

To be inserted by Court

Case Number:

Date Filed:

FDN:

INTERLOCUTORY APPLICATION FOR ADMISSION OF AUDIOVISUAL RECORD

Evidence Act 1929 s 13BA, 13BB

[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 admission of an audiovisual record of the evidence of the witness at trial.

This Application is made under section [13BA/BB] of the *Evidence Act 1929*.

The applicant seeks the following orders:

1. That the evidence of [Enter full name] ('the witness') be admitted at trial in the form of an audiovisual record made on [date].
2. [Enter other orders].

This Application is made on the grounds that the audiovisual [record/records] [is/are] admissible under:

- section 13BA(3)(a) of the *Evidence Act 1929*.
- section 13BA(3)(b) of the *Evidence Act 1929*.
- section 13BB(2) of the *Evidence Act 1929*

Section 13BA(3)(a)

1. The audiovisual record was made on [date] at a pre-trial special hearing before [name of Judicial Officer].
2. The audiovisual record [has/has not] been edited.

Section 13BA(3)(b)

3. The audiovisual record was made on [date] during an interview of the witness by [name of interviewer].
4. The witness: select one
- (a) was born on [date] and was a child of or under the age of 14 years at the time of the interview.
 - (b) has a disability that adversely affects the witness' capacity to give a coherent account of the witness' experiences or to respond rationally to questions, namely [Enter details of disability].
 - (c) was interviewed as the victim of an alleged child sexual offence within the meaning of section 74EA of the *Summary Offences Act 1953*.
5. The audiovisual record was made in accordance with Part 17 Division 3 of the *Summary Offences Act 1953*:
- (a) the audiovisual recording was made in accordance with the regulations;
 - (b) the interview was conducted by a prescribed interviewer;
 - (c) the manner in which the interview was conducted met the prescribed requirements to the prescribed extent.
6. The audiovisual record was not made in accordance with Part 17 Division 3 of the *Summary Offences Act 1953*: select
- (a) the audiovisual recording was not made in accordance with the regulations [explain].
 - (b) the interview was not conducted by a prescribed interviewer [explain].
 - (c) the manner in which the interview was conducted did not meet the prescribed requirements to the prescribed extent [explain]; and
 - (d) it is the interests of justice require the admission of the evidence despite the prescribed interviewer's non-compliance [explain].
7. At the time the recording was made, the witness had capacity to give sworn or unsworn evidence.
8. The respondent has been given a reasonable opportunity to view the recording, namely:
- [full name] was notified on [date] by [Enter details of notification] that the audiovisual record was available for viewing at a time convenient to the [party/parties] select one provision for multiple
 - [full name] viewed the audiovisual record on [date] provision for multiple
 - a copy of the audiovisual record was provided to [full name] on [date]. provision for multiple
9. The witness is available, if required, for further examination, cross examination and re-examination during the course of the trial.
10. The audiovisual record [has/has not] been edited.

Section 13BB(2)

11. The witness is a complainant in proceedings for a domestic violence offence.
12. The requirements of section 13BB(2) are satisfied:
- (a) the recording was made by a police officer;
 - (b) the recording is in the form of a prescribed recording;
 - (c) at the time of recording, the complainant had the capacity to give sworn or unsworn evidence;
 - (d) the defendant has been given a reasonable opportunity to listen to or view the recording, namely:

- [full name] was notified on [date] by [Enter details of notification] that the audiovisual record was available for viewing at a time convenient to the [party/parties] select one provision for multiple
- [full name] viewed the audiovisual record on [date] provision for multiple
- a copy of the audiovisual record was provided to [full name] on [date]. provision for multiple

and

(e) the witness is available, if required, for further examination, cross-examination or re-examination during the course of the trial.

- 13. The requirements of section 13BB(2) are not satisfied: select
 - (a) the recording was not made by a police officer [explain].
 - (b) the recording is not in the form of a prescribed recording [explain].
 - (c) at the time of the recording, the complainant did not have the capacity to give unsworn or sworn evidence [explain].
 - (d) the defendant has not been given a reasonable opportunity to view the recording [explain].
 - (e) the witness is not available, if required, for further examination, cross-examination or re-examination during the course of the trial [explain].

and

(f) it is in the interests of justice to require the admission of the evidence [explain].

- 14. The audiovisual record [has/has not] been edited.

To the Other Parties: WARNING

This Application will be considered at a hearing to be convened by the Court.

If you wish to oppose the Application or make submissions about it, **you must attend the hearing** and

If you do not do so, the Court **may proceed in your absence** and orders may be made **finally determining** this application 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