

## **LEGAL OPTIONS AND REMEDIES FOR TEENS EXPERIENCING DIGITAL DATING VIOLENCE**

### **INTRODUCTION**

The purpose of this tip sheet is to help teens between the ages of 12 and 18 who are experiencing teen digital dating violence understand what their legal options are. This tip sheet explains the different laws that can be used to hold perpetrators of teen digital dating violence accountable. This also goes through the steps that you must take if you decide to formally begin legal proceedings as a victim of teen digital dating violence.

#### **\* Notes with regard to navigating this document**

- If you are using a PC: to go to a link, hold down CONTROL and click the link. Some links will lead to external webpages. Some links lead to different locations within this document. If you click on a link that leads you to a different location within this document, you can use ALT+ LEFT ARROW to go back to your previous location
- If you are using a Mac: to go to a link, click the link. Some links will lead to external webpages. Some links lead to different locations within this document. If you click on a link that leads you to a different location within this document, you can use COMMAND + LEFT ARROW to go back to your previous location.

The law can help make sure that perpetrators of teen digital dating violence are held responsible for their actions. Different laws will apply in different circumstances. This section of the tip sheet goes over four general areas of law that can help stop teen digital dating violence: [criminal law](#) (page 9), [civil law](#) (page 14), [human rights protection](#) (page 17), and [peace bonds](#) (page 18).

## **Criminal Law**

A criminal offence is a crime that is punishable by law. In Canada, criminal offences are found in the Criminal Code. The following list sets out the criminal offences that could apply in cases of teen digital dating violence. When going through this list, think about whether your abuser has committed any of the following crimes.

1. **Criminal Harassment**: Section 264 of the Criminal Code states that it is a crime to repeatedly *follow someone, communicate with someone, watch a person's home, OR engage in threatening conduct* towards someone if that conduct *causes the person to fear for their safety*.
  - Be aware that “harassment” is not the same as “criminal harassment”. For instance, receiving unwanted text messages is a form of harassment. But it is only criminal harassment if receiving these texts are repetitive and causes you to fear for your safety.
  - Notice that this crime could potentially apply to many types of teen digital dating violence. Harassment, stalking, intimidation, impersonation, and the sharing of intimate images could all be considered criminal harassment.

- If someone is doing something that makes you fear for your safety, there is a good chance that they are committing criminal harassment.
2. Uttering Threats: Section 264.1 of the Criminal Code states that it is an offence to *threaten to cause bodily harm to a person* or threaten to destroy their property.
    - Unlike criminal harassment, the crime of uttering threats does not require you to fear for your safety. As long as a threat has been made, a crime has potentially been committed.
  3. Extortion: Section 346 of the Criminal Code states that it is an offence to *use threats* to make a person do something.
  4. Intimidation: Section 423 of the Criminal Code states that it is an offence to *use intimidating behaviour* to prevent a person from doing something.
    - Intimidating behaviour can include violence, threats, following a person, watching a person's home, as well as blocking or obstructing a person on a highway.
  5. Publication of an Intimate Image Without Consent: Section 162.1 of the Criminal Code states that it is an offence to *publish, distribute, make available, or advertise* an intimate image of a person without their consent.
    - Notice that an intimate image does not need to be shown to another person for this offence to apply. As long as someone advertises the images, this offence has been committed.
      - For example, if an ex-partner tells his friends that he can show them intimate images of you, this counts as advertising an intimate image.

6. Distribution of Child Pornography: Section 163.1(3) of the Criminal Code states that it is an offence to distribute a sexual image or video that shows a person who is or is depicted as being under the age of eighteen years.

- Even if you agree to let someone share a sexual image of you, it is still a crime if you are under the age of 18<sup>1</sup>.
- This offence only applies if your abuser is an adult.

Note: The age of majority in British Columbia is 19 years old. That's the age when someone legally becomes an adult and can do “adult” things such as vote in an election.

7. Luring a Child: Section 172.1 of the Criminal Code states that it is an offence to use the internet to communicate with a teen for the purposes of persuading that teen to meet up for sexual activities.

- This offence could apply in situations where an adult is pressuring you to send them sexual photos or text messages. Even if you have not met in person yet, if the adult has intentions of eventually meeting you in person for sex, then this offence has been committed.
- This offence only applies if your abuser is an adult.

If you think a crime has been committed against you, you should consider starting formal criminal law proceedings. Your abuser could face punishment for their actions if they are found guilty of the crime. The punishment for committing a crime will vary depending on the situation.

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<sup>1</sup> The CA Supreme Court, in the 2001 R v. Sharpe case, recognized that there are certain situations where, “a teenage couple would not fall within the law’s purview for creating and keeping sexually explicit pictures featuring each other alone, or together engaged in lawful sexual activity, provided these pictures were created together and shared only with one another.”

Sometimes the punishment could be a fine, other times it could be a certain amount of jail time.

### **Criminal Law Proceedings**

1. Before you take any formal steps to begin criminal law proceedings, consider applying to the [Crime Victim Assistance Program](#). The program may be able to help you with certain expenses and provide support and counselling. You can apply to the program as soon as a crime against you has taken place. Your abuser does not need to be arrested or charged with a crime in order for you to apply.
2. To begin formal criminal law proceedings, you must start by reporting your abuser to the police. This is required if you want your abuser to be charged with a crime.
  - Bring your evidence to the police station and ask to speak to an officer.
  - If your evidence includes personal information or images that you feel uncomfortable sharing, ask the officer what your options are.
3. The officer will investigate your case. During an investigation, the officer may speak to other witnesses such as your family and friends.
  - If the officer refuses to investigate and takes no further action, talk to their supervisor to see what can be done. You can ask for the officer's supervisor at the reception/front desk of the police station. If the supervisor also refuses to investigate further, you can consider [laying an information](#) if you think that your case should be investigated further.
4. After investigating your case, the police will consider whether or not they think your abuser should be charged with a crime.

- If the answer is yes, the police will recommend that Crown counsel charge your abuser with a crime. Crown counsel are lawyers who work for the government.
  - If the answer is no, the police will not recommend that Crown counsel charge your abuser with a crime.
    - This means that your case will not proceed any further. However, if you still believe that your abuser has committed a crime against you and should be charged with a crime, you should talk to the officer's supervisor. If the supervisor also refuses to move forward with your case, you can consider [laying an information](#).
5. If Crown counsel receives a recommendation from the police to charge your abuser with a crime, the Crown will decide whether or not they agree with the police.
- If Crown counsel agrees with the police's recommendation, they will charge your abuser with the crime.
    - This does not mean that your abuser is automatically guilty of the crime. Your abuser will appear in court where it will be decided if they are guilty or not. Your abuser will have a chance to defend themselves. If your abuser is found guilty of committing the crime, they will receive a punishment. As mentioned earlier in this tip sheet, the punishment will depend on the circumstances of your situation.
  - If Crown counsel does not agree with the police's recommendation, they will not charge your abuser with a crime.
    - This means that your case will not proceed any further.

- If you disagree with the Crown’s decision, you should ask them to tell you why they are not proceeding with your case. The law requires them to tell you the reason behind their decision.
  - Crown counsel will not proceed with a case if they think there isn’t enough evidence. You can ask the Crown to tell you what evidence is missing. If you discover new evidence, you should bring it to the attention of the Crown. Crown counsel will generally move forward with a case if they think there is enough evidence to prove that a crime has been committed.

If criminal charges proceed, you might want to bring a person with you to support you such as a

- trusted adult or support worker.
- The Society for Children & Youth BC Legal Centre may be a resource for connecting with supports as well. <https://www.scyofbc.org/child-youth-legal-centre/>

### Laying an Information

Normally, if you think a crime has been committed against you, you must report it to the police in order to start formal criminal law proceedings. However, sometimes the police may not think your case is serious enough to move forward with. If this happens to you, you may still be able to move your case forward by laying an information. Laying an information is a process where you provide information about a crime to a court instead of the police. The process of laying an information is set out below.

1. Make sure you know which criminal offence has been committed. A [list of criminal offences](#) that commonly occur during teen digital dating violence has been set out above.

- If no crime has been committed, you shouldn't proceed with this section of the tip sheet.
2. If you think that a crime has been committed, go to a courthouse that has a court registry. A list of courthouses can be found [here](#) (only staffed courthouses have a court registry).
  3. Tell the court registry that you would like to lay an information.
  4. There will be someone at the courthouse who you will give information to about the crime that has been committed.
    - The information you give will be passed along to a judge or justice of the peace.
    - The information will also be passed along to government lawyers (also called Crown counsel).
  5. There will be a process hearing at court. This means you will have to attend court and speak to a judge. During the process hearing you will have to present the court with evidence showing that your abuser committed the crime you say they committed.
    - You should bring all the evidence that you have collected. [Part 1](#) of this tip sheet went over the evidence that you should collect if you are experiencing teen digital dating violence.
    - Crown counsel will also be present in court and may ask you questions about your evidence.
  6. If the judge is satisfied with your evidence, they will order your abuser to attend court at a later date.
    - This does not mean that your abuser is automatically guilty of a crime. Your abuser will have a chance to defend themselves in court. Crown counsel will be responsible



for arguing that your abuser is guilty. You may also have to go to court again as a witness. If your abuser is found guilty of committing the crime, they will receive a punishment. As mentioned earlier in this tip sheet, the punishment will depend on the circumstances of your situation.

*Disclaimer: After step 4, Crown counsel can intervene and stop this process at any time if they feel that you do not have a strong case. This would mean that your case does not proceed any further and steps 5 and 6 do not happen.*

## **A. Civil Law**

Civil law allows you to sue another person for the harm they have caused you. You are not accusing the other person of committing a crime. You are just saying that you have been harmed by the other person and should be compensated for the harm. If you are experiencing teen digital dating violence, you may want to consider starting a civil lawsuit against your abuser. If you win your lawsuit, you can receive compensation (i.e., money) from the person that you are suing. In some cases, you can also receive an injunction if you win your lawsuit. An injunction is an order from the court that forces your abuser to do something. For example, an injunction can be used to order an abuser to delete insulting social media posts of you. If you want to sue your abuser, here are some possible things you can sue for:

- 1. Intentional Infliction of Mental Suffering:** You may be able to sue your abuser for intentional infliction of mental suffering if you are experiencing teen digital dating violence that is *outrageous* and causes you to *suffer an illness* (for example, depression or PTSD). Additionally, *your abuser must have intended for you to suffer the illness*. This last requirement is satisfied if your abuser knew that their actions would cause you to suffer an illness.

- If you successfully sue your abuser, you can get compensation (i.e., money) from your abuser. Depending on the circumstances, an injunction may also be possible. For instance, if your abuser has been threatening to post intimate images of you online, you could ask for an injunction that forces your abuser to destroy any photos that they own of you.
- *Note: If your abuser is a teenager who has no money of their own, they may not be able to pay you even if you win your lawsuit.*

2. Defamation: You may be able to sue your abuser for defamation if (a) they have posted an untrue statement about you, (b) the statement damages your reputation, and (c) the statement has been communicated to at least one other person.

- An untrue statement can include a photo or video that has been edited, commonly known as a deep fake.
- If your abuser shares an unedited image of you, it can still be considered an untrue statement if there are untrue captions attached to the image. For example, an ex-partner posts an intimate photo of you online. The photo is unedited, but your ex-partner falsely accuses you of being a cheater in the caption. Both the photo and the caption would likely be considered untrue statements.
- If you successfully sue your abuser, you can get an injunction to force your abuser to take down the untrue statements. If the abuser has personal photos of you, they can be forced to destroy those photos. Monetary compensation is also available if your abuser has the money to pay you.

In addition to the two options stated above, you may also have the third option of suing your school if you are experiencing teen digital dating violence at school.

3. Suing the School Board and the School Staff for Negligence: If you are a student, you may be able to sue the school board and school staff for negligence if (a) your abuser is a student at your school, (b) the teen digital dating violence is occurring at the school, (c) the school is aware of the teen digital dating violence, and (d) the school does not make a genuine effort to stop the abuse.

- If you successfully sue your school, you will be able to get compensation from the school.
- If you choose to sue your school, you can still sue your abuser at the same time.
  - For example, if your abuser has been threatening to send personal photos of you to your classmates, you can sue your abuser. You can ask for an injunction to force your abuser to destroy all their photos of you. At the same time, you can also sue your school for negligence and ask for compensation from the school.

If you wish to start a civil lawsuit, the steps that you must take to start civil law proceedings are set out below.

### **Civil Law Proceedings**

As a teenager, your ability to begin a civil lawsuit is unfortunately quite limited. You have 2 options when it comes to starting a civil lawsuit.

1. Teenagers (under 19) are not allowed to begin civil lawsuits. You must ask an adult to sue on your behalf. This adult is called a litigation guardian. Your litigation guardian can be a family member or any other adult that you trust. It is recommended that your litigation guardian hire a lawyer, but it is not required in most cases. Your litigation guardian can start a civil lawsuit for you by following [these instructions](#). At the same time, your litigation guardian

must also complete a form called the “Consent to act as guardian ad litem and certificate of fitness”. This form can be found [here](#).

As mentioned above, in most cases your litigation guardian does not need to hire a lawyer. However, a lawyer *must* be hired if one of the following situations applies to your case:

- a. You are suing your abuser for [defamation](#).
- b. You are asking for more than \$35,000 in compensation.
  - o Only very severe cases of teen digital dating violence would result in a lawsuit worth this much money.
- c. You are asking for an injunction. Examples of an injunction would include:
  - o An injunction ordering your abuser to destroy all photos of you that they own.
  - o An injunction ordering your abuser to remove social media posts about you.

Your litigation guardian is responsible for hiring and paying a lawyer if one of the three circumstances above apply to your case. Once a lawyer has been hired, the lawyer will take over the case and give you instructions on what to do.

2. If, for some reason, you cannot ask an adult in your life to be your litigation guardian, you can ask the [Public Guardian and Trustee of British Columbia](#) (the PGT) to sue on your behalf. You can call them at 604-660-3040 or email them at [cys@trustee.bc.ca](mailto:cys@trustee.bc.ca) with information about your case. You should also tell them why you cannot ask an adult in your life to be your litigation guardian. If the PGT take your case, they will hire a lawyer who will be in charge of your case.

## **B. Human Rights Protections**

*Note: Only consider this section if the teen digital dating violence you are experiencing is happening at school and your abuser is another student.*

The Human Rights Code in British Columbia protects people from discrimination for their *race, colour, place of origin, religion, physical disability, mental disability, sex, gender identity or expression, and sexual orientation*. This means that your school has a responsibility to make sure that you are not being targeted by other students in a discriminatory way. For example, if someone you are dating repeatedly texts racist jokes about you to your classmates, your school must make a genuine effort to stop the abuse. If your school is aware of the abuse and does not make a genuine effort to stop it, you can go to the BC Human Rights Tribunal and file a complaint against your school. The Tribunal will decide whether your school has failed to provide an environment that is free from discriminatory conduct. If the Tribunal decides that your school has not done enough to stop the discriminatory conduct, you can get compensation (i.e., money) from your school.

If you are experiencing discriminatory teen digital dating violence at your school, [suing your school for negligence](#) in civil law is always another option. This legal option was mentioned earlier in the tip sheet. However, the BC Human Rights Tribunal is generally the better option if you will not be using a lawyer. This is because filing a complaint with the Tribunal is less complicated than starting a civil lawsuit. Of course, if you do hire a lawyer, they are allowed to represent you at the Tribunal.

### **Filing a Human Rights Complaint**

The BC Human Rights Tribunal website explains the entire [human rights complaint process](#). It would be helpful for you to read through the process before making a complaint. When you are ready to make your complaint, the easiest way to do so is using the [online form](#).

### **Peace Bond**

A peace bond is a court order that prevents an abuser from contacting you. A peace bond can also:

- prevent your abuser from being within a certain distance of you.
- Prevent your abuser from going to certain places that you frequently go to.
- Prevent your abuser from carrying weapons.

[This tip sheet on peace bonds](#) has more information on how you can obtain a peace bond.

*Note: **You are not limited to just using one type of law.** If you are experiencing teen digital dating violence, any law that applies to your situation can be used. For example, if someone has shared intimate photos of you online, you can start criminal proceedings against them for committing a crime. You can start a civil lawsuit against the individual and ask for compensation and an injunction. You can also obtain a peace bond to prevent them from contacting you.*

If you or someone you know is or might be experiencing dating violence, chat with a trusted adult or seek help from one of the organizations listed below. Often one form of dating violence is part of a continuum of gender-based violence that can be both online and in person.

You are not alone and there are confidential safe support services available.

- [PEACE Program for Children and Youth](#) is counselling program for children and youth experiencing violence.
- [Kid Help Phone](#) crisis line is available 24/7 by call or text.
- [KUU-US Crisis Line Society](#) is a crisis phone line for Indigenous Youth.
- [VictimLink BC](#) is a referral and information service for victims of crime.
- [Society for Children and Youth BC's Child and Youth Legal Centre](#) provides legal support for children and youth.

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*Spark Teen Digital Dating Violence Project*

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