.7.6. | |
| 12/05/11 | | 4 | 4.7.8 | New paragraph entitled “Recommendations by Victorian Law Reform Commission”. Added reference to the final report of the Victorian Law Reform Commission on “Protection Applications in the Children’s Court” [No.19, 30 June 2010] at pp.317-331. | |
| 12/05/11 | | 4 | 4.8.3 | New paragraph entitled “Impact of the ‘best interests’ principle on the Court’s procedure”. New case of *DOHS v Sanding* [2011] VSC 42 at [135]-[147], [279]-[283] | |
| 12/05/11 | | 4 | 4.8.4 | Renumbered paragraph – formerly 4.8.3. | |
| 12/05/11 | | 4 | 4.8.5 | Renumbered paragraph – formerly 4.8.4. | |
| 12/05/11 | | 4 | 4.9 | Small modification to charge detailing the Family Division process. | |
| 12/05/11 | | 4 | 4.9.3 | Change of paragraph heading to “Mediation” and minor changes to text. | |
| 12/05/11 | | 4 | 4.9.6 | Paragraph deleted and moved to 4.10.10. | |
| 12/05/11 | | 4 | 4.10 | Section heading changed to “Mediation – ‘Appropriate Dispute Resolution’”. Including of JRC material in section 4.10. | |
| 12/05/11 | | 4 | 4.10.1 | New paragraph entitled “Dispute Resolution Conferences & New Model Conferences”. | |
| 12/05/11 | | 4 | 4.10.2 | Renumbered paragraph – formerly 4.10.1. Heading changed to “Jurisdiction & Purpose of DRC/NMC”. | |
| 12/05/11 | | 4 | 4.10.3 | Renumbered paragraph – formerly 4.10.2. Minor changes to text. | |
| 12/05/11 | | 4 | 4.10.4 | Renumbered paragraph – formerly 4.10.3. Addition of text on NMC convenors. | |
| 12/05/11 | | 4 | 4.10.5 | New paragraph entitled “Attendance at DRC/NMC”. | |
| 12/05/11 | | 4 | 4.10.6 | Renumbered paragraph – formerly 4.10.4. | |
| 12/05/11 | | 4 | 4.10.6.1 | New sub-paragraph entitled “DRC Guidelines & procedure”. | |
| 12/05/11 | | 4 | 4.10.6.2 | New sub-paragraph entitled “NMC Guidelines & procedure”. | |
| 12/05/11 | | 4 | 4.10.7 | Renumbered paragraph – formerly 4.10.5. Heading changed to “Reports & Confidentiality”. | |
| 12/05/11 | | 4 | 4.10.8 | Renumbered paragraph – formerly 4.10.6. | |
| 12/05/11 | | 4 | 4.10.9 | Renumbered paragraph – formerly 4.10.7. | |
| 12/05/11 | | 4 | 4.10.9.1 | New sub-paragraph entitled “DRC Statistics”. | |
| 12/05/11 | | 4 | 4.10.9.2 | New sub-paragraph entitled “NMC Statistics”. | |
| 12/05/11 | | 4 | 4.10.10 | New paragraph entitled “Judicial Resolution Conferences”. Inclusion of and minor amendment to material formerly contained in paragraph 4.9.6. | |
| 09/05/11 | | 2 | 2.2 | Added references to the Operations Manager, the Court co-ordinator and the Registry Manager. | |
| 09/05/11 | | 2 | 2.3 | Updated Organizational structure chart for the Children’s Court at Melbourne. | |
| 09/05/11 | | 2 | 2.4 | Small variation to the text on the Divisions of the Court. | |
| 09/05/11 | | 2 | 2.5 | Belated update to Venues of the Court to include reference to Moorabbin JC and its role. | |
| 09/05/11 | | 2 | 2.6 | New case of *DOHS v Sanding* [2011] VSC 42 at [28]. | |
| 09/05/11 | | 2 | 2.7 | Reference to new cases of *Russo v Russo* [2010] VSC 98 at [9]-[16] & [25] per Croft J; *DPP & Anor v Dale & Ors* [2010] VSC at [48]-[49]. | |
| 09/05/11 | | 2 | 2.8.2 | Reference to cases of *R v Mokbel (Ruling No.2)* [2009] VSC 652 per Kaye J; *R v Mokbel (Ruling No.3)* [2009] VSC 653 per Kaye J. | |
| 09/05/11 | | 2 | 2.10.6 | Updated material on the Child Witness Service. | |
| 09/05/11 | | 3 | 3.1 | Extract from new case of *Noone*, *Director of Consumer Affairs Victoria v Operation Smile (Australia) Inc & Ors (No 2)* [2011] VSC 153. Commentary on new case of *R v Al-Assadi* [2011] VSCA 111. | |
| 09/05/11 | | 3 | 3.4.4 | Commentary on new case of *Noone*, *Director of Consumer Affairs Victoria v Operation Smile (Australia) Inc & Ors (No 2)* [2011] VSC 153. | |
| 14/04/11 | | 5 | 5.5  5.5.6  5.11.10  5.13  5.14.2  5.15.1  5.17.1  5.20.6  5.22.7  5.23.8  5.27.3 | Addition of statistics for 2009/10. In some instances small consequential changes have been made to the commentary to reflect updated statistics. Deletion of statistics for 2000/01 due to space constraints. | |
| 14/04/11 | | 5 | 5.10.3 | Paragraph heading amended to “Best interests” principle – “The paramountcy principle”. | |
| 14/04/11 | | 5 | 5.10.3 | Extracts from new case of *DOHS v Sanding* [2011] VSC 42 at [11]-[15]. | |
| 14/04/11 | | 5 | 5.10.4  5.10.6  5.11.11  5.12.1  5.12.2  5.17.1  5.17.8 | Added references to new case of *DOHS v Sanding* [2011] VSC 42. | |
| 21/03/11 | | 1 | 1.5.3 | New paragraph entitled “The Charter applies to protection proceedings in the Children’s Court”. Reference to new case of *DOHS v S* [2011] VSC 42 and cases cited in paragraphs [155]-[207] thereof. | |
| 02/02/11 | | 9 | 9.1 | Add reference to s.12(1) & 12(1A) Bail Act 1977 (Vic). | |
| 02/02/11 | | 9 | 9.2.2 | Amendments to commentary on ss.4(2)(aa), 4(3) & 4(4) of the Bail Act. | |
| 02/02/11 | | 9 | 9.4.1 | References to new cases of *Re Suzanne Patricia Kane* [2010] VSC 8; *Re Joseph Marijancevic* [2010] VSC 122; *Re David Allan Curran* [2010] VSC 622; *Re Susanne Chopin* ; *Re Eileen Creamer* [2009] VSC 460; *Re Ahmed Hablas* [2010] VSC 429. | |
| 02/02/11 | | 9 | 9.4.4 | References to new cases of *Re Paul Hanlon Flood* [2010] VSC 605; *Re Houssein Hawli* [2009] VSC 606; *Re Kazem Hamad* [2010] VSC 585. | |
| 02/02/11 | | 9 | 9.4.5 | Commentary changed by including a reference to new s.4(3)(f) of the Bail Act. | |
| 02/02/11 | | 9 | 9.4.8 | New case of *Re John William Ash* [2010] VSCA 117 and associated changes to commentary. | |
| 02/02/11 | | 9 | 9.4.11 | New paragraph entitled “Relevance of Aboriginality” with reference to ss.3 & 3A of the Bail Act 1977 (Vic) and s.15AB(1)(b) of the Crimes Act 1914 (Cth). | |
| 02/02/11 | | 9 | 9.5.2 | Small addition to commentary on s.8 of the Bail Act. | |
| 02/02/11 | | 9 | 9.5.3 | This paragraph has been substantially re-written to reflect the amendments to s.5 of the Bail Act. Addition of reference to s.31. | |
| 02/02/11 | | 9 | 9.5.6 | Heading of paragraph amended to “Further applications for bail – New facts or circumstances”. This paragraph has been substantially re-written to reflect the amendments to ss.18, 18A & 18B of the Bail Act. | |
| 02/02/11 | | 9 | 9.5.7 | Heading of paragraph amended to “Application to vary bail.” This paragraph has been substantially re-written to reflect the substantial amendments to old s.18 of the Bail Act. Deletion of 3 case references which are no longer good law in the light of these amendments. | |
| 02/02/11 | | 9 | 9.5.8 | New paragraph entitled “Application to revoke bail”. This paragraph has been substantially re-written to reflect the substantial amendments to old s.18 of the Bail Act. | |
| 02/02/11 | | 9 | 9.5.9 | Renumbered paragraph – formerly 9.5.8. Amendments to commentary. Reference to new s.18A(12) allowing an appeal to the Court of Appeal from a decision of a single judge of the Supreme Court made under s.18A. | |
| 02/02/11 | | 9 | 9.5.10 | Renumbered paragraph – formerly 9.5.9. New s.20 of the Bail Act. | |
| 02/02/11 | | 9 | 9.5.11 | Renumbered paragraph – formerly 9.5.10. Minor changes to commentary. | |
| 02/02/11 | | 9 | 9.5.12 | Renumbered paragraph – formerly 9.5.11. Added reference to s.26(2) of the Bail Act. | |
| 02/02/11 | | 9 | 9.5.13 | Renumbered paragraph – formerly 9.5.12. | |
| 02/02/11 | | 9 | 9.5.14 | Renumbered paragraph – formerly 9.5.13. | |
| 02/02/11 | | 9 | 9.5.15 | Renumbered paragraph – formerly 9.5.14. Minor change to commentary about Koori Youth Bail Support Pilot Program. Added material about Youth Justice Intensive Bail Support Pilot Program. | |
| 01/02/11 | | 11 | 11.1.4.1 | New reference to *R v Harris* [2009] VSCA 189 at [19]-[24]. | |
| 01/02/11 | | 11 | 11.1.4.2 | New references to *R v Yi Yi Wang* [2009] VSCA 67 at [14] & [24]; *R v Franklin* [2009] VSCA 77 at [23]-[33]; *R v Waugh* [2009] VSCA 92 at [23]-[25]; *R v Alexopoulos* [2010] VSCA 52 at [59]-[66]; *R v Malikovski* [2010] VSCA 130 at [40]-[42]; *R v Bentley* [2010] VSCA 217 at [12]; *R v Scott* [2010] VSCA 320 at [13]; *R v Minotto* [2010] VSCA 310 at [14]-[20] & [29]. | |
| 01/02/11 | | 11 | 11.1.9 | Heading of section amended to “Additional orders including disqualification & forfeiture”. | |
| 01/02/11 | | 11 | 11.1.9.1 | New paragraph entitled “Disqualification”. New cases of *R v Franklin* [2009] VSCA 77 at [34]-[39]; *R v Nguyen* [2009] VSCA 64. | |
| 01/02/11 | | 11 | 11.1.9.2 | New paragraph entitled “Forfeiture & other orders”. New references to *DPP v Nguyen; DPP v Duncan* [2009] VSCA 147; *DPP v Khoda Ali & Dounia Ali* [2009] VSCA 162. | |
| 01/02/11 | | 11 | 11.1.17 | New section entitled “Sentencing for conspiracy compared with sentencing for completed offence”. New case of *DPP v Fabriczy* [2010] VSCA 334. | |
| 01/02/11 | | 11 | 11.2.1 | New cases of *R v Le* [2009] VSCA 247; *DPP v Monteiro* [2009] VSCA 105; *R v Nancarrow* [2010] VSCA 300. New references to *R v John Likiardopoulos* [2010] VSCA 344 at [173]; *R v Bidmade* [2009] VSCA 90 at [15]-[16]; *R v O’Blein* [2009] VSCA 159 at [31]-[34]; *R v Malikovski* [2010] VSCA 130 at [31]; R v *Ashton* [2010] VSCA 329. | |
| 01/02/11 | | 11 | 11.2.6 | New case of *R v Dare* [2009] VSCA 91. New references to *Hili v The Queen; Jones v The Queen* [2010] HCA 45 especially at [46]-[50] per French CJ, Gummow, Hayne, Crennan, Kiefel & Bell JJ; *R v Barbaro* [2009] VSCA 89; *R v Waugh* [2009] VSCA 92 at [15]-[20] esp [19]; *R v Doherty* [2009] VSCA 93 at [17]-[21]; *R v Bloomfield, R v Wilson, R v Davidson* [2009] VSCA 302 at [28]-[31]; *R v Stanbury* [2010] VSCA 49 at [28]-[29]; *R v Velevski* [2010] VSCA 90*; R v Morgan* [2010] VSCA 248 at [7]-[11]; *R v Harrington* [2010] VSCA 249 at [3]-[9]; *R v Boase & Parker* [2010] VSCA 316; *R v Fletcher & Or* [2011] VSCA 4; *R v Kelly* [2011] VSCA 11 at [5]-[7]. | |
| 01/02/11 | | 11 | 11.2.7 | New cases of *Neill v County Court of Victoria & Anor* [2003] VSC 328 at [65]; *R v WWS* [2009] VSCA 125. New references to *R v Bidmade* [2009] VSCA 90 at [24]-[27]; *R v Doherty* [2009] VSCA 93 at [22]-[24]; *R v Stamenkovic* [2009] VSCA 185; *R v Le* [2009] VSCA 247 at [5]-[13]; *R v Bradley* [2010] VSCA 70 at [23]-[25]. | |
| 01/02/11 | | 11 | 11.2.8 | New cases of *R v Fullop* [2009] VSCA 296; *R v WWS* [2009] VSCA 125; *R v Fisher* [2009] VSCA 100. New reference to *R v Rogers* [2008] VSCA 114. | |
| 01/02/11 | | 11 | 11.2.8.1 | New cases of *R v Andrick* [2010] VSCA 238; *R v Whitlow* [2009] VSCA 103 at [47]; *R v Burke* [2009] VSCA 60 at [30]; *R v Scerri* [2010] VSCA ; *R v Howard* [2009] VSCA 281; *R v Ciantar and Rose* [2010] VSCA 313 at [36]. | |
| 01/02/11 | | 11 | 11.2.8.3 | New paragraph entitled “Undertaking to give evidence against co-accused”. New cases of *R v Johns* [2010] VSCA 63; *R v James Lee Briggs* [2010] VSCA 82; *DPP v Connally* [2010] VSCA 301. New reference to *R v Dimitrakis* [2010] VSC 614. | |
| 01/02/11 | | 11 | 11.2.9 | New cases of *R v Stevens* [2009] VSCA 81. | |
| 01/02/11 | | 11 | 11.2.10 | New cases of *R v LFJ* [2009] VSCA 134. New references to *R v Lidonnici* [2007] VSC 3 at [20]; *The Queen v CLP* [2008] VSCA 113; *DPP v Marsh* [2011] VSCA 6. | |
| 01/02/11 | | 11 | 11.2.11.1 | New reference to *R v Davey* [2010] VSCA 346. | |
| 01/02/11 | | 11 | 11.2.11.2 | New cases of *R v Foster* [2009] VSC 124; *R v Shafik-Eid* [2009] VSCA 217; *R v White* [2009] VSCA 177; *R v Miller* [2010] VSC 326. New references to *DPP v Vincent* [2009] VSCA 87 at [27]; *R v Kinnear* [2009] VSCA 104 at [19]; *R v Cheney* [2009] VSC 154 at [57]*; R v Baxter* [2009] VSC 180 at [35] & [52]; *DPP v Fox (Sentence)* [2009] VSC 189 at [19]& [22]; *DPP v Lewis* [2009] VSC 334 at [24]; *R v Hosking* [2009] VSC 549 at [47]-[54]; *R v Alexopoulos* [2010] VSCA 52 at [55]; *R v Secombe and Butkovic* [2010] VSCA 58 at [106]-[111]; *R v Londrigan* [2010] VSCA 81 at [24-[27]; *DPP (Cth) v Parfrey* [2010] VSCA 212 at [28]; *R v Dutton* [2010] VSC 107 at [40]; *R v Traycevska* [2010] VSC 270 at [34]-[37]; *R v Davis* [2010] VSC 274 at [26]-[31]; *R v Fitchett* [2010] VSC 393 at [23]; *R v Gray* [2010] VSCA 312; *R v Ashton* [2010] VSCA 329; *R v Davey* [2010] VSCA 346; *R v Koelman* [2010] VSC 561; *R v Plail* [2010] VSC 600 at [34]-[40]; *R v Dimitrakis* [2010] VSC 614 at [45]-[57]; *R v Fletcher & Or* [2011] VSCA 4. | |
| 01/02/11 | | 11 | 11.2.12 | New case of *DPP v Lovett* [2008] VSCA 262. New reference to *R v Kulla Kulla* [2010] VSC 60. | |
| 01/02/11 | | 11 | 11.2.13 | Heading of section amended to “Effect of ill health and/or age”. New case of *R v AMP* [2010] VSCA 48. New reference to *R v Kuoth* [2010] VSCA 103. | |
| 01/02/11 | | 11 | 11.2.14 | New references to *R v RL* [2009] VSCA 95 at [54]-[58]; *DPP v McInnes* [2009] VSCA 144 at [10]-[12]; *R v ONA* [2009] VSCA 146 at [34]-[47]; *DPP v WRJ* [2009] VSCA 174 at [14]-[24]; *R v NJD* [2010] VSCA 84 at [71]-[74]; *R v Malikovski* [2010] VSCA 130 at [43] & [52]-[53]; *R v Barrett* [2010] VSCA 133 at [32]-[38]; *R v Hennessy* [2010] VSCA 297; *R v Chandler & Paksoy* [2010] VSCA 338 at [16]. | |
| 01/02/11 | | 11 | 11.2.16 | New case of *R v Ibrahim* [2010] VSC 333. | |
| 01/02/11 | | 11 | 11.2.17 | New case of *R v Hasan* [2010] VSCA 352. | |
| 01/02/11 | | 11 | 11.2.18 | New case of *R v Markovic & Pantelic* [2010] VSCA 105. New reference to *DPP v Bourozikas* [2009] VSCA 29. | |
| 01/02/11 | | 11 | 11.2.22.1 | New case of *DPP v Samson-Rimoni (Sentence)* [2010] VSC 111; *R v Reglis* [2010] VSC 58; *R v John Likiardopoulos* [2010] VSCA 344. New references to *R v Kulla Kulla* [2010] VSC 60; *DPP v Sazdov* [2010] VSC 118; *DPP v Akotou* [2010] VSC 364; *R v Reid* [2010] VSCA 234; *R v Nghia Nguyen*; *R v Andreevski & Ors* [2010] VSC 618; *R v Freeman* [2010] VSC 346; *R v Docking* [2010] VSC 566. | |
| 01/02/11 | | 11 | 11.2.22.2 | New reference to *R v Middendorp* [2010] VSC 202. | |
| 01/02/11 | | 11 | 11.2.22.3 | New case of *R v Hudson; DPP v Hudson* [2010] VSCA 332. | |
| 01/02/11 | | 11 | 11.2.22.4 | New case of *DPP v Dunne* [2010] VSC 220. New reference to *R v McIntosh – R v Hargraves* [2009] VSC 629. | |
| 01/02/11 | | 11 | 11.2.23 | New references to *R v Clark* [2010] VSCA 64; *DPP v Chaplin* [2010] VSCA 145; *R v Harris* [2009] VSCA 287. | |
| 01/02/11 | | 11 | 11.2.24 | Heading of section amended to “Sentencing for intentionally / recklessly / negligently causing serious injury, affray/riot & reckless endangerment”. | |
| 01/02/11 | | 11 | 11.2.24.1 | New cases of *DPP v RSP* [2010] VSC 128; *DPP v Bogtstra, Kontoklotsis & Karazisis* [2010] VSCA 350. New references to *R v Papworth* [2010] VSC 422;*R v Emery* [2010] VSC 478; *R v Rossi* [2010] VSC 602; *R v Dimitrakis* [2010] VSC 614; *R v Stone* [2010] VSC 616;*R v Ludeman, Thomas & French* [2010] VSCA 333. | |
| 01/02/11 | | 11 | 11.2.24.2 | New cases of *R v Winch* [2010] VSCA 141; *DPP v Aslan* [2010] VSC 518. New reference to *R v Willis* [2010] VSCA 235. | |
| 01/02/11 | | 11 | 11.2.24.3 | New reference to *DPP v Albert* [2010] VSCA 75. | |
| 01/02/11 | | 11 | 11.2.24.5 | New section entitled “Sentencing for causing injury to ex-partner”. New cases of *R v Saltalamacchia* [2010] VSCA 83; *R v Kane* [2010] VSCA 213. | |
| 01/02/11 | | 11 | 11.2.24.6 | New section entitled “Sentencing for reckless endangerment”. New case of *R v Hennessy* [2010] VSCA 297. | |
| 01/02/11 | | 11 | 11.2.25 | New cases of *R v Power* [2010] VSCA 139; *R v Bala* [2010] VSCA 78; *R v Doan* [2010] VSCA 250; *R v Chandler & Paksoy* [2010] VSCA 338. New references to *Ngyuen v The Queen* [2010] VSCA 127; *R v Chhim, R v Arslanov* [2010] VSCA 347; *R v Hanks* [2011] VSCA 7; *R v Vasic* [2010] VSCA 89; *R v Velevski* [2010] VSCA 90; *R v Duncan* [2010] VSCA 92; *DPP v Fleiner* [2010] VSCA 143; *R v Bui* [2010] VSC 342. | |
| 01/02/11 | | 11 | 11.2.26 | New reference to *DPP v Rizkalla* [2010] VSC 535. | |
| 01/02/11 | | 11 | 11.2.27 | Heading of section amended to “Sentencing for burglary / aggravated burglary”. New cases of *R v Saltalamacchia* [2010] VSCA 83; *R v Le* [2010] VSCA 199; *R v McCarthy* [2010] VSCA 87. New references to *R v Stanbury* [2010] VSCA 49; *R v Secombe and Butkovic* [2010] VSCA 58. | |
| 01/02/11 | | 11 | 11.2.28 | New cases of *R v Daniel Roy Simon* [2010] VSCA 66; *R v Gill* [2010] VSCA 64; *R v Hasan* [2010] VSCA 352. New reference to *R v Balassis* [2010] VSCA 296. | |
| 01/02/11 | | 11 | 11.3.1 | New reference to *R v Hasan* [2010] VSCA 352. | |
| 01/02/11 | | 11 | 11.3.2 | Heading of section amended to “Use of sentencing statistics and sentencing snapshots”. New case of *R v Hasan* [2010] VSCA 352. | |
| 01/02/11 | | 11 | 11.3.4 | New references to *R v Barrett* [2010] VSCA 133 at [39]-[53]; *R v Broad* [1999] 3 VR 31; *DPP v TY* [2009] VSCA 226; *R v Ciantar and Rose* [2010] VSCA 313. | |
| 01/02/11 | | 11 | 11.3.5 | New references to *dpp v najjar* [2009] VSCA 246*; DPP (Cth) v Parfrey* [2010] VSCA 212 at [33]. | |
| 01/02/11 | | 11 | 11.4.1 | New case of *R v O’Blein* [2009] VSCA 159. | |
| 01/02/11 | | 11 | 11.4.4 | New case of *R v AMP* [2010] VSCA 48. | |
| 01/02/11 | | 11 | 11.7 | Addition of 2005, 2006 & 2007 statistics to Table ➋ and associated updating of commentary. | |
| 01/02/11 | | 11 | 11.8.1 | New case of *R v Tin Yu Ng* and *R v Yik Lun Siu* [2009] VSCA 218. | |
| 01/02/11 | | 11 | 11.16.1 | New cases of *DPP v CPD* (2009) 22 VR 533; [2009] VSCA 114; *R v OAA* [2010] VSCA 155; *R v PDA* [2010] VSCA 94; *R v FD* [2011] VSCA 8. New references to *R v NJD* [2010] VSCA 84; *R v MG* [2010] VSCA 97 at [93]; *R v Barry Hall* [2010] VSCA 349 with reference to *Ibbs v The Queen* (1987) 163 CLR 447. | |
| 01/02/11 | | 11 | 11.6.3 | New section headed “Possession/production of child pornography”. New cases of *R v Fullop* [2009] VSCA 296; *R v SLJ (No.2)* [2010] VSCA 32; *DPP (Cth) v D’Alessandro* [2010] VSCA 60; *DPP v Smith* [2010] VSCA 215. New references to *Legal Services Board v McGrath* [2010] VSC 332; *R v EDM* [2010] VSCA 308. | |
| 01/02/11 | | 11 | 11.6.4 | Renumbered paragraph – formerly 11.6.3. New case of *R v James & Witbeck* [2010] VSCA 341. | |
| 01/02/11 | | 11 | 11.6.5 | Renumbered paragraph – formerly 11.6.4. | |
| 01/02/11 | | 11 | 11.6.6 | Renumbered paragraph – formerly 11.6.5. Delete references to judgment of Cummins J in *DPP v Farquharson* (appeal allowed and retrial ordered). | |
| 31/01/11 | | 3 | 3.1 | Added reference to *R v Sonnet* [2010] VSCA 315 at [15]-[27]. | |
| 31/01/11 | | 3 | 3.3.3 | Added references to *MDC* [unreported, Children’s Court of Victoria-Levine M, 08/12/2010], Prestia v Machok [unreported, Sunshine Magistrates’ Court-Jones M, 28/10/2010], *PG v R* [2010] VSCA 298. | |
| 31/01/11 | | 3 | 3.5.15 | New paragraph entitled “The hearsay rule and exceptions thereto”. Added references to ss.59 & 65 Evidence Act 2008 (Vic) and related sections. New cases of *DPP v BB & QN* [2011] VSCA 211 per Bongiorno JA (with whom Harper & Hansen JJA agreed); *Sajanesh Easwaralingham v DPP* [2010] VSCA 353at [32]-[44] per Tate JA (with whom Buchanan JA agreed) dismissing on this issue an appeal from Pagone J [2010] VSC 437 at [13]-[19]; *R v Rossi (Ruling No.1)* [2010] VSC 459 per Lasry J. | |
| 31/01/11 | | 10 | 10.3.8 | New case of *R v OAA* [2010] VSCA 155. | |
| 01/01/11 | | 5 | 5.5  5.5.6  5.11.10  5.13  5.14.2  5.15.1  5.16.12  5.17.1  5.20.6  5.22.7  5.27.3  5.23.8 | Addition of statistics for 2008/09. In some instances small consequential changes have been made to the commentary to reflect updated statistics. | |
| 01/01/11 | | 5 | 5.10.1  5.17.2  5.17.8  5.18.1  5.18.5  5.18.7  5.21  5.22.2  5.24.13  5.28  5.29.4 | Inclusion of VChC references to certain previously unreported cases. | |
| 01/01/11 | | 5 | 5.11.3 | Change to text on IAO types (a), (b) & (c) as a consequence of amendments to s.263 of the CYFA. | |
| 01/01/11 | | 5 | 5.11.8 | Change to duration of IAO types (c) & (d) as a consequence of amendments to s.264 of the CYFA. | |
| 01/01/11 | | 5 | 5.25.1 | Substantial amendments to the first page of the blue form. | |
| 01/01/11 | | 5 | 5.25.2 | Very minor amendments to the mauve form. | |
| 01/01/11 | | 5 | 5.27.1 | Removal of reference to s.247(1) of the CYFA not being proclaimed. | |
| 31/12/10 | | 7 | MANY | Replacement of “defendant” by “accused” where it occurs except in the context of a quotation. This is to reflect the change in terminology introduced by the Criminal Procedure Act 2009 (Vic). | |
| 31/12/10 | | 7 | 7.1.3 | Additional examples of summary/indictable offences. | |
| 31/12/10 | | 7 | 7.2 | Addition of child homicide & defensive homicide to the list of indictable offences which the Children’s Court cannot hear and determine summarily. | |
| 31/12/10 | | 7 | 7.2.1 | Major rewriting of text in this paragraph. | |
| 31/12/10 | | 7 | 7.2.4 | Paragraph heading amended to “Age of ‘child’ for breach, variation & revocation proceedings”. | |
| 31/12/10 | | 7 | 7.3 | Section heading amended to “Juvenile and adult offending in 2008/09 & 2009/10”. Replacement of 1998/99 statistics with table of alleged juvenile & adult criminal offence statistics 2008/09 & 2009/10. New commentary added together with statistics for Principal Proven Offences 2004/05 to 2008/09. | |
| 31/12/10 | | 7 | 7.4 | Replacement of 1998/99 cautioning statistics with 2008/09 statistics. | |
| 31/12/10 | | 7 | 7.5 | Section heading amended to “Commencement of ordinary process – Securing attendance of child”. Major changes to text in each associated paragraph to reflect the changes introduced by the Criminal Procedure Act 2009 (Vic). | |
| 31/12/10 | | 7 | 7.5.1 | Paragraph heading amended to “Charge-sheet”. | |
| 31/12/10 | | 7 | 7.5.2 | New paragraph entitled “Time limits for filing a charge-sheet”. | |
| 31/12/10 | | 7 | 7.5.3 | Renumbered paragraph – formerly 7.5.2. | |
| 31/12/10 | | 7 | 7.5.4 | Renumbered paragraph – formerly 7.5.3. Paragraph heading amended to “Securing attendance of accused”. | |
| 31/12/10 | | 7 | 7.5.5 | Renumbered paragraph – formerly 7.5.4. Paragraph heading amended to “Amendment of charge-sheet”. | |
| 31/12/10 | | 7 | 7.6 | Added reference to s.11 of the Criminal Procedure Act 2009 (Vic). | |
| 31/12/10 | | 7 | 7.7 | CAYPINS statistics for 2008/09 added. | |
| 31/12/10 | | 7 | 7.8.2 | Added reference to ss.80(1)(b) & 81(1) of the Criminal Procedure Act 2009 (Vic). | |
| 31/12/10 | | 7 | 7.11 | Significant amendment to text in relation to The Children’s Koori Court (Criminal Division). | |
| 31/12/10 | | 7 | 7.11.4 | Paragraph heading amended to “Sitting times and limited availability”. | |
| 31/12/10 | | 7 | 7.13 | Added reference C19 – paper of Judge Paul Grant on “The Children’s Court of Victoria – November 2010”. | |
| 14/12/10 | | 6 | 6.6 | Addition of Children’s Court intervention order statistics for 2008/2009. | |
| 14/12/10 | | 6 | 6A.3.4 | Amendment to definition of “property” in s.4 of the FVPA. | |
| 14/12/10 | | 6 | 6A.8.1 | Amendment to manner of service on the Attorney-General in s.202 of the FVPA. | |
| 14/12/10 | | 6 | 6A.9.6 | Addition of ss.30 & 31 of the Evidence Act 2008 (Vic) to the list of provisions in that Act preserved by s.65(2) of the FVPA. | |
| 14/12/10 | | 6 | 6A.9.7 | Amendment to s.66 of the FVPA providing that evidence by affidavit or sworn statement may not be admitted if contrary to any provision of the Charter of Human Rights and Responsibilities. | |
| 14/12/10 | | 6 | 6A.10.1 | New s.53(3) of the FVPA clarifying the extra-territoriality operation of the provisions relating to the making of an interim order. | |
| 14/12/10 | | 6 | 6A.11.1 | Slight alteration to the test in s.74(1) of the FVPA for the making of a final intervention order. New s.74(3) of the FVPA clarifying the extra-territoriality operation of the provisions relating to the making of an final order. Added references to *Director of Public Prosecutions (on behalf of Michael Jay Pena) v Brian Andrew Sutcliffe* [2001] VSC 43; *Brian Andrew* *Sutcliffe v Director of Public Prosecutions (On behalf of Michael Jay Pena)* [2003] VSCA 34. | |
| 14/12/10 | | 6 | 6A.14.2 | Correction of error in s.78(5) of the CFVA. | |
| 14/12/10 | | 6 | 6A.22 | New provisions clarifying that nothing in ss.118 or 120 prevent an appeal on the basis of a jurisdictional error. | |
| 01/12/10 | | 10 | 10.1 | Added reference to *CL (a minor) v Tim Lee and Ors* [2010] VSC 517 at [66] per Lasry J. | |
| 01/12/10 | | 10 | 10.2.4 | Very minor amendment to text. | |
| 01/12/10 | | 10 | 10.3.8 | Added reference to *R v AMP* [2010] VSCA 48 at [47]. | |
| 01/12/10 | | 10 | 10.3.9 | Added reference to *R v Wells* [2010] VSCA 100. | |
| 01/12/10 | | 10 | 10.6 | Minor modification to text. | |
| 01/12/10 | | 10 | 10.6.1 | Major rewriting of text in this paragraph. References to new case of *CL (a minor) v Tim Lee and Ors* [2010] VSC 517. | |
| 01/12/10 | | 10 | 10.6.2 | Minor modification to text and added reference to *CL (a minor) v Tim Lee and Ors* [2010] VSC 517 at [25] & [29]. | |
| 01/07/10 | | 6 | 6A.9.14 | New section entitled “Assessments reports in proceedings in the Children’s Court”. | |
| 01/07/10 | | 6 | 6A.9.15 | New section entitled “Applications under the FVPA and the SIOA may be heard together”. | |
| 01/07/10 | | 6 | 6A.10.2 | New section entitled “Protection of children on court’s own initiative”. | |
| 01/07/10 | | 6 | 6A.10.3 | Renumbered paragraph – formerly 6A.10.2. | |
| 01/07/10 | | 6 | 6A.10.4 | Renumbered paragraph – formerly 6A.10.3. | |
| 01/07/10 | | 6 | 6A.10.5 | Renumbered paragraph – formerly 6A.10.4. | |
| 01/07/10 | | 6 | 6A.10.6 | Renumbered paragraph – formerly 6A.10.5. | |
| 01/07/10 | | 6 | 6A.12.8 | Reference to amended version of s.91(1) of the FVPA and new s.92(4). | |
| 01/07/10 | | 6 | 6A.14.2 | Change to text on s.78 of the FVPA as a consequence of amendments to that section. | |
| 01/07/10 | | 6 | 6A.16 | Reference to new s.57(2A) of the FVPA. | |
| 01/07/10 | | 6 | 6A.18.1 | Change to text as a consequence of amendments to ss.100(1) & 101of the FVPA. | |
| 01/07/10 | | 6 | 6A.18.1 | Change to text as a consequence of amendments to ss.100(1) & 101of the FVPA. | |
| 01/07/10 | | 6 | 6A.18.2 | Change to text as a consequence of amendments to s.107 of the FVPA. | |
| 01/07/10 | | 6 | 6A.21 | Change to text as a consequence of amendments to s.122 of the FVPA. | |
| 10/05/10 | | 4 | 4.6.5 | Change to text on mandatory reporters. Note that certain categories of persons referred to in s.182 of the *CYFA* have not yet been gazetted. | |
| 05/05/10 | | 3 | 3.1 | New reference to case *Slaveski v Victoria* [2010] VSC 97. | |
| 05/05/10 | | 3 | 3.5.4 | New case of *R v Chimirri* [2010] VSCA 57 at [59]-[76]. | |
| 05/05/10 | | 3 | 3.5.9 | Heading changed to “Production of documents in cases in the Children’s Court”. | |
| 05/05/10 | | 3 | 3.5.9.1 | New paragraph heading “Production under sub-poena”. | |
| 05/05/10 | | 3 | 3.5.9.1 | New reference to case *Deputy Commission of Taxation v Law Institute of Victoria Ltd* [2010] VSCA 73. | |
| 05/05/10 | | 3 | 3.5.9.2 | New paragraph entitled “Pre-hearing disclosure in the Criminal Division”. References to ss.35-49 & 107-117 of the Criminal Procedure Act 2009 (Vic). | |
| 05/05/10 | | 3 | 3.5.9.3 | New paragraph entitled “Production of ‘notes’ in ‘apprehension cases’ in the Family Division”. References to cases of *DOHS v Ms A & Mr G* [unreported, Children’s Court of Victoria, 04/05/2010] and *Sobh v Police Force of Victoria* [1994] 1 VR 41 at 47-48, 62 & 72. References to ss.166, 169 & 193 of the Evidence Act 2008 (Vic). | |
| 05/05/10 | | 3 | 3.5.14 | New section entitled “Unfavourable witnesses”. References to s.38 of the Evidence Act 2008 (Vic) and to cases of *DPP v McRae* [2010] VSC 114; *R v Souleyman* (1996) 40 NSWLR 712; *Adam v R* (2001) 207 CLR 96. | |
| 14/04/10 | | 4 | 4.16 | New section entitled “Effect on child of separation from primary attachment figure”, including an extensive bibliography of literature describing the psychological impact on a child of separation from his or her primary attachment figure | |
| 14/04/10 | | 4 | 4.17 | Renumbered paragraph – formerly 4.16. | |
| 10/02/10 | | 3 | SEVERAL | References to the Evidence Act 1958 (Vic) changed to the Evidence (Miscellaneous Provisions) Act 1958 (Vic). | |
| 10/02/10 | | 3 | 3.5.5 | Heading changed to “Use of recorded evidence in certain criminal cases”. | |
| 10/02/10 | | 3 | 3.5.5.1 | New paragraph entitled “Evidence-in-chief in certain summery hearings, special hearings or trials”. | |
| 10/02/10 | | 3 | 3.5.5.2 | New paragraph entitled “Evidence in certain special hearings and trials”. | |
| 10/02/10 | | 3 | 3.5.7 | Sentence added to end of section commenting on the increase in contested cases in the Family Court since the introduction of the less adversarial approach. | |
| 10/02/10 | | 3 | 3.5.8 | Heading changed to “Use of recorded evidence in cases in the Family Division”. | |
| 10/02/10 | | 3 | 3.5.10 | Changed commentary on children as witnesses in court cases. New case of *Kirk v Industrial Relations Commission of New South Wales; Kirk Group Holdings Pty Ltd v WorkCover Authority of New South Wales (Inspector Childs)* [2010] HCA 1 at [51] & [114]. | |
| 10/02/10 | | 3 | 3.5.10.1 | New paragraph entitled “Competence”. | |
| 10/02/10 | | 3 | 3.5.10.2 | New paragraph entitled “Compellability in criminal proceedings generally”. | |
| 10/02/10 | | 3 | 3.5.11 | New section entitled “Oaths and affirmations”. | |
| 10/02/10 | | 3 | 3.5.12.1  3.5.12.2  3.5.12.3 | Renumbered paragraph – formerly 3.5.11.1  Renumbered paragraph – formerly 3.5.11.2  Renumbered paragraph – formerly 3.5.11.3 | |
| 10/02/10 | | 3 | 3.5.13 | New section entitled “The rule in Browne v Dunn”. New case of *R v Coswello* [2009] VSCA 300. References to new case of *R v Arnott* [2009] VSCA 299 at [105]-[109]; *R v Morrow* [2009] VSCA 291 at [2]-[6] & [36]-[71], especially at [59]. | |
| 10/02/10 | | 3 | 3.6 | Added reference to Criminal Procedure Act 2009 (Vic). Change reference to Evidence Act 1958 (Vic) to Evidence Act 2008 (Vic). | |
| 10/02/10 | | 3 | 3.9 | Added reference to ss.401 & 410 of the Criminal Procedure Act 2009 (Vic). | |
| 10/02/10 | | 3 | 3.9.3 | Added quotation from case of *DOHS v Ms T & Mr M* [unreported, Children’s Court of Victoria-Power M, 12/10/2009]. | |
| 10/02/10 | | 3 | 3.10 | Changes to sections of the CYFA relating to appeals. New case of *DPP v MN; DPP v JC; DPP v JW* [2009] VSCA 312. | |
| 03/02/10 | | 4 | 4.8.1  4.8.4  4.14.2  4.15 | VChC citations added to case references. | |
| 03/02/10 | | 4 | 4.8.5 | Delete paragraph heading 4.8.5 “Statutory Interpretation” and contents thereof. It was a duplication of paragraph 3.6 in Chapter 3. | |
| 03/02/10 | | 4 | 4.9 | Small change to schematic chart of “Family Division – Protection & IRD Hearings” to demonstrate the split between “Applications by Notice” and “Applications by Apprehension”. | |
| 03/02/10 | | 4 | 4.14.3 | New paragraph entitled “American judicial guidelines 2009”. Quotations from and comment on “Healthy Beginnings, Healthy Futures: A Judge’s Guide” prepared by the American Bar Association, the National Council of Juvenile and Family Court Judges and the Zero to Three National Policy Center. | |
| 03/02/10 | | 4 | 4.14.4 | New paragraph entitled “Access conditions are an integral part of a court order”. | |
| 22/01/10 | | 6 | 6.2.3 | Deletion of references to two amending Acts. | |
| 22/01/10 | | 6 | 6A.7 | Deletion of reference to amending Act. | |
| 22/01/10 | | 6 | 6A.9.6 | Amended commentary to ss.65(1) & 65(2) of the FVPA. | |
| 22/01/10 | | 6 | 6A.19 | Deletion of references to ss.243-244 of the FVPA (now repealed) and addition of references to ss.359-366 of the Criminal Procedure Act 2009 (Vic). | |
| 21/01/10 | | 10 | 10.2  10.2.1  10.2.4  10.3.2  10.3.3  10.3.4  10.3.5 | Minor changes of wording to reflect the fact that the Criminal Procedure Act 2009 (Vic) (‘the CPA’) came into operation on 01/01/2010. | |
| 21/01/10 | | 10 | 10.2.2 | Move old paragraph 10.2.2 to 10.2.6. Old paragraph 10.2.3 “Nature” moved to 10.2.2 and renamed “Nature of committal proceeding”. Added reference to s.155 of the CPA. | |
| 21/01/10 | | 10 | 10.2.3 | New paragraph headed “Hearings, case direction and procedure”. New commentary on ss.100-144 & 153 of the CPA replacing old references to the now repealed Schedule 5 of the Magistrates’ Court Act 1989 (Vic). | |
| 21/01/10 | | 10 | 10.2.5 | Paragraph renamed “Determination of committal proceeding – Test for committing for trial”. New commentary on ss.141-145 of the CPA. | |
| 21/01/10 | | 10 | 10.2.6 | Renumbered paragraph – formerly 10.2.2. | |
| 21/01/10 | | 10 | 10.2.7 | Renumbered paragraph – formerly 10.2.6. Paragraph renamed “Taking evidence after accused committed for trial – ‘Basha’ inquiry”. Commentary on ss.149-152 of the CPA. | |
| 18/01/10 | | 1 | 1.2.1 | Changed commentary relating to Children, Youth and Families Regulations 2007 and deletion of references to regs.21, 22, 23 & 27 [now revoked]. | |
| 18/01/10 | | 1 | 1.3 | Added reference to power under s.588 to makes rules of Court prescribing forms for the Criminal Division of the Court and empowering the making of rules relating to the practice and procedure of the Criminal Division of the Court. | |
| 18/01/10 | | 1 | 1.3 | Added reference to s.590A of the CYFA empowering the making of rules with respect to the Neighbourhood Justice Division of the Court. | |
| 18/01/10 | | 1 | 1.3 | Added reference to Children’s Court Criminal Procedure Rules 2009 [S.R.189/2009]. Note advising that Children, Youth and Families (Children’s Court Family Division) Rules [S.R.24/2007] were amended on 01/01/2010 by S.R.186/2009. | |
| 18/01/10 | | 1 | 1.3 | Added reference to Children’s Court (Evidence – Audio Visual and Audio Linking) Rules 2008 [S.R.11/2008] which replaced rules with the same name made in 1998 [S.R.18/1998]. | |
| 18/01/10 | | 1 | 1.4 | Section heading amended to “Practice Directions & Practice Notes”. Deletion of reference to Practice Direction 1 of 1999. | |
| 18/01/10 | | 1 | 1.4 | Added references to Practice Directions 1 & 2 of 2007, Practice Note 1 of 2008 and Practice Directions 1 & 2 of 2009. | |
| 15/10/09 | | 1 | 1.3 | Commentary on amended s.588(1) of the CYFA. Deletion of references to the pre-decessors in the CYPA of ss.588-591 of the CYFA. | |
| 15/10/09 | | 4 | 4.9.6 | New paragraph entitled “Judicial resolution conference”. Commentary on amendments made to ss.3, 523, 527, 527A & 588 of the CYFA created by the Courts Legislation Amendment (Judicial Resolution Conference) Act 2009 (Vic) [No.50/2009] which came into operation on 14/09/2009. | |
| 15/10/09 | | 5 | 5.4.1  5.4.10 | Delete the last sentence in the last paragraph of section 5.4.1. New subsection 5.4.10 entitled “Statistics”. | |
| 15/10/09 | | 5 | 5.5  5.5.6  5.11.10  5.13  5.14.2  5.15.1  5.16.12  5.17.1  5.20.6  5.22.7  5.27.3 | Addition of statistics for 2007/08. In some instances small consequential changes have been made to the commentary to reflect updated statistics. | |
| 15/10/09 | | 5 | 5.5.5 | New case of *DOHS v Ms D & Mr K* [Children’s Court of Victoria-Power M, 15/06/2009]. | |
| 15/10/09 | | 5 | 5.8.1 | Heading of section amended to “Applications only by the Secretary”. | |
| 15/10/09 | | 5 | 5.8.2 | Heading of section amended to “Therapeutic Treatment Board”. Additional material about the TTB included. | |
| 15/10/09 | | 5 | 5.10.1 | References to new cases of *DOHS v Ms T & Mr M* [Children’s Court of Victoria-Power M, 12/10/2009]; *DOHS v Ms D & Mr K* [Children’s Court of Victoria-Power M, 15/06/2009]; *DOHS v Ms K & Mr L* [Children’s Court of Victoria-Power M, 18/05/2009]; *DOHS v Mr M & Ms H* [Children’s Court of Victoria-Power M, 11/05/2009]. | |
| 15/10/09 | | 5 | 5.10.6 | Additional material on “The United Nations Convention on the Rights of the Child”, including discussion of Articles 7 & 9.3 in Part I of the Convention and the case of *BE v LH & MH* [Children’s Court of Victoria, 04/06/2000]. References to new cases of *DOHS v Ms T & Mr M* [Children’s Court of Victoria-Power M, 12/10/2009]; *DOHS v Ms D & Mr K* [Children’s Court of Victoria-Power M, 15/06/2009]; *DOHS v Mr M & Ms H* [Children’s Court of Victoria-Power M, 11/05/2009]. | |
| 15/10/09 | | 5 | 5.11.7 | Reference to new case of *DOHS v Ms H* [Children’s Court of Victoria-Ehrlich M, 29/06/2009]. | |
| 15/10/09 | | 5 | 5.15.3 | Reference to new case of *DOHS v Ms T & Mr M* [Children’s Court of Victoria-Power M, 12/10/2009]. | |
| 15/10/09 | | 5 | 5.16.2 | Reference to new case of *DOHS v Ms D & Mr K* [Children’s Court of Victoria-Power M, 15/06/2009]. | |
| 15/10/09 | | 5 | 5.17.2 | New case of *DOHS v B; DOHS v H* [Children’s Court of Victoria-Judge Grant, 11/06/2009]. | |
| 15/10/09 | | 5 | 5.17.8 5.18.1 | Details of the test in *DOHS v Mr & Mrs B* [Children’s Court of Victoria, unreported, 17/12/2007] moved from paragraph 5.17.8 to 5.18.1. | |
| 15/10/09 | | 5 | 5.18.3 | Added reference to conditions on permanent care order. | |
| 15/10/09 | | 5 | 5.20.1 | Reference to new case of *DOHS v Ms D & Mr K* [Children’s Court of Victoria-Power M, 15/06/2009]. | |
| 15/10/09 | | 5 | 5.20.4 | Added discussion as to impact on an IPO of the making of an IAO. | |
| 15/10/09 | | 5 | 5.20.5 | Minor change to wording. | |
| 15/10/09 | | 5 | 5.29.4 | Expanded discussion, including references to cases of Magistrate Power in Children’s Court of Victoria: *DOHS v Ms O’C* [07/04/2008]; *DOHS v Ms B & Mr G* [05/06/2008]; *DOHS v Mr M & Ms H* [11/05/2009]. | |
| 15/10/09 | | 5 | 5.30.3 | Added statistic re over-representation of indigenous children in out of home care. | |
| 15/10/09 | | 5 | 5.32 | New section entitled “Cultural plan for an aboriginal child”. | |
| 27/07/09 | | 10 | 10.2.1  10.2.4  10.3.2  10.3.3  10.3.4  10.3.5 | Added references to the Criminal Procedure Act 2009 (Vic) expected to come into operation in late 2009 or early 2010. | |
| 27/07/09 | | 10 | MANY | Replacement of “defendant” by “accused” where it occurs except in the context of a quotation. | |
| 27/07/09 | | 10 | 10.2.1 | Paragraph heading changed to “Purposes”. | |
| 27/07/09 | | 10 | 10.2.2 | New paragraph heading “Effect of discharge after committal”. | |
| 27/07/09 | | 10 | 10.2.4 | New paragraph heading “Joint committal proceedings for adult and child co-accused”. | |
| 27/07/09 | | 10 | 10.2.3  10.2.5  10.2.6 | Renumbered paragraph – formerly 10.2.2.  Renumbered paragraph – formerly 10.2.3.  Renumbered paragraph – formerly 10.2.4. | |
| 27/07/09 | | 10 | 10.3.2 | Amended commentary. | |
| 27/07/09 | | 10 | 10.3.3 | New paragraph heading “’No case’ procedure”. New cases of *R v Vella* [2007] VSC 585; *Oakley and Anor v Insurance Manufacturers of Australia Pty Ltd* [2008] VSC 68 at [3]. | |
| 27/07/09 | | 10 | 10.3.4 | New paragraph headed “Sentence indication”. Discussion of *DPP v Shoan* [2007] VSCA 220 moved from paragraph 10.3.2. | |
| 27/09/09 | | 10 | 10.3.5 | New paragraph headed “No summary case conference in Children’s Court”. | |
| 27/07/09 | | 10 | 10.3.6  10.3.7  10.3.8  10.3.9 | Renumbered paragraph – formerly 10.3.3.  Renumbered paragraph – formerly 10.3.4.  Renumbered paragraph – formerly 10.3.5.  Renumbered paragraph – formerly 10.3.6. | |
| 27/07/09 | | 10 | 10.3.8 | New case of *R v LFJ* [2009] VSCA 134. | |
| 27/07/09 | | 10 | 10.3.9 | New references to cases of *Williams v Spautz* (1992) 174 CLR 509, 518 & 520; *PNJ v The Queen* [2009] HCA 6; *R v Rich (Ruling No.1)* [2008] VSC 119; *R v Rich (Ruling No.2)* [2008] VSC 141; *Mokbel v DPP (Vic) & Ors* [2008] VSC 433. | |
| 27/07/09 | | 10 | 10.6 | New section entitled “Unfitness to be tried – Mental impairment”. | |
| 27/07/09 | | 10 | 10.6.1 | New subsection entitled “Unfitness to be tried”. New cases of *R v NL* [Children’s Court of Victoria, unreported, 06/03/2009] & *R v CL* [Children’s Court of Victoria, unreported, 18/06/2009]. | |
| 27/07/09 | | 10 | 10.6.2 | New subsection entitled “Mental impairment”. New case of *R v Fitchett* [2009] VSCA 150. | |
| 13/07/09 | | 6 | 6A.12.10 | Amended Courtlink pro-forma conditions for family violence intervention orders. | |
| 13/07/09 | | 6 | 6A.18.1 | Significant change to wording of discussion of whether an application for interim variation of a FV intervention order may be made to an after hours magistrate. | |
| 13/07/09 | | 6 | 6A.19 | Added cases of *DPP v Mahoney* [2009] VSC 249 at [45]; *R v Duncan* [2007] VSCA 137. | |
| 13/07/09 | | 6 | 6B.3.4 | New case of *R v Anders* [2009] VSCA 7. | |
| 13/07/09 | | 6 | 6B.3.4.5 | New paragraph entitled “Stalking by Surveillance”. New case of *R v Anders* [2009] VSCA 7. | |
| 13/07/09 | | 6 | 6B.8.4 | Minor changes to pro-forma conditions for stalking intervention orders. | |
| 13/07/09 | | 6 | 6B.15 | Added reference to case of *R v Duncan* [2007] VSCA 137 at [37]. | |
| 13/07/09 | | 9 | 9.4.1 | New cases of *DPP (Cth) v Pasquale Barbaro* [2009] VSCA 26; *Angelo Venditti v R* [2008] VSC 604; *DPP v Leon Borthwick* [2009] VSC 102; *Nikola Andreevski v R/Jovan Ogrizovic v R* [2009] VSC 115; *Mrnjaus & Ors v R* [2009] VSC 147; *Garcia & Anor v R* [2009] VSC 149; *Ante Vucak* [2009] VSC 167; *R v Rich (Ruling No.19)* [2008] VSC 538; *DPP v Paul Dale* [2009] VSC 107; *Re Horty Mokbel* [2008] VSC 608; *DPP v Morison* [2008] VSC 609; *Dunne v The Queen* [2009] VSC 148. | |
| 13/07/09 | | 9 | 9.4.2 | New commentary on cases of *Pak v R* [2008] VSC 529 & *Pak v R* [2009] VSC 211. | |
| 13/07/09 | | 9 | 9.4.4 | New cases of *Kylie Vickers* [2009] VSC 202; *David Peter O’Blein v R* [2009] VSC 6; *Darren Haffner v R* [2009] VSC 116; *Julie Huynh* [2009] VSC 163; *Dalibor Dobrosavljevic* [2009] VSC 170; *Ahmed Chkhaidem* [2009] VSC 216; *Tilyard v R* [2009] VSC 117; *DPP v Richardson* [2009] VSC 87. | |
| 13/07/09 | | 9 | 9.4.5 | New case of *Kylie Vickers* [2009] VSC 202. | |
| 13/07/09 | | 9 | 9.4.10 | New cases of *DPP (Cth) v Pasquale Barbaro* [2009] VSCA 26; *R v Rich (Ruling No.19)* [2008] VSC 538. | |
| 13/07/09 | | 9 | 9.5.1 | New case of *Ante Vucak* [2009] VSC 167. | |
| 13/07/09 | | 9 | 9.5.7 | New case of *Dixon v DPP* [2009] VSC 224. | |
| 13/07/09 | | 9 | 9.5.14 | New paragraph entitled “Limited bail support program in Children’s Court”. | |
| 13/07/09 | | 9 | MANY | Replacement of “defendant” by “accused” where it occurs except in the context of a quotation. | |
| 23/06/09 | | 3 | 3.1 | Added quotation from *Mehmet Ucar v Nylex Industrial Products Pty Ltd* (2007) 17 VR 492; [2007] VSCA 181 at [43]. New case of *R v Fisher* [2009] VSCA 100. New references to cases of *Pantorno v The Queen* (1989) 166 CLR 466 at 473; *Friend v Brooker* [2009] HCA 21; *R v Rich (Ruling No.21)* [2009] VSC 32. | |
| 23/06/09 | | 3 | 3.5.9 | Reference to new case of *R v Rich (Ruling No.5)* [2008] VSC 435. | |
| 23/06/09 | | 3 | 3.7.3 | Reference to new case of *BR v VOCAT* [2009] VSC 152. | |
| 23/06/09 | | 3 | 3.9 &  3.9.1 | New case of *NG v IP* [2009] VSC 199. | |
| 09/06/09 | | 4 | 4.1 | Heading of section amended to “The Child Protection Service”. | |
| 09/06/09 | | 4 | 4.2 | New section entitled “Role of the Children’s Court in Child Protection in Victoria”. This section contains a “thumbnail sketch of the role of the Children’s Court in child protection in Victoria taken from a paper prepared by the President of the Court in June 2009. | |
| 09/06/09 | | 4 | 4.3  4.3.1  4.3.2 | Renumbered section – formerly 4.2.  Renumbered paragraph – formerly 4.2.1  Renumbered paragraph – formerly 4.2.2 | |
| 09/06/09 | | 4 | 4.4 | Heading of section changed to “Definitions of ‘child’ & ‘parent’”. The contents of former section 4.3 are incorporated into section 4.4. | |
| 09/06/09 | | 4 | 4.6.2 | Heading amended to “Trends in notifications/reports 1989 to 2007/2008”. Numbers of Victorian reports in 2007-08 added. Numbers of substantiated Victorian reports from 2000-01 to 2007-08 added. | |
| 09/06/09 | | 4 | 4.6.3 | Numbers of Australian notifications in 2007-08 added. Numbers of substantiated Australian notifications from 2004-05 to 2007-08 added. | |
| 09/06/09 | | 4 | 4.8.2 | Commentary on ss.4 & 8 of the Evidence Act 2008 and their relationship to s.215 of the CYFA. | |
| 09/06/09 | | 4 | 4.8.3 | New case of *DOHS v Mr M & Ms H* [11/05/2009]. | |
| 09/06/09 | | 4 | 4.8.4 | New references to cases of *R v Cox (Ruling No.1)* [2005] VSC 157 at [11] & *(Ruling No.2)* [2005] VSC 224 per Kaye J; *R v Rich (Ruling No.10)* [2009] VSC 10 at [26]-[34] per Lasry J. | |
| 09/06/09 | | 4 | 4.8.5 | New paragraph entitled “Statutory interpretation”. New case of *Alinta Asset Management Pty Ltd v Essential Services Commission* [2008] VSCA 273 at [70]-[83]. | |
| 09/06/09 | | 4 | 4.12 | New case of *DOHS v Mr M & Ms H* [11/05/2009] at sections 25.1, 25.5 & 28.5. | |
| 09/06/09 | | 4 | 4.13 | New case of *DOHS v Mr M & Ms H* [11/05/2009] at section 28.4. | |
| 09/06/09 | | 4 | 4.14 | Added reference to “Contact Irregular: a qualitative analysis of the impact of visiting patterns of natural parents on foster placements”. Added references to ss.10(3)(b) & 10(3)(i) of the CYFA and to Article 9.3 in Part I of the United Convention on the Rights of the Child. | |
| 09/06/09 | | 4 | 4.14.1 | New paragraph entitled “’Baby on Board’ and research cited therein. | |
| 09/06/09 | | 4 | 4.14.2 | New paragraph heading “Case law”. | |
| 08/03/09 | | 5 | 5.10.1 | New references to unreported decisions of Power M in the Children’s Court of Victoria illustrating the application of the “best interest” principle:   * *DOHS v Mr O & Ms B* [20/02/2009]; * *DOHS v Mr D & Ms W* [07/01/2009]; * *DOHS v Mr D & Ms B* [29/09/2008]; * *DOHS v Mr G & Ms B* [05/06/2008]; * *DOHS v Mr & Mrs B* [17/12/2007]. | |
| 08/03/09 | | 5 | 5.15.3 | New case of *DOHS v Mr O & Ms B* [Children's Court of Victoria-Power M, unreported, 20/02/2009] and commentary on s.281(2) of the CYFA. | |
| 08/03/09 | | 5 | 5.28 | Heading of section changed to “Interstate transfer of child protection orders and proceedings”. Discussion of the operation of Schedule 1 of the CYFA together with commentary on the case of *DOHS v Mr O & Ms B* [Children's Court of Victoria-Power M, unreported, 20/02/2009]. Expanded commentary on ss.334-337 of the CYFA. | |
| 06/03/09 | | 9 | 9.4.1 | New cases of *IMO bail applications by Leanne Elizbaeth Walker & Jamiee Lee Hurle* [2008] VSC 493 & 494; *R v Wells* [2008] VSC 29; *Kent v R* [2008] CSV 516; *R v Maria Christina Clark* [2008] VSC 606; *Re James Alexander Hipworth* [2007] VSC 565; *Re Turner* [2008] VSC 193; *Pak v DPP* [2008] VSC 529; *Re Daniel Sazdov* [2008] VSC 605. | |
| 06/03/09 | | 9 | 9.4.4 | New cases of *Re Lawson Odlum* [2008] VSC 319; *Re Michael O’Connor* [2008] VSC 233; *Re Mae Loc Tran* [2008] VSC 191; *IMO bail application by Mahmoud Kheir* [2008] VSC 492; *Waleed Haddara v DPP* [2008] VSC 298; *Watts v DPP* [2008] VSC 275; *Re George Dickson* [2008] VSC 516; R v Kelmendi [2008] VSC 31; *Ferman v R* [2008] VSC 612. | |
| 06/03/09 | | 9 | 9.4.8 | New cases of *Re DBA* [2008] VSCA 138 (Maxwell P & Nettle JA); *Re Momsilovic* [2008] VSCA 183 (Maxwell P & Weinberg JA).  Case of *Re Slobodan Pandevski* [2007] VSCA 84 at [17]-[22] (Maxwell ACJ & Eames JA) transferred from para. 9.4.4. | |
| 06/03/09 | | 9 | 9.4.10 | New case of *Re George Dickson* [2008] VSC 516. | |
| 06/03/09 | | 9 | 9.5.11 | New case of *DPP v Lipp & Anor* [2008] VSC 203. | |
| 05/03/09 | | 1 | 1.3 | Addition of s.42E to the list of sections contained in the summary describing the object of the Children’s Court (Evidence – Audio Visual and Audio Linking) Rules 1998. | |
| 05/03/09 | | 3 | 3.5.11 | New paragraph entitled “Appearance or giving evidence in other than the traditional manner”. | |
| New sub-paragraphs 3.5.11.1 “Appearance etc. by a person other than an accused”, 3.5.11.2 “Appearance etc. by an accused in a criminal or associated proceeding” & 3.5.11.3 “Alternative arrangements for giving evidence in certain criminal proceedings”. | |
| New references to ss.37C, 37CAA, 37D, 41E, 42D to 42T of the Evidence Act 1958. References to cases of *R v Cox & Ors (Ruling No.6)* [2005] VSC 364 at [7], *R v Kim* (1998) 104 A Crim R 233, *R v Weiss* [2002] VSC 15, *R v Goldman* [2004] VSC 165; *R v Strawhorn* [2004] VSC 415; *DPP v Finn (Ruling No.1)* [2008] VSC 303. | |
| 05/03/09 | | 3 | 3.6 | New section entitled “Statutory interpretation”. New case of *Alinta Asset Management Pty Ltd v Essential Services Commission* [2008] VSCA 273 at [70]-[83]. | |
| 05/03/09 | | 3 | 3.7 | Renumbered section – formerly 3.6. Paragraphs renumbered 3.7.1, 3.7.2 & 3.7.3. | |
| 05/03/09 | | 3 | 3.8 | Renumbered section – formerly 3.7. | |
| 05/03/09 | | 3 | 3.9 | Renumbered section – formerly 3.8. Paragraphs renumbered 3.9.1, 3.9.2, 3.9.3 & 3.9.4. | |
| 05/03/09 | | 3 | 3.10 | Renumbered section – formerly 3.9. | |
| 05/03/09 | | 3 | 3.11 | Renumbered section – formerly 3.10. | |
| 05/03/09 | | 8 | 8.2.4 | New reference to case of *R v Laracy* [2007] VSC 19. | |
| 05/03/09 | | 8 | 8.4.3.2 | New references to cases of at *Reid & Tabbitt & Anor* [2008] VSC 75 at [10] & [30] and *O’Sullivan v Freeman* [2003] VSC 45 at [19]. | |
| 02/03/09 | | 10 | 10.1 | New offences of child homicide and defensive homicide included in the list of offences for which the Children’s Court does not have jurisdiction to hear and determine summarily.  New case of *Clayton v Hall & Anor* [2008] VSC 172 and a related discussion on the issue of how consent to summary jurisdiction, once given, can be withdrawn by an adult. Writer considers the same test is appropriate on the issue of withdrawal of an objection to summary jurisdiction on behalf of a child. | |
| 02/03/09 | | 10 | 10.3.1 | Reiteration of s.356 of the CYFA. | |
| 02/03/09 | | 10 | 10.3.5 | New case of *R v RGG* [2008] VSCA 94 at [4], [5] & [25]. | |
| 28/02/09 | | 4 | 4.1.6 | Reference to new case of *Law Institute of Victoria Ltd v Deputy Commissioner of Taxation* [2009] VSC 55 at [19]. | |
| 25/02/09 | | 11 | 11.1.4 | New cases of *DPP v Weidlich* [2008] VSCA 203; *H v R & Ors* [2008] VSC 369. | |
| 25/02/09 | | 11 | 11.1.4.1 | New sub-paragraph heading “Principle of proportionality”. New references to cases of *R v Samia* [2009] VSCA 5; *R v McNaughton* (2006) 766 NSWLR 556. | |
| 25/02/09 | | 11 | 11.1.4.2 | New sub-paragraph heading “Principle of totality”. New case of *R v Sebborn* [2008] VSCA 200 and its references to *A-G v Tichy* (1982) 30 SASR 84 and *Johnson v R* (2004) 205 ALR 346. New cases of *H v R & Ors* [2008] VSC 369; R v Hogan [2008] VSCA 279. References to new cases of *R v Rule* [2008] VSCA 154; *R v Bult* [2008] VSCA 227 at [22]-[24]; *R v Franklin* [2008] VSCA 249 at [34]-[36]; *R v Rousetty* [2008] VSCA 259 at [50]; *R v Brown* [2009] VSCA 23 at [19]-[27] & [36]-[41] {see also (2004) 10 VR 328}; *R v Wright* [2009] VSCA 27 at [45]-[54]; *R v Samia* [2009] VSCA 5 at [16]-[20]. | |
| 25/02/09 | | 11 | 11.1.5 | Added reference to the 2008-2009 value of a penalty unit. Added quotation from *R v AB (No.2)* [2008] VSCA 39 at [51]. Reference to new case of *R v Stratton* [2008] VSCA 130. | |
| 25/02/09 | | 11 | 11.1.8 | Reference to new cases of *RK v Mirik & Mirik* [2009] VSC 14; *Ioannou v Catania* [2008] VSC 302. | |
| 25/02/09 | | 11 | 11.1.9 | Section heading changed to “Additional orders including forfeiture & disqualification”. Reference to new cases of *DPP v Nguyen & DPP v Duncan* [2008] VSC 292. Discussion on whether the mandatory disqualification provisions in the Road Safety Act apply to children found guilty of offences against that Act. | |
| 25/02/09 | | 11 | 11.1.12 | Reference to new case of *R v Akin Sari* [2008] VSCA 137 at [107]-[108]. | |
| 25/02/09 | | 11 | 11.1.14 | New case of *R v George Williams* [2008] VSCA 95. | |
| 25/02/09 | | 11 | 11.1.15 | New paragraph headed “Procedural fairness”. New case of *R v Alexandridis* [2008] VSCA 126. New references to *R v Sa* [2004] VSCA 182 at [29]; *R v Bennett* [2006] VSCA 274 at [4]-[6]; *R v Healey* [2008] VSCA 132 at [42]-[43]; *R v Rule* [2008] VSCA 154 at [46]. | |
| 25/02/09 | | 11 | 11.1.16 | Renumbered paragraph – formerly 11.1.15. | |
| 25/02/09 | | 11 | 11.2.1 | Reference to new cases of *DPP v Avci* [2008] VSCA 256; *R v EJC* [2008] VSC 474; *R v Strain* [2008] VSC 411; *R v AO* [2009] VSC 13; *R v TG* [2008] VSCA 83 at [31]; *R v Keith Honkeong Chong* [2008] VSCA 119 at [1] & [4]-[5]; *R v Lay* [2008] VSCA 120 at [38]-[39]; *DPP v Dally* [2008] VSCA 173 at [13]-[14]; *DPP v Brooks* [2008] VSCA 253 at [23]; *DPP v Massey* [2008] VSCA 254 at [16]-[17]; *R v Morgan* [2008] VSCA 258 at [23]-[25]; *R v Simpas & HR* [2008] VSC 222; *DPP v Kosmidis* [2008] VSCA 66; | |
| 25/02/09 | | 11 | 11.2.2 | New case of *H v R & Ors* [2008] VSC 369. | |
| 25/02/09 | | 11 | 11.2.4 | New case of *R v Stratton* [2008] VSCA 130. | |
| 25/02/09 | | 11 | 11.2.6 | New cases of *R v Simmons* [2008] VSCA 185; *R v Hildebrandt* [2008] VSCA 142. Added discussion about the diffiuclty of achieving parity between an adult offender and a child co-offender given the substantial difference in the sentencing principles in s.5(1) of the Sentencing Act 1991 and s.362 of the CYFA. References to new cases of *R v Eastham* [2008] VSCA 67 at [16]-[17]; *R v Koumis & Ors* [2008] VSCA 84 at [28]*; R v Van Dat Le* [2008] VSCA 155 at [14]-[19]; *DPP v Tuan Quoc Tran* [2008] VSCA 158; *R v Crabbe* [2008] VSCA 160 at [3]-[4]; *R v Lewis* [2008] VSCA 202 at [15]-[17]; *R v Mundy* [2008] VSCA 184 at [14]-[22]; *R v Simmons* [2008] VSCA 185 at [29]-[38]; *R v Lewis* [2008] VSCA 202; *R v Nguyen, Dang, Ly & Nguyen* [2008] VSCA 235 at [60]; *R v Holmes* [2008] VSCA 271 at [73]-[74]; *R v Wolfe* [2008] VSCA 284 at [9]-[10]. | |
| 25/02/09 | | 11 | 11.2.7 | References to new cases of *R v Healey* [2008] VSCA 132 at [27]-[34]; *R v Mario Katsoulas* [2008] VSCA 278 at [7]. | |
| 25/02/09 | | 11 | 11.2.8.1 | New sub-paragraph heading “’Discount’ for guilty plea and/or admission of offence”. References to cases of *R v Brazel* (2005) 153 A Crim R 152 at 159; *R v CLP* [2008] VSCA 113. Discussion of new s.6AAA of the Sentencing Act 1991 and s.362A of the CYFA, old cases of *R v McIntosh* [2005] VSCA 106 & *R v Rowlands* [2007] VSCA 14 and new cases of *R v Flaherty (No.2)* [2008] VSC 270; *R v Churchill, McGillivray and Whittaker* [2008] VSC 393 at [37]; *R v Diver* [2008] VSC 399 at [67]; *R v Johnston* [2008] VSCA 133 at [17]. | |
| 25/02/09 | | 11 | 11.2.8.2 | New sub-paragraph heading “Informer’s discount”. New case of *R v Johnston* [2008] VSCA 133 at [16]-[19]. References to *R v Crossley* [2008] VSCA 134; *R v Koumis & Ors* [2008] VSCA 84 at [13]-[18]; *R v CP* [2008] VSCA 272 at [16]-[17]. | |
| 25/02/09 | | 11 | 11.2.11.1 | New sub-paragraph heading “Cases prior to *R v Verdins* (2007) 16 VR 269”. | |
| 25/02/09 | | 11 | 11.2.11.2 | New sub-paragraph heading “*R v Verdins* (2007) 16 VR 269 and subsequent cases”. New cases of *R v Rattya* [2008] VSCA 149; *R v Brooks* [2008] VSC 70; *R v Johnstone* [2008] VSC 584; *DPP v Arvanitidis* [2008] VSCA 189. References to new cases of *R v Atik* [2007] VSC 299 at [37]-[40]; *R v Charles Imadonmwonyi* [2008] VSCA 135 at [18]-[27]; *R v Puc* [2008] VSCA 159 at [23]-[33]; *DPP v Weidlich* [2008] VSCA 203 at [17]-[25]; *R v Fitchett* [2008] VSC 258 at [25]-[38]; *R v Piper* [2008] VSC 569 at [66]; *R v Zander* [2009] VSCA 10 at [26]-[33] & [36]. | |
| 25/02/09 | | 11 | 11.2.12 | Reference to new case of *R v McIntosh* [2008] VSCA 242 at [84]-[110]. | |
| 25/02/09 | | 11 | 11.2.13 | New case of *R v George Williams* [2008] VSCA 95 at [45]. Reference to new case of *R v RGG* [2008] VSCA 94 at [29]-[41]. | |
| 25/02/09 | | 11 | 11.2.14 | New case of *R v Ferguson* [2008] VSCA 257 at [28]. Reference to new cases of *R v Zancan* [2009] VSCA 11 at [32]-[34]; *R v Thompson* [2009] VSCA 13 at [24]-33]; *R v Wright* [2009] VSCA 27. | |
| 25/02/09 | | 11 | 11.2.16 | New case of *R v Van Tu Nguyen* [2008] VSCA 141. | |
| 25/02/09 | | 11 | 11.2.17 | New cases of In *R v Leng Khem* [2008] VSCA 136 at [36]-[40]; *R v Howell* (2006) 16 VR 346 at 355-356; [2007] VSCA 119 at [19]-[20]; *R v McRae* [2008] VSCA 74 at [15]-[16]; *R v Hay* [2007] VSCA 147 at [33]; *R v Martin* [2007] VSCA 297 at [19]-[21]; *DPP v Arvanitidis* [2008] VSCA 189. | |
| 25/02/09 | | 11 | 11.2.18 | Reference to new cases of *R v NAD* [2008] VSCA 192 at [5]-[9] & [51]-[52]; *R v Vipulkumar Gajjar* [2008] VSCA 268 at [18]-[19] & [35]-[39]. | |
| 25/02/09 | | 11 | 11.2.22.1 | New sub-paragraph heading “Sentencing for manslaughter”. New cases of *R v EJC* [2008] VSCA 474; *R v Simpas & HR* [2008] VSC 222. New references to *R v Stratton* [2008] VSCA 130; *R v Robert Shane Lovett* [2008] VSCA 262 [unpremeditated stabbing by intellectually impaired 26 yr old]; *R v Rajbinder Singh Shahi* [2008] VSCA 281 [30 year old taxi driver who ran down passenger]; *R v Vandergulik* [2009] VSC 3 esp. at [23]-[24]; *R v AO* [2009] VSC 13 [16 year old defendant hit deceased on head with bottle in course of armed robbery]. | |
| 25/02/09 | | 11 | 11.2.22.2 | New sub-paragraph heading “Sentencing for defensive homicide”. References to new cases of *R v Edwards* [2008] VSC 297; *R v Smith; R v Taiba* [2008] VSC 589. | |
| 25/02/09 | | 11 | 11.2.22.3 | New sub-paragraph heading “Sentencing for attempted murder”. | |
| 25/02/09 | | 11 | 11.2.22.4 | New sub-paragraph heading “Sentencing for murder”. New case of *R v Baker* [2008] VSC 390. References to new cases of *R v Strain* [2008] VSC 411; *DPP v Zaim* [2008] VSC 543; *R v Acuna* [2008] VSC 351; *R v McKenzie* [2008] VSC 394. | |
| 25/02/09 | | 11 | 11.2.23 | References to new cases of *DPP v King* [2008] VSCA 151; *DPP v Martinez* [2008] VSCA 165. | |
| 25/02/09 | | 11 | 11.2.24 | Section heading changed to “Sentencing for intentionally / recklessly / negligently causing serious injury & affray/riot”. | |
| 25/02/09 | | 11 | 11.2.24.1 | New sub-paragraph heading “Sentencing for intentionally causing serious injury”. References to new cases of *R v Eastham* [2008] VSCA 67; *R v McRae* [2008] VSCA 74; *DPP v Dalley* [2008] VSCA 173; *DPP v Eli* [2008] VSCA 203; *R v Aggelidis* [2008] VSC 445; *R v Cossu* [2008] VSC 458; *R v Zander* [2009] VSCA 10. | |
| 25/02/09 | | 11 | 11.2.24.2 | New sub-paragraph heading “Sentencing for recklessly causing serious injury”. New cases of *DPP v Coley* [2007] VSCA 91; *DPP v Nikolic* [2008] VSCA 226; *R v Vandenberg* [2009] VSCA 9. References to new cases of *DPP v Toumngeun* [2008] VSCA 91 at [20]-[21]; *R v Earl* [2008] VSCA 162. | |
| 25/02/09 | | 11 | 11.2.24.3 | New sub-paragraph heading “Sentencing for negligently causing serious injury”. | |
| 25/02/09 | | 11 | 11.2.24.4 | New sub-paragraph heading “Sentencing for affray/riot”. Reference to new case of *R v Akin Sari* [2008] VSCA 137 at [18]. | |
| 25/02/09 | | 11 | 11.2.25 | New cases of *R v Adams* [2007] VSCA 37; *R v Do* [2008] VSCA 199. References to new cases of *R v Perrier, Pop & Tilley* [2008] VSCA 97; *DPP v Willis & Hossack* [2009] VSCA 14; *R v Koumis & Ors* [2008] VSCA 84; *R v Demaria* [2008] VSCA 105; *R v Van Dat Le* [2008] VSCA 155; *R v Crabbe* [2008] VSCA 160; *R v Taric & Sindik* [2008] VSCA 166; *R v Mansour* [2008] VSC 226; *DPP v Johnson, Zerna and Bugeja* [2008] VSC 330. | |
| 25/02/09 | | 11 | 11.2.26 | New case of *R v Crossley* [2008] VSCA 134. Reference to new case of *R v Piper* [2008] VSC 569. | |
| 25/02/09 | | 11 | 11.2.27 | New case of *DPP v Brooks* [2008] VSCA 253. | |
| 25/02/09 | | 11 | 11.2.28 | New section entitled “Sentencing for rape”. New cases of *DPP v Avci* [2008] VSCA 256; *R v Brown* [2009] VSCA 23. | |
| 25/02/09 | | 11 | 11.2.29 | New section entitled “Sentencing for offences against the person committed on public transport”. New case of *DPP v Eli* [2008] VSCA 209. | |
| 25/02/09 | | 11 | 11.3.1 | New case of *R v Flaherty (No.2)* [2008] VSC 270. References to new cases of *R v Eastham* [2008] VSCA 67 at [11]-[12]; *R v Johnston* [2008] VSCA 133 at [16] | |
| 25/02/09 | | 11 | 11.3.2 | New cases of *R v McNeill & Brown/Piggott* [2008] VSCA 190; *R v Vandenberg* [2009] VSCA 9. | |
| 25/02/09 | | 11 | 11.3.3 | This section has been extensively re-written. | |
| 25/02/09 | | 11 | 11.3.5 | New reference to case of *DPP v Coley* [2007] VSCA 91. | |
| 25/02/09 | | 11 | 11.4.1 | New sub-paragraph heading “Pre-sentence & group conference reports”. | |
| 25/02/09 | | 11 | 11.4.2 | New sub-paragraph heading “Report, submission & evidence on behalf of child”. | |
| 25/02/09 | | 11 | 11.4.3 | New sub-paragraph heading “Prior findings of guilt”. | |
| 25/02/09 | | 11 | 11.4.4 | New sub-paragraph heading “Prosecutor’s submission & duty”. New cases of *DPP v Avci* [2008] VSCA 256; *R v Mansour* [2008] VSC 226. | |
| 25/02/09 | | 11 | 11.4.5 | New sub-paragraph heading “Victim impact statements”. New cases of *R v Katelis* [2008] VSCA 239. New references to *R v Vandenberg* [2009] VSCA 9; *R v Sa* [2004] VSCA 182; *R v CLP* [2008] VSCA 113. | |
| 25/02/09 | | 11 | 11.8.1 | New references to *R v Detenamo* [2007] VSCA 160; *R v Bertrand* [2008] VSCA 182; *R v Merritt* [2008] VSCA 238 at [16]-[18]; *Power v The Queen* (1974) 131 CLR 623 at 627; *R v Morgan & Morgan* (1981-3) 7 A Crim R 146 at 154-155. | |
| 25/02/09 | | 11 | 11.16.1 | New cases of *R v RGG* [2008] VSCA 94; *R v CLP* [2008] VSCA 113. | |
| 25/02/09 | | 11 | 11.16.1.1 | New sub-paragraph heading “Sexual abuse in a family setting”. New case of *DPP v EB* [2008] VSCA 127. New references to *R v GLH* [2008] VSCA 88; *DPP v RAL* [2008] VSCA 140 esp at [25]-[27]; *R v JF* [2008] VSCA 243; *R v RLP* [2008] VSC 381 at [22]-[26]. | |
| 25/02/09 | | 11 | 11.16.1.2 | New sub-paragraph heading “Sexual abuse by a person in authority”. New references to *R v Jobling-Mann* [2000] VSCA 3; *R v Cleary* [2004] VSCA 14; *DPP v Ellis* (2005) 11 VR 287; {2005] VSCA 105; *R v O’Neill* [2005] VSCA 248; *R v Howell* [2007] VSCA 119; *R v Franklin* [2008] VSCA 249. | |
| 25/02/09 | | 11 | 11.16.2 | New section entitled “Use of the internet to procure sex”. New case of *DPP(Cth) v Hizhnikov* [2008] VSCA 269. | |
| 25/02/09 | | 11 | 11.16.3 | Renumbered paragraph – formerly 11.16.2. | |
| 25/02/09 | | 11 | 11.16.4 | Renumbered paragraph – formerly 11.16.3. | |
| 25/02/09 | | 11 | 11.16.5 | Renumbered paragraph – formerly 11.16.4. Delete reference to *R v Klamo* (conviction quashed on appeal and no new trial ordered). New case of appeal in *DPP v McMaster* [2008] VSCA 102. | |
| 16/01/09 | | 3 | 3.3.1 | New paragraph heading “Powers conferred by the Magistrates’ Court Act 1989”. | |
| 16/01/09 | | 3 | 3.3.2 | New paragraph heading “Powers conferred by the CYFA or any other legislation”. | |
| 16/01/09 | | 3 | 3.3.3 | New paragraph heading “Implied powers to govern the process of the Court”. New reference to *Grassby v The Queen* (1989) 168 CLR 1,16. New cases of *Mokbel v DPP (Vic) & Ors* [2008] VSC 433 at [24]-[39] & *Hadju v Breguet* [2008] VSC 185 at [15]-[18] and cases cited therein. | |
| 16/01/09 | | 3 | 3.5.9 | New cases of *Attorney-General for NSW v Chidgey* [2008] NSWCCA 65; Johnson v Poppeliers [2008] VSC 461. In the latter at [42] dicta in the case of *Fitzgerald v Magistrates’ Court of Victoria* [2001] VSC 348 was disapproved. New case of *Visy Board Pty Limited v Stephen D’Souza & Ors* [2008] VSC 572 at [15]-[24] and associated references to *Hearne v Street* [1008] HCA 36, *Harman v Home Department State Secretary* [1983] 1 AC 280 & *Crest Homes PLC v Marks* [1987] AC 829, 860. | |
| 16/01/09 | | 3 | 3.9 | The commentary on appeal types 1 & 2 has been expanded. The commentary on appeal type 4 [Hearing *de novo*] has been restructured and new references to *H v R & Ors* [2008] VSC 369 at [9]-[10] and *Humphries v Poljak* (1992) 2 VR 129 at 139 have been added. | |
| 16/01/09 | | 4 | 4.3 | Correction to definition of “child” under the FVPA and the SIOA. | |
| 16/01/09 | | 4 | 4.7.3 | New paragraph headed “Representation of child who is not respondent or applicant under the FVPA”. | |
| 16/01/09 | | 4 | 4.7.4 | Renumbered paragraph – formerly 4.7.3. | |
| 16/01/09 | | 4 | 4.7.5 | Renumbered paragraph – formerly 4.7.4. | |
| 16/01/09 | | 4 | 4.7.6 | Renumbered paragraph – formerly 4.7.5. | |
| 16/01/09 | | 4 | 4.8.1 | New case of *Van Susteren v Packaje Pty Ltd* [2008] VSC 586 at [5]-[6]. Reference to new case of *Macdiggers Pty Ltd v Maria Dickinson and Peter Dickinson* [2008] VSC 576 at [23]-[28]. | |
| 16/01/09 | | 4 | 4.8.4 | New reference to case of *R v Dong Song Choi & Ors* [aka *In the Matter of the Pong Su (Ruling No. 19)*] [2005] VSC 66 at [29]-[30]. | |
| 16/01/09 | | 4 | 4.15 | New case of *DOHS v Mr D & Ms W* [Children’s Court of Victoria, unreported, 07/01/2009]. | |
| 16/01/09 | | 10 | 10.2.2 | New references to cases of *Phelan v Allen* [1970] VR 219; *Mokbel v DPP (Vic) & Ors* [2008] VSC 433 at [27] per Kaye J. | |
| 16/01/09 | | 10 | 10.3.2 | New case of *R v Ellis* [2008] VSC 406 at [3], criticising dicta of the High Court of Australia in *Doney v The Queen* (1990) 171 CLR 207,214. New case of *R v Benbrika & Ors (Ruling No.27)* [2008] VSC 456. | |
| 14/01/09 | | 5 | 5.11.11 | | Change of cut-off time for new Family Division applications by apprehension at Melbourne Children’s Court from 3.00pm to 2.00pm. |
| 14/01/09 | | 6 | 6.17A.1 | | Reference to new case of *DOHS v Mr D & Ms W* [Children’s Court of Victoria, unreported, 07/01/2009] at pp.110-111. |
| 14/01/09 | | 6 | 6.18A.1 | | Added commentary doubting that an after hours application under s.44 of the FVPA can be made for an interim variation under s.101 of an existing intervention order. |
| 08/12/08 | | 1 | 1.2.1 | Rename paragraph “Children, Youth and Families Regulations 2007.” | |
| 08/12/08 | | 1 | 1.2.2 | New paragraph entitled “Intervention Orders Regulations”. | |
| 08/12/08 | | 1 | 1.3 | Delete paragraph headings 1.3.1 & 1.3.2. Add references to the rule-making powers in s.210(1) of the Family Violence Protection Act 2008 and in s.54 of the Stalking Intervention Orders Act 2008. Add reference to Children’s Court (Family Violence Protection) Rules 2008. Note revocation of Children’s Court (Family Violence) Rules 2000. | |
| 08/12/08 | | 3 | 3.8  3.8.4 | Removal of references to Crimes (Family Violence) Act 1987 and replacement with references to Family Violence Protection Act 2008 and Stalking Intervention Orders Act 2008. | |
| 08/12/08 | | 4 | 4.2.1  4.2.2  4.3  4.10.1 | Removal of references to Crimes (Family Violence) Act 1987 and replacement with references to Family Violence Protection Act 2008 and Stalking Intervention Orders Act 2008. | |
| 08/12/08 | | 6 | ALL | This chapter has been completely re-written as a consequence of the replacement of the Crimes (Family Violence) Act 1987 by the Family Violence Protection Act 2008 and the Stalking Intervention Orders Act 2008. | |
| 21/10/08 | | 2 | 2.1 | Added quotation from Justice Fogarty’s 1993 report entitled “Protective Services for Children in Victoria”. | |
| 21/10/08 | | 2 | 2.5 | Updated information about use of Melbourne County Court and Melbourne Magistrates’ Court for occasional Children’s Court cases. Updated information on relief provided by Melbourne Children’s Court to other Children’s Courts. | |
| 21/10/08 | | 2 | 2.8.1 | Reference to new Court of Appeal decision in *Howe & Ors v Harvey & DPP & Ors* [2008] VSCA 181. | |
| 21/10/08 | | 2 | 2.8.2 | Added references to cases of *AX v Stern* [2008] VSC 400 at[4]-[7] per Warren CJ; *BY v Australian Red Cross Society & Others* [unreported, Supreme Court of Victoria-Vincent J, 31/10/1991]; *ABC v D1 & Ors; Ex Parte The Herald & Weekly Times Limited* [2007] VSC 480 at [65]-[71] per Forrest J; *AB v D1* [2008] VSC 371 per Kyrou J. | |
| 21/10/08 | | 4 | 4.1.6 | New paragraph entitled “The Child Protection Service as a model litigant”. | |
| 21/10/08 | | 4 | 4.6 | Replacement of 2000/2001 notification statistics with 2006/2007 statistics. | |
| 21/10/08 | | 4 | 4.6.2 | Paragraph re-titled: “Trends in notifications 1989 to 2006/2007”. | |
| 21/10/08 | | 4 | 4.6.3 | 2006/2007 statistics added. | |
| 21/10/08 | | 4 | 4.8.1 | Reference to new case of *DOHS v Ms B & Mr G* [Children's Court of Victoria, unreported, 05/06/2008]. | |
| 21/10/08 | | 4 | 4.8.2 | Paragraph re-titled: “Court may inform itself as it thinks fit – Rules of evidence not mandatory”. Reference to new case of *Weinstein v Medical Practitioners Board of Victoria* [2008] VSCA 193. Discussion of the Less Adversarial Trial approach of the Family Court of Australia. Reference to new cases of *T v T* [2008] FamCAFC4; *H v H* [2008] FMCAfam884. Discussion of s.65 of the Family Violence Protection Act 2008. | |
| 21/10/08 | | 4 | 4.8.4 | New references to cases of *HG v R* (1999) 197 CLR 414 at [39] & [44] per Gleeson CJ; *Makita Australia Pty Ltd v Sprowles* (2001) 52 NSWLR 705 at [85] per Heydon JA; *Ocean Marine Mutual v Jetopay* (2000) 120 FCR 146 at [21]-[23] per Black CJ, Cooper & Emmett JJ; *Ronchi v Alcoa* [2008] VSCA 83 at [54] per Eames JA; Baulach v Lyndoch Warrnambool & Anor (Ruling No. 3) [2008] VSC 420 at [10]-[14] per Forrest J. Reference to new case of *DOHS v Ms B & Mr G* [Children's Court of Victoria, unreported, 05/06/2008]. | |
| 21/10/08 | | 4 | 4.9.1 | Additional material on the consequences of an apprehension of a child with particular reference to s.241 of the CYFA. | |
| 21/10/08 | | 4 | 4.14 | New section entitled “Frequency of access between infant and parent”. Reference to new case of *DOHS v Ms B & Mr G* [Children's Court of Victoria, unreported, 05/06/2008]. | |
| 21/10/08 | | 4 | 4.15 | Renumbered section – formerly 4.14 | |
| 21/10/08 | | 4 | 4.16 | Renumbered section – formerly 4.15 | |
| 13/10/08 | | 2 | 2.1 | Added reference to | |
| 13/10/08 | | 3 | 3.5.6 | The material in this paragraph has been restructured and some of it has been moved into new paragraph 3.5.7. However, it is largely unchanged. Added reference to “Guidelines on the State of Victoria’s Obligation to Act as a Model Litigant”. Added reference to new case of *DOHS v Ms B & Mr G* [Children's Court of Victoria, unreported, 05/06/2008]. | |
| 13/10/08 | | 3 | 3.5.7 | New paragraph entitled “The modern Less Adversarial Trial approach of the Family Court of Australia” containing material which was previously part of paragraph 3.5.6. | |
| 13/10/08 | | 3 | 3.5.8 | Renumbered paragraph – formerly 3.5.7. | |
| 13/10/08 | | 3 | 3.5.9 | Renumbered paragraph – formerly 3.5.8. | |
| 13/10/08 | | 3 | 3.5.10 | Renumbered paragraph – formerly 3.5.9. | |
| 25/07/08 | | 5 | 5.2 | Reference to *DOHS v BK* [CCV-Ehrlich M, 26/05/2008]. References to research of Dr Bruce D Perry on the consequences of exposure to trauma on a young child’s development. | |
| 25/07/08 | | 5 | 5.4.1 | Added comment that as yet there have been very few applications for a TAO made. | |
| 25/07/08 | | 5 | 5.5 | Statistics for protection applications by apprehension added. | |
| 25/07/08 | | 5 | 5.5.6  5.11.10  5.13  5.14.2  5.20.6  5.22.7  5.27.3 | 2006/2007 statistics added and commentary amended. | |
| 25/07/08 | | 5 | 5.11.16 | Reference to new case of *R v DOHS* [Supreme Court of Victoria, unreported, 16/07/2008] at p.5 per Hansen J. | |
| 25/07/08 | | 5 | 5.12.2 | New case of *DOHS v BK* [CCV-Ehrlich M, 26/05/2008]. | |
| 25/07/08 | | 5 | 5.13 | Changed commentary on protection order statistics. | |
| 25/07/08 | | 5 | 5.15.3 | Added comment on whether a supervision order may contain a respite care condition. | |
| 25/07/08 | | 5 | 5.15.6 | Warning note that upon revocation of a supervision order the Court has no power to replace the revoked order with any other protection order. | |
| 25/07/08 | | 5 | 5.16.2 | Changed commentary on statistics for custody to third party and supervised custody orders. | |
| 25/07/08 | | 5 | 5.17.8  5.21 | Added reference to *DOHS v Ms B & Mr G* [Children’s Court of Victoria, unreported, 05/06/2008] at pp.29-30. | |
| 25/07/08 | | 5 | 5.22.4 | New case of the *B-J Children* [Children’s Court of Victoria-Power M, unreported, 06/06/2007] at pp.90-91. | |
| 25/07/08 | | 5 | 5.23.2 | Therapeutic Treatment Board’s working definition of “sexually abusive behaviours” included. | |
| 25/07/08 | | 5 | 5.23.8 | TTO/TTPO statistics from 01/10/2007 to 09/07/2008 together with a commentary on data from Victoria police and various research papers on the incidence of sexual offending involving children. | |
| 25/07/08 | | 5 | 5.23.9 | New paragraph entitled “Therapeutic treatment service providers”. | |
| 25/07/08 | | 5 | 5.24.9  5.24.10 | New commentary on TT & TTP reports and access thereto. | |
| 25/07/08 | | 5 | 5.24.13 | New paragraph entitled “Admissibility & relevance of prior reports”. New case of *DOHS v Ms B & Mr G* [Children’s Court of Victoria, unreported, 05/06/2008] at pp.29-30. Reference to new case of the *D Children* [Children’s Court of Victoria, unreported, 23/07/2008]. | |
| 25/07/08 | | 5 | 5.29.4 | Added reference to the case of *DOHS v Ms B & Mr G* [Children’s Court of Victoria, unreported, 05/06/2008] at pp.108-109. | |
| 07/05/08 | | 3 | 3.5.4 | Reference to *R v Smart (Ruling No. 4)* [2008] VSC 89 at [14]-[21]. | |
| 07/05/08 | | 3 | 3.5.6 | New material on no case to answer in Family Division proceedings. References to cases of *Protean (Holdings) Ltd and Ors v American Home Assurance Co* [1985] VR 187; *Oakley and Anor v Insurance Manufacturers of Australia Pty Ltd* [2008] VSC 68 esp at [4]-[11]; *DOHS v CS* {PA268/96} [[Children’s Court of Victoria-Power M, unreported, 05/12/1996]; *DOHS v TD* {PA0835/2002} [Children’s Court of Victoria-Power M, unreported, 28/07/2002]. | |
| 07/05/08 | | 3 | 3.5.8 | Reference to case of *State of Victoria v Brazel* [2008] VSC 37. | |
| 07/05/08 | | 3 | 3.6.3 | Reference to case of *Collins v Nave & Ors* [2008] VSC 85 at [31]-[34]. | |
| 05/05/08 | | 11 | 11.1.4 | New case of *Appeal of JD* (unreported, County Court of Victoria-Judge Strong, 22/02/2008). South Australian Full Court decisions of *R v S* (1982) SASR 263 and *R v Wilson* (1984) 35 SASR 200. Dicta of McHugh J in *Postiglione v R* (1997) 189 CLR 295 at 308 added in place of dicta from *R v Sullivan* [2005] VSCA 286. Dicta from *R v Piacentino; R v Ahmad* (2007) VR 501; [2007] VSCA 49 added. New case of *R v Harrison* [2008] VSCA 65. Reference to new cases of *R v Ahmed Mourad* [2008] VSCA 4 at [10]-[16]; *DPP v Towle (Sentence)* [2008] VSC 101 at [24]-[28]. | |
| 05/05/08 | | 11 | 11.1.5 | New case of *R v AB (No.2)* [2008] VSCA 39 at [40]. | |
| 05/05/08 | | 11 | 11.1.7 | Paragraph heading “11.1.7” is deleted and the information about the pamphlets previously contained therein is moved to the end of paragraph 11.1.5. | |
| 05/05/08 | | 11 | 11.1.7 | New paragraph entitled: ”No power to impose an aggregate sentence of detention under the CYFA”. Contrasting references to new cases of *R v Grossi* [2008] VSCA 51, *DPP v Felton* [2007] VSCA 65 & *R v Rodgers* [2008] VSCA 52. | |
| 05/05/08 | | 11 | 11.1.8 | New case of *Kortel v Mirik & Mirik* [2008] VSC 103. | |
| 05/05/08 | | 11 | 11.1.9 | New case of *DPP (Vic) v Nikolaou* [2008] VSC 111. | |
| 05/05/08 | | 11 | 11.2.1 | References to cases of *R v JH* [2006] VSC 201 at [13]; *R v Lovett* [2008] VSC 60 at [20]-[24]; *R v Ozbec* [2008] VSCA 9 at [17]-[20]; *DPP v Kosmidis* [2008] VSCA 66 at [27]. | |
| 05/05/08 | | 11 | 11.2.6 | New cases of *R v Morgan* [2008] VSCA 24; *R v Woolley* [2008] VSCA 44 at [21]-[22]; *DPP (Cth) v Vestic* [2008] VSCA 12 at [29]. New reference to *R v Nunno* [2008] VSCA 31 at [35]. | |
| 05/05/08 | | 11 | 11.2.7 | New cases of *R v Mason* [2006] VSCA 55; *R v Nunno* [2008] VSCA 31. New references to cases of *R v Van Xang Nguyen* [2006] VSCA 158; *R v Ngo* [2007] VSCA 240; *R v Filipovic; R v Gelevski* [2008] VSCA 14; *R v Sessions* [1998] 2 VR 304, 313. | |
| 05/05/08 | | 11 | 11.2.8 | New references to cases of *R v Slattery (Sentence)* [2008] VSC 81 at [35]; *R v EDB* [2008] VSCA 18 at [13]. | |
| 05/05/08 | | 11 | 11.2.11 | New case of *R v Brooks* [2008] VSC 70 at [40]-[41]; *R* *v Grossi* [2008] VSCA 51. Reference to new cases of *R v Vardouniotis* [2007] VSCA 62 at [20]-[33]; *R v Tresize* [2008] VSCA 8 at [17]; *R v Dupuy* [2008] VSCA 63 at [34]-[35]; *R v Laracy (Sentence)* [2008] VSC 67 at [34]-[36] & [54]. | |
| 05/05/08 | | 11 | 11.2.14 | New references to cases of *R v Slattery (Sentence)* [2008] VSC 81 at [32]-[34]. | |
| 05/05/08 | | 11 | 11.2.15 | New case of *R* *v Grossi* [2008] VSCA 51 at [56]. | |
| 05/05/08 | | 11 | 11.2.17 | Reference to case of *R v Hay* [2007] VSCA 147 at [33]. | |
| 05/05/08 | | 11 | 11.2.18 | Reference to new case of *R v Ienco* [2008] VSCA 17 at [21]-[28]. | |
| 05/05/08 | | 11 | 11.2.21 | New references to cases of *R v Yacoub* [2006] VSCA 203; *R v Tabone* (2006) 167 A Crim R 18, 22; *R v Nguyen, Nguyen & Pham* [2007] VSCA 165; *R v McLeod* [2008] VSCA 183 at [27] & [29]; *R v Filipovic; R v Gelevski* [2008] VSCA 14 at [81]. | |
| 05/05/08 | | 11 | 11.2.22 | Paragraph heading amended by addition of reference to “defensive homicide” & “murder”. New cases of *R v Leatham* [2006] VSC 315; *R v AB (No.2)* [2008] VSCA 39 at [35] & [48]-[49]. New references to cases of *R v McMaster* [2007] VSC 133; *R v Stratton* [2007] VSC 132; *R v Helal* [2007] VSC 135; *R v Oznek* [2007] VSC 192; *DPP v Arney* [2007] VSCA 126; *R v Detenamo* [2007] VSCA 160; *DPP v Felsbourg* [2008] VSC 20; *DPP v Jagroop* [2008] VSC 25; *R v Lovett* [2008] VSC 60; *R v Laracy (Sentence)* [2008] VSC 67; *R v Casey* [2006] VSC 146; [2008] VSCA 53. New cases of *R v Smith* [2008] VSC 87; *DPP v TY (No 3)* [2007] VSC 489 at [66] and the cases summarized therein. New case of *DPP v Athuai* [2008] VSCA 2 at [12]-[13]. | |
| 05/05/08 | | 11 | 11.2.23 | Paragraph heading amended by addition of reference to “dangerous driving causing death”. New cases of *R v Wooden* [2006] VSCA 97 at [1]; *R v Audino* [2007] VSCA 318 at [43]; *DPP v Oates* [2008] VSCA 59 at [22]-[23]. References to cases of *R v Kennedy* [2006] VSCA 77 at [11]; *R v Smith* [2006] VSCA 92 at [37]-[38]; *R v Cowden* [2006] VSCA 220 at [18]-[32]. | |
| 05/05/08 | | 11 | 11.2.24 | Paragraph heading amended by addition of reference to “affray”. New cases of *R v Consedine* [2007] VSCA 253 at [14]; *DPP v Richard Ross* [2006] VSCA 223; *DPP v Kosmidis* [2008] VSCA 66; *DPP v Fevaleaki* [2006] VSCA 212; *DPP v Mitchell* [2006] VSCA 108. References to cases of *R v Catania* [2006] VSC 189; *DPP v Hooker* [2006] VSCA 95; *DPP v Douglas* [2006] VSCA 160; *R v Watson* [2006] VSC 375; *R v Britt* [2006] VSC 378; *DPP v Lothian* [2006] VSCA 217; *R v Dooley* [2006] VSCA 269; *DPP v Pantazopoulos* [2006] VSC 331; *R v Sita* [2006] VSC 323; *DPP v Evans; DPP v Hickinbotham* [2007] VSCA 15; *DPP v TT* [2007] VSC 23; *DPP v Bulert & Terzi* [2007] VSCA 69; *DPP v Joyce* [2007] VSCA 215; *R v Pennell; R v Rankin* [2007] VSCA 225; *R v Clark* [2007] VSCA 254; *R v Ali Ali* [2007] VSC 350; *DPP v McAllister* [2007] VSC 536; *R v Tresize* [2008] VSCA 8; *R v Castles* [2008] VSC 93; *R v Kumar* [2006] VSCA 182; *R v Stuttard* [2006] VSCA 112*; DPP v Castro* [2006] VSCA 197; *R v Campbell Ross* [2007] VSCA 213; *DPP (Vic) v Coley* [2007] VSCA 91; *R v Pota* [2007] VSCA 198; *R v Brown* [2003] VSCA 153 at [9]; *R v Fackovec* [2007] VSCA 93 at [37]; *R v King; R v Ngyouen* [2007] VSCA 263. | |
| 05/05/08 | | 11 | 11.2.25 | New case of *R v Pidoto; R v O’Dea* [2006] VSCA 185. New references to cases of *R v Yacoub* [2006] VSCA 203; *R v Duncan* [2006] VSCA 239; *R v D’Aloia* [2006] VSCA 273; *R v Adams* [2007] VSCA 37; *R v Reed & Shortis* [2007] VSCA 67; *R v Karafilowski* [2007] VSCA 156. New case of *R v Catanzariti* [2006] VSC 162. Delete reference to *R v Howden* (1999) 108 A Crim R 240 which is no longer good law. New references to cases of *R v Ta Song Wong* [2006] VSC 126; *DPP (Cth) v Vestic* [2008] VSCA 12; *R v Doble* [2007] VSCA 47; *R v Komljenovic* [2006] VSCA 136; *R v S* [2006] VSCA 134; *R v Sibic & Sibic* [2006] VSCA 296; *R v Garlick (No 2)* [2007] VSCA 23; *R v Vardouniotis* [2007] VSCA 62; *R v Evans* [2007] VSCA 76; *R v Van Xang Nguyen* [2006] VSCA 158; *R v Downing* [2007] VSCA 154; *R v Wright & Gabriel* [2008] VSCA 19; *R v Hoa Trong Vu & Duc Tien Vu* [2008] VSCA 64. | |
| 05/05/08 | | 11 | 11.2.26 | References to new cases of *DPP v Spiteri* [2006] VSCA 214; *R v Mekal* [2006] VSCA 218; *R v Pio* [2007] VSCA 180; *R v Dickson & Ryan* [2007] VSC 59; *R v Benton* [2007] VSCA 71; *R v Ozbec* [2008] VSCA 9; *R v Carmichael* [2008] VSCA 10 at [22]-[24]; *R v Harrison* [2008] VSCA 65. New cases of *R v McNamara* [2007] VSCA 267; *R v Woolley* [2008] VSCA 44. | |
| 05/05/08 | | 11 | 11.3.2 | New cases of *DPP v Ralph* [2007] VSCA 305; *R v AB (No 2)* [2008] VSCA 39. New references to *DPP v Fevaleaki* (2006) 165 A Crim R 524; [2006] VSCA 212 at [19]-[20]; *R v Casey* [2008] VSCA 53 at [56]-[60]. | |
| 05/05/08 | | 11 | 11.3.4 | References to new cases of *R v Watts & Black* [2007] VSCA 81; *R v Black* [2007] VSCA 82; *R v Harvey* [2007] VSCA 127; *R v Strezovski* [2007] VSCA 260. | |
| 05/05/08 | | 11 | 11.3.5 | New case of *R v Hanh Lam; R v Thanh Thuan Tran* [2007] VSCA 246. | |
| 05/05/08 | | 11 | 11.4 | New references to cases of *R v Leatham* [2006] VSC 315 at [19]-[21]; *R v Swift* [2007] VSCA 52 at [4]-[41]. | |
| 05/05/08 | | 11 | 11.15 | Material about the “ROPES” program added under 5 paragraph headings:  11.5.1 The program  11.5.2 The target group & eligibility criteria  11.5.3 The aims & objectives of the program  11.5.4 The content of the program  11.5.5 The consequence of a positive completion of the program. | |
| 05/05/08 | | 11 | 11.16.1 | References to new cases of *R v BGJ* [2007] VSCA 64; *R v DP* [2007] VSCA 219; *R v DD (No 2)* [2008] VSCA 15 at [14]-[15] & [21]-[24]; *R v Bowen* [2008] VSCA 33; *R v JMA* [2007] VSCA 105. | |
| 05/05/08 | | 11 | 11.16.2 | Paragraph heading changed to “Other sexual offending against children”. New case of *R v Richardson* [2008] VSCA 7. | |
| 05/05/08 | | 11 | 11.16.3 | Previous paragraph numbered 11.16.2 changed to 11.16.3. | |
| 05/05/08 | | 11 | 11.16.4 | New paragraph headed “Causing death”. New cases of *DPP v Farquharson* [2007] VSC 469; *DPP v Arney* [2007] VSCA 126; *R v McMaster* [2007] VSC 133. | |
| 30/04/08 | | 4 | 4.8.3 | New references to cases of *Dr Selwyn Leeks v XY* [2008] VSCA 21; *Jones v Dunkel* (1959) 101 CLR 298, 304-5; *G v H* (1994) 181 CLR 387 & *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 67 ALJR 170; *Witham v Holloway* (1995) 183 CLR 525 [Transcript of proceedings 10/02/1995]. | |
| 30/04/08 | | 4 | 4.8.4 | New reference to case of *Mackie & Staff Pty Ltd v Glengollan Village for Aged People* [2007] VSC 201 esp at [11]-[14] & [30]. | |
| 07/04/08 | | 2 | 2.7 | Reference to new case of *The Queen v G* [2007] VSC 503 [Edited Version]. | |
| 07/04/08 | | 2 | 2.8.2 | Reference to new case of *The Queen v G* [2007] VSC 503 [Edited Version]. New case of *General Television Corporation Pty Ltd v DPP & Others* [2008] VSCA 49. | |
| 26/03/08 | | 10 | 10.3.2 | Reference to new case of *R v Barnes* [2008] VSC 66 at [3]-[6]. | |
| 26/03/08 | | 10 | 10.3.6 | New section entitled “Right to a fair trial – Stay of proceedings”. Reference to cases of *Barton v R* (1980) 147 CLR 75; *Jago v District Court of NSW* (1989) 168 CLR 23; *Glennon v R* (1992) 173 CLR 592; *Dietrich v R* (1992) 177 CLR 292; *Carrol v R* (2002) 213 CLR 635; *R v Benbrika and ors (Ruling No. 20)* [2008] VSC 80. | |
| 03/03/08 | | 7 | 7.5.4 | New case of *DPP v Fodero* [2008] VSC 46. | |
| 03/03/08 | | 7 | 7.11.4 | Sunset clause for Koori Court (Criminal Division) extended to 01/07/2009 unless proclaimed earlier. | |
| 03/03/08 | | 7 | 7.12.2 | New section entitled “Insulting words in a public place”. New case of *Ferguson v Walkley & Anor* [2008] VSC 7 at [1], [2], [16] & [42] per Harper J. | |
| 28/02/08 | | 3 | 3.1 | New cases of *Mehmet Ucar v Nylex Indistrial Products Pty Ltd* [2007] VSCA 181 and *Tomasevic v Travaglini* [2007] VSC 337 at [86]-[88]. New references to cases of *Commonwealth Bank of Australia v Taylor* [2008] VSC 3; *Anderson v National Australia Bank* [2007] VSCA 172. | |
| 28/02/08 | | 3 | 3.4.3 | New case of *R v Yasso* [2007] VSCA 306 at [5]. | |
| 28/02/08 | | 3 | 3.4.4 | New cases of *Tomasevic v Travaglini* [2007] VSC 337; *R v Yasso* [2007] VSCA 306. References to cases of *Giannarelli v Wraith* (1988) 165 CLR 543 at 556-7 & 578-9; *R v Serrano (Ruling No 4)* [2007] VSC 208 at [6]. | |
| 28/02/08 | | 3 | 3.5.4 | New references to cases of *Fox v Percy* (2003) 214 CLR 118 at 128-9 and *Insurance Manufacturers of Australia v Villella* [2007] VSCA 94 at [26]. | |
| 28/02/08 | | 3 | 3.5.6 | New reference to case of *Fox v Percy* (2003) 214 CLR 118 at 128-9. | |
| 28/02/08 | | 3 | 3.5.8 | New case of *Ragg v Magistrates’ Court & Corcoris* [2008] VSC 1. Reference to new case of *R v Benbrika (Ruling No 3)* [2007] VSC 283. | |
| 28/02/08 | | 3 | 3.6.3 | New case of *Kelso v Tatiara Meat Co Pty Ltd* [2007] VSCA 267. | |
| 25/02/08 | | 1 |  | Quotation from *Law Institute Victoria Ltd v Telfer* [2007] VSC 535 at [16] per Harper J. | |
| 25/02/08 | | 1 | 1.3.2 | New paragraph entitled “Rules of court”. | |
| 25/02/08 | | 2 | 2.5 | Addition of Moorabbin Justice Centre to the venues of Children’s Courts. | |
| 08/02/08 | | 9 | 9.4.1 | Reference to new case of *Re Ezzit Raad* [2006] VSC 330. | |
| 08/02/08 | | 9 | 9.4.4 | New case of *IMO an application for bail by Kelly Michael Gray* [2008] VSC 4. | |
| 08/02/08 | | 9 | 9.4.10 | New section entitled “Relevance of the Charter of Human Rights and Responsibilities Act 2006”. New case of *IMO an application for bail by Kelly Michael Gray* [2008] VSC 4. | |
| 08/02/08 | | 9 | 9.5.1 | New case of *IMO an application for bail by Kelly Michael Gray* [2008] VSC 4. | |
| 04/02/08 | | 5 | 5.12.2 | Reference to new case of the *H Children* [Children’s Court of Victoria, unreported, 19/12/2007] at pp.51-53. | |
| 04/02/08 | | 5 | 5.17.8 | Reference to new case of the *B Children* [Children’s Court of Victoria, unreported, 17/12/2007] at p.43. | |
| 04/02/08 | | 5 | 5.29.4 | New paragraph entitled “The role of the Children’s Court in relation to case planning decisions”. Reference to new case of the *B Children* [Children’s Court of Victoria, unreported, 17/12/2007] at p.40. | |
| 25/01/08 | | 4 | 4.14 | New section entitled “Cumulative Harm”. | |
| 25/01/08 | | 4 | 4.15 | Renumbered section – formerly 4.14. Additional references F38 to F42 inclusive. | |
| 02/01/08 | | 11 | 11.1.4 | Added references to *Pandevski* [2007] VSCA 84 at [36]; *DPP v Gany* [2006] VSCA 148 at [30]; *R v Clarke* [2006] VSCA 174 at [64]; *R v Piacentino; R v Ahmad* [2007] VSCA 49; *R v Cardamone* [2007] VSCA 77 at [43]-[47]; *R v Latina* [2007] VSCA 78 at [20]-[21]; *DPP v Mirik* [2007] VSCA 150 at [56]-[57]; *R v DM* [2007] VSCA 155 at [27]; *R v Alashkar – R v Tayar* [2007] VSCA 150 at [56]-[57]; *R v Norris* [2007] VSCA 241 at [48]-[49]; *R v Scholes* [2007] VSCA 303 at [38]-[43]. | |
| 02/01/08 | | 11 | 11.1.11 | Paragraph heading changed to “Children’s Court has no direct power to impose community work/service” | |
| 02/01/08 | | 11 | 11.1.14 | New paragraph entitled “Sentencing court not bound by agreement between Crown and defence”. New cases of *R v Ioannou* [2007] VSCA 277 at [22]-[23]; *R v G Williams* [2007] VSC 490. References to cases of; *Malvaso v R* (1989) CLR 277; *DPP v Waack* (2001) 3 VR 194, 200-6. | |
| 02/01/08 | | 11 | 11.1.5 | New paragraph entitled “Relevance of United Nations Convention on the Rights of the Child”. New case of *DPP v TY (No 3)* [2007] VSC 489. References to cases of *Minister for Immigration and Ethnic Affairs v Teoh* (1995) 183 CLR 273, 287; *Royal Women’s Hospital v Medical Practitioners Board* (2006) 15 VR 22, 38; *R v Togias* (2001) 127 A Crim R 23, 43; *Walsh v Department of Social Security* (1996) 67 SASR 143, 147; *Bates v Police* (1997) 70 SASR 66, 70 (but see contra *Smith v R* (1998) 98 A Crim R 442, 448); *Director of Public Prosecutions v Farquharson* [2007] VSC 469 at [3]; *Tomasevic v Travaglini* [2007] VSC 337 at [60]-[65]. | |
| 02/01/08 | | 11 | 11.2.1 | New cases of *R v TY (No 3)* [2007] VSC 489; *DPP v Turnbull* [2007] VSCA 251 at [29]; *DPP v Mourkakos* [2007] VSCA 312; *DPP v Tokava* [2006] VSCA 156 at [24]; *R v Boland* [2007] VSCA 242 at [16]. New references to cases of *R v Athuai* [2007] VSCA 2; *R v Tien* [2007] VSCA 56; *R v Frost* [2007] VSCA 98 at [8]-[10]; *DPP v Bridle* [2007] VSCA 173 at [10]; *DPP v Samu* [2007] VSCA 191 at [8]-[9]; *R v Rosenow* [2007] VSCA 265 at [31]; *R v Schneider* [2007] VSCA 103 at [14]-[17]; R v Rackley [2007] VSCA 169 at [28]-[30]; R v Awad [2007] VSCA 299 at [12]-[15]; *R v JED* [2007] VSC 348 at [38]-[42]. Reference to the case of *R v Hatfield* relocated to an earlier part of the paragraph. | |
| 02/01/08 | | 11 | 11.2.6 | Added reference to cases of *R v Goodwin* [2003] VSCA 120 at [21]; *R v Taudevin* [1999] 2 VR 402, 404; *R v Christopher* [2007] VSCA 290 at [22]-[23]; *R v Guthrie & Nuttal* [2006] VSCA 192 at [87]; *R v Sibic & Sibic* (2006) 168 A Crim R 305 at [50]; [2006] VSCA 296 at [34] & [50]; *R v Moroz & Mendelis* [2007] VSCA 30 at [57]; *DPP v Downing* [2007] VSCA 154 at [13]; *R v Nguyen & Ors* [2007] VSCA 165 at [38]; *R v Rackley* [2007] VSCA 169 at [26]-[31]; *R v Lacey* [2007] VSCA 196 at [19]-[25]; *R v Hall* [2007] VSCA 218 at [15]-[17]; *R v Barbaro & Ors* [2007] VSCA 271 at [39]. New case of *R v Kolokythas* [2007] VSCA 80 at [8]-[9]. | |
| 02/01/08 | | 11 | 11.2.7 | New case of *R v Orgill* [2007] VSCA 236. Added references to *R v Duncan* [2007] VSCA 137 at [28]-[30] per Nettle JA; *R v Alashkar – R v Tayar* [2007] VSCA 182 at [47]-[53]; *R v Henderson-Drife* [2007] VSCA 211 at [26]-[29]; *R v Norris* [2007] VSCA 241 at [44]-[49]; *R v King - R v Ngyouen* [2007] VSCA 263 at [29]; *R v Ahmed* [2007] VSCA 270 at [18]-[19]; *R v Audino* [2007] VSCA 318 at [12]-[18]. | |
| 02/01/08 | | 11 | 11.2.8 | Paragraph heading changed to “Effect of guilty plea, admission of offence and/or assistance to the authorities”. New cases of *R v Williams* [2007] VSC 131 at [129]; R v BF [2007] VSCA 217; *R v Bright* [2006] VSCA 147 at [11]; *R v DJ* [2007] VSCA 148 at [14]-[15]; *DPP v Mann* [2006] VSCA 226. Added references to *Ryan v R* (2001) 206 CLR 267, 272 [12] (McHugh J), 295 [95]–296 [98] (Kirby J); *R v Brazel* (2005) 153 A Crim R 152, 159 [21] per Callaway JA; [2005] VSCA 152; *R v Marcus* [2004] VSCA 155; *R v Doran* [2005] VSCA 271; *R v Miller* [2006] VSCA 140 at [11]; *R v Tame Kohonui* [2007] VSC 180 at [36]; *R v John Kohunui* [2007] VSC 181 at [34]; *R v Herbert* [2007] VSC 264 at [16] & [20]. | |
| 02/01/08 | | 11 | 11.2.10 | New case of *R v Hester* [2007] VSCA 298 at [9] & [27]. Added reference to *R v Lidonnici* [2007] VSC 6. | |
| 02/01/08 | | 11 | 11.2.11 | New cases of *R v Verdins* [2007] VSCA 102; *R v Martin* [2007] VSCA 291; *R v Johnstone* [2007] VSCA 193 at [32].  Added references to cases of R v Williams [2007] VSCA 208 at [58]-[68]; *R v Howell* [2007] VSCA 119 at [12]-[25]; *R v Elias* [2007] VSCA 125; *DPP v BW* [2007] VSCA 171 at [11]; *DPP (Cth) v Rowson* [2007] VSCA 176 at [27]-[32]; *R v Johnstone* [2007] VSCA 193 at [24]-[32]; *R v Strezovski* [2007] VSCA 260 at [25]; *R v Wise* [2007] VSCA 266 at [16] & [34]; *R v Parton* [2007] VSCA 268 at [11]-[16]; *R v Christopher* [2007] VSCA 290 at [34]-[35]; *DPP v Ralph* [2007] VSCA 305 at [24]-[26]; *R v Do* [2007] VSCA 308 at [7]-[8]; *R v JED* [2007] VSC 348 at [43]. | |
| 02/01/08 | | 11 | 11.2.12 | New cases of *R v Verdins* [2007] VSCA 102; *R v Wise* [2007] VSCA 266 at [16] & [34]. Added references to cases of *R v Evans* [2007] VSCA 76 at [5]; *R v Foster* [2007] VSCA 85 at [15]; *R v Norris* [2007] VSCA 241 at [15]-[26]. | |
| 02/01/08 | | 11 | 11.2.13 | Added references to cases of *DPP v Downing* [2007] VSCA 154 at [13]; *R v Strezovski* [2007] VSCA 260 at [28]-[30]. | |
| 02/01/08 | | 11 | 11.2.14 | Added references to cases of *R v Rowley* [2007] VSCA 94 at [32]-[38]; *R v Tezer – R v Davis* [2007] VSCA 123 at [36]-[48]; *R v Rackley* [2007] VSCA 169 at [34]-[36]; *R v Cavkic, Athanasi & Clarke* [2007] VSC 289 at [68]-[70]. | |
| 02/01/08 | | 11 | 11.2.15 | Added reference to *R v Do* [ 2007] VSCA 308 at [11]. | |
| 02/01/08 | | 11 | 11.2.16 | New case of *DPP v Smeaton* [2007] VSCA 256 at [14] & [24]-[26]. | |
| 02/01/08 | | 11 | 11.2.17 | Added reference to *R v Martin* [2007] VSCA 297 at [19]-[21]. | |
| 02/01/08 | | 11 | 11.2.18 | New case of *R v Nagul* [2007] VSCA 8 at [44]-[45]. | |
| 02/01/08 | | 11 | 11.2.19 | Added references to cases of *R v Charles* [2007] VSCA 190 at [14]; *R v Morgan* [2007] VSCA 192 at [15]-[16]. | |
| 02/01/08 | | 11 | 11.2.20 | Paragraph heading changed to “Relevance of recall or risk of recall by Parole Board”. Entire contents of this paragraph deleted and replaced by references to new cases of *R v Piacentino – R v Ahmad* [2007] VSCA 49 and *R v Scholes* [2007] VSCA 303 at [44]. | |
| 02/01/08 | | 11 | 11.3.2 | New cases of *DPP v Ross* (2006) 166 A Crim R 97, 104; *DPP v TY (No 3)* [2007] VSC 489 at [66] per Bell J. | |
| 02/01/08 | | 11 | 11.8.1 | New case of *R v Boland* [2007] VSCA 242 at [13]-[14]. | |
| 05/12/07 | | 10 | 10.3.2 | Added cases of *DPP v Cummings* [2006] VSC 327; *DPP v Shoan* [2007] VSCA 220. | |
| 13/11/07 | | 9 | 9.4.1 | Added case of *Re Harold Taylor* [2007] VSC 41.  Added references to *Vinayagamoorthy & Anor v DPP (Cth)* [2007] VSC 265 (Bongiorno J); *Re Shoue Hammoud* [2006] VSC 516; *Re Shaun Benporath* [2007] VSC 375; *Re Slobodan Pandevski* [2007] VSCA 84. | |
| 13/11/07 | | 9 | 9.4.2 | Added cases of *Application for Bail of Kevin Ng* [2007] VSC 191; *Re Joseph Chucks Unumadu* [2007] VSC 258. | |
| 13/11/07 | | 9 | 9.4.4 | Added case of *Griffiths v DPP* [2007] VSC 268.  Added references to *Watts v DPP* [2007] VSC 275; *Re Shane Peter Walker* [2007] VSC 129; *Re Joshua Barban & Karl Anthony Barban* [2007] VSC 335; *Waleed Haddara v DPP* [2007] VSC 274; *Re Jerome Gelb* [2007] VSC 40. | |
| 13/11/07 | | 9 | 9.4.5 | Added references to *Re Shane Peter Walker* [2007] VSC 129; *Griffiths v DPP* [2007] VSC 268; *Re Joshua Barban & Karl Anthony Barban* [2007] VSC 335. | |
| 13/11/07 | | 9 | 9.5.1 | Added reference to *Re Joshua Barban & Karl Anthony Barban* [2007] VSC 335. | |
| 13/11/07 | | 9 | 9.5.11 | Added references to *Renate Mokbel v DPP (Vic) and DPP (Cth)* [2007] VSCA 195;*R v Serrano (Ruling No.6)* [2007] VSC 359. | |
| 13/11/07 | | 9 | 9.6 | New section entitled “Law Reform Commission Review of the Bail Act”. | |
| 12/11/07 | | 4 | 4.12 | Added reference to the functions of the attachment relationship. | |
| 12/11/07 | | 12 | 12.3.3 | Added statistics for numbers of clinicians required to attend Court to give evidence. Added statistics for referrals to Clinic for assessment for each financial year since 1996/1997. | |
| 12/11/07 | | 12 | 12.3.4 | New paragraph entitled “Referrals for treatment”. | |
| 12/11/07 | | 12 | 12.3.5 | Renumbered paragraph – formerly 12.3.4. | |
| 01/10/07 | | 1 | 1.1.1  1.1.2 | Reference to the few remaining sections of the CYFA which came into operation on 01/10/2007. | |
| 01/10/07 | | 2 | 2.8.1 | Reference to case of *Howe & Ors v Harvey; DPP v Quist & Ors* [2007] VSC 130. | |
| 01/10/07 | | 4 | 4.2 | Reference to the CYFA having entirely replaced the CYPA on 01/10/2007. | |
| 01/10/07 | | 4 | 4.9.3 | Paragraph retitled “Dispute resolution conference”. | |
| 01/10/07 | | 4 | 4.10 | Section retitled “Dispute Resolution Conferences”. New paragraph 4.10.3 entitled “Facilitative conference or advisory conference”. Old paragraph 4.10.3 renumbered 4.10.4 and retitled “Guidelines & Procedure”. Old paragraph 4.10.4 “Statistics” renumbered 4.10.7. Information in section 4.10 changed to take into account the Dispute resolution conference provisions in ss.217-227 of the CYFA. | |
| 01/10/07 | | 4 | 4.14 | Added reference to paper F37 entitled “Family Law and Parent-Child Contact: Assessing the Risk of Sexual Abuse”. | |
| 01/10/07 | | 5 | 5.5 | Added reference to s.349(1) of the CYFA. | |
| 01/10/07 | | 5 | 5.8.1 | Changed wording in relation to application for therapeutic treatment order. | |
| 01/10/07 | | 5 | 5.12.3 | Reference to “pre-hearing conference” changed to “dispute resolution conference”. | |
| 01/10/07 | | 5 | 5.13 | Reference to case of *PR v DOHS* [2007] VSC 338. | |
| 01/10/07 | | 5 | 5.23.1 | New paragraph entitled “Rationale” of TTO/TTPO. | |
| 01/10/07 | | 5 | 5.23.2 | New paragraph entitled “Power of the Court to make a TTO”. | |
| 01/10/07 | | 5 | 5.23.3 | New paragraph entitled “Effect of TTO”. | |
| 01/10/07 | | 5 | 5.23.4 | New paragraph entitled “Power of the Court to make a TTPO”. | |
| 01/10/07 | | 5 | 5.23.5 | New paragraph entitled “Effect of TTPO”. | |
| 01/10/07 | | 5 | 5.23.6 | New paragraph entitled “Variation/revocation of TTO/TTPO”. | |
| 01/10/07 | | 5 | 5.23.7 | New paragraph entitled “Extension of TTO/TTPO”. | |
| 01/10/07 | | 5 | 5.23.8 | New paragraph entitled “Statistics” re TTO/TTPO. | |
| 01/10/07 | | 7 | 7.2.2 | Added references to ages of criminal responsibility in Canada and Europe. | |
| 01/10/07 | | 7 | 7.10 | Addition of material relating to referrals under s.349(2) for investigation as to whether or not an application for a therapeutic treatment order is warranted. Additional material on the requirement imposed on DOHS by s.351 to report the outcome of the investigation to the Court. | |
| 01/10/07 | | 7 | 7.13 | Addition of reference to paper C18 on “The Age of Criminal Responsibity”. | |
| 01/10/07 | | 10 | 10.3.5 | Reference to new case of *R v DM* [2007] VSCA 155. | |
| 01/10/07 | | 10 | 10.5 | New section entitled “Effect of therapeutic treatment application/order on criminal proceedings”. References to ss.251, 258 & 351-354 of the CYFA. | |
| 01/10/07 | | 10 | 10.5.1 | New paragraph entitled “Mandatory adjournment”. | |
| 01/10/07 | | 10 | 10.5.2 | New paragraph entitled “Hearing of adjourned case”. | |
| 01/10/07 | | 10 | 10.5.3 | New paragraph entitled “Privilege against self-incrimination”. | |
| 24/07/07 | | 3 | 3.5.4  3.5.6 | Reference to new case of *R v Libke* [2007] HCA 30 at [117]-[131] per Heydon J. | |
| 06/06/07 | | 3 | 3.5.6 | Added reference to the less adversarial trial process in the Family Court of Australia. Also to a book entitled “Finding A Better Way” (Margaret Harrison, Family Court of Australia, April 2007). References to the cases of *Re Watson; Ex parte Armstrong* (1976) 136 CLR 248; *Lonard* (1976) FLC 90-098; *Wood v Wood* (1976) FLC 90-098; *Re JRL; Ex parte CJL* (1986) 161 CLR 342; *M v M* (1988) 166 CLR 69 at 76; In *Re P (a child) and the Separate Representative* (1993) FLC 92-376; *D and Y* (1995) FLC 92-581; *C and C* (1996) FLC 92-651; *U v U* (2002) 211 CLR 238. In *Re Lynette* (1999) FLC 92-863; *Northern Territory of Australia v GPAO* (1999) 196 CLR 553; *T and S* (2001) FLC 93-086. | |
| 30/04/07 | | 4 | MANY | References to the Children and Young Persons Act 1989 (Vic) are replaced by or include additional references to the Children, Youth and Families Act 2005 (Vic). References to the Children, Youth and Families Regulations 2007 replace references to regulations made under the CYPA. A large number of significant consequential changes have been made to the commentary in many sections. | |
| 30/04/07 | | 4 | 4.1.3 | New paragraph entitled “Principles governing decision-making by the Child Protection Service”. | |
| 30/04/07 | | 4 | 4.2.2 | Major change to the opinion previously expressed by the writer about the jurisdiction of the Children’s Court of Victoria to make orders under various sections of the Family Law Act 1975 (Cth) [as amended]. References to Memorandum of Advice dated 03/07/2006 provided to the Department of Justice by senior counsel on this issue are referred to and discussed. | |
| 30/04/07 | | 4 | 4.5.4 | Changes to the terminology used in the Family Law Act since 22/05/2006 consequent upon Act No.46 of 2006 are added. | |
| 30/04/07 | | 4 | 4.6 | Section retitled “Protective Intervention Reports [previously termed “Notifications”]. | |
| 30/04/07 | | 4 | 4.6.3 | New paragraph entitled “Australian rate of reports of alleged child abuse”. | |
| 30/04/07 | | 4 | 4.7.2 | Paragraph retitled “Representation of child not mature enough to give instructions”. | |
| 30/04/07 | | 4 | 4.10 | Note added that ss.217-227 of the CYFA are not yet in operation and pre-hearing conferences remain regulated by the CYPA despite its repeal. | |
| 30/04/07 | | 4 | 4.11.2 | Changed references to sections of the Family Law Act 1975 (Cth) which relate to the responsibilities and obligations of the Family Court to children. | |
| 30/04/07 | | 4 | 4.14 | Added references to papers F24 to F36 included. | |
| 26/04/07 | | 5  6  11  12 | MANY | References to the Children and Young Persons Act 1989 (Vic) are replaced by or include additional references to the Children, Youth and Families Act 2005 (Vic). References to the Children, Youth and Families Regulations 2007 replace references to regulations made under the CYPA. A large number of significant consequential changes have been made to the commentary in many sections. | |
| 26/04/07 | | 5 | 5.2 | Extract from paper entitled *“Child Abuse and Neglect and the Brain – A Review”* (2000) by Dr Danya Glaser | |
| 26/04/07 | | 5 | 5.4 | New section entitled “Temporary assessment order”. | |
| 26/04/07 | | 5 | 5.5-  5.31 | All sections and paragraphs renumbered. | |
| 26/04/07 | | 5 | 5.8 | New section entitled “Applications for therapeutic treatment order & therapeutic treatment (placement) order”. | |
| 26/04/07 | | 5 | 5.10 | New section entitled “Decision-making principles for Family Division matters” which contains a great deal of new material deriving from the CYFA as well as some material which had previously been in paragraph 5.18.3 entitled “Matters to consider in determining protection or IRD applications”. | |
| 26/04/07 | | 5 | 5.11.11 | New reference to *DOHS v SM* [2006] VSC 129 at [4]. | |
| 26/04/07 | | 5 | 5.12.2 | The material in this new paragraph has been moved from paragraph 15.18.2 and some changes have been made to it. | |
| 26/04/07 | | 5 | 5.12.3 | This new paragraph entitled “Matters to be considered in determining Family Division applications generally” was previously paragraph 5.18.3. Most of the material in para. 5.18.3 has been moved to section 5.10 and the rest has been placed, with some changes, in paragraph 5.12.3. | |
| 26/04/07 | | 5 | 5.13 | Interim protection order statistics added to the protection orders statistics. | |
| 26/04/07 | | 5 | 5.19 | New section entitled “Long term guardianship to secretary order”. | |
| 26/04/07 | | 5 | 5.24 | This was previously section 5.17. It has been renumbered 5.24 and renamed “Reports to the Court”. Paragraphs 5.24.4 - 5.24.12 have been added. | |
| 26/04/07 | | 5 | 5.29 | This was previously section 5.25. It has been renumbered 5.29 and renamed “Case planning and stability planning responsibilities of the Secretary”. | |
| 26/04/07 | | 11 | 11.1 | New case of *R v Lanteri* [2006] VSC 225 at [6] per Gillard J. | |
| 26/04/07 | | 11 | 11.1.2 | New cases of *R v Merrett & Ors* [2007] VSCA 1 & *DPP v Samarentsis* [2007] VSCA 20. | |
| 26/04/07 | | 11 | 11.1.4 | New cases of *R v Hunter* [2006] VSCA 129 & *R v VN* [2006] VSCA 111. References to new cases of *R v Fadisarkis* [2006] VSCA 303; *DPP v Pau* [2007] VSC 4; *R v Abela* [2007] VSCA 22; *DPP v Adams* [2006] VSCA 149. | |
| 26/04/07 | | 11 | 11.1.9 | References to new cases of *DPP v Smith* [2007] VSC 98; *DPP v Phan Thi Le* [2007] VSCA 18; *DPP v Phan Thi Le (No.2)* [2007] VSCA 57. | |
| 26/04/07 | | 11 | 11.2.1 | New cases of *DPP v McCloy* [2006] VSCA 99; *R v Cuong Quoc Lam & Ors* [2005] VSC 495; *R v Tuan Quoc Tran* [2006] VSC 352. | |
| 26/04/07 | | 11 | 11.2.4 | New references to cases of *R v Cain* [1974] VR 759 at 762; *R v Hill* [1979] VR 311 at 312; *R v Lanteri* [2006] VSC 225; *R v Storey* [1998] 1 VR 359. | |
| 26/04/07 | | 11 | 11.2.6 | New case of *R v Ziday* [2006] VSCA 163. New references to cases of *R v Quang Hung Pham & Anor* [2006] VSCA 68; *R v Lee* [2006] VSCA 80; *R v Lam* [2006] VSCA 162; *R v Asim Selcuk* [2006] VSC 465. | |
| 26/04/07 | | 11 | 11.2.8 | New cases of *R v DW* [2006] VSCA 196; *R v Guthrie & Nuttall* [2006] VSCA 192; *R v Rowlands* [2007] VSCA 14. New reference to case of *R v Bright* [2006] VSCA 147. | |
| 26/04/07 | | 11 | 11.2.11 | New references to cases of *R v Kucma* [2005] 11 VR 472 at 482; [2005] VSCA 58 at [26] per Batt JA; *R v MacKenney* (1983) 76 Cr App R 271; *R v Forde* (1986) 19 A Crim R 1; *R v Peisley* (1990) 54 A Crim R; *R v Whitbread* (1995) 78 A Crim R 452; *Nepi v Northern Territory* (unreported, NT Supreme Court-Martin CJ, 02/05/1997); *R v D’Aloisio* [2006] VSC 216 at [35]-[36]. Reference to Dr Ian Freckleton’s article “Psychologists’ entitlement to diagnose” (1998) 5 Psychiatry, Psychology and Law 159. New case of *R v Jones* [2006] VSCA 226. References to new cases of *R v Stenhouse* [2006] VSC 147 at [21] per Nettle JA; *R v D’Aloisio* [2006] VSC 216 at [49]-[50] per Eames JA; *R v Lewis* [2007] VSCA 24 at [13]-[16]; *R v Kasulaitis* [1998] 4 VR 224; *R v Roberts (Sentence)* [2006] VSC 122 at [32]-[35]; *R v Mukhtar Mohammed Ahmed* [2006] VSCA 200 at [13] & [16]-[29]; *R v Rollo* [2006] VSCA 154 at [17]; *DPP v Kabo* [2006] VSC 340 at [12]-[13]; *R v Micetic* [2006] VSCA 176 at [41]; *R v Duy Duc Nguyen* [2006] VSCA 184 at [24]; *R v Sita* [2006] VSC 323 at [26]. | |
| 26/04/07 | | 11 | 11.2.12 | Reference to new case of *R v BTP* [2006] VSC 374. | |
| 26/04/07 | | 11 | 11.2.13 | Reference to new cases of *R v PFG* [2006] VSCA 130; *R v DW* [2006] VSCA 196. | |
| 26/04/07 | | 11 | 11.2.14 | New case of *R v Tiburcy & Ors* [2006] VSCA 244. New references to cases of *R v Cain* [1974] VR 759 at 767; *Mill v The Queen* (1988) 166 CLR 59 at 64; *R v Tuan Quoc Truong* [2005] VSCA 147 at [15]; *R v Carmody* [2006] VSCA 139 at [14]-[18]; *R v Lanteri* [2006] VSC 225 at [77]; *R v Merrett & Ors* [2007] VSCA 1 at [32]-[45]. | |
| 26/04/07 | | 11 | 11.2.22 | References to new cases of *R v BTP* [2006] VSC 374; *R v Stenhouse* [2006] VSC147; *R v D’Aloisio* [2006] VSC 216; *R v Randall* [2007] VSC 35; *R v Stein* [2006] VSC 345; *DPP v Lewis* [2006] VSC 393. | |
| 26/04/07 | | 11 | 11.2.23 | New case of *DPP v Ciantar* [2006] VSCA 263. Reference to new case of *DPP v Gary* [2006] VSCA 148. | |
| 26/04/07 | | 11 | 11.2.24 | Reference to new cases of *DPP v Ziday* [2006] VSCA 163; *R v Asim Selcuk* [2006] VSC 465. | |
| 26/04/07 | | 11 | 11.3.1 | New case of *R v DCP* [2006] VSCA 2. Reference to new case of *R v Mladenov* [2006] VSCA 246. | |
| 26/04/07 | | 11 | 11.3.2 | New case of *R v Rowlands* [2007] VSCA 14. Reference to new cases of *R v Joan Mary Walsh* [2006] VSCA 87; *R v Winter* [2006] VSCA 144. | |
| 26/04/07 | | 11 | 11.3.3 | New case of *R v Chan* [2006] VSCA 125. Reference to new case of *R v Fidler* [2006] VSCA 17. | |
| 26/04/07 | | 11 | 11.4 | New case of *R v Bennett* [2006] VSCA 274. | |
| 26/04/07 | | 11 | 11.6 | Section retitled “Group Conference”. | |
| 26/04/07 | | 11 | 11.8.1 | Reference to new cases of *R v Alparslan* [2007] VSCA 3; *R v Wooden* [2006] VSCA 97. | |
| 26/04/07 | | 11 | 11.15 | New section heading “The ‘ROPES’ Program”. | |
| 26/04/07 | | 11 | 11.16 | New section entitled “Sentencing of adults for child abuse”. | |
| 26/04/07 | | 11 | 11.16.1 | New paragraph entitled “Sexual abuse”. New cases of *R v PFG* [2006] VSCA 130; *R v MKG* [2006] VSCA 131; *R v GMT* [2006] VSCA 13; *DPP v Toomey* [2006] VSCA 90; *R v DCP* [2006] VSCA 2; *DPP v Klep* [2006] VSCA 98. References to new cases of *R v VN* [2006] VSCA 111; *R v Lewis* [2006] VSCA 272; *DPP v DL; DPP v CB* [2006] VSCA 280. | |
| 26/04/07 | | 11 | 11.16.2 | New paragraph entitled “Physical abuse”. New cases of *R v D’Aloisio* [2006] VSC 216; *DPP v Ripper* [2006] VSCA 282. | |
| 26/04/07 | | 11 | 11.17 | New section entitled “Sentencing of adults for offence against protective worker”. New case of *R v Gibson* [2006] VSCA 258. | |
| 26/04/07 | | 12 | 12.2 | Significant expansion of material contained in Section 1.2 “Referral to the Clinic” and the addition of 2 sub-paragraphs: “12.2.1 Referral from Family Division for a report” and “12.2.2 Referral from Criminal Division for a report”. | |
| 26/04/07 | | 12 | 12.5 | New section entitled “Distribution of and access to Children’s Court Clinic reports.” Discussion of ss.546, 552, 562, 574 & 575 of the CYFA. | |
| 23/04/07 | | 1  2  3  7  9  10 | MANY | References to the Children and Young Persons Act 1989 (Vic) are replaced by or include additional references to the Children, Youth and Families Act 2005 (Vic). References to the Children, Youth and Families Regulations 2007 replacing references to regulations made under the CYPA. A number of consequential changes to the commentary in many sections. | |
| 23/04/07 | | 2 | 2.5 | The Neighbourhood Justice Centre (Collingwood) is added to the list of venues of the Court. It sits in the Criminal Division and in that part of the Family Division relating top intervention orders. | |
| 23/04/07 | | 3 | 3.5.9 | New paragraph entitled “Children as witnesses in court cases”. References to s.23 Evidence Act 1958 (Vic) and to cases of *R v Brooks* (1998) 44 NSWLR 121; *R v Brasier* (1779) 1 Leach 199; R v Lyons (1889) 15 VLR 15. | |
| 23/04/07 | | 7 | 7.2.4 | Significantly changed commentary in paragraph entitled “Age of child for ‘breach’ proceedings”. | |
| 23/04/07 | | 7 | 7.9 | Added reference to book “Representing Children and Young People - A Lawyers Practice Guide” by Lani Blackman (Victoria Law Foundation, 2002). | |
| 23/04/07 | | 7 | 7.13 | New paper C17: “Understanding and treating juvenile offenders: A review of current knowledge and future directions”. | |
| 23/04/07 | | 9 | 9.1.3 | Paragraph retitled: “Breach of Children’s Court sentencing order”. | |
| 23/04/07 | | 9 | 9.4.4 | References to new cases of *O’Reilly v DPP* [2007] VSC 76 & *Michael Ansell* [2007] VSC 82. | |
| 27/02/07 | | 10 | 10.3.2 | Reference to new case of *R v Faure & Goussis (Ruling No 2)* [2006] VSC 167. | |
| 27/02/07 | | 10 | 10.3.5 | References to new case of *R v MKG* [2006] VSCA 130 at [10] & [14]. | |
| 21/02/07 | | 3 | 3.6.3 | New cases of *Allsmanti Pty Ltd v Ernikiolis* [2007] VSCA 17; *Insurance Manufacturers of Australia Pty Ltd v Vandermeer* [2007] VSC 28. | |
| 20/02/07 | | 1 | 1.3 | Change of expected starting date for most sections of Children, Youth and Families Act 2005. | |
| 20/02/07 | | 1 | 1.5 | New section entitled “Charter of Human Rights and Responsibilities Act 2006 [Act No.43/2006]”. | |
| 19/01/07 | | 5 | 5.8.4  5.8.6 | Date of judgment in *F v C* amended to 28/01/1994. | |
| 19/01/07 | | 5 | 5.8.6 | New reference to case of *DPP v Stewart* [2004] VSC 405. New case of *DOHS v SM* [2006] VSC 129. | |
| 19/01/07 | | 5 | 5.8.15 | New case of *DOHS v SM* [2006] VSC 129. | |
| 11/01/07 | | 7 | 7.4 | Addition of reference to “ROPES” program. | |
| 11/01/07 | | 7 | 7.7 | Amendments to CAYPINS information and legislation. | |
| 11/01/07 | | 7 | 7.11.4 | Minor alterations to material about Children’s Koori Court (Criminal Division) pilot project. | |
| 11/01/07 | | 7 | 7.13 | References added to papers C15: “Generation Y and Crime; A longitudinal study of contact with NSW criminal courts before the age of 21 years” and C16: “The ‘ROPES’ Program – 2006 report”. | |
| 11/01/07 | | 7 | 7.14 | New section entitled “Papers on other aspects of the criminal law.” References to new papers CL1: “Voluntariness, Intention and the Defence of Mental Disorder: Towards a Rational Approach”; CL2: “Sentencing Aboriginal Offenders in a Large City – The Toronto Gladue (Aboriginal Persons) Court”; CL3: “Sexual Offences Law Reform (Victoria).” | |
| 10/01/07 | | 8 | 8.2 | References to new Court of Appeal cases of *R v Tofilau* [2006] VSCA 40; R v Hill [2006] VSCA 41; *R v Marks* [2006] VSCA 42; *R v Clarke* [2006] VSCA 43; *R v Favata* [2006] VSCA 44. | |
| 10/01/07 | | 8 | 8.2.1 | New case of *R v Thomas* [2006] VSCA 165. | |
| 10/01/07 | | 8 | 8.2.9 | New case of *DPP v Toomalatai* [2006] VSC 256. | |
| 10/01/07 | | 8 | 8.2.11 | New case of *R v Thomas* [2006] VSCA 165. | |
| 31/12/06 | | 2 | 2.1 | 3 year Strategic Plan updated to 2005-2008. | |
| 31/12/06 | | 2 | 2.2 | Appointment of Judge Paul Grant as President of the Children’s Court in late April 2006. | |
| 31/12/06 | | 2 | 2.5 | Added reference to a concurrent committal involving adult and child co-accused. | |
| 31/12/06 | | 2 | 2.5 | Latrobe Valley added as a venue for the Children’s Court and Moe deleted. Note that a relieving judicial officer was provided to country & regional Courts to hear lengthy contested Family Division cases only until the end of 2006. | |
| 31/12/06 | | 2 | 2.6 | New case of *DOHS v SM* [2006] VSC 129. | |
| 31/12/06 | | 2 | 2.8.1 | New cases of *R v SJK & GAS* [2006] VSC 335; *Peter Harvey v Channel 7 Melbourne Pty Ltd, The Herald and Weekly Times Pty Ltd, Nationwide News Pty Ltd & Others* [Magistrates’ Court of Victoria-Hannan M, 15/05/2006]. | |
| 31/12/06 | | 2 | 2.8.2 | Reference to new cases of *BK v ADB* [2003] VSC 129; *AB v Attorney-General* [2005] VSC 180; *R v Condello (Ruling 2)* [2006] VSC 27; *ANN v ABC & XYZ (No 1)* [2006] VSC 348; *R v Strawhorn (No 2)* [2006] VSC 433. | |
| 31/12/06 | | 2 | 2.10.3 | Change to information about Court Network. | |
| 31/12/06 | | 2 | 2.10.6 | New paragraph entitled: “Child Witness Service”. | |
| 31/12/06 | | 3 | 3.1 | New cases of *SZBEL v Minister of Immigration and Multicultural Affairs* [2006] HCA 63; *Concrete Pty Limited v Paramatta Design & Developments Pty Ltd* [2006] HCA 55. New reference to cases of *Antoun v The Queen* (2006) 80 ALJR 497; *Smits v Roach* [2006] HCA 63. | |
| 31/12/06 | | 3 | 3.4.4 | New case of *Mansfield v DPP for WA* [2006] HCA 38. | |
| 31/12/06 | | 3 | 3.5.8 | New case of *R v Cox & Ors (Ruling No.3)* [2005] VSC 249. | |
| 31/12/06 | | 3 | 3.6.3 | Reference to new cases of *Waterways Authority v Fitzgibbon* [2005] HCA 57; *BHP Billiton Ltd & Ors v Oil Basins Ltd* [2006] VSC 402. | |
| 30/12/06 | | 9 | 9.4 | New cases of *Renate Mokbel v DPP (Vic) and DPP (Cth)* [2006] VSC 487; *Bail Application by Michael Patterson* [2006] VSC 268. | |
| 30/12/06 | | 9 | 9.4.1 | New cases of *R v Kristofer Simpas* [2006] VSC 180; *DPP (Vic) v Koumis* [2006] VSC 416; *Amer Haddara* [2006] VSC 8; *Boris Beljajev* [2006] VSC 259. Reference to new cases of *Tuan Quoc Tran* [2005] VSC 498; *Brendan Barnes* [2006] VSC 426; *Steven Mustica* [2006] VSC 441; *Douglas Victor Jensen* [2006] VSC 450. | |
| 30/12/06 | | 9 | 9.4.4 | New cases of *Bail Application by Michael Patterson* [2006] VSC 268; *Paul Richard Worland* [2005] VSC 179; *Gregg James Hildebrandt* [2006] VSC 199; Matthew Johnson [2006] VSC 157. | |
| 30/12/06 | | 9 | 9.4.8 | New case of *Application for Bail by Jack Zoudi* [2006] VSCA 298. References to new cases of *Application for Bail by Darryn Garlick* [2006] VSCA 275; *Application for Bail by Robert Jack Schaefer* [2006] VSCA 268. | |
| 30/12/06 | | 9 | 9.5.1 | Reference to new case of *Edward Charles Wilson* [2006] VSC 178. | |
| 30/12/06 | | 9 | 9.5.3 | New case of *Renate Mokbel v DPP (Vic) and DPP (Cth)* [2006] VSC 487. | |
| 30/12/06 | | 9 | 9.5.5 | New case of *Bail Application by Michael Patterson* [2006] VSC 268. | |
| 30/12/06 | | 9 | 9.5.6 | New case of *DPP v Peterson* [2006] VSC 199. | |
| 30/12/06 | | 9 | 9.5.11 | New cases of *DPP v Mokbel & Mokbel* [2006] VSC 158 and *Renate Mokbel v DPP (Vic) and DPP (Cth)* [2006] VSC 487. | |
| 30/12/06 | | 9 | 9.5.12 | New paragraph entitled “No concept of being ‘owed bail’”. New case of *IMO Boris Beljajev* [2006] VSC 259. | |
| 30/12/06 | | 9 | 9.5.13 | Renumbered paragraph – formerly 9.5.12. | |
| 10/10/06 | | 1 | 1.1.2 | Starting date nominated for most sections of the Children, Youth and Families Act 2005. Added references to the Children, Youth and Families (Consequential and Other Amendments) Act 2006 (Vic) [assented 15/08/2006] and the Terrorism (Community Protection) (Amendment) Act 2006 (Vic) [assented 07/03/2006], including details of the transitional and savings provisions under the CYFA. | |
| 18/09/06 | | 5 | 5.4.6  5.8.10  5.10  5.11.6  5.16.5  5.20.8  5.23.3 | Additional Family Division (child protection) statistics, including those for 2005/06. | |
| 30/03/06 | | 10 | 10.3.2 | New cases of *DPP v Federico* [2005] VSC 470; *Antoun v The Queen* [2006] HCA 2 at footnote 74. | |
| 30/03/06 | | 10 | 10.3.5 | New cases of *R v GJN* [2005] VSCA 183; *R v Welsh* [2005] VSCA 285 at [32]-[34]; *R v Hunter* [2006] VSCA 9 at [2] & [31]; *R v Bullen* [2005] VSCA 206; *DPP v Starke* [2006] VSCA 61 at [8]-[9]; *R v Fernandez* [2006] VSCA 38. | |
| 28/03/06 | | 1 | 1.1.2 | New case of *R v Angelopoulos* [2005] VSCA 258 at [3]-[5] & [49]-[57]. | |
| 28/03/06 | | 1 | 1.4 | Practice Directions 1/2006, 2/2006, 3/2006, 4/2006, 5/2006 & 6/2006. | |
| 28/03/06 | | 9 | 9.4 | Reference to new cases of *Re Fred Joseph Asmar* [2005] VSC 478; *R v Griffey* [2006] VSC 86. | |
| 28/03/06 | | 9 | 9.4.1 | Reference to new cases of *CG* [2005] VSC 358R, *Rick Anthony Waters* [2005] VSC 443; *R v Griffey* [2006] VSC 86; *DPP (Cth) v Thomas* [2005] VSC 435R; *R v Serrano* [2005] VSC 500; *IMO an Application for Bail by Amer Haddara* [2006] VSC 8. Reference to cases of *Re John Whiteside* [1999] VSC 413; *Memery* [2000] VSC 459. | |
| 28/03/06 | | 9 | 9.4.4 | Change to commentary in relation to how the show cause provisions in s.4(4) relate to the unacceptable risk provisions of s.4(2)(d). Reference to new cases of *Re Mark Clifford Hayden* [2005] VSC 160 & *Re Fred Joseph Asmar* [2005] VSC 487 and to case of *DPP v Jason Ghiller* [2000] VSC 435. Comparison between the ‘two-step’ approach of Gillard J in *DPP v Harika* and the ‘one-step’ approach of Maxwell P in *Re Fred Joseph Asmar*. New cases of *DPP v Henderson* [2005] VSC 512; *Peter Alan Heenan* [2005] VSC 516; *Mark Douglas* [2005] VSC 344 & *Fergus O’Hea* [2005] VSC 127 & [2005] VSC 314; *R v Weaver* [2006] VSC 102. | |
| 28/03/06 | | 9 | 9.4.5 | Reference to new cases of *Re Fred Joseph Asmar* [2005] VSC 487; *R v Weaver* [2006] VSC 102. | |
| 28/03/06 | | 9 | 9.4.9 | New paragraph entitled “Relevance of standard of medical care in custodial facility”. New case of *IMO an Application for Bail by Little Joe Rigoli* [2005] VSCA 325. | |
| 28/03/06 | | 9 | 9.5.1 | Reference to new case of *CG* [2005] VSC 358R. | |
| 28/03/06 | | 9 | 9.5.12 | Change to commentary to delete reference to repealed s.4(2)(c). | |
| 27/03/06 | | 3 | 3.4.4 | New paragraph entitled “Representation of adults in the Family Division”. Reference to cases of *McKenzie v McKenzie* [1971] P 33; [1970] 3 All ER 1034, *Collier v Hicks* (1831) 2 B7 Ad 663 and *Skrijel v Mengler* [2003] VSC 270. | |
| 27/03/06 | | 3 | 3.5.4 | New cases of *R v Calway* [2005] VSCA 266 and *R v Kerbaitch* [2005] VSCA 194 added. Extracts from *R v Lucas* [1973] VR 693 and *R v Parsons & Stocker* [2004] VSCA 92 moved from paragraph 3.5.6. | |
| 27/03/06 | | 3 | 3.5.6 | The material in this paragraph has been reordered and references added to the new case of *R v Kerbaitch* [2005] VSCA 194 and *Oxfordshire County Council v M* [1994] Fam 151. | |
| 27/03/06 | | 3 | 3.5.8 | New paragraph entitled “Subpoenas in contested cases in the Children’s Court”. Reference to the new cases of *R v Mokbel (Ruling No.1)* [2005] VSC 410 & *R v Mokbel (Ruling No.2)* [2005] VSC 502 and the cases of *Oxfordshire County Council v M* [1994] Fam 151, *R v Saleam* (1989) 16 NSWLR 14 and *Alister v The Queen* (1984) 154 CLR 404. | |
| 27/03/06 | | 3 | 3.6.3 | References to *Fox v Percy* (2003) 214 CLR 118 esp at 124; *VCP Investments Pty Ltd v J McCubbin & Sons Pty Ltd* [2006] VSCA 50 at [4] & [9]-[12]; *Nais v Minister* [2005] HCA 77. | |
| 27/03/06 | | 3 | 3.8 | Section 14A of the Crimes (Family Violence) Act 1987 changed to s.21C. | |
| 17/03/06 | | 7 | 7.2 | Added commentary: “In Victoria in 2004 & 2005 less than ½% of offences dealt with by the Children’s Court were Commonwealth offences.” | |
| 16/03/06 | | 11 | 11.1.2 | Reference to new case of *R v Reth Mao* [2006] VSCA 36 at [38]-[42]. | |
| 16/03/06 | | 11 | 11.1.4 | New cases of *R v Sullivan* [2005] VSCA 286 at [20]; *R v Glennon (No.3)* [2005] VSCA 262 at [44]; *R v Sheen* [2005] VSCA 296 at [7]; *R v Verdins* [2005] VSC 479 at [38]-[39]; *R v Welsh* [2005] VSCA 285 at [32]-[35]; *R v Carne* [2006] VSCA 2 at [27]. | |
| 16/03/06 | | 11 | 11.2.1 | Added cases of *DPP v Lawrence* [2004] VSCA 154 at [22]; *R v Angelopoulos* [2005] VSCA 258 at [3]-[5] & [49]-[57]; *DPP v Rose, DPP v Miller* [2005] VSCA 275 at [29]; *R v Buller* [2005] VSCA 184 at [10]-[11]. | |
| 16/03/06 | | 11 | 11.2.6 | Reference to new cases of *R v Wade* [2005] VSCA 276 at [17]-[18]; *R v Saenchai* [2005] VSCA 201 at [24]; *R v Le; R v Nguyen* [2005] VSCA 284 at [16]-[20]; *R v Eaton* [2006] VSCA 16; *R v Airey* [2006] VSCA 31 at [11]; *R v Hieu Huu Nguyen* [2006] VSCA 39 at [15]-[16]; *R v Bortoli* [2006] VSCA 62 at [26]-[32]. | |
| 16/03/06 | | 11 | 11.2.7 | Reference to new cases of *R v Carne* [2006] VSCA 2 at [33]-[34]; *R v Lacey* [2006] VSCA 4 at [22]-[26]; *R v Spero* [2006] VSCA 58 at [53]. | |
| 16/03/06 | | 11 | 11.2.8 | New cases of *R v Robertson* [2005] VSCA 190; *R v DTR* [2005] VSCA 291 at [9]+[11]; *R v Doran* [2005] VSCA 271; *R v Brazel* [2005] VSCA 56; *DPP v DJT* [2005] VSCA 270; *Ryan v R* (2001) 206 CLR 267 at 295; *R v Le; R v Nguyen* [2005] VSCA 284 at [8], [13] & [17]; *R v Sullivan* [2005] VSCA 286 at [26]. | |
| 16/03/06 | | 11 | 11.2.9 | New paragraph entitled “Relevance of risk to offender’s safety while in custody”. New case of *York v The Queen* [2005] HCA 60. New case of *R v Bangard* [2005] VSCA 313. | |
| 16/03/06 | | 11 | 11.2.10 | Renumbered paragraph – formerly 11.2.9. | |
| 16/03/06 | | 11 | 11.2.11 | Renumbered paragraph – formerly 11.2.10. New cases of *R v Ross* [2005] VSC 428; *R v Ahmed* [2005] VSCA 279 at [17]-[18]; *R v Flower* [2005] VSC 462 at [42]-[43]; *R v DTR* [2005] VSCA 291 at [17]; *R v Verdins* [2005] VSC 479 at [25]-[26]. | |
| 16/03/06 | | 11 | 11.2.12 | Renumbered paragraph – formerly 11.2.11. | |
| 16/03/06 | | 11 | 11.2.13 | Renumbered paragraph – formerly 11.2.12. References to new cases of *R v Boxtel* [2005] VSCA 175 & *R v Smart* [2005] VSCA 226 and to cases of *Bailey v Director of Public Prosecutions* (1998) 78 ALR 116 and *R v Boyes* (2004) 8 VR 230. | |
| 16/03/06 | | 11 | 11.2.14 | Renumbered paragraph – formerly 11.2.13. | |
| 16/03/06 | | 11 | 11.2.15 | Renumbered paragraph – formerly 11.2.14. | |
| 16/03/06 | | 11 | 11.2.16 | Renumbered paragraph – formerly 11.2.15. | |
| 16/03/06 | | 11 | 11.2.17 | New paragraph entitled “Relevance of intoxication”. New case of *R v Angelopoulos* [2005] VSCA 258 at [35]. | |
| 16/03/06 | | 11 | 11.2.18 | Renumbered paragraph – formerly 11.2.16. New cases of *R v Thi Loang Thai* [2005] VSCA 283 at [35] & [41]; *R v Airey* [2006] VSCA 31 at [14]-[16]; *DPP (Cth) v Gaw* [2006] VSCA 51 at [19] & [21]; *R v Sinclair* (1990) 51 A Crim R 418; *R v Matthews* [unreported, Court of Appeal, 20/03/1996]; *R v Togias* (2001) 127 A Crim R 23; *R v Holland* (2002) 134 A Crim R 451; *R v Mangione* [2006] VSCA 34. | |
| 16/03/06 | | 11 | 11.2.19 | New paragraph entitled “Relevance of Aboriginality”. New case of *DPP v Taylor* [2005] VSCA 222 at [14] applying *R v Fuller-Cust* (2002) 6 VR 496 at 520:and *Neal v R* (1982) 149 CLR 305 at 326. Reference to cases of *R v Wordie* [2003] VSCA 107 at [31]; *DPP v Rose* [2005] VSCA 275 at [19]; *R v McCartney* [2006] VSCA 35 at [7]-[9]. | |
| 16/03/06 | | 11 | 11.2.20 | New paragraph entitled “Relevance of risk of recall by Parole Board”. References to cases of *R v Airey* [2006] VSCA 31 at [10]; *DPP v Reid* [2004] VSCA 105 at [18]; *R v Greenslade* [2004] VSCA 213 at [31]; *R v Orphanides* (2002) 130 A Crim R 403 at 410-415. | |
| 16/03/06 | | 11 | 11.2.21 | New paragraph entitled “Relevance of likely forfeiture under the Confiscation Act”. New case of *R v Le; R v Nguyen* [2005] VSCA 284. | |
| 16/03/06 | | 11 | 11.2.22 | Renumbered paragraph – formerly 11.2.17. Reference to new cases of *R v Natan Kaplan* [2005] VSC 372; *R v Bangard* [2005] VSCA 313; *R v Detenamo* [2005] VSC 411; *R v Martin* [2005] VSC 497; *R v Flower* [2005] VSC 462; *R v Celso Cuenco* [2006] VSC 7; *R v Lamb* [2006] VSC 84; *R v Nolan* [2006] VSC 85; *R v Ibrahim* [2006] VSC 96. | |
| 16/03/06 | | 11 | 11.2.23 | Renumbered paragraph – formerly 11.2.18. New case of *R v Campbell* [2005] VSCA 225. | |
| 16/03/06 | | 11 | 11.2.24 | Renumbered paragraph – formerly 11.2.19. References to new cases of *DPP v Gebremeskel* [2005] VSCA 171; *DPP v Taylor* [2005] VSCA 222 at [17]; *R v Chand* [2005] VSC 448; *R v Bookham* [2005] VSC 483; *DPP v Galea* [2005] VSC 50; *R v Davis* [2006] VSCA 8; *R v Brock & Green* [2006] VSC 13; *DPP v Lovett* [2006] VSCA 5 at [54]. | |
| 16/03/06 | | 11 | 11.2.25 | Renumbered paragraph – formerly 11.2.20. Paragraph name changed to “Sentencing for drug trafficking / cultivation / importation”. New cases of *R v White, Higgins & Dines* [2005] VSC 437 at [9]-[10]; *R v Phenny Thai* [2005] VSCA 283; *R v Weitering* [2006] VSCA 54. Reference to new case of *R v Bosio, Clarke & Zogheib* [2005] VSCA 209 at [5] & [16]. | |
| 16/03/06 | | 11 | 11.2.26 | Renumbered paragraph – formerly 11.2.21. Reference to new cases of *R v Kilmartin* [2006] VSCA 12; *R v Sulllivan* [2005] VSCA 286. | |
| 16/03/06 | | 11 | 11.2.27 | Renumbered paragraph – formerly 11.2.22. Reference to new case of *R v Davis* [2006] VSCA 8. | |
| 16/03/06 | | 11 | 11.3.1 | New cases of *R v Bangard* [2005] VSCA 313; *DPP v Rose, DPP v Miller* [2005] VSCA 275 at [29]. | |
| 16/03/06 | | 11 | 11.3.2 | New case of *R v Bangard* [2005] VSCA 313. | |
| 16/03/06 | | 11 | 11.3.4 | New references to cases of *R v Wade* [2005] VSCA 276 at [11]-[12]; *R v Chimirri* [2003] VSCA 45 at [4]; *R v Orphanides* (2002) 130 A Crim R 403; *R v Greenslade* [2004] VSCA 213 at [31]; *R v Sheen* [2005] VSCA 296 at [7]; *R v Smith* [2006] VSCA 23 at [8]. | |
| 16/03/06 | | 11 | 11.3.5 | New paragraph entitled “Exercise of mercy”. Cases of *R v Leach* [2003] VSCA 96 at [48]-[49]; *R v Osenkowski* (1982) 30 SASR 212; *DPP v Ramos, Delos Santos & Herasan* [2003] VSCA 215 at [38]; *DPP v Rzek* [2003] VSCA 97 at [33]; *R v Josefski* [2005] VSCA 265 at [33]-[34]. | |
| 16/03/06 | | 11 | 11.4 | New references to cases of *R v Skura* [2004] VSCA 53 at [12]-[13] per Eames JA and at [45]-[50] per Smith AJA; *R v Dowlan* [1998] 1 VR 123 at 138-140 per Charles JA; *R v Miller* (1995) 81 A Crim R 278; *R v R* (1999) 106 A Crim R 288 at 291-292 per Tadgell JA. | |
| 16/03/06 | | 11 | 11.8.1 | Expansion of principles relating to the fixing of non-parole periods for adult offenders as set out in *R v VZ* [  New references to cases of *R v Josefski* [2005] VSCA 265 at [43]; *R v Glennon (No.3)* [2005] VSCA 262 at [40]. | |
| 07/12/05 | | 1 | 1.1.2 | Paragraph heading changed to “Children, Youth and Families Act 2005 (Vic)”. New content involving commentary on this Act which was passed by the Legislative Assembly on 27/10/2005 and by the Legislative Council on 23/11/2005 and received the Royal Assent on 09/12/2005. The commentary on the “Children Bill – Exposure Draft” which was previously in this paragraph has been deleted. | |
| 03/08/05 | | 1 | 1.1.1 | New paragraph entitled “Children and Young Persons Act 1989 (Vic)” which contains most of the material previously in section 1.1. | |
| 03/08/05 | | 1 | 1.1.2 | New paragraph entitled “Children Bill – Exposure Draft” containing commentary on the Bill which was released on 03/08/2005 and is expected to be put before parliament in the 2005 Spring session. | |
| 03/08/05 | | 1 | 1.3 | Added reference to the regulation making power in new s.280BA of the CYPA. | |
| 03/08/05 | | 1 | 1.4 | Added clarification that s.280D(1) does not apply to the Koori Court (Criminal Division). | |
| 01/08/05 | | 2 | 2.4 | New division of the Children’s Court – the Koori Court (Criminal Division) – created by amendment to s.8(3). Consequential amendments to ss.8(5) & 8(7) and new s.3(6). | |
| 01/08/05 | | 2 | 2.7 | New references to cases of *Scott v Scott* [1913] AC 417; *Herald & Weekly Times Ltd v Medical Practitioners Board of Victoria* [1999] 1 VR 267 at 278-292. Added reference to s.125(1) Magistrates’ Court Act 1989. | |
| 01/08/05 | | 2 | 2.8.1 | New paragraph heading entitled “Restriction on publication of identifying particulars”. | |
| 01/08/05 | | 2 | 2.8.2 | New paragraph heading entitled “Restriction on publication generally”. New references to cases of *R v Robert Scott Pomeroy* [2002] VSC 178; *Herald & Weekly Times Ltd v Medical Practitioners Board of Victoria* [1999] 1 VR 267 at 278-292; *Ex parte the Queensland Law Society* [1984] Qd R 166 at 170; *John Fairfax & Sons Pty Ltd v Police Tribunal of NSW* (1986) 5 NSWLR 465 at 477; *Herald & Weekly Times Ltd & Others v Magistrates' Court of Victoria* [1999] 2 VR 672. | |
| 01/08/05 | | 3 | 3.3 | Change consequential on amendment to s.24(2) to enable it to apply to proceedings in **any Division** of the Court. | |
| 01/08/05 | | 5 | 5.4.6 | Added statistics for number of protection applications issued by region for 2004/05. | |
| 01/08/05 | | 5 | 5.7.5 | New paragraph entitled “Default service provisions”. Reference to CYPA/ss.277(1) & 277(3). | |
| 01/08/05 | | 5 | 5.7.6 | New paragraph entitled “Substituted service”. Reference to CYPA/s.277(2). | |
| 01/08/05 | | 5 | 5.7.7 | New paragraph entitled “Proof of service”. Reference to CYPA/s.278. | |
| 01/08/05 | | 5 | 5.7.8 | Renumbered paragraph – formerly 5.7.5. | |
| 01/08/05 | | 5 | 5.8.10 | Added statistics: numbers of IAOs made and extended in 2004/05. | |
| 01/08/05 | | 5 | 5.10 | Added statistics: numbers of protection orders made and extended in 2004/05. | |
| 01/08/05 | | 5 | 5.16.5 | New paragraph entitled “Statistics”: Number of interim protection orders & refusals to make protection orders on expiry of IPO. | |
| 01/08/05 | | 5 | 5.20.1  5.20.5 | Distinction drawn between access conditions on “kith-and-kin” permanent care orders and those on non “kith-and-kin” orders. | |
| 01/08/05 | | 5 | 5.20.8 | New paragraph entitled “Statistics” containing numbers of permanent care orders made 2000/01 to 2004/05. | |
| 01/08/05 | | 7 | 7.4 | Added reference to case of *O v McDonald* [2000] TASSC 13. | |
| 01/08/05 | | 7 | 7.11 | New section entitled “The Children’s Koori Court (Criminal Division)”. Commentary on amendments to the CYPA [s.3(1) & new ss.3(6), 16A, 16B, 16C, 16D, 27A] made by the Children and Young Persons (Koori Court) Act 2004 (Vic.) [No.89/2004]. | |
| 01/08/05 | | 7 | 7.12  7.12.1 | Renumbered section - formerly 7.11.  Renumbered paragraph – formerly 7.11.1. | |
| 01/08/05 | | 7 | 7.13 | Renumbered section – formerly 7.12. | |
| 01/08/05 | | 11 | 11.2.1 | References to new cases of *DPP v Jason Thomas Roe* [2005] VSCA 178 & *R v Athuai* [2005] VSC 252. | |
| 01/08/05 | | 11 | 11.2.6 | Reference to new case of *R v Cassar* [2005] VSCA 164 at [14]-[23]. | |
| 01/08/05 | | 11 | 11.2.8 | Reference to new cases of *R v Mr Z* [2005] VSC 90 at [8] and *R v Tania-Lee Anne Herman* [2005] VSC 234 at [11]. | |
| 01/08/05 | | 11 | 11.2.16 | Reference to new case of *R v Thao Thi Tran* [2005] VSC 220 at [21]-[22] & [42]. | |
| 01/08/05 | | 11 | 11.2.17 | Reference to new cases of *R v Thao Thi Tran* [2005] VSC 220; *R v Coldbeck* [2005] VSC 187 esp. at [40]-[42] & [62]-[63] and *R v Joan Mary Walsh* [2005] VSC 233 at [8]-[9]. | |
| 01/08/05 | | 11 | 11.2.19 | Reference to new case of *R v Speedie* [2005] VSC 194 at [20]. | |
| 01/08/05 | | 11 | 11.2.20 | References to new cases of *R v Cassar* [2005] VSCA 164 at [27] and *R v Mr Z* [2005] VSC 90. | |
| 01/08/05 | | 11 | 11.2.21 | Reference to new case of *DPP v Jason Thomas Roe* [2005] VSCA 178. | |
| 01/08/05 | | 11 | 11.4 | Added reference to case of *O v McDonald* [2000] TASSC 13. | |
| 01/08/05 | | 11 | 11.7 | Addition of 2004/05 Victorian Children’s Court outcomes to the Criminal Division Statistics. Addition of a chart illustrating a comparative study of the rate of detention of indigenous and non-indigenous young persons aged 10-17 between 1994 & 2002 in each of the Australian States & Territories. | |
| 01/08/05 | | 11 | 11.10 | Reference to new case of *R v Speedie* [2005] VSC 194 at [38]. | |
| 01/07/05 | | 2 | 2.7 | Reference to new case of *DPP (Cth) v Corcoris and The Age (No.2)* [2005] VSC 142. | |
| 01/07/05 | | 3 | 3.6.3 | New cases of *The Roy Morgan Research Centre Pty Ltd v Commissioner of State Revenue* [2005] VSC 136 at [23]; *Esso Australia Pty Ltd v Robinson* [2005] VSCA 138 at [9]. | |
| 01/07/05 | | 3 | 3.9 | New reference to s.197(9) of the CYPA. New references to cases of *R v Clark* [1996] 2 VR 520 at 522; *DPP v Shields* [2005] VSCA 150 at [4]. | |
| 01/07/05 | | 3 | 3.10 | New power to state a case: CYPA/ss.115A & 196B. | |
| 01/07/05 | | 4 | 4.1.1 | Reference to new paper entitled “National comparison of child protection systems”. | |
| 01/07/05 | | 4 | 4.1.2 | New paragraph entitled “Duty of care of Child Protection Service”. Contains some material formerly contained in 4.1.1 and new case of *SB v State of NSW* [2004] VSC 514. | |
| 01/07/05 | | 4 | 4.1.3 | Renumbered paragraph - formerly 4.1.2. | |
| 01/07/05 | | 4 | 4.1.4 | Renumbered paragraph - formerly 4.1.3. | |
| 01/07/05 | | 4 | 4.8.4 | Added references to cases of *Re W (Sex Abuse Allegations: Expert Evidence)* [2001] FLC93-085 & *Re W (Sex Abuse: Standard of Proof)* [2004] FamCA 768. | |
| 01/07/05 | | 4 | 4.14 | Reference to new paper entitled “National comparison of child protection systems”. | |
| 01/07/05 | | 5 | 5.8.1 | Added power under s.73(1)(l) to make IAO when a question of law has been reserved under s.115A for the opinion of the Supreme Court. | |
| 01/07/05 | | 5 | 5.17.4 | New case of *George v Children’s Court of NSW & Ors* (2003) 31 Fam LR 218; [2003] NSWCA 389. | |
| 01/07/05 | | 6 | 6.2  6.4.2  6.4.3  6.5.2  6.19 | Replacement of “under 17 years” by “under 18 years” for complaints made on or after 01/07/2005. | |
| 01/07/05 | | 7 | 7.2.1 | New paragraph entitled “Age of ‘child’ for hearing of a charge”. Some of its contents were previously in paragraph 7.3.1 but it has been substantially changed to take into account amendments from 01/07/2005 made by the Children and Young Persons (Age Jurisdiction) Act 2004 and the Children and Young Persons (Miscellaneous Amendments) Act 2005. | |
| 01/07/05 | | 7 | 7.2.2 | New paragraph entitled “No criminal responsibility of a child under 10”. Contents previously in paragraph 7.3.1. | |
| 01/07/05 | | 7 | 7.2.3 | New paragraph entitled “Transfer of the hearing of a charge to or from Magistrates’ Court”. | |
| 01/07/05 | | 7 | 7.2.4 | New paragraph entitled “Age of ‘child’ for breach proceeding”. | |
| 01/07/05 | | 7 | 7.3 | Renumbered section - formerly 7.4. | |
| 01/07/05 | | 7 | 7.4 | Renumbered section - formerly 7.5. | |
| 01/07/05 | | 7 | 7.5 | Renumbered section - formerly 7.6. Title of section changed to “Commencement of ordinary process – Compelling attendance of child” in order to distinguish it from the CAYPINS system discussed in new section 7.7. | |
| 01/07/05 | | 7 | 7.6 | Renumbered section - formerly 7.7. | |
| 01/07/05 | | 7 | 7.7 | New section entitled “Children and Young Persons Infringement Notice System {CAYPINS}”. Includes CAYPINS process map and list of contents of new Schedule 2A of the CYPA. | |
| 01/07/05 | | 7 | 7.12 | Added references to 2 papers:  C13-“Forensic Aspects of Asperger’s Syndrome”  C14-Social Maturity, Morality, Law, and the Frontal Lobes | |
| 01/07/05 | | 8 | 8.2  8.2.13 | Reference to new case of *R v Mitchell and Brown (Ruling No.1)* [2005] VSC 42 (Whelan J). | |
| 01/07/05 | | 8 | 8.2.4 | New reference to case of *R v Cuong Quoc Lam & Ors* [2004] VSC 469. | |
| 01/07/05 | | 8 | 8.2.6 | Added reference to changed version of s.464B(10) of the Crimes Act. | |
| 01/07/05 | | 8 | 8.2.9 | “under 17” changed to “under 18”. | |
| 01/07/05 | | 8 | 8.3.1 | 17 year olds now included in the child fingerprint provisions of s.464K of the Crimes Act. | |
| 01/07/05 | | 8 | 8.4.3 | 17 year olds now included in the child forensic procedure provisions of ss.464U & 464V of the Crimes Act. | |
| 01/07/05 | | 9 | 9.1 | New s.129(4A). | |
| 01/07/05 | | 9 | 9.1.1 | Note that La Trobe Shire Council has been unaccountably omitted from S.R.88/2001. | |
| 01/07/05 | | 9 | 9.4.1 | References to cases of *DPP (Vic) v Cozzi* [2005] VSC 195; *DPP(Cth) v Thomas* [2005] VSC 85; *IMO an Application for bail by Cardona* [2005] VSC 186; *DPP(Cth) v Stephen Zane Abbott* (1997) 97 A Crim R 19. | |
| 01/07/05 | | 9 | 9.4.4 | New cases of *Baris Nezif* [2005] VSC 17; *Peter Alan Heenan* [2005] VSC 49. | |
| 01/07/05 | | 9 | 9.5.11 | New section entitled “Breach of bail”. Bail Act, ss.30(1) & 32. Crown Proceedings Act 1958, ss.6(1) & 6(4). References to cases of *R v Waltham Forest Justices; Ex parte Parfrey* [1980] Crim LR 571; *Re Wilkinson* [1983] 2 VR 250; *Re Condon* [1973] VR 427; *IMO an Application by Melincianu* [2005] VSC 89. | |
| 01/07/05 | | 9 | 9.5.12 | Renumbered paragraph - formerly 9.5.11. | |
| 01/07/05 | | 10 | 10.3.2 | New case of *R v Martin (Ruling)* [2005] VSC 121 at [41]-[43]. | |
| 01/07/05 | | 10 | 10.3.5 | New case of *R v Shannon* [2005] VSCA 143 at [5]-[6]. | |
| 01/07/05 | | 11 | 11.1.2 | Reference to new case of *R v Truong* [2005] VSCA 147 at [17]-[18]. | |
| 01/07/05 | | 11 | 11.1.4 | References to new cases of *R v WMR* [2005] VSCA 59 at [17]-[25]; *R v McIntosh* [2005] VSCA 106 at [16]-[21]; *R v Mann* [2005] VSCA 141 at [7]; *R v Seiler* [2005] VSCA 146 at [3]-[4]. | |
| 01/07/05 | | 11 | 11.1.5 | Change age range of adult YTC to 18-20. | |
| 01/07/05 | | 11 | 11.1.5 | Substantial changes to details of CYPA sentencing orders relevant to cases commenced on or after 01/07/2005. | |
| 01/07/05 | | 11 | 11.1.6 | Minor changes to detail of YAOs. | |
| 01/07/05 | | 11 | 11.1.8 | Replacement of old materials relating to Restitution/ Compensation/Costs. These may now not be a special condition of another sentencing order. New enforcement regime. Effect of $1,000 cap: Hansard reference 25/05/2005. Reference to cases of *DPP v Esso Australia Pty Ltd* [2004] VSC 440; *Esso Australia Pty Ltd v Robinson* [2005] VSCA 138; *H v Crimes Compensation Tribunal* [1997] 1 VR 608; *Eccles v Taylor* [1995] 2 VR 482 at 493. | |
| 01/07/05 | | 11 | 11.1.12 | New reference to Crimes (Amendment) Act 2004 (Vic), ss.16 & 21 and to case of *Pavic v Chief Commissioner of Police* [2003] VSC 99. New references to cases of *R v Lagona* [1998] VSC 220; *R v Heriban and Brunner* [2005] VSC 76. New material on ss.464ZFB & 464ZFC. | |
| 01/07/05 | | 11 | 11.2.1 | New case of *DPP v Byrnes* [2005] VSCA 63. | |
| 01/07/05 | | 11 | 11.2.4 | Reference to new case of *R v Mitchell* [2005] VSC 219. | |
| 01/07/05 | | 11 | 11.2.6 | New references to *DPP v Buhagiar and Heathcote* [1998] 4 VR 540 at 547-8 and *R v Groom* [1999] 2 VR 159 at [37]-[40]. New cases of *DPP v Ellis* [2005] VSCA 105; *R v Thanh Cong Nguyen* [2005] VSCA 40. | |
| 01/07/05 | | 11 | 11.2.7 | Reference to new case of *R v Chin Poh Tan* [2005] VSCA 54. | |
| 01/07/05 | | 11 | 11.2.8 | New cases of *R v DS* [2005] VSCA 99; *DPP v Karipis* [2005] VSCA 119; *R v Hewitt* [2004] VSC 487; *R v Hentschel* [2005] VSC 6. | |
| 01/07/05 | | 11 | 11.2.10 | References to new cases of *R v King* [2005] VSCA 39; *R v Rendle* [2005] VSCA 52. | |
| 01/07/05 | | 11 | 11.2.11 | Reference to new cases of *R v Van Do Bui* [2005] VSCA 121; *DPP v Byrnes* [2005] VSCA 63. | |
| 01/07/05 | | 11 | 11.2.12 | New paragraph entitled “Effect of ill health”. Cases of *R v Smith* (1987) 44 SASR 587; *R v Emanuel* [2005] VSCA 60. | |
| 01/07/05 | | 11 | 11.2.13 | Renumbered paragraph - formerly 11.2.12. New case of *R v Truong* [2005] VSCA 147. | |
| 01/07/05 | | 11 | 11.2.14 | Renumbered paragraph - formerly 11.2.13. New case of *R v Luong & Ors* [2005] VSCA 94. | |
| 01/07/05 | | 11 | 11.2.15 | Renumbered paragraph - formerly 11.2.14. | |
| 01/07/05 | | 11 | 11.2.16 | Renumbered paragraph - formerly 11.2.15. New reference to *R v Mitchell* [2005] VSC 219 at [26]. | |
| 01/07/05 | | 11 | 11.2.17 | Renumbered paragraph - formerly 11.2.16. New cases of *DPP v Reynolds & Ors* [2004] VSC 533; *R v LMA* [2005] VSC 152; *R v Blundell* [2005] VSC 175; *R v McIntosh* [2005] VSCA 106. | |
| 01/07/05 | | 11 | 11.2.18 | Renumbered paragraph - formerly 11.2.17. | |
| 01/07/05 | | 11 | 11.2.19 | Renumbered paragraph – formerly 11.2.18. Paragraph title changed to “Sentencing for intentionally / recklessly / negligently causing serious injury”. New cases of *R v Staples* [2005] VSCA 130; *R v Xe Van Pham* [2005] VSCA 57; *R v Snell* [2005] VSCA 131; *R v Phuoc Van Bui* [2005] VSC 83; *R v Roach* [2005] VSCA 162. | |
| 01/07/05 | | 11 | 11.2.20 | Renumbered paragraph - formerly 11.2.19. New cases of *R v Fisher* [2005] VSCA 75; *DPP(Cth) v Alon Inbar* [2005] VSCA 116; *R v Gates* [2005] VSCA 61; *R v Howden* (1999) 108 A Crim R 240; *R v WMR* [2005] VSCA 59; *R v Luong & Ors* [2005] VSCA 94; *R v Ken Ha Khanh Phong* [2005] VSCA 149. | |
| 01/07/05 | | 11 | 11.2.21 | Renumbered paragraph - formerly 11.2.20. New case of *DPP v Karipis* [2005] VSCA 119. | |
| 01/07/05 | | 11 | 11.2.22 | Renumbered paragraph - formerly 11.2.21. | |
| 01/07/05 | | 11 | 11.3 | New section entitled “Some mechanics of sentencing” | |
| 01/07/05 | | 11 | 11.3.1 | New paragraph entitled “’Instinctive synthesis’ or ‘two-tiered approach’”. Cases of *R v McIntosh* [2005] VSCA 106; *R v Williscroft & Ors* [1975] VR 292 at 300; *R v Young* [1990] VR 951; *R v Nagy* [1992] 1 VR 637; *R v Li* [1998] 1 VR 637; R v *Ken Ha Khanh Phong* [2005] VSCA 149; *Makarian v The Queen* [2005] HCA 25. | |
| 01/07/05 | | 11 | 11.3.2 | New paragraph entitled “Use of sentencing statistics”. Case of *R v McIntosh* [2005] VSCA 106. | |
| 01/07/05 | | 11 | 11.3.3 | New paragraph entitled “Relevance of Sex Offenders Registration Act 2004”. Case of *DPP v Ellis* [2005] VSCA 105. | |
| 01/07/05 | | 11 | 11.3.4 | New paragraph entitled “Power to direct that time held in detention before trial be reckoned as already served”. Sentencing Act/ss.18 & 35. CYPA/ss.187(5) & 189(1). Cases of *R v Arts and Briggs* [1998] 2 VR 261; *R v Heaney* [Court of Appeal, unreported, 27/03/1996]; *R v Renzella* [1997] 2 VR 88; *R v Giakoumogianakis* [2005] VSCA 156. | |
| 01/07/05 | | 11 | 11.4 | Renumbered section – formerly 11.3. Alteration to s.136A(4) of the CYPA. New ss.136A(12) & 136A(13). | |
| 01/07/05 | | 11 | 11.5 | Renumbered section – formerly 11.4. New ss.190(2A) & 190(2B) of the CYPA. | |
| 01/07/05 | | 11 | 11.6 | Renumbered section – formerly 11.5. | |
| 01/07/05 | | 11 | 11.7 | Renumbered section – formerly 11.6. | |
| 01/07/05 | | 11 | 11.8 | Renumbered section – formerly 11.7. | |
| 01/07/05 | | 11 | 11.8.1 | New references to cases of *R v Monardo* [2005] VSCA 115; *R v VZ* [1998] .VSCA 32; *R v Kotzmann* [1999] 2 VR 123. | |
| 01/07/05 | | 11 | 11.9 | Renumbered section – formerly 11.8. | |
| 01/07/05 | | 11 | 11.10 | Renumbered section – formerly 11.9. New references to cases of *DPP v Karipis* [2005] VSCA 119; *DPP v Reynolds & Ors* [2004] VSC 533; *R v PP* [2002] VSC 533 and on appeal [2003] VSCA 100; *R v LMA* [2005] VSC 152; *R v Ty* [2005] VSC 109. | |
| 01/07/05 | | 11 | 11.11 | Renumbered section – formerly 11.10. | |
| 01/07/05 | | 11 | 11.12 | Renumbered section – formerly 11.11. Name changed to “Breach of sentencing orders made under the CYPA”. | |
| 01/07/05 | | 11 | 11.12.1 | New paragraph entitled “’Generic’ provisions governing commencement, hearing and transfer of breach proceedings”. Effect of new s.196A of the CYPA and other miscellaneous amendments to breach provisions. | |
| 01/07/05 | | 11 | 11.12.2 | New paragraph entitled “Powers upon proof of breach of CYPA sentencing order (other than fine default)”. Amendments to those powers for breach proceedings commencing on or after 01/07/2005. | |
| 01/07/05 | | 11 | 11.12.3 | New paragraph entitled “Fine defaults”. Amendments to powers on proof of fine default for breach proceedings commencing on or after 01/07/2005. | |
| 01/07/05 | | 11 | 11.13 | New section entitled “Breach of sentencing orders made under the Sentencing Act”. | |
| 01/07/05 | | 11 | 11.14 | Renumbered section – formerly 11.13. | |
| 01/04/05 | | 5 | 5.7.5 | New case of *Re Andrew (No 2)* 32 Fam LR 386; [2004] NSWSC 842. | |
| 01/04/05 | | 6 | 6.1.2 | New paragraph entitled “Court’s increased power since 01/04/2005”. | |
| 01/04/05 | | 6 | 6.1.3 | New paragraph entitled “Family Violence Court Division of the Magistrates’ Court”. | |
| 01/04/05 | | 6 | 6.1.4 | New paragraph entitled “Concurrent criminal proceedings are no bar to making an order under the CFVA”. | |
| 01/04/05 | | 6 | 6.2.1 | Additional commentary on severance or otherwise of joint complaints. | |
| 01/04/05 | | 6 | 6.5.1 | Additional power granted by s.4A of the CFVA. Correction of accidental omission of "intimate personal relationship" in definition of "family member". | |
| 01/04/05 | | 6 | 6.5.2 | New paragraph entitled “Child exposed to violence – Additional protection of children”. Discussion of new powers and obligations in s.4A of the CFVA. | |
| 01/04/05 | | 6 | 6.5.3 | Renumbered paragraph – formerly 6.5.2. | |
| 01/04/05 | | 6 | 6.6 | Discussion of amendment to s.8(2) enabling an interim intervention order to be made on evidence by affidavit. | |
| 01/04/05 | | 6 | 6.6.1 | Changes to protocol between the Magistrates’ Court and Victoria Police in relation to after-hours complaints for warrants and interim intervention orders. | |
| 01/04/05 | | 6 | 6.7 | New section entitled “Counselling orders”. Discussion of new provisions in Part 2A of the CFVA. | |
| 01/04/05 | | 6 | 6.8 | Renumbered section – formerly 6.7. Additional material explaining why in the Children's Court a child's representative must operate on the 'traditional' model for child representation rather than the 'best interests' model. | |
| 01/04/05 | | 6 | 6.9 | Renumbered section – formerly 6.8 – and renamed “Procedure”. | |
| 01/04/05 | | 6 | 6.9.1 | New paragraph entitled “Proceedings are civil in nature”. This material was formerly in section 6.8. | |
| 01/04/05 | | 6 | 6.9.2 | New paragraph entitled “Third party complaints”. | |
| 01/04/05 | | 6 | 6.9.3 | New paragraph entitled “Evidence by affidavit”. | |
| 01/04/05 | | 6 | 6.9.4 | New paragraph entitled “Restriction on evidence by and presence of children”. | |
| 01/04/05 | | 6 | 6.9.5 | New paragraph entitled “Procedure in cases in the Children’s Court”. | |
| 01/04/05 | | 6 | 6.9.6 | New paragraph entitled “Restriction on publication of proceedings”. This material was formerly in section 6.9. | |
| 01/04/05 | | 6 | 6.10 | Added references to ss.5(1) & 5(2) of the CFVA. | |
| 01/04/05 | | 6 | 6.12 | Added references to ss.4A(1) & 4A(3) of the CFVA. | |
| 01/04/05 | | 6 | 6.13 | The costs section in the CFVA has been renumbered from s.14A to s.21C. Added reference to the undesirability of costs orders being made *exparte* as held in the Family Court cases of *In the Marriage of Black* 106 FLR 154 and *In the Marriage of Knight*.. | |
| 01/04/05 | | 6 | 6.16 | Statistics updated to include 2003/04 figures. | |
| 01/04/05 | | 6 | 6.19 | Discussion of new provisions in ss.16 & 16A of the CFVA relating to variation, revocation and extension of intervention orders and interim intervention orders. | |
| 01/04/05 | | 6 | 6.20 | New reference to power of court to set aside an order *ex debito justitiae*. | |
| 01/04/05 | | 6 | 6.21.1 | Amendments to s.20(1) of the CFVA noted. | |
| 01/04/05 | | 6 | 6.21.2 | Amendments to s.21(1) of the CFVA noted. | |
| 01/04/05 | | 11 | 11.1.4 | New case of *R v Beck* [2005] VSCA 11 on the concept of a 'crushing' sentence. | |
| 01/04/05 | | 11 | 11.1.7 | Title of paragraph amended to "Sentencing order pamphlets". | |
| 01/04/05 | | 11 | 11.2.1 | New cases of *R v Muliaina* [2005] VSCA 13; *R v Glenn* [2005] VSCA 31. | |
| 01/04/05 | | 11 | 11.2.7 | New case of *R v Chhom Nor* [2005] VSCA 46. | |
| 01/04/05 | | 11 | 11.2.8 | New cases of *R v HNT* [2005] VSCA 12; *R v Gavin James Brown* [2005] VSC 63 and cases cited therein at [9]. | |
| 01/04/05 | | 11 | 11.2.10 | Title of paragraph amended to "Effect of mental illness / mental disorder". New cases of *R v Chambers* [2005] VSCA 34; *R v Wilson* {2004] VSC 468 at [38]; *R v Dent* [2005] VSCA 42 at [12]-[13] & [16]-[17]. | |
| 01/04/05 | | 11 | 11.2.14 | New paragraph entitled “Relevance of drug addiction”. New cases of *R v Bisset* [2005] VSCA 10; *R v Taslik* [2005] VSCA 35. | |
| 01/04/05 | | 11 | 11.2.15 | Renumbered paragraph - formerly 11.2.14. | |
| 01/04/05 | | 11 | 11.2.16 | Renumbered paragraph - formerly 11.2.15. Name of paragraph changed to "Sentencing for manslaughter / attempted murder". New cases of *R v Andos & Basile* [2005] VSC 22; *R v Newling* [2005] VSC 54; *R v Grieef* [2005] VSC 60; *R v Kostov* [2004] VSC 445; *R v Markham* [2004] VSC 443. | |
| 01/04/05 | | 11 | 11.2.17 | New paragraph entitled "Sentencing for culpable driving". New cases of *DPP v Clarke* [2005] VSCA 2; *DPP v Church* [2005] VSCA 8; *R v Rees* [2005] VSCA 25; *DPP v Miller* [2005] VSCA 7; *R v Tran* (2002) 4 VR 457. | |
| 01/04/05 | | 11 | 11.2.18 | New paragraph entitled "Sentencing for intentionally / recklessly cause serious injury". New cases of *DPP v Lawrence* [2004] VSC 154; *DPP v Zullo* [2004] VSCA 153; *DPP v Nagi* [2005] VSCA 14. | |
| 01/04/05 | | 11 | 11.2.19 | Renumbered paragraph - formerly 11.2.16. New case of *R v Ro Si Vo* [2005] VSCA 21. | |
| 01/04/05 | | 11 | 11.2.20 | Renumbered paragraph - formerly 11.2.17. | |
| 01/04/05 | | 11 | 11.2.21 | New paragraph entitled “Sentencing for burglary”. New cases of *DPP v Lehmann* [2005] VSCA 9; *R v Glenn* [2005] VSCA 31. | |
| 01/04/05 | | 11 | 11.6 | Sentencing order statistics updated to include 2003/04 figures.  Addition of 2003 statistics to table show rate per 100,000 of persons aged 10-17 in juvenile corrective institutions in each State and Territory. | |
| 01/04/05 | | 11 | 11.7.1 | Additional material on parole. New references to cases of *R v Wunan Yu* [2005] VSCA 18; *R v Arnold* [1998] VSCA 34; *R v Heazlewood* [1998] VSCA 33. | |
| 01/04/05 | | 11 | 11.13 | New references to s.274 of the CYPA. | |
| 07/03/05 | | 10 | 10.3.5 | Paragraph title changed to “Representative Counts” & “Rolled-up” Counts. New cases of *R v SBL* [1999] 1 VR 706, *R v WDP* [2005] VSCA 16 & *R v Muliaina* [2005] VSCA 13. | |
| 28/02/05 | | 4 | 4.1.1 | New cases of *Zunica v State of Victoria* [2004] VSC 80 & *Sullivan v Moody* (2001) 207 CLR 562. Added reference to case of *Cannon v Tahche* (2002) 5 VR 317. | |
| 28/02/05 | | 4 | 4.8.3 | Added discussion on the principle enunciated in *Briginshaw v Briginshaw* by reference to the new case of *Re W (Sex Abuse: Standard of Proof)* [2004] FamCA 768 and its references to *WK v SR* (1997) 22 Fam LR 592 and *M and M* (1988) FLC 91-979. Contrast with test for likelihood of harm in *In re H. & Others (Minors)(Sexual Abuse: Standard of Proof)* [1996] AC 553 at 585 & 590. | |
| 28/02/05 | | 4 | 4.12 | Added reference to book by Dr Sharne Rolfe entitled *"Rethinking Attachment for Early Childhood Practice: Promoting security, autonomy and resilience in young children".* | |
| 28/02/05 | | 4 | 4.12 | Added reference to relevant literature focussing on insecure or disorganized attachment. | |
| 28/02/05 | | 4 | 4.14 | Abstracts of three added papers on various aspects of child psychology. | |
| 28/02/05 | | 4 | 4.14 | Abstracts of 20 papers with relevance to child protection, child welfare and/or children's cases delivered at the XVI World Congress of the International Association of Youth and Family Judges and Magistrates held at Melbourne in October 2002. | |
| 28/02/05 | | 5 | 5.2 | Added references to articles dealing with he impact of trauma on brain development. Extract from D.H.Lawrence *Sons and Lovers* depicting the impact of parental domestic violence on the children of the family. | |
| 28/02/05 | | 5 | 5.4.1 | Added reference to cases of *Re W (Sex Abuse: Standard of Proof)* [2004] FamCA 768 and *Re W Abuse Allegations; Expert Evidence* (2001) FLC 93-085. | |
| 28/02/05 | | 5 | 5.4.6  5.8.10  5.10 | Statistics updated to include 2002/03 & 2003/04. | |
| 28/02/05 | | 5 | 5.8.11  5.8.15 | Added reference to new case of *CJ v DOHS* [2004] VSC 317. | |
| 28/02/05 | | 5 | 5.15.5  5.15.7  5.20.2  5.15 | Added reference to new case of *NM, DOHS v BS* [Children's Court of Victoria, unreported, 21/12/2004]. | |
| 28/02/05 | | 5 | 5.18 | Change title of paragraph to "The making of Protection/ Interim Protection orders" | |
| 28/02/05 | | 5 | 5.18.3 | Added sub-paragraph entitled "Matters to consider in determining protection or IRD applications". This material was previously in paragraph 5.19. | |
| 28/02/05 | | 5 | 5.19 | Change title of paragraph to "Consent orders". Reference to new case of *T v N* [2004] 31 Fam LR 257. | |
| 28/02/05 | | 12 | 12.3.3 | Added reference to new case of *NM, DOHS v BS* [Children's Court of Victoria, unreported, 21/12/2004]. | |
| 10/02/05 | | 2 | 2.7 | New case of *IMO an Application by "The Age" and Ors re: R v Carl Anthony Williams* [2004] VSC 413. | |
| 10/02/05 | | 3 | 3.6.3 | Reordering of material in this paragraph. New case of *Mansbridge v Nichols & Anor* [2004] VSC 530 at [32]-[33] and its citations from *Perkins v County Court of Victoria* (2000) 2 VR 246. | |
| 10/02/05 | | 7 | 7.6.4 | New material on amending charges. References to s.50 Magistrates' Court Act 1989 and to the cases of *Kennett v Holt* [1974] VR 644; *Thomson v Lee* [1935] VLR 360 & *Ciorra v Cole* [2004] VSC 416. | |
| 10/02/05 | | 8 | 8.2 | New cases of *R v Marks* [2004] VSC 476, *R v Mohammed (Ruling)* [2004] VSC 408 & *R v Hassan* [2004] VSC 85. | |
| 10/02/05 | | 10 | 10.2 | New sub-headings in relation to Committal proceedings: 10.2.1 Purpose 10.2.2 Nature 10.2.3 Test 10.2.4 "Basha" inquiry | |
| 10/02/05 | | 10 | 10.2.1  10.2.4 | New case of *Williams, Brincat and Traglia v DPP* [2004] VSC 516. | |
| 10/02/05 | | 10 | 10.2.2 | Reference to case of *Henderson v The Magistrates' Court of Victoria* [2004] VSC 544. | |
| 10/02/05 | | 10 | 10.3.4 | New paragraph entitled "Duplicity, Uncertainty & Unanimity". Reference to cases of *R v Walsh* [2002] VSCA 98, *Mainsbridge v Nichols & Anor* [2004] VSC 530, *R v Ginies* [1972] VR 49 at 400 and *Romeyko v Samuels* (1972) 2 SASR 529 at 552.. | |
| 10/02/05 | | 10 | 10.3.5 | Renumbered paragraph - formerly 10.3.4. | |
| 24/01/05 | | 9 | 9.4.1 | New references to cases of *DPP v Tong* [2000] VSC 451, *Re Moloney* [SCV-Vincent J, 31/10/1990]; *Nicola Docmanov* [SCV-Hampel J, 13/05/1998]; *Michael Sullivan* [SCV-Young CJ, 11/02/1983].  New cases of *MacDonald v DPP* [2004] VSC 431; *DPP v Waters* [2004] VSC 303; *Tran v DPP* [2004] VSC 296; *Re Michael Barbaro* [2004] VSC 404.  Added references to the Western Australian cases of *Fawcett v R* [2002] WASC 285; *Outman v R* [2000] WASC 303 & *Pinkston v R* (2000) 119 A Crim R 462. | |
| 24/01/05 | | 9 | 9.4.3 | New cases of *DPP v Waters* [2004] VSC 303; *Azzopardi* [SCV-Gillard J, 23/07/2003]. | |
| 24/01/05 | | 9 | 9.4.4 | Additional material included in relation to the cases of *Michael Kanfouche* [SCV-Smith J, 04/04/1991]; *R v Ilsley* [2003] VSC 332; *Harry Buckle* [2003] VSC 352; *Ian David Peter Dauer* [SCV-Nathan J, 23/02/1985].  New cases of *Williamson v DPP (Qld)* [1999] QCA 356; *DPP v Stewart* [2004] VSC 405; *DPP v Nathan Fallon* [2001] VSC 136; *DPP v Hop Nguyen* [2004] VSC 302; *Wiiliam Archibald Smith* [SCV-Coldrey J, 25/03/1997]; *Dorothy Marie Skura* [2003] VSC 207; *Mario Rocco Condello* [2004] VSC 409; | |
| 24/01/05 | | 9 | 9.4.8 | New paragraph entitled "Bail pending appeal against conviction or sentence". Reference to cl.4(2) sch.6 of the Magistrates' Court Act 1989. References to cases of *Chamberlain v R [No 1]* (1983) 153 CLR 514 at 519]; *R v Quoc Kinh Phung* [2001] VSCA 81; *Kathleen MacBain v DPP* [200[2004] VSCA 32; 2] VSC 321; *Re Pinkstone's Application* [2003] HCA 46; | |
| 24/01/05 | | 9 | 9.5.1 | New cases of *Re Michael Barbaro* [2004] VSC 404; *DPP v Yaakov Shentzer* [2002] VSC 217. | |
| 24/01/05 | | 9 | 9.5.5 | New reference to case of *DPP v Harika* [2002] VSC 237. | |
| 24/01/05 | | 9 | 9.5.6 | Added references to cases of *Mokbel v DPP [No 1]* [2002] VSC 127 & *Mokbel v DPP [No 2]* [2002] VSC 312. | |
| 24/01/05 | | 9 | 9.5.8 | Added case of *R v Fernandez* [2002] VSCA 115. | |
| 21/01/05 | | 10 | 10.3.4 | Added case of *R v Beary* [2004] VSCA 229 at [11]-[14] disapproving dicta in *R v Carver* [Court of Appeal, unreported, 03/06/1996]. | |
| 17/01/05 | | 3 | 3.1 | Added references to text & cases involving bias/apprehended bias. | |
| 17/01/05 | | 11 | 11.1.4 | Added case of *R v Jongsma* [2004] VSCA 218. Added commentary on the sentencing principles of proportionality and totality, plus references to cases including *Veen v The Queen [No.1]* (1979) 143 CLR 458; *Veen v The Queen [No 2]* (1988) 164 CLR 465; *DPP v Grabovac* [1998] 1 VR 664; *R v Izzard* (2004) 7 VR 480; *R v MDB* [2003] VSCA 181. | |
| 17/01/05 | | 11 | 11.1.8 | New case of *DPP v Esso Australia Pty Ltd* [2004] VSC 440. | |
| 17/01/05 | | 11 | 11.2.1 | New cases of *R v Hennen* [2004] VSCA 42; *R v Lawrence* [2004] VSCA 154; *R v PSJ* [2004] VSC 502. | |
| 17/01/05 | | 11 | 11.2.4 | New case of *R v Sa* [2004] VSCA 182. | |
| 17/01/05 | | 11 | 11.2.6 | Added cases of *Lovelock v The Queen* (1978) 33 FLR 132; *R v Merceica* [2004] VSCA 170; *R v QMN; R v WD* [2004] VSCA 32; *R v Gleenslade* [2004] VSCA 213. | |
| 17/01/05 | | 11 | 11.2.7 | New case of *DPP v Collins* [2004] VSCA 172. New reference to case of *Pearce v The Queen* (1998) 194 CLR 610. New references to a large number of cases on "double punishment" including *R v Langdon* [2004] VSCA 205; *R v Ly & Others* [2004] VSCA 45; *R v Zaydan & Others* [2004] VSCA 245. | |
| 17/01/05 | | 11 | 11.2.8 | New cases of *R v Tasker & Tasker* (2003) 7 VR 128; *R v Ly* [2004] VSCA 45; *R v Taing* [2004] VSCA 46; *R v Kittikhoun* [2004] VSCA 194; *R v Makin* [2004] VSC 485; *R v Nikojdevic* [2004] VSCA 222; *R v QMN; R v WD* [2004] VSCA 32; *R v Pividor & Dale* [2002] VSCA 174. | |
| 17/01/05 | | 11 | 11.2.9 | New case of *R v Sa* [2004] VSCA 182. | |
| 17/01/05 | | 11 | 11.2.10 | New cases of *R v Izzard* (2004) 7 VR 480; *R v McDonald* [2004] VSCA 186. | |
| 17/01/05 | | 11 | 11.2.11 | New case of *R v Rajinder Kumar* [2004] VSC 527. | |
| 17/01/05 | | 11 | 11.2.12 | New paragraph entitled "Effect of delay".  New cases of *R v Nikodjevic* [2004] VSCA 222; *R v MWH* [2001] VSCA 196. New references to cases of *R v Miceli* [1998] 4 VR 588; *R v Cockerell* (2001) A Crim R 444; *R v Todd* [1982] 2 NSWLR 517; *Mill v The Queen* (1988) 166 CLR 59. | |
| 17/01/05 | | 11 | 11.2.13 | Former paragraph 11.2.13 entitled "Method of accumulation of sentences of detention" has been deleted and the contents added to an expanded paragraph 11.1.4. | |
| 17/01/05 | | 11 | 11.2.13 | Renumbered paragraph - formerly 11.2.12. | |
| 17/01/05 | | 11 | 11.2.14 | New paragraph entitled "Relevance of hardship on offender's family". New cases of *R v Michael Close* [2004] VSCA 188; *R v Roberta Williams* [2004] VSC 429. Reference to R v Stanisavljevic [2004] VSCA 144. | |
| 17/01/05 | | 11 | 11.2.15 | Renumbered paragraph - formerly 11.2.14. Change of title to "Sentencing for manslaughter / causing injury".  Added cases of *R v Stavreski* [2004] VSC 16; *R v Winter* [2004] VSC 329; *R v Sherman Calvin White* [2004] VSC 428; *R v Paul Jedson* [2004] VSC 345; *R v Close* [2004] VSCA 188. | |
| 17/01/05 | | 11 | 11.2.16 | Renumbered paragraph - formerly 11.2.15.  New cases of *R v Paul Harold Walker* [2004] VSC 412; *R v Carl Williams & Walter Foletti* [2004] VSC 424; *R v Pablo Foletti* [2004] VSC 277; *R v Chinh Quang Do* [2004] VSC 203; *R v Burgess* [2004] VSCA 187. | |
| 17/01/05 | | 11 | 11.2.17 | New paragraph entitled "Sentencing for armed robbery".  New cases of *R v Kittikhoun* [2004] VSCA 194; DPP v Gardner & Coates [2004] VSCA 119; *R v Winslett* [2004] VSC 426; *R v Roy* {2001] VSCA 61; *R v Cotry* [2002[ VSCA 13; *R v Pratt* [2003] VSCA 186. | |
| 17/01/05 | | 11 | 11.3 | New case of *Le v Collins & Anor* [2004] VSC 524. | |
| 20/08/04 | | 5 | 5.8.6 | Added reference to case of *DPP v Haidy* [2004] VSC 247 as an analogy for the test of unacceptable risk of harm to child. | |
| 20/08/04 | | 5 | 5.19 | Added reference to case of *DPP v Haidy* [2004] VSC 247 as an analogy for the test of unacceptable risk of harm to child. | |
| 20/08/04 | | 9 | 9.4.4 | New case of *DPP v Haidy* [2004] VSC 247 re test of unacceptable risk. | |
| 20/08/04 | | 11 | 11.2.1 | Reference to new case of *R v Huynh & Others* [2004] VSCA 128 at [47] & [50]. | |
| 20/08/04 | | 11 | 11.2.11 | New paragraph entitled "Effect of intellectual disability". References to cases *R v Williams* [2000] VSCA 174; *R v Roadley* (1990) 51 A Crim R 336; *R v Bux* [2002] VSCA 126 & *R v Ulla* [2004] VSCA 130. | |
| 20/08/04 | | 11 | 11.2.12 | New paragraph entitled "Relevance of gambling addiction". Reference to case *R v Huynh & Others* [2004] VSCA 128 at [58]. | |
| 20/08/04 | | 11 | 11.2.13 | Renumbered paragraph - formerly 11.2.11. | |
| 20/08/04 | | 11 | 11.2.14 | Renumbered paragraph - formerly 11.2.12. | |
| 20/08/04 | | 11 | 11.2.15 | Renumbered paragraph - formerly 11.2.13. | |
| 30/06/04 | | 2 | 2.7 | New cases of *Herald & Weekly Times Ltd v Magistrates' Court of Victoria* [2004] VSC 194; *R v Goldman* [2004] VSC 167 and *DPP v Carl Williams & Ors* [2004] VSC 209. | |
| 30/06/04 | | 3 | 3.5.6 | New case of *R v Parsons & Stocker* [2004] VSCA 92. | |
| 30/06/04 | | 11 | 11.1.9 | Added reference to the Confiscation Act 1997 (Vic) and the cases of *R v Tran* [2004] VSC 218; *R v Galek* (1993) 70 A Crim R 252 at 258; *R v Wealand* (2002) A Crim R 159; *Taylor v Attorney General of South Australia* (1991) 53 A Crim R 166 at 175-179. | |
| 30/06/04 | | 11 | 11.2.7 | New cases of *R v Gruber, Ridgeway & Rowley* [2004] VSCA 100 and *R v El-Kotob* (2002) 4 VR 546. | |
| 30/06/04 | | 11 | 11.2.8 | New case of *DPP v Bennett* [2004] VSC 207. | |
| 30/06/04 | | 11 | 11.2.10 | New cases of *R v Sebalj* [2004] VSC 212; *R v Hill* [2004] VSCA 116; R v Rendle [2004] VSC 201; *R v Hasan Huseyin Alipek & Jason Maxwell Saltmarsh* [2004] VSC 206. | |
| 30/06/04 | | 11 | 11.2.12 | New case of *R v Pollock* [2004] VSC 189. | |
| 31/05/04 | | 2 | 2.5 | Added reference to *R v Goldman* [2004] VSC 165 where Redlich J traced the genesis of Part IIA of the Evidence Act relating to the use of audio-visual & audio links. | |
| 31/05/04 | | 3 | 3.5.5 | Added reference to *R v NRC* [1999] 3 VR 537 in relation to use of VATE tapes in contested criminal proceedings. | |
| 31/05/04 | | 3 | 3.8.1 | New case of *Jandreoski and Ors v Colley and Ors* [2004] VSC 131 re costs of a successful defendant in criminal proceedings. | |
| 31/05/04 | | 5 | 5.8.1 | References to *P v RM & Ors* [2004] VSC 14 and *DOHS v W* [Children's Court of Victoria, unreported, 20/04/2004] added. | |
| 31/05/04 | | 5 | 5.8.6 | New case of *DOHS v W* [Children's Court of Victoria, unreported, 20/04/2004] setting out matters to which the Court must have regard in determining IAO applications. | |
| 31/05/04 | | 5 | 5.8.11 | New case of *DOHS v W* [Children's Court of Victoria, unreported, 20/04/2004] in which it was held that an order made after a submissions contest is not to be treated as establishing a status quo in favour of the successful party. | |
| 31/05/04 | | 5 | 5.20.1 | Correct incorrect reference to s.120. | |
| 31/05/04 | | 9 | 9.2.2 | Note the repeal as and from 18/05/2004 of s.4(2)(c) which formerly provided that bail shall be refused if the accused person is in custody for failing to answer bail unless the accused person satisfies the court that the failure was due to causes beyond his/her control. | |
| 31/05/04 | | 10 | 10.3.3 | New paragraph entitled "Plea agreements". Reference to decision of the High Court in *GAS v The Queen; SJK v The Queen* [2004] HCA 22 at [28]-[32] & [42]-[44]. | |
| 31/05/04 | | 10 | 10.3.4 | New paragraph entitled "Rolled up counts". Reference to *R v Jones* [2004] VSCA 68 at [13]. | |
| 31/05/04 | | 11 | 11.2.1 | Reference to decision of the High Court in *GAS v The Queen; SJK v The Queen* [2004] HCA 22 dismissing an appeal against a sentence imposed by the Court of Appeal. | |
| 31/05/04 | | 11 | 11.2.4 | New case of *R v Saw* [2004] VSC 117 at [14]. | |
| 31/05/04 | | 11 | 11.2.8 | New paragraph entitled "Effect of guilty plea and/or assistance to the authorities". References to cases of *R v Duncan* [1998] 3 VR 208 at 214-215, *R v Saw* [2004] VSC 117 at [36] and a number of other cases. | |
| 31/05/04 | | 11 | 11.2.9 | New paragraph entitled "Effect of forgiveness of victim". References to cases *R v Skura* [2004] VSCA 53 and *R v Wise* [2004] VSCA 88. | |
| 31/05/04 | | 11 | 11.2.10 | Renumbered paragraph - formerly 11.2.8. | |
| 31/05/04 | | 11 | 11.2.10 | New cases of *R v Saw* [2004] VSC 117, *R v Bendix* [2004] VSC 133 & *R v Smith* [2004] VSC 134. New case of *R v Skura* [2004] VSCA 53 at [7]-[8], [27] & [33] re relevance to sentencing of personality disorder. | |
| 31/05/04 | | 11 | 11.2.11 | Renumbered paragraph - formerly 11.2.9. | |
| 31/05/04 | | 11 | 11.2.12 | Renumbered paragraph - formerly 11.2.10. | |
| 31/05/04 | | 11 | 11.2.12 | Added reference to decision of the High Court in *GAS v The Queen; SJK v The Queen* [2004] HCA 22 at [19]-[20]. | |
| 31/05/04 | | 11 | 11.2.13 | Renumbered paragraph - formerly 11.2.11. | |
| 28/03/04 | | 7 | 7.6.4 | References added to *DPP v Diamond* [2004] VSC 35 & *Nitz v Evans* (1993) 19 MVR 55 on issues relating to issue and service of summons. | |
| 28/03/04 | | 8 | 8.2.11 | New case of *Kelly v The Queen* [2004] HCA 12 in relation to the Tasmanian equivalent of s.464H of the Crimes Act 1958 (Vic) [as amended]. | |
| 28/03/04 | | 9 | 9.4.1 | Note of outcome of bail application in *R v Strawhorn* (Bolger M, 15/03/2004). New case of *Ismail Muhaidat* [2004] VSC 17 - bail refused: no exceptional circumstances. | |
| 28/03/04 | | 11 | 11.2.1 | New cases of *R v McConkey [No 2]* [2004] VSCA 26 & *R v Connolly* [2004] VSCA 24 re sentencing of youthful offenders. Added references to *R v Sherpa* (2001) 34 MVR 345, *R v Toombs* (2001) 34 MVR 509 & *R v Tran* (2002) 4 VR 457 re sentencing of young persons found guilty of culpable driving. | |
| 28/03/04 | | 11 | 11.2.6 | New case of *R v McConkey [No 2]* [2004] VSCA 26 re parity of sentencing between adult and youthful offender. | |
| 28/03/04 | | 11 | 11.2.8 | Added reference to *R v Yaldiz* [1998] 2 VR 376 and new cases of *R v Connolly* [2004] VSCA 24 & *R v McConkey [No 2]* [2004] VSCA 26 re effect of mental illness on sentencing | |
| 28/03/04 | | 11 | 11.2.8 | Added reference to *R v Eliasen* (1991) 53 A Crim R 391 & new case of *R v Rongonui-Chase* [2004] VSCA 25 re impact of ex post facto mental illness on sentencing. | |
| 08/03/04 | | 2 | 2.3 | Names of office-holders at Melbourne Children's Court updated. | |
| 08/03/04 | | 2 | 2.6 | Dicta of Gillard J in *P v RM & Ors* [2004] VSC 14 re weight to be attached to Magistrates' decisions added. | |
| 08/03/04 | | 2 | 2.7 | A number of additional references to cases discussing the principles associated with open court hearings. | |
| 08/03/04 | | 2 | 2.7 | Reference to dicta of Kaye J in *The Age Co Ltd & Ors v The Magistrates' Court of Victoria & Ors* [2004] VSC 10 in relation to suppression orders. | |
| 08/03/04 | | 2 | 2.7 | References to decision of Court of Appeal [2004] VSCA 3 re the power of a Supreme Court judge to make suppression orders | |
| 08/03/04 | | 2 | 2.9 | Change of RVAHJ website address. | |
| 08/03/04 | | 3 | 3.6.3 | New case on sufficiency of reasons for judgment: *Day v Electronik Fabric Makers (Vic) Pty Ltd & Anor* [2004] VSC 24. | |
| 08/03/04 | | 3 | 3.6.3 | Quotation from*Ahmed v Russell Kennedy* [2003] VSC 25 {MC19/03} on whether there is a necessity for judicial reasons for the making of costs orders. | |
| 08/03/04 | | 3 | 3.8.3 | Dicta of Gillard J in *P v RM & Ors* [2004] VSC 14 re costs orders for witnesses who are also parties. | |
| 08/03/04 | | 5 | 5.8.6 | Dicta of Gillard J in *P v RM & Ors* [2004] VSC 14 re appropriate test for making of interim accommodation order. | |
| 08/03/04 | | 5 | 5.8.15 | Dicta of Gillard J in *P v RM & Ors* [2004] VSC 14 re whether an IAO appeal to Supreme Court is a hearing *de novo* or an appeal in the strict sense. | |
| 08/03/04 | | 6 | 6.5.1 & 6.6 | Addition of MC references to cases of *Kirby v Phelan* and *Hickman v Smith & Anor*. | |
| 08/03/04 | | 8 | 8.2 | Title of paragraph changed to "Record of Interview/Confessional statement". Added references to *R v Swaffield; Pavic v R* [1998] HCA 1; (1998) 192 CLR 159 and cases which have referred to it. | |
| 08/03/04 | | 8 | 8.2.13 | New paragraph on reliability of record of interview/confessional statement. Quotation from *R v Malcolm Clarke* [2004] VSC 11 and reference to *R v Tofilau* [2003] VSC 188. | |
| 08/03/04 | | 8 | 8.4.3.3 | Added references to *O'Sullivan v Freeman* [2003] VSC 45 & *Marks v Buick & Anor* [2003] VSC 488 re various aspects of s.464T. | |
| 08/03/04 | | 9 | 9.4.1 | Reformatting of cited cases. Addition of *R v Hai Minh Nguyen* [2003] VSC 508 where exceptional circumstances were found and *DPP v Cuenco* [2003] VSC 485 where exceptional circumstances were not found. | |
| 08/03/04 | | 9 | 9.4.2 | Reformatting of cited cases. Addition of *Mustafa Tilki* [2003] VSC 483 where cause was not shown. | |
| 08/03/04 | | 11 | 11.1.10 | Added reference to *DPP v Sabransky* [2002] VSC 143 on issue of striking out a case. | |
| 08/03/04 | | 11 | 11.2.8 | Added reference to *R v Gemmill* [2004] VSC 30 on the relevance of mental illness to sentencing. | |
| 08/03/04 | | 11 | 11.2.10 | Added references to *R v PP* [2003] VSCA 100 and *R v Tipas* [2004] VSC 25 on sentencing young persons for manslaughter. | |
| 08/03/04 | | 11 | 11.2.11 | Added reference to *R v Shane Moran* [2004] VSCA 6 on sentencing young person for drug trafficking. | |
| 08/03/04 | | 11 | 11.10 | Reference to *R v Caleb James O'Connor* [2004] VSCA 8 per O'Bryan AJA. | |
| 10/01/04 | | 11 | 11.2.11 | New paragraph on sentencing for drug trafficking. Judgment of Court of Appeal in *R v Mahmoud Kheir* [2003] VSCA 209. | |
| 10/01/04 | | 11 | 11.1.4 | Quotation from *R v Evans* [2003] VSCA 223 on general principles of sentencing of young offenders under the CYPA. | |
| 10/01/04 | | 11 | 11.2.6 | Substantial quotations from *R v Evans* [2003] VSCA 223 on the operation or otherwise of the principle of parity of sentencing as between adult and child co-offenders. | |
| 01/01/04 | | 4 | 4.2.2 | Substantial new paragraph on whether or not the Children's Court of Victoria has or has ever had jurisdiction to hear and determine matters under Part VII of the Family Law Act 1975 (Cth) [as amended]. | |
| 01/01/04 | | 4 | 4.4 | Comment that 'family' is not defined in the CYPA. | |
| 01/01/04 | | 4 | 4.7.3 | Correction of errors in models 2 & 6 of the listed models of child representation. | |
| 01/01/04 | | 4 | 4.8.4 | New paragraph on Expert evidence | |
| 01/01/04 | | 4 | 4.9.1 | Addition of reference to judgment of Ashley J in *The Secretary DOHS v R & Anor* [2003] VSC 172 at [11]. | |
| 01/01/04 | | 4 | 4.11.5 | Re-written paragraph on Priority of Orders. | |
| 01/01/04 | | 4 | 4.12 | Re-written and significantly expanded material from Dr S. Rolfe on Development of Attachment in a child | |
| 01/01/04 | | 4 | 4.14 | New paragraph on papers on various aspects of child & adult psychology, child development, child welfare and/or domestic violence. | |
| 01/01/04 | | 6 | 6.4.3 | Updated protocols in relation to complaints for an intervention order where a child is involved. | |
| 01/01/04 | | 6 | 6.5.2 | * Comment by Byrne J in *Miles v Barca* [2003] VSC 376 * Substantial amendments to the definition of victim of stalking introduced on 10/12/03 by the Crimes (Stalking) Act 2003 (Vic) - Act No.103 of 2003. In particular it is now not generally necessary to prove that the impugned course of conduct caused actual harm, fear or apprehension in the victim and the Act now has express extra-territorial operation. | |
| 01/01/04 | | 6 | 6.8 | Addition of *Miles v Barca* [2003] VSC 376 and *Fisher v Fisher* [1988] VR 1028 as authorities for the proposition that proceedings for an intervention order are civil in nature. | |
| 01/01/04 | | 6 | 6.14 | Addition of 16 Forms set out in "The Magistrates' Court of Victoria Family Violence and Stalking Protocols" as revised in November 2003. | |
| 01/01/04 | | 6 | 6.16 | Updated statistics. | |
| 01/01/04 | | 6 | 6.17 | Substantial new material on relationship between intervention order and other court order | |
| 01/01/04 | | 6 | 6.18 | Addition of reference to *Miles v Barca* [2003] VSC 376 at [26]. | |
| 01/01/04 | | 6 | 6.20 | New paragraph on re-hearings. | |
| 01/01/04 | | 6 | 6.21 | Paragraphs on appeals renumbered from 6.20 to 6.21 and additional material provided. | |
| 01/01/04 | | 7 | 7.12 | New paragraph: Papers on adolescent offenders & offending. | |
| 11/12/03 | | 3 | 3.5.6 | New commentary on prosecutorial responsibility in contested Family Division cases with references to *R v Lucas* [1973] VR 693 & *R v Apostilidis* (1984) 154 CLR 563. | |
| 11/12/03 | | 3 | 3.6 | Old paragraphs 3.6 (Judgments) & 3.7 (Explanation of and reasons for orders) combined. Much additional material on judgments, including circumstances in which a judgment may be amended. Particular reference to *Fletcher Construction Australia Ltd v Line Macfarlane & Marshall Pty Ltd* [2001] VSCA 167. Cases on sufficiency of reasons moved from paragraph 3.9. | |
| 11/12/03 | | 3 | 3.7 | New paragraph on "Amending judgments - The 'Slip rule' | |
| 11/12/03 | | 3 | 3.9 | New cases on hearings *de novo*: *Mr & Mrs X v Secretary to DOHS* [2003] VSC 140 & *Neill v County Court of Victoria & Anor.* [2003] VSC 328. | |
| 11/12/03 | | 5 | 5.4 | Addition to commentary on choice of protection application by notice or by apprehension. | |
| 11/12/03 | | 5 | 5.14.1 | Comment on when a custody to Secretary order is usually made. | |
| 11/12/03 | | 5 | 5.15.1 | Comment on when a guardianship to Secretary order is usually made. | |
| 11/12/03 | | 5 | 5.20.2 | Reg. 8 of the Children and Young Persons (General) Regulations 2001 [89/2001] reproduced. New case on pre-conditions for making of permanent care order: *JS* [Melbourne Children's Court, 30/10/2003]. | |
| 11/12/03 | | 5 | 5.26 | New paragraph on Victorian Aboriginal Child Care Agency [VACCA]. | |
| 11/12/03 | | 5 | 5.27 | New paragraph on protocol between DOHS child protection service and VACCA. | |
| 11/12/03 | | 7 | 7.6.4 | New case on summonses to answer a charge: *Dawson v Magistrates' Court of Victoria & Anor.* [2003] VSC 336. | |
| 11/12/03 | | 7 | 7.10 | Additional commentary on ss.132-133 of the CYPA. | |
| 11/12/03 | | 7 | 7.11 | New paragraph: Cases on selected offences. Commentary on *Nelson v Mathieson* [2003] VSC 451: "Chroming" in public does not constitute offensive behaviour *per se*. | |
| 11/12/03 | | 8 | 8.2.12 | New paragraph on "Unfairness & public policy in absence of direct illegality": *R v KS & Anor.* [2003] VSC 418. | |
| 11/12/03 | | 9 | 9.4.1 | Bail: New cases on exceptional circumstances': *R v Strawhorn* [2003] VSC 314; *R v Nadim Ahmad* [2003] VSC 209; *R v Cox* [2003] VSC 245; *DPP v Bernath* [2003] VSC 304 | |
| 11/12/03 | | 9 | 9.4.2 | Bail: New cases on 'show cause': *R v Ilsley* [2003] VSC 332; *Harry Buckle* [2003] VSC 352. | |
| 11/12/03 | | 10 | 10.3.2 | Reference to nature and purpose of contest mention: *The Herald & Weekly Times Ltd & Andrew Bolt v Jelena Popovic* [2003] VSCA 161. | |
| 11/12/03 | | 11 | 11.1.5 | New material on YRC/YTC locations. | |
| 11/12/03 | | 11 | 11.1.10 | New case on striking out: *DPP v Moore* [2003] VSCA 90. | |
| 11/12/03 | | 11 | 11.2.1 | * New cases on sentencing of young offenders: *R v Clappers & Teap* [2003] VSC 462; *R v Johns* [2003] VSC 415. * Special leave to appeal granted by the High Court on 03/10/03 in *DPP v SJD & GAS*. * Distinction between youthful offender and youthful first offender: *R v Dudas* [2003] VSCA 131. | |
| 11/12/03 | | 11 | 11.2.4 | Additional references to cases on the factual basis of sentencing: *R v Rumpf* [1988] VR 466; *R v Olbrich* (1999) 199 CLR 270; *Banda v DPP (Cth)* [2003] VSC 224. | |
| 11/12/03 | | 11 | 11.2.8 | New paragraph on the effect on sentencing of an offender's mental illness: *R v Tsiaras* [1996] 1 VR 398; *R v JAD* [2003] VSCA 132. | |
| 11/12/03 | | 11 | 11.2.9 | New paragraph on the recommended method of accumulation of sentences of imprisonment: *R v MDB* [2003] VSCA 181 at [14]. | |
| 11/12/03 | | 11 | 11.2.10 | New paragraph on sentencing for manslaughter. | |
| 11/12/03 | | 11 | 11.3 | Reference to duty of Crown to assist Court in sentencing process: *R v Rumpf* [1988] VR 466 at 471. | |
| 11/12/03 | | 11 | 11.13 | New paragraph: Sunset provision for Children's Court priors. | |