

**Every person or corporation has the right to have a trial within a reasonable amount of time.**

**UNDER THE CHARTER OF RIGHTS AND FREEDOMS  
Section 11(b) the right to be tried in a reasonable time  
APPLICATION**

**What does this mean?**

This means that the defendant is claiming that their trial has taken too long to come to court. Subsequently, they have been prejudiced by this delay and they wish to have the court dismiss the charges.

Anyone who has been charged with an offence can ask the court to stop the trial and have the charges dismissed by referring to their 11 (b) right to a speedy trial. You must apply to the court to initiate this procedure by filing what is called a constitutional question. Basically, it is paper work that lets the court know what you are doing, as a motion, before your trial commences. Normally for provincial offence matters, 10 months of a delay must have already passed before you can think of making this argument.

The following is Information that you will need to fill in to use this service

**1. Calculate the months and days that it took to get to trial.**

- a) Begin calculating the time from the day you received the ticket or offence
- b) For Criminal matters it's begin calculating the time after the preliminary hearing

**2. Consider whose fault the delay(s) were either defence (yours) or prosecutor.**

**The court requires a written explanation of what the delays were. For example:**

- 1. The crown (or court) asked for an adjournment because the officer was not available for trial. I (you the defendant) opposed the adjournment but the court gave the crown the adjournment request anyway.
- 2. The disclosure was just given to the defence on the day of trial. The defence now needs time to review it and asks for an adjournment.

It is important to understand that the court will be more favorable to the application if the adjournments were the fault of the prosecutor and not the

defence. In both of the above circumstances you will (the defence) argue that the adjournments were not your fault.

**3. Tell the court how you were affected by the delay.**

The factors may be stress, loss of money, and/or memory loss to you and witnesses.

**4. What you have to do is now fill out the application and include some case law this program allows you to do this here:**

a. Summarize dates in point form - the events from the time that you received the offence to the next trial date.

b. Describe everything that you want to say about what has taken place from the time you requested a trial date to the next court date

c. Swear affidavit saying that you have served everyone with all of the documents (by mail, fax or in person. This is required by Section 109 of the *Courts of Justice Act* cite the cases. You can see if the court will do this after you fax in everything the affidavit has to be turned into the court house clerk and the prosecutor. If they will not swear it any commissioner can do it.

d. Serve: 15 days before trial serve all of the documents to the following: the Attorneys General of Canada, the province (e.g. Ontario), the court clerk and the crowns office at the court house that you have to attend for trial.

If you use this service then all of the work is completed for you using our template. We show you where to fax and sever the documents. This is a procedure that you can perform by yourself just like millions of people do each day. The only thing is that you are using our template. Just fill in the blanks and our service inserts the information in a well prepared document ready for you to hand into the court system. The template is standard and meets all of the requirements under civil procedure. The courts will also appreciate that you have come prepared.