

# VICTIMS' RIGHTS IN CANADA

## TESTIMONIAL AIDS FOR YOUNG VICTIMS AND WITNESSES

### What are testimonial aids?

The *Criminal Code* contains a number of provisions to protect young victims and witnesses under eighteen years of age and make it easier for them to provide their testimony. Testimonial aids make it easier for victims and witnesses to testify in a criminal case. For example:

- Young victims and witnesses can testify outside the courtroom by **closed-circuit TV** or inside the courtroom but behind a **screen** which would allow them not to see the accused.
- Young victims and witnesses can have a **support person** with them while they testify in order to make them more comfortable.

Other measures which are available to young victims and witnesses and which can help make it easier for them to provide 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 involving young victims and witnesses or they may give their testimony from **behind a screen or other device that prevents the witness from being seen by the public**.
- The evidence of young victims and witnesses may be **videotaped** before the trial **and used at trial** in order to spare them from repeating all of their testimony at trial; and
- A **lawyer can be appointed** to cross-examine young witnesses when the accused is self-represented.

### A victim's right!

The *Canadian Victims Bill of Rights* came into force on July 23, 2015. This Act gives every victim, including young victims, the right to have their security considered and to reasonable and necessary measures to protect them from intimidation and retaliation. Victims of crime also have the right to request a testimonial aid when they testify as a witness in a criminal court. These rights are part of a victim's right to protection.

### How do victims and witnesses under eighteen years receive testimonial aids?

The young victim or witness can ask the prosecutor for a testimonial aid. The prosecutor can then ask the Court for these special protections before or at any time during the proceedings. A victim or witness can also ask the Court directly for testimonial aids.

If a request is made for a young person to use a screen that would prevent them from seeing the accused, to testify by closed-circuit television or with a support person or with video-taped evidence, the Court must grant the order unless it believes it would interfere with the proper administration of justice by, for example, affecting the rights of the accused person to a fair trial. If the accused is self-represented, the Court must make an order to appoint counsel for any cross-examination, unless the Court believes the proper administration of justice requires the accused to cross-examine the witness.



RIGHT TO INFORMATION



RIGHT TO PROTECTION



RIGHT TO PARTICIPATION



RIGHT TO SEEK RESTITUTION



RIGHT TO MAKE A COMPLAINT



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If a request is made to exclude some or all members of the public or to allow the young witness to testify behind a screen so that they are not seen by the public, the Court must consider the interests of witnesses under 18 years. The Court will also consider factors such as encouraging the reporting of offences, whether the order is needed for the witness' security or to protect them from intimidation or retaliation, and whether the young witness will be able to testify without the order.

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

The *Criminal Code* provisions are intended to protect young victims and witnesses and make it easier for them to testify while respecting the rights of accused persons. Courts, in some cases, may deny or limit the use of these testimonial aids in order to protect the rights of the accused person to a fair trial.

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## Where is more information available?

If you or someone you know has been a victim of crime, there is help. All provinces and territories offer services for victims of crime. They can help you if you need information or other assistance. The Victim Services Directory can help you to find victim services near you:

<http://www.justice.gc.ca/eng/cj-jp/victims-victimes/vsd-rsv/index.html>