

To be inserted by Court

Case Number:

Date Filed:

FDN:

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

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

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:

1. That [full name] ('the witness') give evidence at a pre-trial special hearing.
2. That the hearing be convened as a proceeding preliminary to the trial for the purpose of taking the evidence of the witness.
3. That the hearing be convened for the following purpose[s]:
 - examination of the witness.
 - cross-examination of the witness.
 - re-examination of the witness.
4. That an audiovisual record of the witness' evidence be made.
5. That the taking of the evidence at the hearing be transmitted to the [Defendant/Youth] Select one by means of closed circuit television.

6. 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
7. 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
8. 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].
9. That the witness be accompanied at the hearing by [name of support person] for the purpose of providing emotional support.
10. 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 [enter details].
11. 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
12. 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*.
13. [Enter other].

This Application is made on the grounds that:

1. 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].
2. 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].
3. 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.
4. [Enter other reasons].

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.

Service

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

Accompanying Documents

Accompanying this Application is a:

- Supporting Affidavit optional
- If other additional document(s) please list them below