



## Publication Bans – Varying or Revoking

Sections 486.4 and 486.5 of the *Criminal Code* allow the court to make an order directing that any information that could identify a victim or a witness not be published in any document, broadcast, or transmitted in any way. These orders are commonly called publication bans. Publication bans are intended to protect the identity of victims and witnesses.

Some victims or witnesses may want to be publicly identified as a victim or witness and not want a publication ban. An application to have a section 486.4 or section 486.5 publication ban varied or revoked can be made under section 486.51 of the *Criminal Code*.

In a criminal prosecution, other publication bans may be ordered or automatically made. This information sheet only addresses applications to vary or revoke section 486.4 and 486.5 publication bans.

### Who can make a section 486.51 application?

- A victim or witness who is the subject of the publication ban.
- A person who is acting on behalf of a victim or witness who is the subject of the ban.
- Crown Counsel can make the application if a victim or witness who is the subject of the publication ban asks them to do so. It is important to be aware that Crown Counsel is not the lawyer for that victim or witness. Crown Counsel may not necessarily agree with the publication ban being varied or removed.

### Before proceeding with an application

Crown Counsel cannot provide a victim or witness with any legal advice, including legal advice about whether to apply to vary or revoke a section 486.4 or section 486.5 publication ban. Before deciding to proceed with an application to vary or revoke a publication ban, a victim or witness should consider getting independent legal advice. It is the victim's or witness's choice whether to consult a lawyer.

Free legal services may be available through Legal Aid BC. The decision to provide free legal services is not made by Crown Counsel. The victim or witness (or their legal guardian) can contact Legal Aid BC themselves (or with the assistance of a victim services worker) at 604.408.2172 or 1.866.577.2525. To find a victim service program in your area, contact

VictimLinkBC at 1.800.563.0808 or [www.victimlinkbc.ca](http://www.victimlinkbc.ca). If the victim or witness asks Crown Counsel to do so, Crown Counsel can also send the request for free legal services to Legal Aid BC. Legal Aid BC may follow up directly with the victim or witness to obtain further information.

For victims of sexual offences, free legal advice may also be available through the Community Legal Assistance Society of BC's Stand Informed Legal Advice Services. This program can be contacted at 604.673.3143, 1.888.685.6222, or at [standinformed@clasbc.net](mailto:standinformed@clasbc.net).

### Section 486.51 application process

- The victim or witness decides whether they want to make the application themselves, have someone make the application on their behalf, or request that Crown Counsel make the application.
- If the victim or witness decides to make the application themselves, the process is outlined in court practice directions. The BC Supreme Court and the BC Provincial Court practice directions explain how the section 486.51 application process works and provide the application form (BCSC [CPD-7](#), BCPC [CRIM 19](#), form [PCR318](#)).
- The victim or witness can request the following information from the Crown Counsel office to include in the application: the date the publication ban was made, the court level that issued the publication ban, and the name(s) of the person(s) who are the subject(s) of the publication ban.
- If the victim or witness wants any other person to make the application on their behalf, the process is outlined in the courts' practice directions (BCSC [CPD-7](#), BCPC [CRIM 19](#)).
- If the victim or witness decides they want to ask Crown Counsel to make the application, they should contact the Crown Counsel who is dealing with (or dealt with) the case in which the publication ban was made and let them know they would like to request that Crown Counsel make an application to vary or revoke the publication ban.
- If the victim or witness does not have the Crown Counsel's contact information, they can email [BCPSpubban@gov.bc.ca](mailto:BCPSpubban@gov.bc.ca), with their name and contact information, the nature of the request, and any information they have about the case in which the publication ban was ordered (e.g., file number, name of the accused person, location where the trial took place).
- Crown Counsel is not the lawyer for the victim or witness and may not necessarily agree to the publication ban being varied or revoked. For example, they may have concerns that varying or revoking the publication ban may affect the privacy interests

of another person who is the subject of the publication ban. In that case, Crown Counsel will seek to have a hearing set in court.

- A judge will then review the application and determine whether a court hearing is required to make a decision. If the judge decides that a hearing is not required, Crown Counsel will contact the victim or witness about the judge's decision. If the judge decides that a hearing is required, Crown Counsel or the court will notify the victim or witness about the hearing date.

An applicant is not required to provide notice of the application to the accused. An accused is not permitted to make submissions to the court about whether the publication ban should be varied or revoked.

### **Assistance in completing the application form**

If a victim or witness who is the subject of a publication ban needs assistance to complete the application form, contact victim services for help. To find a victim service program in your area, contact VictimLinkBC at 1.800-563.0808 or [www.victimlinkbc.ca](http://www.victimlinkbc.ca).