**INTERLOCUTORY APPLICATION FOR PRE-TRIAL SPECIAL HEARING**

**Evidence Act 1929 s 12AB**

[*SUPREME/DISTRICT/MAGISTRATES/YOUTH/ENVIRONMENT RESOURCES AND DEVELOPMENT*] **Select one** COURT OF SOUTH AUSTRALIA

CRIMINAL JURISDICTION

[***FULL NAME*]**

**Informant/R**

**v**

**[*FULL NAME*]**

**Defendant/Youth**

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| **Lodging party** |  |  |
|  | **Party title** | **Full Name of party** |
| Name of law firm/office |  |  |
| **If applicable** | **Law firm/office** | **Responsible Solicitor** |
| Name of authorised officer |  |
| **If body corporate and no law firm/office** | **Full Name** |

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| **Application details**This is an Application for a pre-trial special hearing.This Application is made under section 12AB of the *Evidence Act 1929*.The applicant seeks the following orders: |
|  |  | That [*full name*] (‘the witness’) give evidence at a pre-trial special hearing. |
|  |  | That the hearing be convened as a proceeding preliminary to the trial for the purpose of taking the evidence of the witness. |
|  |  | That the hearing be convened for the following purpose[*s*]:* examination of the witness.
* cross-examination of the witness.
* re-examination of the witness.
 |
|  |  | That an audiovisual record of the witness’ evidence be made. |
|  |  | That the taking of the evidence at the hearing be transmitted to the [*Defendant/Youth*] **Select one** by means of closed circuit television.  |
|  |  | That measures be taken to prevent the witness and the [*Defendant/Youth*] **Select one** from directly seeing or hearing each other before, during or after the hearing, namely [*enter* *measures*]. **Mandatory to complete if Defendant/Youth attends the hearing in person** |
|  |  | That the evidence be taken in a way that facilitates the taking of evidence from the witness or minimises the witness’s embarrassment or distress, namely [*enter* *manner of taking evidence*]. **mandatory to complete if witness has a physical disability or cognitive impairment** |
|  |  | That, if the [*defendant/youth*] attends the hearing in person, the following measures be taken to prevent the witness and the [*defendant/youth*] from directly seeing or hearing each other before, during or after the hearing, namely [*enter nature of proposed measures*]. |
|  |  | That the witness be accompanied at the hearing by [*name of support person*] for the purpose of providing emotional support. |
|  |  | That the evidence be taken with the following communication assistance due to the witness’s complex communication needs, namely [*enter nature of communication assistance*] provided by [*full* *name*], who: **if communication assistance is to be provided by a person*** [*is/is not*] **select one** to be called as a witness in the trial of the charge.
* is a communication partner for the purposes of the *Evidence Act 1929*.
* [*should be/is*] **select one** approved by the Court to provide such assistance because [e*nter details*].
 |
|  |  | That the evidence be taken with the following communication assistance due to the witness’s complex communication needs, namely [*enter nature of communication assistance*] **if communication assistance is to be provided other than by a person, eg by a device** |
|  |  | That an initial hearing be convened for the purpose of taking any evidence (if required), hearing submissions, making rulings as to the admissibility of any evidence relevant to the pre-recording of the witness’ evidence and/or making directions under s12AB(11a) and/or s12AB(13) of the *Evidence Act 1929*. |
|  |  | [*Enter other*]. |
| This Application is made on the grounds that: |
|  |  | the evidence of the witness is necessary for the purposes of the trial of a charge of * a serious offence against the person.
* an offence of contravening or failing to comply with an intervention order under the *Intervention Orders (Prevention of Abuse) Act* 2009.
* an offence of contravening or failing to comply with a restraining order under the *Criminal Procedure Act* *1921*.

and the witness is* a child of or under the age of 14 years having been born on [*date*].
* a person with a disability that adversely affects the witness’ capacity to give a coherent account of the witness’ experiences or to respond rationally to questions as evidenced by [*refer to relevant report or affidavit*].
 |
|  |  | The trial is of a charge of a child sexual offence and the witness is an alleged victim of the offence;* the witness is an alleged victim of the offence;
* is a child under the age of 18 years, having been born on [*date*];
* is cognitively impaired;
* has been subjected to threats of violence or retribution in relation to the proceeding;
* has reasonable grounds to fear violence or retribution in relation to the proceeding;
* is a witness who should be allowed to give evidence a pre-trial special hearing because [*reasons*].
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|  |  | The trial is an offence involving domestic abuse (within the meaning of the Intervention Orders (Prevention of Abuse) Act 2009) and an alleged victim of the domestic abuse.  |
|  |  | [*Enter other reasons*]. |

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| **To the Other Parties: WARNING**If you wish to oppose the Application and make submissions about it you **must** file and serve a Notice of Objection within 14 days of this application being served on you. If you do this, the Application may be determined by the Court without a hearing or may be listed for a hearing in closed court in which case the parties will be notified by the Court of the time and date of the hearing.If you do not do so, **the Application may be determined by the Court without a hearing and will be granted** without further warning. |

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| **Service**The party filing this document is required to serve it on all other parties in accordance with the Rules of Court. |

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| **Accompanying Documents**Accompanying this Application is a:* Supporting Affidavit **optional**
* If other additional document(s) please list them below
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