



COURT OF KING'S BENCH FOR
SASKATCHEWAN

CRIMINAL PRACTICE DIRECTIVE #9

OBTAINING AN ORDER FOR ATTENDANCE OF A PRISONER – PRODUCTION ORDER

REFERENCE: CRIM-PD #9

Effective: September 1, 2022

Revised: November 1, 2023

General

1. Section 527 of the *Criminal Code*¹ establishes the process for procuring the attendance before the court of a person who is confined in a prison.

Court of King's Bench

2. Subject to paragraph 3, an application for an order for the attendance of a prisoner before the Court of King's Bench in a criminal proceeding is the responsibility of the party seeking that person's attendance.
3. It is the responsibility of the Crown to apply for an order for the attendance of a prisoner before the Court of King's Bench for all pre-trial motions and trials.
4. Where the attendance of a person confined to a prison is required in the Court of King's Bench in any criminal proceeding, the party who seeks the attendance of a prisoner before the Court shall complete and file with the Court a Notice of Application in the attached Form A, an Affidavit of Applicant in the attached Form B, and a draft order in the attached Form C or D, as the case may be.
5. Notwithstanding paragraph 4, the Court of King's Bench does not require an application from a party to order any person confined to a prison to appear before it for the purpose of hearing a detention review application under section 525 of the *Criminal Code*, within the Pre-trial Conference process as outlined in Criminal Practice Directive #1, or as otherwise deemed appropriate by a Judge of the Court of King's Bench.
6. An order granting the production of a prisoner may be in the attached Form C or the attached Form D with any additional terms and conditions that the Court may direct.

Provincial Court

7. Where a person confined to a prison outside of Saskatchewan is required to attend a proceeding before the Provincial Court of Saskatchewan, this practice directive applies insofar as obtaining a production order.

Cancellation and Replacement

8. A Production Order does not cancel or replace any existing Remand Warrant issued by either the Provincial Court of Saskatchewan or the Court of King's Bench.
9. A Production Order issued by the Court of King's Bench for a prisoner's attendance before it or the Provincial Court of Saskatchewan may be cancelled upon the direction of or by a Judge of the Court of King's Bench.

Chief Justice M.D. Popescul
Court of King's Bench for Saskatchewan

¹ 527 (1) A judge of a superior court of criminal jurisdiction may order in writing that a person who is confined in a prison be brought before the court, judge, justice or provincial court judge before whom the prisoner is required to attend, from day to day as may be necessary, if

- (a) the applicant for the order sets out the facts of the case in an affidavit and produces the warrant, if any; and
 - (b) the judge is satisfied that the ends of justice require that an order be made.
- (2) A provincial court judge has the same powers for the purposes of subsection (1) or (7) as a judge has under that subsection where the person whose attendance is required is within the province in which the provincial court judge has jurisdiction.
- (3) An order that is made under subsection (1) or (2) shall be addressed to the person who has custody of the prisoner, and on receipt thereof that person shall
- (a) deliver the prisoner to any person who is named in the order to receive him; or
 - (b) bring the prisoner before the court, judge, justice or provincial court judge, as the case may be, on payment of his reasonable charges in respect thereof.
- (4) Where a prisoner is required as a witness, the judge or provincial court judge shall direct, in the order, the manner in which the prisoner shall be kept in custody and returned to the prison from which he is brought.
- (5) Where the appearance of a prisoner is required for the purposes of paragraph (1)(a) or (b), the judge or provincial court judge shall give appropriate directions in the order with respect to the manner in which the prisoner is
- (a) to be kept in custody, if he is ordered to stand trial; or
 - (b) to be returned, if he is discharged on a preliminary inquiry or if he is acquitted of the charge against him.
- (6) Sections 718.3 and 743.1 apply where a prisoner to whom this section applies is convicted and sentenced to imprisonment by the court, judge, justice or provincial court judge.
- (7) On application by the prosecutor, a judge of a superior court of criminal jurisdiction may, if a prisoner or a person in the custody of a peace officer consents in writing, order the transfer of the prisoner or other person to the custody of a peace officer named in the order for a period specified in the order, where the judge is satisfied that the transfer is required for the purpose of assisting a peace officer acting in the execution of his or her duties.
- (8) An order under subsection (7) shall be addressed to the person who has custody of the prisoner and on receipt thereof that person shall deliver the prisoner to the peace officer who is named in the order to receive him.
- (9) When the purposes of any order made under this section have been carried out, the prisoner shall be returned to the place where he was confined at the time the order was made.

FORM A

COURT FILE NUMBER _____
 COURT OF KING'S BENCH FOR SASKATCHEWAN
 JUDICIAL CENTRE _____
 IN THE MATTER OF: HIS MAJESTY THE KING V _____

NOTICE OF APPLICATION FOR ATTENDANCE OF A PRISONER

1. This without notice application is made for an order that _____ (*name*), a prisoner, be brought before the _____ (*Provincial Court or Court of King's Bench*) to attend before the presiding judge as follows:

AT: _____ (*location of court house*)

ON: the _____ day of _____, 20____, at _____ a.m./p.m.

2. The prisoner is in custody at _____ (*name and location of correctional centre*)

3. The applicant requests that the prisoner attend:

in person

by video conference

by telephone

other: _____

DATED at _____, Saskatchewan, this _____ day of _____, 20____.

 (*signature*)

FORM B

COURT FILE NUMBER _____
COURT OF KING’S BENCH FOR SASKATCHEWAN
JUDICIAL CENTRE _____
IN THE MATTER OF: HIS MAJESTY THE KING V _____

AFFIDAVIT OF APPLICANT

I, _____, of _____, Saskatchewan, MAKE OATH AND SAY, or, SOLEMNLY AFFIRM THAT:

1. I am the _____ (*Occupation: Crown, defence, assistant to Crown, assistant to defence*) in the above noted proceedings and I am informed and believe that:

a. _____, born on _____, is a prisoner presently confined in the institution referred to in the Notice of Application for Attendance of a Prisoner.

b. The prisoner is detained on a warrant.

c. The prisoner is:

the/an accused or offender in this matter; or

a witness in the above matter.

d. The prisoner is required to attend before the Court to (*set out particulars as to the reason the prisoner is required to attend, i.e. plea, pre-trial motion, trial, etc.*):

SWORN (OR AFFIRMED) BEFORE ME

at _____, in the Province of Saskatchewan, this _____ day of _____, 20____.

A Commissioner for Oaths for Saskatchewan.
My commission expires on _____.

} _____
(signature)

FORM C

COURT FILE NUMBER _____
 COURT OF KING'S BENCH FOR SASKATCHEWAN
 JUDICIAL CENTRE _____
 IN THE MATTER OF: HIS MAJESTY THE KING V _____

PRODUCTION ORDER FOR PERSONAL ATTENDANCE

Order made this _____ day of _____, 20_____,
 by the Honourable Justice _____

WHEREAS _____ (*prisoner*), born on _____, is in
 custody at _____ (*Custody Facility*), and is required to be in attendance,
 in the _____ (*Provincial Court or Court of King's Bench*):

AT: _____ (*location of court house*)

ON: the _____ day of _____, 20_____, at _____ a.m./p.m.

IT IS HEREBY ORDERED that the person having custody of the above named prisoner deliver him/her to a peace officer with a copy of this order. The prisoner is to be kept in the custody of the peace officer and is to be produced before the _____ (*Provincial Court or Court of King's Bench*) at the time and place mentioned above.

IT IS FURTHER ORDERED that once received into the custody of the peace officer, the prisoner may be temporarily held at a custodial facility, Provincial Correctional Centre or Federal Penitentiary in Saskatchewan, where the prisoner is to remain in custody until the time and place mentioned above, and from day to day thereafter until his/her attendance is no longer required for court pursuant to this order.

AND IT IS FURTHER ORDERED that at the completion of the proceedings for which the above named prisoner's attendance is required, the above named prisoner shall be returned to the place where he/she was confined at the time this order was made, unless the presiding judge otherwise directs, or he/she is otherwise dealt with according to law.

ISSUED at the City of _____, in the Province of Saskatchewan,
 this _____ day of _____, 20_____.

 (*Clerk of the Court of King's Bench*)

FORM D

COURT FILE NUMBER _____
COURT OF KING’S BENCH FOR SASKATCHEWAN
JUDICIAL CENTRE _____
IN THE MATTER OF: HIS MAJESTY THE KING V _____

PRODUCTION ORDER FOR REMOTE ATTENDANCE

Order made this _____ day of _____, 20_____,
by the Honourable Justice _____

WHEREAS _____ (*prisoner*), born on _____, is in
custody at _____ (*Custody Facility*), and is required to be in attendance,
in the _____ (*Provincial Court or Court of King’s Bench*):

AT: _____ (*location of court house*)

ON: the _____ day of _____, 20_____, at _____ a.m./p.m.

VIA: video conference telephone other: _____

IT IS HEREBY ORDERED that the Director of the above named Custody Facility, cause the
above named prisoner to appear in Court via video/phone from the Custody Facility, at the
aforesaid date and time.

ISSUED at the City of _____, in the Province of Saskatchewan,
this _____ day of _____, 20_____.

(*Clerk of the Court of King’s Bench*)