

2025-08-07

Bill as amended

OBJECTS AND REASONS

This Bill would make provision for securing the anonymity of witnesses in criminal proceedings and for related matters.

Arrangement of Sections

PART I

PRELIMINARY

1. Short title
2. Interpretation
3. Construction

PART II

WITNESS ANONYMITY

4. Common law rules
5. Application for witness anonymity order
6. Consideration in relation to a witness anonymity order
7. Conditions for making order
8. Relevant considerations
9. Discharge or variation order
10. Warning to jury about witness anonymity order
11. Privacy of address and identity of witness

12. Assistance to witness on grounds of fear or distress about testifying

PART III

DIRECTIONS

13. Special measures directions relating to eligible witness
14. Effect of special measures direction
15. Discharge or variation of special measures direction
16. Evidence by live link
17. Evidence in private
18. Video recorded evidence
19. Video recorded cross-examination or re-examination
20. Examination of witness through intermediary
21. Aids to communication
22. Status of evidence
23. Warning to jury on special measures direction
24. Evidence from outside Barbados
25. Direction prohibiting defendant from cross-examining particular witness
26. Defence representation for purposes of cross-examination
27. Warning to jury on prohibition from cross-examining witness

PART IV

MISCELLANEOUS

28. Regulations

29. Commencement

SCHEDULE

Forms

BARBADOS

A Bill entitled

An Act to make provision for securing the anonymity of witnesses in criminal proceedings and for related matters.

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Criminal Proceedings (Witness Anonymity) Act, 2025*.

Interpretation

2. In this Act,

“Community Legal Services Commission” means the Community Legal Services Commission established under section 4 of the *Community Legal Services Act*, Cap. 112A;

“court” means the Magistrates' Court, the High Court or the Court of Appeal;

“defendant” means in relation to any criminal proceedings, any person charged with an offence to which the proceedings relate whether or not convicted;

“eligible witness” means a witness eligible for assistance under section 13;

“involved person” means in connection with an offence, a person who is not a suspect for the offence but who is reasonably suspected to have been the victim of or to have witnessed the commission of the offence;

“legal representative” means a person who is duly admitted and entitled to practise law as an attorney-at-law in Barbados;

“live link” means a live television or electronic link or other arrangement whereby a witness, while absent from the courtroom or other place where the proceedings are being held, is able to see or hear a person there and to be seen or heard;

“relevant time” means

- (a) the time when the direction was given or the order was made, as the case may be; or
- (b) if a previous application has been made, the time when the application, or last application was made;

“Rules Committee” means Rules Committee of the Supreme Court established by section 81 of the *Supreme Court of Judicature Act*, Cap. 117A;

“special measures direction” means a direction under section 13;

“witness” in relation to any criminal proceedings, means any person called, or proposed to be called, to give evidence at the trial or hearing in question;

“witness anonymity order” means an order made by a court under section 6 that requires such specified measures to be taken in relation to a witness in criminal proceedings as the court considers appropriate to ensure that the identity of the witness is not disclosed in or in connection with the proceedings.

Construction

3. This Act shall have effect notwithstanding any law to the contrary.

PART II

WITNESS ANONYMITY

Common law rules

- 4.(1) The common law rules relating to the power of a court to make an order for securing that the identity of a witness in criminal proceedings is withheld from the defendant or, on a defence application, from other defendants are abolished.

(2) Nothing in this Part affects the common law rules as to the withholding of information on the grounds of public interest immunity.

Application for witness anonymity order

5.(1) The prosecutor or defendant may, in criminal proceedings, make an application to the court for a witness anonymity order in the form set out as Form 1 in the *Schedule*.

(2) Where an application is made by the prosecutor, the prosecutor shall, unless the court directs otherwise, inform the court of the identity of the witness but is not required to disclose in connection with the application

(a) the identity of the witness; or

(b) any information that might enable the witness to be identified,

to any other party to the proceedings or the other party's legal representatives.

(3) Where an application is made by a defendant, that defendant shall inform the court and, unless the court directs otherwise, the prosecutor, of the identity of the witness but if there is more than one defendant, the defendant is not required to disclose in connection with the application

(a) the identity of the witness; or

(b) any information that might enable the witness to be identified,

to any other defendant or his legal representatives.

(4) Where the prosecutor or a defendant proposes to make an application under this section in respect of a witness, any relevant material which is disclosed by or on behalf of that party before the determination of the application may be disclosed in such a way as to prevent

(a) the identity of the witness; or

(b) any information that might enable the witness to be identified,

from being disclosed except as required by subsection (2) or (3) .

- (5) Subject to subsection (6), the court shall give every party to the proceedings the opportunity to be heard on an application under this section.
- (6) Subsection (5) does not prevent the court from hearing one or more parties in the absence of any other party and his legal representatives if it appears to the court to be appropriate to do so in the circumstances of the case.
- (7) In this section, "relevant material" means any document or other material which falls to be disclosed, or is sought to be relied on, by or on behalf of the party concerned in connection with the proceedings or proceedings preliminary to them.

Consideration in relation to a witness anonymity order

- 6.** When making a witness anonymity order the court shall take measures for the purpose of ensuring that the
- (a) name, address, contact information and other identifying details of the witness may be
 - (i) withheld; and
 - (ii) removed from materials disclosed to any party to the proceedings;
 - (b) witness may use a pseudonym;
 - (c) witness is not asked questions of any specified description that might lead to the identification of the witness;
 - (d) witness is screened to any specified extent; and
 - (e) voice of the witness is subjected to modulation to any specified extent.

Conditions for making order

7.(1) Where an application is made for a witness anonymity order to be made in relation to a witness in criminal proceedings, the court may make such an order, only if it is satisfied

- (a) that the measures to be specified in the order are necessary
 - (i) in order to protect the safety of the witness or involved person or another person or to prevent any serious damage to property; or
 - (ii) in order to prevent real harm to the public interest, whether affecting the carrying on of any activities in the public interest or the safety of an-involved person in carrying on such activities, or otherwise;
- (b) that, having regard to all the circumstances, the taking of those measures would be consistent with the defendant receiving a fair trial; and
- (c) that it is necessary to make the order in the interests of justice by reason of the fact that it appears to the court that
 - (i) it is important that the witness should testify; and
 - (ii) the witness would not testify if the order was not made.

(2) In determining whether the measures to be specified in the order are necessary for the purpose mentioned in subsection (1)(a)(i), the court shall have regard, in particular, to any reasonable fear on the part of the witness that

- (a) the witness or another person would suffer death or injury;
- (b) there would be retaliation, recrimination or oppression; or
- (c) there would be serious damage to property,

if the witness were to be identified.

(3) An order made under this section shall be in the form set out as Form 2 in the *Schedule*.

Relevant considerations

8.(1) When deciding whether the conditions specified under section 7(1) are met in the case of an application for a witness anonymity order, the court shall have regard to

- (a) the considerations mentioned in subsection (2); and
 - (b) such other matters as the court considers relevant.
- (2) The considerations referred to in subsection (1)(a) are
- (a) the general right of a defendant in criminal proceedings to know the identity of a witness in the proceedings;
 - (b) the extent to which the credibility of the witness concerned would be a relevant factor when the weight of his evidence comes to be assessed;
 - (c) whether evidence given by the witness might be the sole or decisive evidence implicating the defendant;
 - (d) whether the evidence of the witness could be properly tested, whether on grounds of credibility or otherwise, without his identity being disclosed;
 - (e) whether there is any reason to believe that the witness
 - (i) has a tendency to be dishonest; or
 - (ii) has any motive to be dishonest in the circumstances of the case, having regard, in particular, to any previous convictions of the witness and to any relationship between the witness and the defendant or any associates of the defendant; and
 - (f) whether it would be reasonably practicable to protect the identity of the witness by any means other than by making a witness anonymity order specifying the measures that are under consideration by the court.

Discharge or variation order

9.(1) A court that has made a witness anonymity order in relation to any criminal proceedings may

- (a) on an application made by a party to the proceedings if there has been a material change of circumstances since the relevant time; or
- (b) on its own motion,

discharge or vary, the order if it appears to the court to be appropriate to do so in accordance with sections 7 and 8.

(2) The order referred to in subsection (1) shall be in the form set out as Form 3 in the *Schedule*.

Warning to jury about witness anonymity order

10. Where, on a trial on indictment with a jury, any evidence has been given by a witness at a time when a witness anonymity order applied to the witness, the judge may give the jury such warning as the judge considers appropriate to ensure that the fact that the order was made in relation to the witness does not prejudice the defendant.

Privacy of address and identity of witness

11.(1) In any proceeding under this Act, the particulars of any address or other identifying details of the witness may not, without the permission of the judge, be

- (a) the subject of any question to a witness or included in any evidence given; or
- (b) included in any statement or remark made by a witness, legal representative, officer of the court, or any other person.

(2) The judge shall not grant permission under subsection (1) unless satisfied that the question to be put, the evidence to be given or the statement or remark

to be made, is of sufficient direct relevance to the facts in issue that to exclude it would be contrary to the interests of justice.

(3) An application for permission under subsection (1) may be made before or after the commencement of any hearing and is, where practicable, to be made and dealt with in chambers.

(4) Nothing in subsection (1) applies in criminal proceedings if it is necessary to disclose the particulars in the charge in order to ensure that the defendant is fully and fairly informed of the charge.

(5) Subject to subsection (1), where a witness anonymity order is made under this Act, any person who wilfully discloses, or does something that is likely to disclose

(a) the identity of the witness;

(b) the contact information or other identifying details of the witness,

is guilty of an offence and liable on indictment to imprisonment for 10 years.

Assistance to witness on grounds of fear or distress about testifying

12.(1) For the purposes of this Act, if the court is satisfied that the quality of evidence given by a witness in criminal proceedings is likely to be diminished by reason of fear or distress on the part of the witness in connection with testifying in proceedings, the court may give a special measures direction under section 13.

(2) In determining whether a witness falls within subsection (1), the court shall take into account

(a) the nature and alleged circumstances of the offence to which the proceedings relate;

(b) the age of the witness;

- (c) such of the following matters as appear to the court to be relevant
 - (i) the social and cultural background and ethnic origin of the witness;
 - (ii) the domestic and employment circumstances of the witness; and
 - (iii) any religious beliefs or political opinions of the witness;
- (d) any behaviour towards the witness or persons connected to the witness on the part of
 - (i) the defendant;
 - (ii) members of the family or associates of the defendant; or
 - (iii) any other person who is likely to be a defendant or a witness in the proceedings; and
- (e) any views expressed by the witness.

PART III

DIRECTIONS

Special measures directions relating to eligible witness

- 13.(1) This section applies where in criminal proceedings
 - (a) a party to the proceedings makes an application for the court to give a direction under this section in relation to a witness in the proceedings other than the defendant; or
 - (b) the court of its own motion raises the issue whether such a direction should be given.
- (2) The special measures that a party to proceedings may apply for include:
 - (a) evidence using the live link;

- (b) giving evidence in private;
- (c) video recorded evidence;
- (d) video recorded cross examination or re-examination;
- (e) the use of an intermediary; and
- (f) the use of an aid to communication.

(3) Where the court determines that the witness is eligible for assistance under section 12, the court shall determine whether any of the special measures available in relation to the witness, or any combination of them, would, in its opinion, be likely to improve the quality of evidence given by the witness and if so

- (a) determine which of the measures, or combination of them, would, in its opinion, be likely to maximize so far as practicable the quality of such evidence; and
- (b) give a direction under this section providing for the measure determined to apply to evidence given by the witness.

(4) In determining for the purpose of this Act whether any special measure would be likely to maximize so far as practicable, the quality of evidence given by the witness, the court shall consider all the circumstances of the case, including

- (a) any views expressed by the witness; and
- (b) whether the measure might tend to inhibit such evidence being effectively tested by a party to the proceedings.

(5) A special measures direction shall specify particulars of the provision made by the direction in respect of each special measure which is to apply to the evidence of the witness.

(6) Nothing in this Part is to be regarded as affecting any power of a court to make an order to give leave of any description in the exercise of its inherent jurisdiction or otherwise in relation to

- (a) a witness who is not an eligible witness; or
- (b) an eligible witness where, the order is made or the leave is given otherwise than by reason of the fact that the witness is an eligible witness.

(7) Nothing in this Part authorizes the court to require

- (a) the witness to be screened to such an extent that the witness cannot be seen by
 - (i) the judge or other members of the court, if any;
 - (ii) the jury, if there is one; or
 - (iii) any intermediary or other person appointed by the court to assist the witness; or
- (b) the witness's voice to be modulated to such an extent that the witness's natural voice cannot be heard by any persons within paragraph (a)(i) to (iii).

(8) An application under this section shall be in the form set out as Form 4 in the *Schedule*.

Effect of special measures direction

14. Subject to section 15, a special measures direction has binding effect from the time it is made until the proceedings for the purposes for which it is made are either

- (a) determined by acquittal, conviction or otherwise; or
- (b) abandoned,

in relation to the defendant or, if there is more than one, in relation to each defendant.

Discharge or variation of special measures direction

15.(1) The court may discharge, vary or further vary a special measures direction if it appears to the court to be in the interests of justice and may do so

- (a) on the application made by a party to the proceedings, if there has been a material change of circumstances since the relevant time; or
- (b) of its own motion.

(2) The court shall state its reasons for

- (a) giving or varying;
- (b) refusing an application for, or for the variation or discharge of; or
- (c) discharging,

a special measures direction.

(3) The Rules Committee may make rules of court for

- (a) uncontested applications to be determined by the court without a hearing;
- (b) preventing the renewal of an unsuccessful application for a special measures direction, except where there has been a material change of circumstances;
- (c) expert evidence to be given in connection with an application for, or for varying or discharging, such a direction;
- (d) the manner in which confidential or sensitive information is to be treated in connection with such an application and in particular as to its being disclosed to, or withheld from, a party to the proceedings.

Evidence by live link

16.(1) A special measures direction may provide for the witness to give evidence by means of a live link.

(2) Where a direction provides for the witness to give evidence by means of a live link, the witness may not give evidence in any other way without the permission of the court.

(3) The court may give permission for the purposes of subsection (2) if it appears to the court to be in the interests of justice to do so

- (a) on an application by a party to the proceedings, if there has been a material change of circumstances since the relevant time; or
- (b) of its own motion.

Evidence in private

17.(1) A special measures direction may provide for the exclusion from the court of persons of any description specified in the direction while the witness is giving evidence.

(2) The persons referred to in subsection (1) do not include

- (a) the defendant;
- (b) legal representatives acting in the proceedings; and
- (c) any interpreter or other person appointed, in pursuance of the direction or otherwise, to assist the witness.

Video recorded evidence

18.(1) A special measures direction may provide for a video recording of an interview of the witness to be admitted as evidence in chief.

(2) Notwithstanding subsection (1), a special measures direction may not provide for a video recording, or a part of a recording if the court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the recording, or that part of it, should not be admitted.

(3) In considering for the purposes of subsection (2) whether any part of a recording should not be admitted under this section, the court shall consider whether any prejudice to the defendant which might result from that part being

so admitted is outweighed by the desirability of showing the whole, or substantially the whole, of the recorded interview.

(4) Where a special measures direction provides for a recording to be admitted under this section, the court may direct that it is not to be admitted if

- (a) it appears to the court that
 - (i) the witness will not be available for cross examination, whether conducted in the ordinary way or in accordance with any direction; and
 - (ii) the parties to the proceedings have not agreed that there is no need for the witness to be so available; or
- (b) any rules of court requiring disclosure of the circumstances in which the recording was made have not been complied with to the satisfaction of the court.

(5) Where a recording is admitted under this section

- (a) the witness must be called by the party tendering the recording in evidence, unless
 - (i) a special measures direction provides for the evidence of the witness on cross-examination to be given otherwise than by testimony in the court; or
 - (ii) the parties to the proceedings have agreed that there is no need for the witness to be available for cross examination; and
- (b) the witness may not give evidence in chief otherwise than by means of the recording
 - (i) as to any matter which, in the opinion of the court, has been dealt with adequately in the recorded testimony of the witness; or
 - (ii) without the permission of the court, as to any other matter which, in the opinion of the court, is dealt with in that testimony.

(6) Where in accordance with subsection (2) a special measures direction provides for part only of a recording to be admitted under this section, references in subsections (4) and (5) to the recording or to the recorded testimony of the witness are references to the part of the recording or testimony which is to be so admitted.

(7) The court may give permission for the purposes of subsection (5)(b)(ii) if it appears to the court to be in the interests of justice to do so, and may do so

(a) on an application by a party to the proceedings, if there has been a material change of circumstances since the relevant time; or

(b) of its own motion.

(8) The court may, in giving permission for the purposes of subsection (5)(b)(ii), direct that the evidence given by the witness be by means of a live link.

Video recorded cross-examination or re-examination

19. Where a special measures direction provides for a video recording made under section 18 to be admitted as evidence in chief of the witness, the direction may provide

(a) for any cross-examination of the witness and any re-examination, to be recorded by means of a video recording; and

(b) for such a recording to be admitted, so far as it relates to any such cross-examination or re-examination, as evidence of the witness under cross-examination or on re-examination, as the case may be.

Examination of witness through intermediary

20.(1) A special measures direction may provide for any examination of the witness, however and wherever conducted, to be conducted through an intermediary approved by the court for the purposes of this section.

- (2) The function of an intermediary is to
 - (a) communicate
 - (i) to the witness, questions put to the witness; and
 - (ii) to any person asking the questions, the answers given by the witness in reply to such questions; and
 - (b) explain such questions or answers so far as necessary to enable them to be understood by the witness or person in question.
- (3) Any examination of the witness under subsection (1) shall take place in the presence of such persons as rules of court or the direction may provide, but in circumstances in which
 - (a) the magistrate or judge and legal representatives acting in the proceedings are able to see and hear the examination of the witness and to communicate with the intermediary; and
 - (b) except in the case of a video recorded examination, the jurors, if there is a jury, are able to see and hear the examination of the witness.
- (4) Where two or more legal representatives are acting for a party to the proceedings, subsection (3)(a) is to be regarded as satisfied in relation to those representatives if at all material times it is satisfied in relation to at least one of them.
- (5) A person shall not act as an intermediary in a particular case except after making a declaration, in the form prescribed, that the person will faithfully perform the person's function as intermediary.
- (6) Subsection (1) does not apply to an interview of the witness which is recorded by means of a video recording with a view to its admission as evidence in chief of the witness; but a special measures direction may provide for such a

recording to be admitted under section 18 if the interview was conducted through an intermediary and

- (a) that person complied with subsection (5) before the interview began; and
- (b) the court's approval for the purposes of this section is given before the direction is given.

(7) For the purposes of this Act "intermediary" means an interpreter, or such other person appointed by the court from among the persons or the category or class of persons specified by the Minister by order.

Aids to communication

21. A special measures direction may provide for the witness, while giving evidence, whether by testimony in court or otherwise, to be provided with such device as the court considers appropriate with a view to enabling questions or answers to be communicated to or by the witness despite any disability or disorder or other impairment which the witness has or suffers from.

Status of evidence

22.(1) Subsections (2) to (4) apply to a statement made by a witness in proceedings under this Act which, in accordance with a special measures direction, is not made by the witness in direct oral testimony in court, but forms part of the evidence of the witness in the proceedings.

(2) The statement must be treated as if made by the witness in direct oral testimony in court and the statement is

- (a) admissible evidence of any fact of which such testimony from the witness would be admissible; and
- (b) not capable of corroborating any other evidence given by the witness.

- (3) Subsection (2) applies to a statement admitted under section 20 or which is not made by the witness on oath even though it would have been required to be made on oath if made by the witness in direct oral testimony in court.
- (4) In estimating the weight, if any, to be attached to the statement, the court must have regard to all the circumstances from which an inference can reasonably be drawn, as to the accuracy of the statement or otherwise.
- (5) In this section "statement" includes any representation of fact, whether made in words or otherwise.

Warning to jury on special measures direction

23. Where on a trial evidence has been given in accordance with a special measures direction, the judge may give the jury such warning, if any, as the judge considers necessary to ensure that the fact that the direction was given in relation to the witness does not prejudice the defendant.

Evidence from outside Barbados

24.(1) The court may permit evidence to be given by means of technology, such as live link, that permits the virtual presence of the witness before the court and the parties to the proceedings to hear, examine and cross-examine the witness if the witness is outside Barbados.

(2) Evidence given under subsection (1) shall be given as though the witness was physically present before the court and the law relating to contempt of court with respect to a refusal to answer a question or to produce a document applies to such evidence.

Direction prohibiting defendant from cross-examining particular witness

25.(1) The prosecutor may make an application in the form set out as Form 5 in the *Schedule* for the court to give a direction under this section in relation to a witness.

- (2) The court may of its own motion raise the issue whether such a direction should be given.
- (3) If it appears to the court
 - (a) that the quality of evidence given by a witness on cross-examination
 - (i) is likely to be diminished if the cross-examination or further cross-examination is conducted by the defendant in person; and
 - (ii) would be likely to be improved if a direction were given under this section; and
 - (b) that it would not be contrary to the interests of justice to give such a direction, the court may give a direction prohibiting the defendant from cross-examining, or further cross-examining the witness in person.
- (4) In determining whether subsection (3)(a) applies in the case of a witness the court shall have regard to
 - (a) any views expressed by the witness as to whether, the witness is content to be cross-examined by the defendant in person;
 - (b) the nature of the questions likely to be asked, having regard to the issues in the proceedings and the defence case advanced so far, if any;
 - (c) any behaviour on the part of the defendant at any stage of the proceedings, both generally and in relation to the witness; and
 - (d) any relationship, of whatever nature, between the witness and the defendant.
- (5) A direction under this section has binding effect from the time it is made until the witness to whom the direction applies is discharged.

- (6) The court may discharge a direction if it appears to the court to be in the interests of justice,
 - (a) on an application made in the form set out as Form 6 in the *Schedule* by a party to the proceedings, if there has been a material change of circumstances since the relevant time; or
 - (b) of its own motion.
- (7) The court shall state in open court its reasons for
 - (a) granting an application;
 - (b) refusing an application; or
 - (c) discharging an application.
- (8) The Rules Committee may make rules for
 - (a) uncontested applications to be determined by the court without a hearing;
 - (b) preventing the renewal of an unsuccessful application for a direction except where there has been a material change of circumstances;
 - (c) expert evidence to be given in connection with an application for, or for discharging a direction; and
 - (d) the manner in which confidential or sensitive information is to be treated in connection with such an application and in particular as to its being disclosed to, or withheld from, a party to the proceedings.
- (9) For the purposes of this section "witness" in relation to a defendant, does not include any other person who is charged with a crime in the proceedings.

Defence representation for purposes of cross-examination

26.(1) This section applies where a defendant is prevented from cross-examining a witness in person under section 25.

- (2) Where it appears to the court that this section applies, the court shall
 - (a) invite the defendant to arrange for a legal representative to act for the defendant for the purposes of cross-examining the witness; and
 - (b) require the defendant to notify the court, by the end of such period as it may specify, whether a legal representative is to act for the defendant for that purpose.
- (3) If by the end of the period mentioned under subsection (2)(b)
 - (a) the defendant has notified the court that no legal representative is to act for him for the purpose of cross-examining the witness; or
 - (b) no notification has been received by the court and it appears to the court that no legal representative is to so act,the court shall consider whether it is necessary in the interests of justice for the witness to be further cross-examined by a legal representative appointed to represent the interests of the defendant.
- (4) Where the court is satisfied that it is in the interests of justice for the witness to be further cross-examined, the court shall direct that a legal representative be appointed by the Community Legal Services Commission to cross-examine the witness.
- (5) The Rules Committee may make rules
 - (a) as to the time when, and the manner in which, subsection (2) is to be complied with;
 - (b) in connection with the appointment of a legal representative under subsection (4), and in particular, for ensuring that the person so appointed is provided with evidence or other material relating to the proceedings.

Warning to jury on prohibition from cross-examining witness

27. Where on a trial a defendant is prevented from cross-examining a witness in person under section 25, the judge shall give the jury such warning, if any, as the judge considers necessary to ensure that the defendant is not prejudiced

- (a) by any inferences that might be drawn from the fact that the defendant has been prevented from cross-examining the witness in person;
- (b) where the witness has been cross-examined by a legal representative appointed under section 26(4), by the fact that the cross-examination was carried out by such a legal representative.

PART IV

MISCELLANEOUS

Regulations

28. The Minister may make regulations generally to give effect to this Act.

Commencement

29. This Act shall come into operation on a date to be fixed by proclamation.

SCHEDULE

(Sections 5, 7, 9, 13 and 25)



Criminal Proceedings (Witness Anonymity) Act, 2025
(Act 2025-)

(Sections 5(1))

FORM 1

No.

IN THE SUPREME COURT OF JUDICATURE/

MAGISTRATE'S COURT

BETWEEN:

Complainant

v.

Defendant

Application for witness anonymity order

Application is made that a witness anonymity order be made for the measures set out below
(select as appropriate):

- ☐ Name and other identifying details of the witness be withheld and removed from materials disclosed to any party to the proceedings;
- ☐ Witness use a pseudonym;
- ☐ Witness be not asked questions of (specify description of questions) that may lead to the identification of the witness;

Schedule - (Cont'd)

- ☐ Witness be screened to (specify extent);
- ☐ Voice of the witness be subject to modulation to [specify extent];

in order to protect the safety of the witness _____
(Name of Witness)

or _____ or to prevent any serious damage to property or to
(Name of another person)

prevent real harm to the public interest, whether affecting the carrying on of any activities in the public interest or the safety of an involved person in carrying on such activities, or otherwise; and having regard to all the circumstances, the taking of the measures above would be consistent with the defendant receiving a fair trial; and it is necessary to make the order in the interests of justice by reason of the fact that it appears to the court that

- (a) it is important that the witness should testify; and
- (b) the witness would not testify if the order was not made.

(Signature)
 Complainant/
 Defendant

Sworn this day ____ day of _____, 20 ____.

(Signature)
 Justice of the Peace
 Attorney-at-law

Schedule - (Cont'd)

(Section 7(3))



Criminal Proceedings (Witness Anonymity) Act, 2025
(Act 2025-)

FORM 2

No.

IN THE SUPREME COURT OF JUDICATURE/

MAGISTRATE'S COURT

BETWEEN:

Complainant

v.

Defendant

Witness Anonymity Order

Whereas I am satisfied by an application of _____, that in order to protect
(Name of prosecutor or defendant)

the safety of the witness _____ or _____
(Name of witness) (Name of another person)

or to prevent any serious damage to property or to prevent real harm to the public interest, whether affecting the carrying on of any activities in the public interest or the safety of an involved person in carrying on such activities, or otherwise; and having regard to all the circumstances, the taking of the measures set out below would be consistent with the defendant receiving a fair trial;

Schedule - (Cont'd)

and

it is necessary to make the order in the interests of justice by reason of the fact that it appears to the court that

- (a) it is important that the witness should testify; and
- (b) the witness would not testify if the order was not made.

It is hereby ordered that the following measures (*select boxes as appropriate*) are used:

- ☐ Name and other identifying details of the witness are withheld and removed from materials disclosed to any party to the proceedings;
- ☐ Witness use a pseudonym;
- ☐ Witness be not asked questions of (specify description of questions) that might lead to the identification of the witness;
- ☐ Witness be screened to (specify extent);
- ☐ Voice of the witness be subject to modulation to (specify extent).

Dated this day ____ day of _____, 20 ____.

(Signature)
Magistrate/Judge

Schedule - (Cont'd)

(Section 9(2))



Criminal Proceedings (Witness Anonymity) Act, 2025
(Act 2025-)

FORM 3

No.

IN THE SUPREME COURT OF JUDICATURE/

MAGISTRATE'S COURT

BETWEEN:

Complainant

v.

Defendant

Application to discharge Witness Anonymity Order

Application is made that the Witness Anonymity Order made in these proceedings on the ____ day of _____, 20 ____ be varied or further varied or discharged because of a material change of circumstances [since the time when the Witness Anonymity Order was made] or [if a previous application had been made, the time when the application was made or the last application was made].

Schedule - (Cont'd)

State particulars of material change:_____

Tick measure(s) to be varied or discharged:

- ☐ Name and other identifying details of the witness be withheld and removed from materials disclosed to any party to the proceedings;
- ☐ Witness use a pseudonym;
- ☐ Witness be not asked questions of (specify description of questions) that might lead to the identification of the witness;
- ☐ Witness be screened to (specify extent);
- ☐ Voice of the witness be subject to modulation to (specify extent).

(Signature)
Complainant

Sworn this day ____ day of _____, 20 ____.

(Signature)
Justice of the Peace
Attorney-at-law

Schedule - (Cont'd)

(Section 13(8))



Criminal Proceedings (Witness Anonymity) Act, 2025
(Act 2025-)

FORM 4

No.

IN THE SUPREME COURT OF JUDICATURE/

MAGISTRATE'S COURT

BETWEEN:

Complainant

v.

Defendant

Application for a Special Measures Direction

1. Application is made that the witness _____ is eligible for
(Name of witness and date of birth)
assistance because of fear or distress, (give details and explain why the quality of the
evidence for the witness is likely to be diminished because of that).

Schedule - (Cont'd)

2. Explain why special measures would be likely to improve the quality of the evidence of the witness.

3. Which measure(s) would be likely to maximize so far as practicable the quality of the evidence of the witness? *(select boxes as appropriate)*

- | | |
|--|--------------------------|
| (a) Evidence by live link | ☐ |
| (b) Evidence in private | ☐ |
| (c) Video recorded evidence | ☐ |
| (d) Video recorded cross-examination or re-examination | ☐ |
| (e) Intermediary | ☐ |
| (f) Aids to communication | ☐ |

4. **Evidence by live link** (complete if special measures direction is for evidence by live link)

- (a) Do you want the witness to give evidence:

Using the court's own live link? ☐ or

From somewhere else? ☐

(select box as appropriate)

- (b) Explain why you want the witness to give evidence from somewhere else. Give the address from which you propose the witness should give evidence, unless you want the court to direct that the address need not be revealed.

Schedule - (Cont'd)

5. Who do you propose should accompany the witness while he or she gives evidence? Give that person's name, if known, and relationship to the witness (if any).

6. Why would that person be an appropriate companion for the witness? Include the witness' own views.

7. **Evidence in private** (complete if special measures direction is for evidence in private).

Explain on what grounds you want the witness to give evidence in private.

8. **Video recorded interview as evidence in chief** (complete, as appropriate, if special measures direction is for video recorded interview as evidence in chief)

(a) Date of the interview? _____
(dd/mm/yyyy)

(b) Was the interview conducted through an intermediary? Will the interview be conducted through an intermediary? ☐ No ☐ Yes

If "yes", complete.

Schedule - (Cont'd)

- (c) Was any aid to communication used in conducting the interview? Will any aid to communication be used in conducting the interview? ☐ No ☐ Yes

If "yes", give details:

- (d) How long is the full version of the recording?
(hours/minutes)

- (e) Has an edited version been prepared for use in evidence? ☐ No ☐ Yes

- (f) When did you serve:

(i) the full version?
(dd/mm/yyyy)

(ii) the edited version (if any)?
(dd/mm/yyyy)

- (g) Do you want the court's permission for the witness to give evidence in chief otherwise than by means of the recording? ☐ No ☐ Yes

If "yes", explain why:

*Schedule - (Cont'd)***9. Intermediary** (complete if special measures direction is for intermediary)

- (a) Describe the witness' communication needs, and the proposed arrangements for questioning the witness. Attach any relevant report, including an intermediary's assessment if available. 'Ground rules' for questioning must be discussed between the court, the advocates and the intermediary before the witness gives evidence, to establish

- (i) how questions should be put to help the witness understand them; and
- (ii) how the proposed intermediary will alert the court if the witness has not understood, or needs a break.

- (b) Give the proposed intermediary's (a) name and (b) (if relevant) occupation, skills and professional qualifications.

(Name)

(Occupation)

(Skills)

(Professional qualifications)

(Professional qualifications)

- (c) Is the intermediary known, or related, to the witness? ☐ No ☐ Yes

If "yes", give details: _____

- (d) Has the intermediary been used in any other part of the investigation or pre-trial preparation? ☐ No ☐ Yes

If "yes", give details: _____

Schedule - (Cont'd)

(e) Where a video recorded interview was conducted through an intermediary:

(i) was that intermediary the person named above? ☐ No ☐ Yes

(ii) did that intermediary make a declaration? ☐ No ☐ Yes

(10) Aids to communication (complete if special measures direction is for aids to communication)

What device is proposed as a communication aid? _____

Will the use of this device affect the conduct of the trial? ☐ No ☐ Yes

If "yes", give details: _____

A special measures direction is applied for.

Dated this day _____ day of _____, 20____.

(Signature)
Prosecutor or defendant/
defendant's Legal representative

Schedule - (Cont'd)

(Section 25(1))



Criminal Proceedings (Witness Anonymity) Act, 2025
(Act 2025-)

FORM 5

No.

IN THE SUPREME COURT OF JUDICATURE/

MAGISTRATE'S COURT

BETWEEN:

Complainant

v.

Defendant

**Application for direction prohibiting defendant from
cross-examining particular witness**

Application is made for a direction prohibiting the defendant from cross-examining the
witness _____ because the quality of evidence given by the said
(Name of witness)

witness on cross-examination is likely to be diminished if cross-examination, or further cross-
examination is conducted by the defendant in person and would be likely to be improved if a
direction were given and that it would not be contrary to the interests of justice to give the
direction.

(Signature)
Complainant

Sworn this day ____ day of _____, 20 ____.

(Signature)
Justice of the Peace
Attorney-at-law

Schedule - (Concl'd)

(Section 25(6)(a))



Criminal Proceedings (Witness Anonymity) Act, 2025
(Act 2025-)

FORM 6

No.

IN THE SUPREME COURT OF JUDICATURE/

MAGISTRATE'S COURT

BETWEEN:

Complainant

v.

Defendant

Application to discharge direction

Application is made for the variation or discharge of the direction prohibiting the defendant from cross-examining the witness _____ because of, [a material change
(Name of witness)
of circumstances since the time when the direction prohibiting the defendant from cross-examining the witness was given] or [if a previous application had been made, the time when the application or the last application was made].

(Signature)
Complainant

Sworn this day _____ day of _____, 20 ____.

(Signature)
Justice of the Peace
Attorney-at-law

Read three times and passed the House of Assembly this
day of _____, 2025.

Speaker

Read three times and passed the Senate this _____ day of
_____, 2025.

President