

Quick-Reference Chart: Remote Appearances by under the *Criminal Code* - Accused persons, witnesses, judicial officials, counsel, and other participants

Accused persons

Type of proceeding	Type of appearance	Standard/requirements for allowing remote appearance
Bail – Review	Videoconference or audioconference	Bail Review – accused does not need to be present unless counsel /crown request or court orders: ss. 520(3) and 521(3) If accused presence is required, accused can appear by video or audioconference, if arrangements made in advance and satisfactory to the justice: s. 515(2.2) Audioconference – if video not possible, and the evidence of a witness is to be taken, consent of crown and defence required s. 515(2.3)
Myers 90 Day Bail Review	Videoconference	An accused who is required to appear in a proceeding under Part XVI may appear by audioconference or videoconference, if arrangements are made with the court in advance and those arrangements are satisfactory to the justice: s. 502.1(1)
	Audioconference	
Section 469 Offences Bail Hearings	Videoconference	An accused who is required to appear in a proceeding under Part XVI may appear by audioconference or videoconference, if arrangements are made with the court in advance and those arrangements are satisfactory to the justice: s. 502.1(1)
	Audioconference	
General Provision for accused to appear by audio or video – s. 715.23		Except as otherwise provided by the Code, the court may order an accused to appear by audio or video, if it would be appropriate in the circs. including enumerated factors
Guilty plea	Videoconference	With consent of the accused: s. 606(5);650(1.1) . In-custody accused must be given opportunity to communicate privately with counsel: s. 650(1.2) .

Case management (set date)	Videoconferenc e	If the court is satisfied it would be appropriate having regard to all the circumstances: s. 715.23 .
	Audioconferenc e	If accused in custody and does not have access to legal advice during the proceeding, court must be satisfied that the accused will be able to understand the proceeding and any decisions will be voluntary: s. 715.24
Trial – indictable, other than where evidence of witness taken	Videoconferenc e	With consent of the prosecutor and the accused and only for “any part of the trial other than where evidence of witness is taken”: s. 650(1.1) . Accused in custody must be given opportunity to communicate privately with counsel: s. 650(1.2) .
Other <i>Criminal Code</i> proceedings¹	Videoconferenc e	If the court is satisfied it would be appropriate having regard to all the circumstances, including enumerated factors: s. 715.23 .
	Audioconferenc e	If accused in custody and does not have access to legal advice during the proceeding, court must be satisfied that the accused will be able to understand the proceeding and any decisions will be voluntary: s. 715.24

¹ Section [715.23](#), which allows video or audio appearances by an accused, applies to proceedings “except as otherwise provided in this Act”.

Witness inside Canada

Type of proceeding	Type of appearance	Standard/requirements for allowing remote appearance
Bail and Bail Review	Videoconference	If it is satisfactory to the justice: s. 502.1(2)
	Audioconference	
Trial (or other proceeding)	Videoconference	May be ordered if the court is of the opinion it would be appropriate having regard to all the circumstances, including enumerated factors: s. 714.1 . May also be ordered on consent: s. 714.8 . Unless court orders otherwise, cost must be paid by party calling the witness: s. 714.7 .
	Audioconference	

Witness outside Canada

Type of proceeding	Type of appearance	Standard/requirements for allowing remote appearance
Bail and Bail Review	Videoconference	Shall be allowed unless a party satisfies the court that it would be contrary to the principles of fundamental justice: ss. 502.1(3) and 714.2(1) . Party calling witness must give at least 10 days notice: s. 714.2(2) . May also be ordered on consent: s. 714.8 . Unless court orders otherwise, cost must be paid by party calling the witness: s. 714.7 .
	Audioconference	If the court is of the opinion it is appropriate in all of the circumstances, including enumerated factors: ss. 502.1(3) and 714.3 .
Trial (or other proceeding)	Videoconference	Shall be allowed unless a party satisfies the court that it would be contrary to the principles of fundamental justice: s. 714.2(1) . Party calling witness must give at least 10 days notice: s. 714.2(2) . May also be ordered on consent: s. 714.8 . Unless court orders otherwise, cost must be paid by party calling the witness: s. 714.7 .
	Audioconference	May be ordered if the court is of the opinion it would be appropriate having regard to all the circumstances, including enumerated factors: s. 714.1 . May also be ordered on consent: s. 714.8 . Unless court orders otherwise, cost must be paid by party calling the witness: s. 714.7 .

Judicial official (remote presiding)

Type of proceeding	Type of appearance	Standard/requirements for allowing remote appearance
Bail and Bail Review	Videoconference	If the justice considers it necessary in the circumstances: s. 502.1(5) .
	Audioconference	
Trial (or other proceeding)	Videoconference	If the justice considers it necessary in the having regard to all the circumstances, including enumerated factors: s. 715.26(1) . Justice must give reasons: s. 715.26(2) .
	Audioconference	

Counsel

Type of proceeding	Type of appearance	Standard/requirements for allowing remote appearance
Bail and Bail Review	Videoconference	Assuming that counsel falls within the definition of “participant” ² , can appear by video if satisfactory to the justice: s. 502.1(4)
	Audioconference	
Trial (or other proceeding)	Videoconference	Assuming that counsel falls within the definition of “participant”, and if justice is of the opinion that it would be appropriate having regard to all the circumstances, including enumerated factors: s. 715.25(1) and (2) . Unless court orders otherwise, cost must be paid by party inviting participant to participate by audio / video: s.715.25(5) .
	Audioconference	
Appearances by designated counsel	Videoconference	Prosecutor or designated counsel may appear by audioconference or videoconference if the technological means is satisfactory to the court: s. 650.02 .
	Audioconference	

Other participants

Note: [Section 715.25\(1\)](#) defines “participant” as “any person, other than an accused, a witness, a juror, a judge or justice, who may participate in a hearing”

² “Participant” is defined in [s. 715.25\(1\)](#) as “any person, other than an accused, a witness, a juror, a judge or justice, who may participate in a hearing”

Type of proceeding	Type of appearance	Standard/requirements for allowing remote appearance
Bail and Bail Review	Videoconference	If satisfactory to the justice: s. 502.1(4)
	Audioconference	
Trial (or other proceeding)	Videoconference	If justice is of the opinion that it would be appropriate having regard to all the circumstances, including enumerated factors: s. 715.25(2) .
	Audioconference	Unless court orders otherwise, cost must be paid by party having participant participate by video or audio: s. 725.25(5) .

Criminal Code Provisions

Appearance of the accused

502.1 (1) Except as otherwise provided in this Part, an accused who is required to appear in a proceeding under this Part shall appear personally but may appear by audioconference or videoconference, if arrangements are made with the court in advance and those arrangements are satisfactory to the justice.

Witness in Canada

(2) Despite section 714.1, a witness in Canada who is required to give evidence in a proceeding under this Part may do so by audioconference or videoconference, if it is satisfactory to the justice.

Witness outside Canada

(3) For greater certainty, sections 714.2 to 714.8 apply when a witness outside Canada gives evidence in a proceeding under this Part.

Participants

(4) A *participant*, as defined in subsection 715.25(1), who is to participate in a proceeding under this Part shall participate personally but may participate by audioconference or videoconference, if it is satisfactory to the justice.

Justice

(5) The justice who is to preside at a proceeding under this Part shall preside personally but may preside by audioconference or videoconference, if the justice considers it necessary in the circumstances.

Appearance of the accused

515 (2.2) If, by this Act, the appearance of an accused is required for the purposes of judicial interim release, the accused shall appear personally but the justice may allow the accused to appear by videoconference or, subject to subsection (2.3), by audioconference, if the technological means is satisfactory to the justice.

When consent required for audioconference

(2.3) If the accused cannot appear by closed-circuit television or videoconference and the evidence of a witness is to be taken at the appearance, the consent of the prosecutor and the accused is required for the appearance of the accused by audioconference.

Review of Order

520(3) If the judge so orders or the prosecutor or the accused or his counsel so requests, the accused shall be present at the hearing of an application under this section and, where the accused is in custody, the judge may order, in writing, the person having the custody of the accused to bring him before the court.

521(3) If the judge so orders or the prosecutor or the accused or his counsel so requests, the accused shall be present at the hearing of an application under this section and, where the accused is in custody, the judge may order, in writing, the person having the custody of the accused to bring him before the court.

Powers of justice

537(1) A justice acting under this Part may

(j) if the prosecutor and the accused so agree, permit the accused to appear by counsel or by closed-circuit television or videoconference, for any part of the inquiry other than a part in which the evidence of a witness is taken;

(j.1) permit, on the request of the accused, that the accused be out of court during the whole or any part of the inquiry on any conditions that the justice considers appropriate; and

Video links

606 (5) For greater certainty, subsections 650(1.1) and (1.2) apply, with any modifications that the circumstances require, to pleas under this section if the accused has agreed to use a means referred to in those subsections.

Accused to be present

650 (1) Subject to subsections (1.1) to (2) and section 650.01, an accused, other than an organization, shall be present in court during the whole of his or her trial.

Video links

(1.1) If the court so orders, and if the prosecutor and the accused so agree, the accused may appear by counsel or by closed-circuit television or videoconference, for any part of the trial other than a part in which the evidence of a witness is taken.

Video links

(1.2) If the court so orders, an accused who is confined in prison may appear by closed-circuit television or videoconference, for any part of the trial other than a part in which the evidence of a witness is taken, as long as the accused is given the opportunity to communicate privately with counsel if they are represented by counsel.

Exceptions

(2) The court may

- (a)** cause the accused to be removed and to be kept out of court, where he misconducts himself by interrupting the proceedings so that to continue the proceedings in his presence would not be feasible;
- (b)** permit the accused to be out of court during the whole or any part of his trial on such conditions as the court considers proper; or
- (c)** cause the accused to be removed and to be kept out of court during the trial of an issue as to whether the accused is unfit to stand trial, where it is satisfied that failure to do so might have an adverse effect on the mental condition of the accused.

To make defence

(3) An accused is entitled, after the close of the case for the prosecution, to make full answer and defence personally or by counsel.

Designation of counsel of record

650.01 (1) An accused may appoint counsel to represent the accused for any proceedings under this Act by filing a designation with the court.

Contents of designation

(2) The designation must contain the name and address of the counsel and be signed by the accused and the designated counsel.

Effect of designation

(3) If a designation is filed,

- (a)** the accused may appear by the designated counsel without being present for any part of the proceedings, other than
 - (i)** a part during which oral evidence of a witness is taken,
 - (ii)** a part during which jurors are being selected, and
 - (iii)** an application for a writ of *habeas corpus*;
- (b)** an appearance by the designated counsel is equivalent to the accused's being present, unless the court orders otherwise; and

(c) a plea of guilty may be made, and a sentence may be pronounced, only if the accused is present, unless the court orders otherwise.

When court orders presence of accused

(4) If the court orders the accused to be present otherwise than by appearance by the designated counsel, the court may

(a) issue a summons to compel the presence of the accused and order that it be served by leaving a copy at the address contained in the designation; or

(b) issue a warrant to compel the presence of the accused.

Remote appearance

650.02 The prosecutor or the counsel designated under section 650.01 may appear before the court by audioconference or videoconference, if the technological means is satisfactory to the court.

Audioconference and videoconference — witness in Canada

714.1 A court may order that a witness in Canada give evidence by audioconference or videoconference, if the court is of the opinion that it would be appropriate having regard to all the circumstances, including

(a) the location and personal circumstances of the witness;

(b) the costs that would be incurred if the witness were to appear personally;

(c) the nature of the witness' anticipated evidence;

(d) the suitability of the location from where the witness will give evidence;

(e) the accused's right to a fair and public hearing;

(f) the nature and seriousness of the offence; and

(g) any potential prejudice to the parties caused by the fact that the witness would not be seen by them, if the court were to order the evidence to be given by audioconference.

Videoconference — witness outside Canada

714.2 (1) A court shall receive evidence given by a witness outside Canada by videoconference, unless one of the parties satisfies the court that the reception of such testimony would be contrary to the principles of fundamental justice.

Notice

(2) A party who wishes to call a witness to give evidence under subsection (1) shall give notice to the court before which the evidence is to be given and the other parties of their intention to do so not less than 10 days before the witness is scheduled to testify.

Audioconference — witness outside Canada

714.3 The court may receive evidence given by a witness outside Canada by audioconference, if the court is of the opinion that it would be appropriate having regard to all the circumstances, including those set out in paragraphs 714.1(a) to (g).

Reasons

714.4 If the court does not make an order under section 714.1 or does not receive evidence under section 714.2 or 714.3, it shall include in the record a statement of the reasons for not doing so.

Cessation

714.41 The court may, at any time, cease the use of the technological means referred to in section 714.1, 714.2 or 714.3 and take any measure that the court considers appropriate in the circumstances to have the witness give evidence.

Costs of technology

714.7 Unless the court orders otherwise, a party who calls a witness to give evidence by means of the technology referred to in section 714.1, 714.2 or 714.3 shall pay any costs associated with the use of the technology.

Consent

714.8 Nothing in sections 714.1 to 714.7 is to be construed as preventing a court from receiving evidence by audioconference or videoconference, if the parties so consent.

PART XXII.01

Remote Attendance by Certain Persons

Principles

Attendance

715.21 Except as otherwise provided in this Act, a person who appears at, participates in or presides at a proceeding shall do so personally.

Provisions providing for audioconference or videoconference

715.22 The purpose of the provisions of this Act that allow a person to appear at, participate in or preside at a proceeding by audioconference or videoconference, in accordance with the rules of court, is to serve the proper administration of justice, including by ensuring fair and efficient proceedings and enhancing access to justice.

Accused

Appearance by audioconference or videoconference

715.23 (1) Except as otherwise provided in this Act, the court may order an accused to appear by audioconference or videoconference, if the court is of the opinion that it would be appropriate having regard to all the circumstances, including

- (a) the location and personal circumstances of the accused;
- (b) the costs that would be incurred if the accused were to appear personally;
- (c) the suitability of the location from where the accused will appear;
- (d) the accused's right to a fair and public hearing; and
- (e) the nature and seriousness of the offence.

Reasons

(2) If the court does not make an order under subsection (1) it shall include in the record a statement of the reasons for not doing so.

Cessation

(3) The court may, at any time, cease the use of the technological means referred to in subsection (1) and take any measure that the court considers appropriate in the circumstances to have the accused appear at the proceeding.

Accused in prison

715.24 Despite anything in this Act, if an accused who is in prison does not have access to legal advice during the proceedings, the court shall, before permitting the accused to appear by videoconference, be satisfied that the accused will be able to understand the proceedings and that any decisions made by the accused during the proceedings will be voluntary.

Participants

Definition of participant

715.25 (1) In this section, ***participant*** means any person, other than an accused, a witness, a juror, a judge or a justice, who may participate in a proceeding.

Participation by audioconference or videoconference

(2) Except as otherwise provided in this Act, the court may order a participant to participate in a proceeding by audioconference or videoconference, if the court is of the opinion that it would be appropriate having regard to all the circumstances, including

- (a) the location and personal circumstances of the participant;
- (b) the costs that would be incurred if the participant were to participate personally;
- (c) the nature of the participation;

- (d) the suitability of the location from where the participant will participate;
- (e) the accused's right to a fair and public hearing; and
- (f) the nature and seriousness of the offence.

Reasons

(3) If the court does not make an order under subsection (2) it shall include in the record a statement of the reasons for not doing so.

Cessation

(4) The court may, at any time, cease the use of the technological means referred to in subsection (2) and take any measure that the court considers appropriate in the circumstances to have the participant participate in the proceeding.

Costs

(5) Unless the court orders otherwise, a party who has a participant participate by audioconference or videoconference shall pay any costs associated with the use of that technology.

Judge or Justice

Presiding by audioconference or videoconference

715.26 (1) Except as otherwise provided in this Act, the judge or justice may preside at the proceeding by audioconference or videoconference, if the judge or justice considers it necessary having regard to all the circumstances, including

- (a) the accused's right to a fair and public hearing;
- (b) the nature of the witness' anticipated evidence;
- (c) the nature and seriousness of the offence; and
- (d) the suitability of the location from where the judge or justice will preside.

Reasons

(2) The judge or justice shall include in the record a statement of the judge or justice's reasons for the decision to preside at the proceeding by audioconference or videoconference.

Cessation

(3) The judge or justice may, at any time, cease the use of the technological means referred to in subsection (1) and take any measure that the judge or justice considers appropriate in the circumstances to preside at the proceeding.

Video links

800 (2.1) If the summary conviction court so orders and the defendant agrees, the defendant who is confined in prison may appear by closed-circuit television or videoconference, as long as the defendant is given the opportunity to communicate privately with counsel if they are represented by counsel.