



The National Self-Represented Litigants Project

# A guide for SRLs with disabilities

Understanding your rights and requesting the  
assistance you need



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# About this primer

Persons with disabilities (PWDs for short) are frequently involved in Canada's courts as **litigants, witnesses** and **jurors**. And yet they face significant barriers that prevent their full and equal participation.

Many disabilities are not presently accommodated by the courts. Some accommodations are requested, but denied. The picture is incomplete, and far from perfect. And the result is often serious barriers to accessing justice.

The focus of this primer is on physical and cognitive disabilities presently recognized by the courts. It serves a number of purposes:

- It sets out the basic legal framework that protects your rights;
- It sets out the current strategies that are available to self-represented litigants (SRLs) who need accommodation;
- It covers accommodations for many different disabilities; and
- It attempts to provide a current picture of services and resources available across Canada.

We're aware that this primer does not address the full spectrum of impairments that affect individual lives, including those not presently recognized by the courts.

At the NSRLP, we are committed to bringing barriers blocking equal access to justice to the attention of policymakers and justice system insiders.

**If you have a disability that is not included in this primer, we would like to hear from you.**

You can reach us at [representingyourself@gmail.com](mailto:representingyourself@gmail.com).



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# Using this primer

**Equal access to justice for all Canadians, including for persons with disabilities, is a priority for Canada.**  
– Convention on the Rights of Persons with Disabilities: First Report of Canada

We've included a great deal of information in this primer.

If it feels overwhelming to read the whole document at once, we suggest that you do the following:



**Part 1:** Read **Part 1: *Understanding how our justice system treats disabilities***, to understand your rights under federal and provincial law.



**Part 2:** Consult the **Table of Contents of Part 2: *Types of services and accommodations***, to quickly find the type of accommodation that's relevant to you.



**Part 3:** Read **Part 3: *Requesting services and accommodations***, for tips and instructions on how to make your request.



**Part 4:** Refer to **Part 4: *What to do if you encounter barriers***, if you encounter barriers or roadblocks.



For the rest of this primer, we'll shorten the expression "people with disabilities", to "PWDs" or "PWD".



# Part 1: Understanding how our justice system treats disabilities

The focus of this primer is on physical and cognitive disabilities presently recognized by the courts.

**PWDs come from all walks of life, age groups, cultures, and geographic areas of Canada.** In 2017 an estimated 6.2 million adult Canadians reported being limited in their daily activities due to an impairment. This represents 22% of the adult population.

These people face many social and physical challenges and barriers due to their impairments, which may cause them to be seen as “disabled”.

In Canada, **physical disabilities** related to pain, flexibility, and mobility are the most common. Approximately 15% of Canadians report having a physical disability related to pain, 10% related to flexibility, and 10% related to mobility.

Some people experience **cognitive disabilities** that affect thinking and concentration, some of which are more difficult to identify. These are often known as “invisible” disabilities.

## The legal definition of disability

The legal definition of disability affects what kinds of assistance and accommodation you may be eligible for.

### Federal law

The *Canadian Human Rights Act* defines a disability as, “any previous or existing mental or physical disability” and includes disfigurement, and previous or existing dependence on alcohol or a drug.

Important: the Supreme Court of Canada has stated that disability should not be narrowly defined. Further, the courts should not recognize disability on the basis of medical circumstances or functional circumstances alone, but should also take into account:

- a person’s subjective experience with their condition;
- perceptions by others of their condition; and
- the impact of hurtful stereotypes, and anything that affects the person’s dignity, respect, and right to equality.

This means that even if a doctor does not recognize a person’s condition as a disability, the Courts may *legally* recognize a person’s condition as a disability. Legal recognition of a person’s disability is considered on a case-by-case basis.

The Supreme Court of Canada also defines disability to include **the perception of disability**. This means that if someone discriminates against you because they *think* that you have a disability, this is still regarded as discrimination.

The reasoning here is summed up well in this quote:

“The emphasis is on the effects of the distinction, exclusion or preference rather than the precise cause or origin of the handicap.”

The flexible interpretation offered by the courts and the Canadian Human Rights Act means that many different kinds of disabilities can receive legal recognition.

### Provincial law

Provincial legislation provides further protections and rights if you’re a PWD. However, some provinces and territories go further than others.





Human rights legislation in Ontario, Manitoba, Nova Scotia, Newfoundland and Labrador, the Northwest Territories, and Nunavut explicitly state that “perceived”, “presumed”, and “believed” disabilities cannot be discriminated against. However, even in jurisdictions without such explicit statutory language, courts are still likely to follow the Supreme Court of Canada . That is, the courts are likely to acknowledge that not recognizing a perceived disability undermines human rights and cannot be discriminated against.

## Invisible disabilities and the justice system

“Invisible” disabilities that affect thinking or cognitive impairment are often more difficult to measure, but they also create significant barriers to full access to, and participation in, Canada’s Courts.

People with invisible disabilities or PWIDs are frequently involved with the courts as litigants. PWID symptoms may include:

- loss of mental function;
- forgetfulness;
- lack of concentration;
- learning difficulties; and
- other reductions in effective thinking.

Invisible disabilities may be permanent or temporary. They may be caused by a motor vehicle accident, domestic violence, other forms of trauma, etc. Often – and ironically – cognitive impairment is the reason for the legal claim being brought by the PWID. Examples of cognitive impairment include; problems with memory, language, and thinking and judgment that are greater than normal age-related changes.

## Your right to be free from discrimination

The purpose of the federal Canadian Human Rights Act is to protect your right to equal opportunities, including equal access to and participation in Canada’s justice system.

The Canadian Human Rights Act provides PWDs the right to be free from discrimination because of their disability, in the following areas:

- goods, services;
- residential accommodation or housing;
- public facilities;
- commercial premises;
- employment; and
- employee organizations.

The provinces and territories also protect you. If you have a physical and/or mental disability, all provincial and territorial Human Rights Codes and Acts provide you the right to equal access to **any services, goods, and facilities**, without experiencing discrimination because of your disability.

## Your right to access and accommodation

As a PWD or a PWID navigating the courts, **you are entitled to have your needs accommodated** to facilitate your participation.

### What accommodation means

Accommodation in the court system refers to adjustments to regular procedures that will ensure that a disabled person receives equal access to justice.

In other words, changes or modifications that help someone, who is otherwise unable to do something because of a disability, do that thing with proper assistance or “accommodation”.



### Physical disabilities

An example of accommodation for a **physical disability** is a wheelchair ramp to assist people who are unable to get from point A to point B if doing so would involve climbing stairs.





### Cognitive disabilities

People with **cognitive disabilities** who have difficulty understanding or processing information may need accommodation to improve their ability to understand and appreciate relevant information.

Some examples of accommodation for a cognitive disability might include:

- helping someone speak clearly or loudly enough;
- providing written material in plain language;
- allowing frequent repetition to facilitate understanding; or
- giving an individual extra time to absorb information and make decisions.

Cognitive disabilities are often less visible than physical disabilities. For this reason, we see that accommodations for cognitive disabilities are not recognized or provided consistently across the country. We offer some advice on this challenge a bit later.

### Your right to reasonable accommodation

The Supreme Court of Canada has stated that reasonable accommodation for PWDs or PWIDs is a recognition of their equality rights. That is, individuals affected by disability must have the same right and ability to access the same processes in society as those without disabilities.

Providing reasonable accommodation also imposes a duty on *others* to do whatever is reasonably possible to accommodate PWDs and PWIDs, including ensuring equal access to the justice system.

**Service providers** (such as lawyers) are required to remove discriminatory barriers, unless they can prove that they would experience “hardship” if they do. Simply arguing that providing accommodation is too expensive **is not enough**. As the Supreme Court of Canada put it in the VIA rail case:

“(T)he issue is not just cost; it is whether the cost constitutes undue hardship.

The goal here is to ensure that a service provider’s accommodation reflects and maintains respect for the person’s **dignity, individuality**, as well as their **integration**, and **full participation** in the system concerned.

### Your right to individualized accommodation

The Supreme Court of Canada has also recognized that accommodation is highly individualized. A blanket solution for all PWDs and PWIDs is often not enough, and accommodation must be responsive to an individual’s particular needs.

### More on the obligations of the provinces

The provinces provide a variety of accommodations to facilitate your equal access to justice as a PWD or PWID. Again, some offer more than others.

For example, if you live in Quebec, the Quebec *Charter of Human Rights and Freedoms* provides every accused person in a criminal court hearing the right to be assisted, free of charge, by an interpreter if they are deaf.



To learn about the accommodations that your particular province or territory provides, contact your provincial accommodations and accessibility services office, listed in our primer ***SRLs with disabilities: List of organizations and services who can help***.

In any province, if you do not receive the accommodation you need, you also have the right to make a complaint. To make a human rights complaint, see *How to make a complaint* on page 19.

### More on the obligations of service providers

When it comes to service providers in the justice system, you have protection at the federal, provincial and sometimes, a professional level.

Federally, service providers operating in the justice system cannot discriminate against you on the basis of your disability. Similarly in the provinces, all service providers, including those within the justice system, must accommodate physical and mental disabilities.





Some provincial and territorial law societies also make it an explicit professional responsibility that lawyers treat PWDs with respect, and not discriminate against them.

Here's are the obligations of a legal service provider to a PWD or a PWID:

- *Cannot deny service* - All lawyers across Canada, are obliged to respect the human rights of a PWD or a PWID. This means that a lawyer cannot deny you services as a client simply on the basis of your disability.
- *Must provide accommodation* – Lawyers may also be expected to provide a PWD or a PWID with a degree of accommodation, as long as it doesn't cause that lawyer or law firm "undue hardship".

**As we noted earlier, proving "undue hardship" is a fairly high bar.** The burden is on the provider to prove this, not you, the PWD or PWID. Later on, we suggest some questions you can ask service providers who resist accommodating you.

## International protection

You also have a layer of international legal protection. The *United Nations Convention on Disabilities* requires state parties, such as Canada:

“ to ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of specified accommodation, in order to facilitate their effective role as direct and indirect participants ” of the justice system.

Article 13 of the *United Nations Convention on Disabilities* requires Canada to take positive measures to fulfill this right to access to justice.

## The bottom line for SRLs

“ For all members of the public, the court system is an essential institution. This is no less so for people with physical, mental, and/or sensory disabilities – Ontario Report of Courts Disabilities Committee 2006

To sum up, federal, provincial, and international laws protect you from discrimination, and require courts and legal service providers to accommodate your disability.

The definition of "disability" is a constantly evolving one, and the courts have recognized that this must be a flexible, adaptable definition.

The core principle to remember is that you have the right to have equal access to the courts. An "**accessible court system**" means a court system that:

- presents no additional barriers to PWDs and PWIDs, and
- allows people of all abilities the opportunity to fully and equally access the system.

A "fully accessible" court system is one in which:

- Existing barriers for PWDs and PWIDs are identified and removed;
- No new barriers are permitted;
- Disability accommodations are efficiently provided; and
- PWDs and PWIDs can easily seek individualized accommodations.

Hopefully this gives you a clear picture of your legal rights and protections. In the next section, we will outline the specific types of accommodations you can reasonably expect.



# Part 2: Types of services and accommodations

Here are some common accessibility services and accommodations that are generally available across Canada, and additional assistance that's reasonable to request.

## Generally available across Canada

These are the service options that you should find generally available across Canada:

- The document formats you prefer, such as electronic, large-print, audio, or braille;
- Communication options you prefer, such as phone, email, or other communicative devices;
- Real-time captioning, known as Communications Access Real Time (CART);
- American Sign Language (ASL) and langue des signes québécoise (LSQ) interpretation services;
- Meetings and court proceedings in rooms and courtrooms that will accommodate you; and
- Listening devices.

## Assistance that's reasonable to request

The below options are services and accommodations that are reasonable to request, depending on your particular disability. Availability will depend on the province or territory in which your proceeding takes place.

Note that some of these may be provided at no cost by the court, and others may be available for a fee. **Make sure to always ask about the cost.**



**To determine what's available to you, start by contacting your local courthouse.** If you need further assistance or you encounter barriers, contact the organizations we've listed in our primer **SRLs with disabilities: List of organizations and services who can help.**

## If you are deaf or hard of hearing

These services listed below include services for the **deaf** and **hard-of-hearing**, plus communication services for people with **cognitive disabilities**.

### Systems that amplify sound

Assistive listening systems consist of technology that amplify sound for people who are hard of hearing, or are unable to speak loudly. For example, you might wear a wireless receiver that amplifies sound so you can hear what's being said. Or, while speaking, you may use a microphone so others can hear you.

### Sign language interpreter services

Many provinces have organizations that provide sign language interpretation. Professional sign language interpreters are highly-skilled. They translate the spoken language to American Sign Language (ASL) or langue des signes québécoise (LSQ).

The *Canadian Charter of Rights and Freedoms* states that deaf persons have a right to the assistance of an interpreter or signer when they're a party in a court case, or a witness to a court proceeding.

## If you have trouble communicating

### A communication intermediary

Communication intermediaries assist people with **speech, language, and cognitive disabilities** to: understand statements and questions directed to them, and communicate their responses effectively when interacting with police, legal, or justice professionals.





Communication intermediaries often assist **victims, witnesses, and persons accused of crimes** to give complete, accurate, and authentic evidence in all phases of a legal proceeding.

Communication intermediaries often work with people who have:

- acquired brain injuries
- amyotrophic lateral sclerosis (ALS)
- autism
- cerebral palsy
- cognitive disabilities
- dementia
- learning disabilities
- Parkinson’s Disease
- stroke, as well as other disabilities

### Communication Access Real-Time Translation (CART)

This service is often referred to as “CART” OR “real-time captioning”. It’s a word-for-word transcription of what’s being said, projected onto a screen by a specially-trained stenographer:

- You can instantly read the text of every word on a monitor as it’s spoken, and
- CART also creates a convenient written record of the event.

CART may also help with understanding and participating if you have an **aural-processing learning disability** or other cognitive issue that makes it difficult to concentrate when someone is speaking.

Note that while captioning is a very useful communication tool, it is not a complete substitute for interpreter services.

To locate companies that offer captioning services, look in the Yellow Pages under “captioning”, or contact your local branch of the LINK: Canadian Hearing Society.

### If you have a wheelchair or mobility device

If you have a wheelchair or another mobility device, it’s important to check with your local courthouse before you attend for the first time.

You want to not only ensure that the courthouse entrance is accessible, but that all walkways, aisles, meeting rooms, witness boxes, jury boxes, etc., are wide enough and proportionate enough to accommodate your wheelchair or mobility device.

Expect a wide range of accessibility among provincial and territorial courthouses.

### If you have a service animal

Service animals are generally welcome in all courthouses across the country, but there are a couple of things to keep in mind.

**The following provinces have legislation that specifically guarantees your right** to bring a service animal with you into any public setting, including a courthouse:

- Alberta
- British Columbia
- Nova Scotia
- Newfoundland and Labrador
- Ontario
- Saskatchewan

In Quebec, Northwest Territories, Manitoba, Prince Edward Island, New Brunswick, Yukon, and Nunuvut, there is some support, but it is not a positive right (as in the provinces above). Instead, you have a right not be discriminated against on the basis of your use of a service animal in a public setting. So you should not expect any resistance to bringing your service animal into the courthouse with you.

Wherever you live, there are two important things to keep in mind:



Some jurisdictions **require the animal to be certified and legally recognized as a service animal**. You may be required to show proof of certification if you wish to use your service animal in court.



**Some emotional support and therapeutic dogs do not count as service animals.** For example, in an Ontario court decision, an owner’s claim that her dog was a service dog because it supported her with stress and past abuse issues was rejected because the owner had not provided sufficient information about her disability to demonstrate the necessity of her dog.



To avoid problems, the best thing to do is check with your local courthouse in advance and make sure you provide the court with information about your animal and your needs.

### If you have personal assistive devices or technology

You may use your own personal assistive devices or technology in most parts of the courthouse, including the registry. However, you may need to get it approved by a judicial officer before your proceedings, particularly if it's an audio or video recorder. Court staff at any courthouse can tell you whether using your device requires judicial approval and if so, how to obtain approval.

Examples of personal assistive devices or technologies include:

- Mobility aids, such as wheelchairs, scooters, walkers, canes, crutches, prosthetic devices, and orthotic devices;
- Hearing aids;
- Closed captioning
- Cognitive aids, including computer or electrical assistive devices;
- Tools such as automatic page turners, book holders, and adapted pencil grips; and.
- Computer software and hardware, such as voice recognition programs, screen readers, and screen enlargement applications;

### If you need someone to support you in court

You can always bring someone to court, who can sit in the public section. However, sometimes you may want someone to sit **with you** at the front of the courtroom where they can support you.



The support person may be a friend or family member, or perhaps someone else you would like to assist you, such as a caregiver. Support persons who come into court and sit with you are also known as McKenzie Friends (see our primer, **A Courtroom Companion (McKenzie friend)**). The guidelines for a support person vary across Canada, and you'll need to ask for permission first.

### Persuading a judge to allow a support person

Some provincial courts are introducing guidelines that clarify under what circumstances a support person will be permitted to sit with you (see, for example, the [BC Provincial Court](#)<sup>1</sup> guidelines). **But keep in mind that none of the provincial guidelines make the case for a support person from a disability standpoint.**

For this reason, when you ask for permission, make sure to **explain your disability** and its challenges. Also explain exactly how a support person will help you to participate effectively in court.

### How your support person can help

A McKenzie friend cannot address the court as your advocate, but they can provide forms of assistance that may be important to your full participation in the court process. For example, they may help you by:

- taking notes;
- reminding you of the things you want to say; and
- handing you documents;
- generally helping you stay centred and calm.



Our primer **The McKenzie friend: Bringing a support person with you to court** will give you some practical tips and advice on how to persuade a judge to give you permission to bring a support person to court.

### If you need documents in alternative formats

By alternative formats, we mean **electronic, large-print, audio, or braille**, for example.

Some alternative formats may be available at no charge, and some will require a fee. You should check with your local court. But here's a general rule of thumb for what to expect:

- If the original document is free, there's a good chance that another format will be no charge (and you should expect this).
- If the original document is not free (like a transcript), there's a good chance that another format will only be available for a fee.

<sup>1</sup> <http://www.provincialcourt.bc.ca/downloads/Practice%20Directions/Support%20Person%20Guidelines.pdf>



## Getting help from Legal Aid

As a PWD or PWID, you do not automatically qualify for Legal Aid. Like every other person applying, you must fall below a specific income level, as well as meet other criteria, to be eligible. Contact your local Legal Aid office to see if you're eligible to apply.

Some litigants with disabilities who have been denied legal aid have argued that these criteria mean Legal Aid systematically discriminates against them as PWDs or PWIDs because they face higher challenges than those coming to the legal system without disabilities.

Elizabeth Portman, a disabled woman living in Yellowknife, sought legal assistance for her human rights complaint against the Northwest Territories Department of Health and Social Services for failing to accommodate her disability. The Department of Justice's Legal Services Board in the Northwest Territories denied Portman legal aid on the basis of a "blanket" policy against legal aid funding for human rights complaints.

Portman then filed a complaint against the Legal Services Board for refusing her legal aid. This was initially dismissed by the director of the Northwest Territories Human Rights Commission. An adjudicator subsequently found this denial to be unreasonable and "systematically discriminating."

However, Portman's case was *then* reversed by the Northwest Territories Supreme Court on appeal, and this was confirmed upon further appeal by the Northwest Territories Court of Appeal. We expect and hope to see further efforts to make the arguments made in Elizabeth Portman's case in the future.

## If you're participating in jury duty

As a PWD or a PWID you can be a juror just like any other Canadian citizen. Juries are intended to represent the community. People with disabilities bring unique perspectives to the jury process.

**You can't be disqualified simply on the basis of your disability.** However, if you're concerned that your health issues may interfere with your ability to fulfill your role as a juror, you can explain this to the judge when you first go into the courtroom. You can also tell the court clerk that you have a question you would like to ask the judge that will affect whether you can serve as a juror. Potentially, you may be exempted from jury service for health reasons if you prefer not to serve.

**If you receive a jury summons and want to participate**, and require disability-related assistance to do so, contact the courthouse indicated on the summons. Do this as soon as possible and explain your needs (ask for the "Accessibility Services Coordinator").



# Part 3: Requesting services and accommodations

**When you've determined what you need as an accommodation, you should submit a letter of request for services and accommodations in the court where your case is being heard.**

**We provide a sample request letter below.**

## Tips on making accommodation requests

**Get started trying to make arrangements as soon as possible.** Your courthouse needs sufficient time to arrange for the services and equipment that will assist you.



## Start with your local courthouse

Once you have a sense of what you need, ask the courthouse where your case is filed and appearances will take place for:

- The name and contact information of their **Accessibility Services Coordinator** (the staff person responsible for handling local disability accommodation requests);
- Instructions on how to submit accessibility requests (by fax, email, mail, etc.); and
- Any costs or other issues you need to be aware of.

**Figure out what your needs are.** Read *Part 2: Types of services and accommodations available*, to determine what you need. Other assistance you can request might be:

- help locating an accessible washroom or entryway;
- requesting a large-print or audio copy of a court document; or
- any other question related to disability accommodations.

### Write a request letter

Once you know who handles these requests, prepare your request using the **sample Letter of Accommodation request** we've provided on page 14.

If you **need someone to help you communicate** your needs, ask someone who understands your disability and its effects to be with you when you contact the courthouse.

### Consider bringing a support person with you to court

If you want to bring a carer or other person with you as a McKenzie Friend (see above at page 10) be sure to notify the court that you intend to ask permission from the judge to bring a support person with you.

## If you have an invisible disability

If you require accommodation for an invisible disability, we encourage you to follow the same procedures set out earlier in this primer. Remember: the Supreme Court of Canada has said that legal recognition of a person's disability is considered on a case-by-case basis.

When preparing your *Letter of Accommodation*, explain clearly, and with supporting medical documentation if possible, what your impairment is, and how it affects your ability to represent yourself.

If appropriate, you can also refer [to this article](#)<sup>2</sup> which demonstrates how litigation functions as a potential source of trauma that creates complex post-traumatic stress disorder, and Legal Abuse Syndrome.



### Always double-check who covers the costs

As you're preparing your Letter of Accommodation, check with the courthouse to confirm who will be covering the cost. Generally, if the court staff approve of the accommodation, it'll be arranged for and paid by the court. But private services may not be.

For example, you may find that sign language services are covered. But Communication Access Real-Time Translation (CART), also known as "real-time captioning" services are available from a private business for a fee.

**To be safe, make no assumptions.**

<sup>2</sup> <http://www.provincialcourt.bc.ca/downloads/Practice%20Directions/Support%20Person%20Guidelines.pdf>



## If you're unsure what you're eligible for

As we have mentioned, some provinces and territories provide more accessibility services and information than others. Part of the challenge is finding out what type of accessibility services are available to you in your province or territory.



If you're not getting clear answers from your local courthouse, research what's available in your province or territory by consulting the list in our primer, ***SRLs with disabilities: List of organizations and services who can help***, which includes contact information for:

- Accommodations and accessibility services by province and territory;
- Disability and not-for-profit organizations; and
- Human rights and disability offices by province and territory.



If it's not clear how to make a request for accommodations in your courthouse, or you feel you are not being adequately assisted or guided, you may wish to consult the list in our primer ***SRLs with disabilities: List of organizations and services who can help***.



# A sample letter of Accommodation request

Please find a copy of the *Letter of Accommodation Request* in a fill-in and use downloadable form on the **SRL Resources** page of the **NSRLP website**: <https://representingyourselfcanada.com/our-srl-resources>



You'll see we've filled in some of the boxes with explanations. We've also included helpful hints on completing the letter.

## Letter of Accommodation request

**FAX TO: Accessibility Services Coordinator**

Location where proceeding is being held		
Date (dd/mm/yyyy)	Fax number	Home phone
Case name		Court file number
Name (level) of court		
Proceeding and date <i>(ie Motion Hearing May 9th, 2018 at 10:00am)</i>		

Dear: **(Name of Accessibility Services Coordinator)**

**I am requesting confidential accessibility services in accordance with:**

1. *United Nation Convention on the Rights of Persons with Disabilities*, Article 13, Access to Justice
2. *Canadian Human Rights Act* (RSC, 1985, c H-6)
3. *Pintea v Johns*, 2017 SCC 23
4. CJC Statement of Principles for Self-Represented Litigants and Accused Persons
5. *Canadian Charter of Rights and Freedoms*, in particular Section 15
6. *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31, PART III – Protection of Individual Privacy
7. **(Provincial legislation e.g. Human Rights Code, RSO 1990, c H.19 [Ontario])**

**I am requesting confidential accessibility services in accordance with:**

What I'm requesting	Benefits of this accommodation
Non-aggressive approach to communication (trigger response sensitivity)	Provides a less threatening and more respectful environment for all parties
Limiting cross-talk, over-talk, or interruptions between the court and parties (as much as possible)	Helps me to focus and will save time overall, not requiring others to repeat
Clear questions with sufficient time to respond without pressure	Assists me to remain clear, avoiding errors due to misunderstandings or overwhelm
Receiving clearly stated procedural steps, broken down into tasks and deadlines	Assists me to more clearly understand complex procedures, lessening the chance of errors
Flexibility and extensions of time, as needed, regarding procedures	Gives me time to clarify procedures, get assistance and advice, potentially reducing errors and lengthy and costly proceedings to correct them
Breaks as necessary	Provides all parties with the same benefit, to collect thoughts and focus
Permission to use a laptop	Assists me to quickly reference and search documents, saving time
Permission to record proceedings on a personal recording device	Allows me to replay the recording to clarify and remind myself of statements and procedures, reducing errors
Permission to bring a McKenzie Friend or courtroom companion to sit beside me	Helps me take notes, pass paperwork, and provides emotional support.

(Continued on next page)

List the statutes, caselaw and other reference materials you wish to rely upon; below are some examples.

List the specific accommodations you are seeking and how they will help you; below are some examples.

### Other benefits you may wish to use:

Assists with meeting the Canadian Judicial Council mandate on Access to Justice

Assists in more balanced, fair proceedings and reduced costs



## A sample letter of Accommodation request (continued)

 Please find a copy of the *Letter of Accommodation Request* in a fill-in and use downloadable form on the **SRL Resources page** of the **NSRLP website**: <https://representingyourselfcanada.com/our-srl-resources>

### Letter of Accommodation request (continued)

I enclose letters from my doctors supporting the above request for accommodation:

#1 Doctor name

#2 Doctor name

**Number of pages included:** \_\_\_\_\_

Respectfully,

**Your name** - Self-represented

Phone: ( ) \_\_\_\_\_ - \_\_\_\_\_

Email: \_\_\_\_\_

**NOTE:** If medical information is required, it should be limited to basic diagnosis and courtesy information for the Accessibility Services Coordinator and the Judge.)



# Part 4: What to do if you encounter barriers

As yet, no Canadian province or territory has a fully accessible court system. The federal government, however, has recently introduced national accessibility legislation, the *Accessible Canada Act*.

Some provinces and territories have accessibility plans, including Manitoba (2013), Nova Scotia (2016), Ontario (2005), and Quebec (2004). The remaining provinces and territories rely on regulations to promote and enforce barrier-free physical environments.

Although some provinces are aiming for higher standards than others, disability barriers continue to exist in every jurisdiction in Canada.

## Types of barriers you may encounter

As an SRL with a disability, we encourage you to follow the suggestions in this primer, while being aware of the barriers you may encounter. These include:

- **Perceptions and attitudes that discriminate against PWDs and PWIDs** – These are often the result of a lack of knowledge and understanding. For example, court workers and legal service providers ignoring or inaccurately judging the impact of the disability on a person’s capacity to participate fully in the justice system.
- **Technology unavailable or inaccessible** – Where a PWD or PWID is unable to use or access technologies key to their case, and/or there’s a failure to adapt technology or provide the assistance, so that PWDs and PWIDs can use it.
- **Architectural, structural, or physical barriers** – These are the structural elements of buildings that prevent PWDs from accessing a space. For example, ramps, or the width of a door.
- **Information and communication barriers** – These arise where persons with disabilities cannot effectively communicate with the various actors in the court system because of a lack of accommodation. For example, failing to properly consider the hearing, seeing, or learning abilities of PWDs or PWIDs.
- **Organizational or system barriers** – These include policies, procedures, and informal practices of the court system that prevent PWDs and PWIDs from fully participating. This might include *direct discrimination* of a PWD or PWIDs, or (more often) *indirect discrimination*. Indirect discrimination is where a rule has a particular and harmful impact on a PWD or a PWID. For example, a rule that doesn’t allow animals in a building, including service animals.

Despite these barriers, you do have rights.

## What to do if you’re experiencing barriers

If you’re experiencing discrimination or barriers while attempting to arrange for an accommodation, first contact your local courthouse about the problem.

If you receive no satisfactory response from the courthouse, then

- Ask for advice or assistance from your provincial or territorial disability office;
- Ask for *advice or assistance* from a disability or not-for-profit organization representing your disability; or
- If needed, make a complaint to your provincial human rights association.



We’ve included a list of these organizations and their contact information in our primer ***SRLs with disabilities: List of organizations and services who can help***.



## How to make a complaint

If, after a number of attempts, you're still not getting the cooperation and accommodation you need, you may decide that you want to make a complaint with your provincial or territorial Human Rights Commission.

Manitoba and British Columbia also have special provincial disability offices to which you can bring issues about accommodations.



We've listed the provincial human rights offices and their contact information in our primer ***SRLs with disabilities: List of organizations and services who can help.***

If you do file a complaint and would like to let us know, you can report your experience by emailing us at [representingyourself@gmail.com](mailto:representingyourself@gmail.com).



### Questions for service providers who won't accommodate you

**If a service provider says they are unable to provide you with accommodations**, ask them questions, such as:

- How much would the accommodation cost them?
- What would be the financial impact on their organization, if they were to provide you with the accommodation?
- Are there any significant and important reasons other than cost that prevent the organization from providing the accommodation to you? For example, a violation of health and safety obligations?

Remember, service providers are legally obligated to provide you with accommodation, unless they can prove it would create undue hardship for them – and cost alone is not sufficient unless it causes them hardship. And the burden of proof is on them to argue otherwise.



# List of sources consulted

Below you'll find a list of source material we reference throughout this primer. We have done our best to link directly to websites and documents – please be aware some links may change over time.

Canada, Council of Canadians with Disabilities, *Convention on the Rights of Persons with Disabilities: First Report of Canada*, Catalogue No CH37-4/19-2013E-PDF (Ottawa, Minister of Canadian Heritage and Official Languages, 2014), online: <http://www.ccdonline.ca/media/international/Convention%20on%20the%20Rights%20of%20Persons%20with%20Disabilities%20-%20First%20Report%20of%20Canada.pdf>.

Statistics Canada, *New Data on Disability in Canada*, 2017, Catalogue No 11-627-M (Ottawa, Statistics Canada, 28 November 2018) online: <https://www150.statcan.gc.ca/n1/pub/11-627-m/11-627-m2018035-eng.htm>.

*Quebec (Commission des droits de la personne et des droits de la jeunesse) v Montreal (City); Quebec (Commission des droits de la personne et des droits de la jeunesse) v Boisbriand (City)*, 2000 SCC 27.

*Council of Canadians with Disabilities v VIA Rail Canada Inc*, 2007 SCC 15.

*Charter of Human Rights and Freedoms*, CQLR, c C-12, s 36.

*Canadian Human Rights Act*, RSC 1985, c H-6.

*Convention on the Rights of Persons with Disabilities and Optional Protocol*, 30 March 2007, UNTS 2515 at 3 (entered into force 3 May 2008).

Ontario Courts, *Making Ontario's Courts Fully Accessible to Persons with Disabilities*, Report of Courts Disabilities Committee, (Ontario: December 2006) online:

English version: [https://www.ontariocourts.ca/accessible\\_courts/en/report\\_courts\\_disabilities.htm](https://www.ontariocourts.ca/accessible_courts/en/report_courts_disabilities.htm)

French version: [https://www.ontariocourts.ca/accessible\\_courts/fr/report\\_courts\\_disabilities.htm](https://www.ontariocourts.ca/accessible_courts/fr/report_courts_disabilities.htm)

*Canadian Charter of Rights and Freedoms*, s 14, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.

*Simcoe Condominium Corporation No 89 v Dominelli*, 2015 ONSC 3661.

*GNWT v Portman*, 2018 NWTCA 4, aff'g 2017 NWTSC 61, rev'g *Portman and Northwest Territories (Department of Justice)*, Re, 2016 CarswellNWT 62, [2017] AWLD 564.

Guy Quenneville "N.W.T. legal aid's refusal to help human rights complainants 'systematically discriminating'", CBC News (28 July 2016), online: <https://www.cbc.ca/news/canada/north/nwt-legal-aid-refusal-help-human-rights-complaints-systematic-discrimination-1.3697954>; Guy Quenneville "A Yellowknife woman's torturous bathroom trip, and ensuing legal battle", CBC News (28 September 2016), online: <https://www.cbc.ca/news/canada/north/elizabeth-portman-human-rights-bathroom-trip-1.3781624>

Karin Huffer, *Unlocking Justice* (Fulkort Press, LLC, 2012) at 29.

*Accessible Canada Act*, SC 2019, c 10.





# A list of the primers we offer

## Here are the primers we currently offer

 They're free for you to download here: <https://representingyourselfcanada.com/our-srl-resources/>

### Step 1: Getting ready and starting the legal process

-  **So you're representing yourself:** A primer to help you get ready to represent yourself in family or civil court
-  **A guide for SRLs with disabilities:** Understanding your rights and requesting the assistance you need
-  **The McKenzie friend: Bringing a support person with you to court**
-  **The McKenzie Friend: Canadian cases and additional research**
-  **Considering Mindfulness:** How you can use Mindfulness to increase your focus and relieve the stress of representing yourself

### Step 2: Doing your research and preparing your arguments

#### Doing Your Research

-  **Part 1:** Understanding precedent and navigating the CanLII legal database (available in English and French)
-  **Part 2:** Assessing CanLII case reports, and using them to build your legal argument
-  **Reference Guide:** Legal definitions, court abbreviations and Canada's court systems at-a glance
-  **Critical Judicial Decisions for Self-Represented Litigants:** Using important case law that establishes rights for self-represented litigants and how the justice system should protect you from bias
-  **Settlement Smarts** Tips on effectively using negotiation, mediation and Judge-led settlement processes
-  **What you need to know about affidavits**

### Step 3: Presenting your case in court

-  **Coping with the courtroom:** A primer to help you navigate the written (and unwritten) rules of the courtroom
-  **How to order a court transcript**
-  **Working with opposing counsel:** Building constructive working relationships between self-represented litigants and opposing counsel
-  **Tips from the bench:** Advice for SRLs, and the judges who work with them

To keep up with what's happening at the National Self-Represented Litigants Project (NSRLP), visit **RepresentingYourselfCanada.com**.

If you have comments for us, or suggestions for ways to improve our primers, let us know at [representingyourself@gmail.com](mailto:representingyourself@gmail.com).