



INFORMATION / FACT SHEET

COURT COMPANION GUIDELINES FOR FAMILY OR FRIENDS

Giving evidence in court can be a stressful and difficult time for *witnesses*.

A *Court Companion* can provide support to *witnesses* to assist in making their experience less stressful. This role will enable you to 'walk alongside' the *witness* throughout the process of giving evidence at trial.

What is a Court Companion?

A *Court Companion* is a friend, family member, volunteer, or support worker who is not a *witness* in the case, and who provides assistance and support to a *witness* during the time they are required to give evidence at Court.

The purpose of a *Court Companion* is to provide a familiar and supportive physical presence whilst the *witness* gives evidence.

Who Can Be A Court Companion?

The *Evidence Act, 1929 (SA)* states that a witness can be accompanied by a relative or friend for the purpose of providing emotional support.

A counsellor, youth worker, or support worker* may also be considered a suitable *Court Companion* support, following approval of the *Judge*.

**Please note that this will be considered by the Judge on a case-by-case basis*

What is your role as a Court Companion?

If you are a *Court Companion* you will be required to sit with a *witness* before and during the time they are giving evidence.

Depending on the request and requirements of the *witness*, you will either sit beside the witness, or in the body of the court.

This will ultimately depend on what has been approved by the *Judge*.

Your role may also include providing support to the *witness* during the breaks if required.

A *Court Companion* cannot assist the *witness* when giving evidence. They are not allowed to talk, gesture or assist a witness in any way whilst they are giving evidence.

A *Court Companion* must also be visible to the *Judge* and *Jury* while the *witness* is giving evidence.

Why are Court Companions required?

Under the *Evidence Act, 1929 (SA)*, the court allows for special arrangements for taking evidence from a *witness* in a Trial in order to protect the witness from embarrassment, distress or intimidation by the court room environment.

The presence of a *Court Companion* can often assist in alleviating some of the stress that a *witness* may experience whilst giving evidence.

Who is considered to be an appropriate Court Companion?

A person who is not a *witness* or involved in any way in the trial may be considered to be an appropriate *Court Companion*.

It is also a requirement that the *Court Companion* remains **neutral** during the trial process, and particularly during the time the witness is giving evidence.

Whilst in the court, remaining **neutral** means that you cannot:

- Speak to the *witness* during their evidence;
- Assist a witness to answer questions;
- Offer physical or emotional support to the *witness*;
- Comfort the *witness* in any way if they become upset or distressed;
- Offer verbal support or encouragement to the *witness*;
- Express verbal or non-verbal emotions, including obvious facial expressions, during the evidence of a witness.

If you feel you may not be able to fulfil the above requirement, or if you have any further questions about this, please speak to the allocated *Witness Assistance Officer*, *Solicitor* or *Investigating Officer* in this matter.

Who is not considered an appropriate Court Companion?

A *Court Companion* cannot be someone who is or may be required to give evidence in the case.

In some instances, *defence counsel* may object to the choice of a court companion. This will be raised with you if this occurs.

Ultimately it is a matter for a *Judge* to determine who is or is not a suitable *Court Companion*.

What Basic Court Rules should I be aware of?

There are a number of basic *Court Rules* that you must follow. These include the following:

- Switch off mobile phones before entering the Courtroom
- Be polite
- Maintain a quiet and respectful manner in Court
- Sit quietly in the Courtroom
- Dress appropriately. This means smart casual, comfortable and warm clothes
- Take off your hat, cap and/or sunglasses
- Do not eat, drink, and chew gum or smoke inside the Courtroom
- Remember to bow to the Judge when you enter or leave the Courtroom
- Remember the Judge is the person in charge in the Court

What are the 'Rules or Guidelines' Court Companions must follow?

There are a number of rules and guidelines that *Court Companions* must follow. These include:

- You must not talk about the evidence with the witness at any time.
- You must not help the witness to prepare their evidence
- You must not help the witness to answer questions
- You must not touch or comfort the witness during the court hearing.
- You must not express verbal or non verbal emotion including obvious facial expressions.

- You must not give any body signals to the *witness* about the evidence or behave in a way that looks as if you are helping or telling the witness what to say
- You must not speak during the court hearing, even if the *witness* is upset. You may only speak if the Judge asks you a question.

In summary, you cannot do anything that might influence or interfere with the court case.

If the *witness* becomes upset, or you have any concerns please raise this with the *Investigating Officer* or *Sheriffs Officer* during a break, or with the prosecutor at the first suitable opportunity.

What could happen if I do not follow the Court rules?

As a *Court Companion*, it is important that you follow the rules of the Court at all times.

If you do not follow the rules and/or display inappropriate behaviour in the court room, you may be removed from the court room, and / or cause a mis-trial, which means the trial would be stopped and put off to a later date, with a new *Jury*.

Are Court Companions automatic?

The simple answer to this is 'No'.

The *DPP Solicitor* in this matter is required to forward the *Court Companion* application to the *Judge* where one is requested.

The Trial Judge will make the final decision about whether a *Court Companion* is approved or not.

What Are Vulnerable Witness Provision's (VWP's)? What other provisions may a 'Vulnerable Witness' have in place?

Aside from a *Court Companion*, a '*Vulnerable Witnesses*' may also request other VWPs. These are defined in the *Evidence Act, 1929 (SA)* and may include the following:

Closed Circuit Television (CCTV)

This allows the witness to give evidence from a separate room, instead of the court room, and have it transmitted to the court room via *CCTV*. Everyone who is present in the court can see and hear the witness on the TV screens in the courtroom. The witness will be able to see and hear the *Lawyer* asking questions and the *Judge* on their screen. The witness will not be able to see the accused person on their screen.

One way screen

This means a *One-Way Screen* is placed between the witness and the accused person so it blocks the view of him or her. It is important to note that the screen acts as a one-way barrier, and the accused is still permitted to see the witness whilst they are giving evidence.

Closed court

An application for a *Closed Court* can be made for the court to be closed to the public whilst the witness gives his/her evidence. This is usually granted in circumstances where the evidence the witness gives is considered sensitive, personal or embarrassing.

Depending on individual circumstances, a *witness* may request one or more of the provisions above when asking for VWPs.

Please refer to the *VWP's Information Fact Sheet* for more information on this topic.

Who Approves the Court Companion?

A *Judge* in the *District or Supreme Court* is responsible for approving the requested court companion.

The *Judge* has the ultimate power to grant or refuse any of the special provisions requested by a *witness*.

Can a Court Companion be Challenged or Refused?

Yes, an application for a *Court Companion* can be challenged by an accused and/or refused by the *Court*.

This objection must be determined before the vulnerable witness gives their evidence. You will be advised if you have been approved or refused by the *Court* to be a *Court Companion*.

What Happens If I Change my Mind About being a Court Companion?

It is important to advise the *Witness Assistance Officer* or *DPP Solicitor* involved in the matter as soon as possible if you change your mind about being a *Court Companion*.

It is important to note that late requests to *Court Companion* a witness cannot be guaranteed and will be left to the *Trial Judge* to approve or refuse.

Where a *Court Companion* is contested and not approved by the *Court*, staff from the *DPP* or the *Investigating Officer* will advise the *witness* in the case.

How long will I be required to Court Companion?

As a *Court Companion*, you will be required for as long as it takes the *witness* to complete their evidence.

Be aware that trials may take longer than expected and there can be delays.

If there are issues regarding your availability, it is important to inform the *Witness Assistance Officer*, *Prosecutor* or *Investigating Officer* as soon as possible.

What Are Jury Members Told About A Court Companion During the Trial?

If a *Court Companion* is present with a *witness* in a trial, the *Judge* has an obligation to explain this to members of the *Jury*.

Prior to the giving of evidence at a Trial the *Trial Judge* will normally advise the jury of the presence of the *Court Companion* and will instruct them not to draw any conclusions unfavourable to the *defendant* based on the VWPs that have been granted.

This is simply to keep the trial fair.

What happens when I have finished Court Companions?

When your role as a *Court Companion* is completed, it is likely that the trial will continue with other witnesses.

Once the *witness* has completed their evidence, there is nothing further that will be required of you.

What Supports are Available to Court Companions?

If as a support person you feel that you are affected by the court process; or what you have heard while the witness is giving evidence; it is important to seek assistance for yourself. If you need to talk to someone about how you are feeling you can contact one of the following counselling lines:

Lifeline: 13 11 14 or go to www.lifeline.org.au for more information.

Anglicare: 8305 9200 or go to www.angicare-sa.org.au

You can also refer to the DPP Information Sheet "*Referral & Support Services - Quick Reference Guide*" which has a list of crisis, counselling, support and other referrals.