

that not remembering all of the details or knowing all of the answers doesn't mean he or she has done something wrong.

## Working with Legal Professionals

In addition to providing comfort and support to your child during the legal process, monitor the legal professional's handling of the case to ensure your child's needs are met. Below are guidelines for parents and guardians in working with legal professionals.

- If the attorney does not have experience in working with child witnesses, ask if he or she will consult with one who has this experience. Most state attorney's or district attorney's offices now have a crimes-against-children unit, with specially trained attorneys, to handle these cases.

- In your meeting with the lawyers before the court appearance, talk with the attorneys about the best time of day for your child to testify—that is, try to schedule the testimony so as not to interfere with naps or mealtimes. If your child is very young, attempt to have the testimony scheduled early in the day, before your child becomes tired. The lawyers should know of planned events that might interfere with testimony such as a school field trip, vacation, or birthday. If your child has any special ways of showing fear or distress, tell the lawyer.

- Discuss with the attorneys any special measures that may be taken to alleviate your child's anxiety on the witness stand. The attorney may speak to the judge to request permission for your child to testify in the judge's chambers, obtain a smaller witness chair, or allow the use of dolls or drawings to demonstrate what happened.

It may also be possible to "isolate" your child from the defendant outside of the courtroom as well. Many courts now have special waiting areas for children away from the proceedings.

- Meet with any victim/witness counselor who may be assigned to your case. When assigned, this person should follow the case all the way to resolution. In addition the district attorney's office or law enforcement may have a victim/witness program. This program may also be listed in the telephone book under the **county department of social services**. A local nonprofit organization serving missing and exploited children and their families may also help guide you and your child through the legal system.

## Your Child's Appearance in Court

Before your child appears in court, find out whether you will be able to be present in court with him or her. If you are also a witness in the case, you may not be able to be present when your child testifies. In that case you should ask if a support person, such as a victim/witness advocate, relative, or friend, may be in court when your child testifies.

On the day of your child's courtroom appearance, you and your child should have a good breakfast and try to relax as much as possible. You and your child should dress neatly and comfortably. Since there may be long periods of waiting and unforeseen delays, bring snack food and some quiet toys to amuse your child such as crayons, a book, or a doll. You and your child should not discuss the case with each other or anyone else. Ask your child to think carefully about the details of the testimony he or she will give.

## After the Courtroom Testimony

After the testimony is over, reassure your child he or she testified well and you are proud. You may not know the outcome of the trial or be disappointed with the outcome, but know telling what happened was the right action to take.

Your child may have some stress-related sleep problems, worries, or feelings of insecurity for a day or two. You should consider professional counseling for your child to help him or her deal with any long-lasting trauma of the victimization as well as the entire judicial process. Don't be afraid to talk to your child about the experience and listen carefully to any of his or her thoughts, fears, or concerns. Answer questions as truthfully and honestly as possible.

## The Role of the Parent or Guardian

- Your child will testify more effectively and with less trauma if you control your own anxiety, perhaps by talking to relatives, friends, or a therapist. Do not neglect any needs you may have to receive help in addressing and dealing with your own feelings of guilt and anger over what has happened to your child.

- Ask others how you can most effectively help your child in court, and make sure the appropriate legal personnel are handling the case properly. Make use of advocates, and be proactive in ensuring what is best for your child.

- Do not try to investigate or handle the case yourself. This is not your role and can harm the case. If you do learn information that may be helpful, be sure to notify the proper authorities.

- Remember you already know what the truth is, and the legal decision—however it may turn out—does not change that.
- Your most important role is to provide comfort, support, reassurance, and love to your child during this potentially difficult and trying time. This will go a long way in helping your child through the healing process.

## National Center for Missing & Exploited Children

The National Center for Missing & Exploited Children (NCMEC), established in 1984 as a private, nonprofit organization, serves as a clearinghouse of information about missing and exploited children; provides technical assistance to the public and law-enforcement agencies; offers training programs to law-enforcement and social-service professionals; distributes photographs of and descriptions about missing children worldwide; creates and coordinates child-protection education and prevention programs and publications; coordinates child-protection efforts with the private sector; networks with nonprofit service providers and state clearinghouses regarding missing-child cases; and provides information about effective legislation to help ensure the protection of children per 42 U.S.C. §§ 5771 *et seq.*; 42 U.S.C. § 11606; and 22 C.F.R. § 94.6.

A 24-hour, toll-free telephone line, **1-800-THE-LOST (1-800-843-5678)**, is available in Canada, Mexico, and the United States for those who have information regarding missing and exploited children. The "phone free" number when dialing from other countries is 00-800-0843-5678. The CyberTipline® is available worldwide for online reporting

of these crimes at [www.cybertipline.com](http://www.cybertipline.com). The TTY line is 1-800-826-7653. The NCMEC business number when dialing in the United States is 703-274-3900. The NCMEC business number when dialing from other countries is 001-703-522-9320. The NCMEC facsimile number is 703-274-2200. The NCMEC web-site address is [www.missingkids.com](http://www.missingkids.com).

For information about the services offered by other NCMEC offices, please call them directly in California at 714-508-0150, Florida at 561-848-1900, Kansas City at 816-756-5422, New York at 585-242-0900, and South Carolina at 803-254-2326.

A number of publications, addressing various aspects of the missing- and exploited-child issue, are available free-of-charge in single copies by contacting the National Center for Missing & Exploited Children's Publications Department at

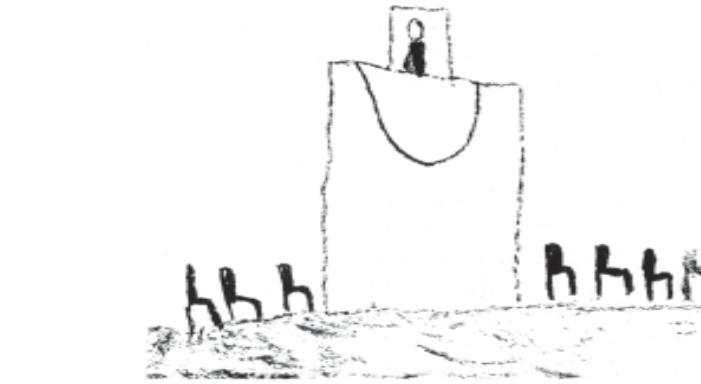


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# Just in case...

## Guidelines in case your child is testifying in court



National Center for Missing & Exploited Children®

1-800-THE-LOST®  
(1-800-843-5678)

[www.missingkids.com](http://www.missingkids.com)



# Guidelines in case your child is testifying in court

Testifying in court, while difficult and trying for many adults, can be a highly traumatic experience for a child victim of abduction or sexual exploitation. Repeated questioning, lengthy delays, testifying in front of the accused, and other legal requirements may be intimidating and can increase the child's anxiety and sense of helplessness. While we want victimized children to work through their trauma and put bad memories behind them, the legal system demands that they recount their victimization and hold the memory of the event fresh in their minds, at least through the trial phase of the case—which may, unfortunately, be filled with delays. **Not all children suffer such trauma, however, and many children and families have benefited from new procedures that enhance their participation in the legal process. Many child witnesses derive great satisfaction and a sense of vindication from helping bring the facts of the case to light and taking part in a process that attempts to ensure “justice is done.”**

This brochure is designed to help parents and guardians prepare their children to testify in court. Included are an explanation of the courtroom process, a discussion of current reforms to help child witnesses testify, advice about preparing children to testify, considerations in working with legal professionals, and suggestions for aftercare following the trial.

## The Courtroom Process

To **testify** in court means to answer questions under oath. Explain to your child that an **oath** is simply a promise to tell the truth. There are a number of situations in which your child may be asked to testify in court. Your child

may have been exploited, neglected, or involved in a custody or visitation dispute if you are going through a separation or divorce. Your child may have been a victim of a crime such as robbery. He or she may have been injured and is involved in a civil suit for damages. Or your child may have been the victim of a family or nonfamily abduction. A child may also have to testify in court if he or she was simply a witness to a crime or accident.

Depending on the kind of offense and laws in your state, your child could testify in **criminal court, civil court, or family court**. Matters of child sexual exploitation and abuse are most often handled in criminal court. Common names for family court include **juvenile court** and **domestic relations court**. Divorce and custody cases are generally heard in domestic relations court.

When criminal charges are filed and the person accused of the crime, known as the **defendant**, does not plead guilty, a criminal trial is held. The case will be heard either by a judge alone or by a judge and **jury**, the group of people appointed to hear the case. In a jury trial the jurors will listen to the evidence and decide the outcome. Also present in the courtroom will be the **bailiff**, who is a kind of law-enforcement officer for the court; a **court reporter** to record what is said; and a **court clerk** to administer the oath. Furthermore the judge may allow spectators and newspaper, radio, and/or television reporters, but usually not other witnesses, in the courtroom while your child testifies. In certain cases the judge may ban spectators and reporters from the courtroom if your child is testifying on a sensitive or embarrassing subject or to uphold state law regarding the protection of juvenile witnesses or victims.

Each side will have its own attorney present to ask questions of witnesses and argue the case. In some cases more than one attorney may be present for each side or there may even be a prosecution/defense team consisting of several attorneys. The **prosecutor** or **district attorney** will try to prove beyond a reasonable doubt that the person accused of the crime broke the law. The **defense attorney** acts on behalf of the defendant. They will both question your child. The defense attorney will attempt to show your child's version is not true or your child is not a reliable witness. Your child may have to tell the same story in detail to each attorney and should expect to be questioned closely.

The judge can play an important role in helping your child testify. For example the judge can provide alternative seating, shorten the length of time your child is required to testify, and control the defense attorney's use of cross-examination to prevent harassment. The judge's role may also include directly questioning the child.

The family court process differs from the criminal court process in several important ways. While a criminal trial generally involves a jury, the family court trial does not. Family court generally has a more relaxed and private atmosphere. Testimony in family court may be presented in the judge's office or **chambers**. There are only a few people present during testimony in family court including the child witness, support persons, the judge, the court reporter, and the attorneys for each side.

Many states appoint a special attorney or advocate, called a **guardian ad litem**, to help ensure proper protection of the child in family court. The guardian ad litem represents only the

child and serves in addition to the attorneys representing each side. The family court may use a specially trained volunteer who is not an attorney, often called a **court-appointed, special advocate** (CASA), as well as a **guardian ad litem**.

## Reforms to Help Child Witnesses Testify

The rules of evidence and procedure in the legal system within the United States are designed to help ensure a fair trial for all accused persons. The most important consideration is the right of an individual to **due process**—notice and an opportunity to be heard—under law. Some legal procedures, however, may intimidate a child and inhibit credible testimony. For example an accused person has a right to confront the witnesses against him or her. The parent or guardian concerned with a child's well-being may find such a requirement unfair and unreasonable.

Efforts have been made to pass laws or change procedures in order to accommodate the special concerns of the child witness. Certain procedures have been adopted in most states that make it easier for children to testify such as allowing the presence of a support person, using child-sized chairs, letting the child sit on the parent or guardian's lap, or permitting testimony in the judge's chambers. Some states have even adopted procedures in which a child may be able to testify via closed-circuit television or videotaped depositions. Ask the lawyer or guardian ad litem to make use of any available or permissible ways of making it easier for your child to testify.

• Do **not** go over your child's testimony before the courtroom appearance. The defense attorney may ask your child, "Did someone tell you to say that?" Thus, if you have "gone over" your child's testimony with him or her before the trial, you may be thought to have coached your child and influenced the testimony. It is perfectly acceptable, however, for the prosecutor to review the testimony with your child before the trial. Try not to discuss the facts of the case with or in front of your child. If the attorney for the defense seeks to question your child before trial, you should consult with the prosecutor, guardian ad litem, a victim/witness advocate, and/or your own attorney.

- Any anxiety your child exhibits about testifying in court will be lessened if he or she knows what to expect from the courtroom process. The prosecutor, victim/

## Preparing Your Child to Testify

Remember that you will have a better case against an offender if your child is a reliable witness—that is, tells the truth in a clear, thorough, and comprehensible manner. If the child victim cannot testify, and there is no other evidence available, defense attorneys know that the case usually cannot be proved. Although some people believe young children are not competent to testify in court, in fact a child as young as 3 or 4 is usually as reliable a witness as an adult. In order to "qualify" your child to testify, the judge may ask your child questions to determine if he or she understands the difference between telling a lie and telling the truth. Below is a list of suggestions that will help you prepare your child to testify.

- Your child can be taught strategies to reduce anxiety before or while testifying. These can include relaxation exercises, mentally rehearsing the testimony, or simply playing with a favorite toy. Again, a therapist or victim/witness advocate can help with ideas.
- If your child is a victim of sexual exploitation or abuse, he or she may be especially afraid or embarrassed about telling the story in court. Reassure your child that disclosing the victimization was the right action to take.
- Remind your child that you know he or she is telling the truth and you believe him or her no matter what the defense attorney or the defendant says. Make sure your child knows no matter what happens in the legal process, your feelings toward him or her will not change.
- Advise your child that the most important thing to do in court is to tell the truth.
- Tell your child that if he or she is confused or does not know the answer, feel free to say so. No one expects your child to remember **all** the details or know **all** the answers. Be sure to let your child know