



Making it Easier for Young Victims and Witnesses to Testify

Are there any special protections available for young victims and witnesses who testify in criminal court?

Canadian criminal law recognizes that participating in the criminal justice system can be very frightening for young victims and witnesses. The *Criminal Code* contains a number of provisions to make it easier for young victims and witnesses under 18 to provide their testimony:

- Young victims and witnesses can testify outside the courtroom by **closed-circuit TV** or behind a **screen** allowing the witness to not see the accused.
- A **support person** can be present while young victims and witnesses testify in order to make them more comfortable.
- All or some members of the **public may be required to leave** the courtroom during all or part of the court proceedings involving young victims and witnesses.
- A **lawyer can be appointed** to conduct the cross-examination of young 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.
- The evidence of young victims and witnesses may be **videotaped and introduced at trial** in order to spare them from repeating their testimony at trial. However, the victim must adopt the videotaped testimony and they may be cross-examined on this evidence.

How do victims and witnesses under eighteen years receive these protections?

The young victim or witness or the Crown attorney can ask the presiding judge for these special measures before or at any time during the court proceedings.

The judge must grant these protections 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.





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

The *Criminal Code* provisions are intended to improve the experience of young victims and witnesses who testify while fully protecting the rights of accused persons.

In some cases, judges may deny or limit the use of these special protections in order to ensure the rights of the accused person are not infringed.

Are these protections new?

The *Criminal Code* has included provisions to assist young victims and witnesses in providing their testimony since 1988. These provisions were most recently amended in 2006 to make it easier for young victims and witnesses to benefit from these protections by:

- making these protections available upon application to young victims and witnesses in **all cases**. Previously they were available only in certain cases, such as in those 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 young victim or witness; and by
- providing young 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 will be granted upon application by the victim or Crown attorney.

Are there any other improvements to Canadian law to make it easier for young victims and witnesses to testify?

The *Canada Evidence Act* has also been amended to allow young witnesses under the age of 14 who can understand and respond to questions to testify on a promise to tell the truth. Young witnesses under the age of 14 will be presumed to have the capacity to testify. These changes will eliminate the mandatory competency and oath inquiries which were found to cause child witnesses increased trauma.

Where is more information available?

If you or someone you know has been a victim of crime, help is available. All provinces and territories have services for victims of crime. They can help if you need information or other assistance.

For more information about Canada's justice system and links to victim services, visit our website:

<http://www.justice.gc.ca/victim>

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