



Help Starts Here.

Information on improving the experience of victims and witnesses in court

What special protections are available to vulnerable victims and witnesses?

The *Criminal Code* includes provisions referred to as testimonial aids and other measures which assist vulnerable victims and witnesses in providing their testimony in criminal court. These provisions recognize that some victims and witnesses may be more vulnerable because of their youth or other factors such as the nature of the crime.

Testimonial aids include:

- Allowing a witness to testify outside the courtroom by **closed-circuit television** or behind a **screen** which would allow the witness not to see the accused.
- **Allowing a support person** to be present while young victims and witnesses testify, in order to make them more comfortable.

Other measures which assist victims and witnesses in providing their testimony include:

- **All or some members of the public may be required to leave** the courtroom during all or part of the court proceedings.
- **A lawyer can be appointed** to conduct the cross-examination of vulnerable witnesses when the accused is self-represented.
- **Publication bans** can be ordered to prevent the publication, broadcast or transmission of any information that could identify a victim or witness.

How do vulnerable victims and witnesses receive these protections?

The victim or Crown counsel can ask the presiding judge for a testimonial aid or other measure before or at any time during court proceedings.

How does a judge decide whether to order a testimonial aid or other measure to facilitate testimony?

The judge will consider the circumstances of the offence and the victim or witness who is giving testimony:

- Victims and witnesses **under the age of eighteen years** or any witness with a disability that makes it difficult for them to communicate will receive testimonial aids or other measures when they are applied for. The judge must grant the protection unless the judge believes it would interfere with the proper administration of justice, for example, by affecting the right of the accused person to a fair trial.
- **Other vulnerable victims and witnesses may** receive a testimonial aid or other measure if the judge feels it is necessary for the victim or witness to give full and candid testimony. The judge will consider factors such as the witness' age, whether the witness has a mental or physical disability, the nature of the offence and the nature of any relationship between the witness and the accused.
- In cases involving **victims of criminal harassment** an order will be granted upon application for the appointment of counsel to conduct the cross-examination of the victim when the accused is self-represented. The judge must grant this protection unless the judge believes it would interfere with the proper administration of justice, for example, by affecting the rights of the accused person to a fair trial.





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Can the accused person object to the use of any of these measures?

These measures are intended to improve the experiences of victims and witnesses who testify while fully protecting the rights of accused persons.

Judges, in some cases, may deny or limit the use of these special protections in order to ensure the rights of the accused person.

Are testimonial aids and other measures to facilitate testimony new?

Testimonial aids and other measures to assist victims and witnesses in providing testimony have been part of the *Criminal Code* since 1988. These provisions were most recently amended in 2006 to provide greater clarity and consistency for victims and witnesses by:

- Expanding the categories of victims and witnesses who may apply for testimonial aids such as screens, testimony by closed-circuit television and support persons. Previously these aids were only available to victims and witnesses under the age of eighteen in certain court proceedings, such as cases involving sexual and certain violent offences.
- Ensuring that the publication ban provisions keep up with advances in technology by clarifying that they prevent the publication, broadcast or **transmission in any way** of any information that could identify the victim or witness.
- Providing victims with greater certainty that

testimonial aids will be granted. Victims and witnesses under the age of eighteen will not be required to prove that the order is necessary – it must be granted when applied for by the victim or Crown counsel. Similarly, victims of criminal harassment of any age will not be required to show the need for counsel to be appointed to conduct their cross-examination when the accused is self-represented.

Where is more information available?

If you or someone you know has been a victim of crime, help is available. Victim Services is available throughout British Columbia and Victim Service Workers can help if you need support, information or other assistance.

Call VictimLink BC at 1-800-563-0808 to locate a victim service program in your area.

VictimLink BC

VictimLink BC is a toll-free, multilingual, confidential telephone service available across B.C. and Yukon 24 hours a day, 7 days a week that provides information and referral services to all victims of crime and immediate crisis support to victims of family and sexual violence.

Contact VictimLink BC at 1-800-563-0808 (toll-free in B.C. and Yukon). Call TTY at 604 875-0885; to call collect, please call Telus Relay Service at 711. Text to 604 836-6381.

Email VictimLinkBC@bc211.ca

www.victimlinkbc.ca

Please note: This pamphlet provides general information only. It is not a legal document.

