



An Overview of Legal Representation

A Note on Language



In this toolkit, we will sometimes use the word woman/women and feminine pronouns for simplicity and to recognize the significant impact technology-facilitated violence has on women and girls. We recognize that TFGBV also impacts trans, non-binary, and Two-Spirit people. We hope that all people impacted by TFGBV will find these documents useful.

In any legal proceeding, it is extremely useful to obtain advice from a lawyer or retain a lawyer to represent you in mediations, settlement proceedings, or at trial. Lawyers are experts in the law and can ensure that you put forward the best legal arguments, abide by the proper rules of court, and do not waste time putting information before the court that is not legally relevant. That said, legal representation is often expensive and being the victim of violence does not entitle you to legal representation under Canadian law. This document is intended to serve as a brief overview of your options to retain a lawyer in family, civil, or criminal proceedings.

For information on legal remedies for technology-facilitated gender-based violence (TFGBV), see: [Legal Protections for TFGBV: What Laws Apply to You?](#)

Family and Civil Law

In a family law case or civil case (e.g. if you are suing someone or being sued), you can either hire a lawyer to represent you or you can represent yourself in court.

If you can afford to hire a lawyer, it is best to do so. They understand the legal system well and can manage many aspects of your case. They will know the normal procedures for a case, are aware of important deadlines, can file the documentation for a case properly, will know the relevant law, and can advocate for your case. This can be very helpful for getting things done in the correct order and on time. It can be difficult to navigate the legal system without legal expertise. However, unless you are eligible for legal aid in your province or territory, you will need to pay that lawyer to represent you, which can often be very expensive. For information on free and low-cost legal information and advice in your province, see [Legal and Victim Service Supports and Resources](#).

Many people cannot afford to hire a lawyer and will represent themselves in court. Other people do not want a lawyer and choose to represent themselves. Whatever the reason for not hiring a lawyer, someone who is not represented by a lawyer in a legal proceeding is called a "self-represented litigant" or "unrepresented litigant." The term "self-represented litigant" suggests that there is a choice to be self-represented. However, self-represented litigants often don't have a choice and are forced to represent themselves, making the term "unrepresented litigant" often more appropriate.

If you are representing yourself, you will need to learn some things about the rules of the court where your case is filed, what documents you need to file, how to properly file documents, what evidence is allowed, the laws related to your case, and what you will need to prove your case. It is important to learn the rules because there can be strict deadlines and procedures that must be met for many issues in your case. The Canadian Judicial Council has published helpful and detailed guides for unrepresented litigants in civil law cases ([available here](#)) and family law cases ([available here](#)). While these are useful resources, **you must familiarize yourself with the specific rules and procedures of the relevant court in your province or territory**. See [An Overview of Canadian Courts](#) for an introduction to the levels of court in your province or territory.

For more information about the words and phrases used in civil and family cases, see [Definitions of Legal Terms: Civil and Family Law](#). For information regarding how to submit, authenticate, and object to evidence, see [Submitting Evidence in Court](#), [Authentication of Digital Evidence](#), and [Objections to Evidence](#) from the [Preserving Digital Evidence Toolkit](#).

In some cases, you may be allowed to have a support person, called a "McKenzie friend," who is allowed to sit with you when your matter is being heard in court and can take notes or help you organize your documents. **This person will not be able to speak to the court on your behalf.** You may also bring a support person to sit inside the courtroom.

When you are in court, the judge may try to help you understand the procedures and may ask you questions, or help you understand the courts by explaining the rules to you. However, the judge cannot give you advice about your case.

Criminal Law

As a victim of a crime, if you want your case heard in criminal court, you will need to report what happened to you to the police. This may lead to the person who harmed you being charged with a criminal offence. If that person pleads "guilty," the matter will go straight to a sentencing hearing. If that person pleads "not guilty," there will be a criminal trial.

Unlike a civil or family trial, you are not considered to be a party to the legal proceeding in a criminal case – you are a witness. The case is between the person who is accused of breaking the law and the government, which is called the "Crown." The Crown will be represented by a lawyer who is called a Crown attorney or Crown counsel. You will provide

evidence to the police and may provide additional information to the Crown attorney or the court, with the Crown attorney prosecuting the case. In most criminal cases, the victim of a crime will not need to hire a lawyer and will not have legal representation during the case. For more information on the differences between the criminal and civil systems, see [Legal Protections for TFGBV: What Laws Apply to You?](#)

In some cases, a victim may want to speak to a lawyer or someone who understands the legal system, like a victim service worker, before reporting the crime to the police and/or during the case. This can help ensure that you bring the proper evidence and information when you speak to police so that they can lay a charge and assist you with a criminal case. For information on resources in your province or territory, see [Legal and Victim Service Supports and Resources](#).

In British Columbia, if you are the victim of a sexual offence and the accused person has made an application to have information related to your personal history disclosed (such as notes from your therapist or medical records), you may be entitled to legal representation under BC's [Victims of Crime Act](#) (section 3). This lawyer would represent your interests concerning the application for records, free of charge. In other jurisdictions, sexual assault victims may be entitled to free legal advice, but not legal representation at trial. For more information and resources, see: [Legal and Victim Service Supports and Resources](#).

Victims' Rights in Criminal Trials

Victims' rights in criminal trials are set out in the [Canadian Victims Bill of Rights](#). Many provinces and territories also have legislation regarding victims of crimes. As a victim, you have the right to be treated fairly and with respect by people working in the criminal justice system.

Under the [Canadian Victim Bill of Rights](#), you have specific rights related to:

- Information about the criminal justice system
- Your protection
- Your right to participate in certain parts of the case
- Your right to restitution (i.e. money intended to compensate you for your injuries)

Local organizations like women's centres and anti-violence organizations, or the local police, may have victim services programs that can help explain the criminal system to you. These resources can help you prepare your case and inform you of the relevant evidence and information to give to the police or the Crown attorney. For information on victim service resources in your area, see [Technology Safety and Victim/Survivor Resources](#).

Legal Support as the Accused Person

If you are charged with a crime, you will also need legal help. You may apply for legal aid, hire a lawyer, or represent yourself in court. If you are denied legal aid and cannot afford a lawyer, you can also bring an application called a "Rowbotham application" to ask the judge to order the government to pay for you to have a lawyer. You may also be eligible to receive legal information and advice from duty counsel.

Technology-Facilitated Gender-Based Violence (TFGBV) is part of a continuum of violence that can be both online and in-person. If you or someone you know is experiencing TFGBV, you are not alone. You can use [sheltersafe.ca](#) to find a shelter/transition house near you or call/text the [Kids Help Phone](#) to discuss options and create a [safety plan](#). You don't need to stay in a shelter to access free, confidential services and support.

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