

Bill 161 Standing Committee on Justice Policy
Dana Fisher, Society of United Professionals, Speaking Notes
June 10, 2020

Mr. Chair and Members of Committee,

My name is Dana Fisher. I am the Local Vice-President of the Legal Aid Lawyers Local of the Society of United Professionals, IFPTE Local 160. Among the Society's 8,000 members are more than 400 lawyers and legal professionals who work predominantly for Legal Aid Ontario, as well as a number of community and specialty legal clinics.

The Society of United Professionals is deeply concerned by the negative impact Bill 161 will have on our members' work, as well as on the lives of the vulnerable Ontarians who rely on legal aid services. While we have broad concerns about Bill 161 and the way it will hinder rather than advance access to justice in Ontario, my comments will focus on the Bill's Schedules 15 and 16 and their harmful impact on LAO-funded services.

We call on the government to withdraw Bill 161 or, at a minimum, remove Schedules 15 and 16 from the legislation.

There is broad consensus within the legal profession and across the political spectrum that Ontario has an access to justice crisis. In spite of this, Bill 161 seeks to literally remove the words "access to justice" from the purpose of the Legal Aid Services Act. The new purpose also removes a reference to serving "low-income" people and "disadvantaged communities." One of the new purposes added, however, is "value for money."

Next, I want to discuss our grave concern about the change to Legal Aid Ontario's mandate. In a key sentence, Bill 161 trades the word "shall" for "may," and in doing so severely weakens the mandate to provide vulnerable Ontarians with access to justice.

The current wording says, "The Corporation" – meaning LAO – "*shall* provide legal aid services in the areas of criminal law, family law, clinic law and mental health law."

Bill 161 would change that to, "The Corporation *may*, subject to the regulations, provide legal aid services in the following areas of law..." and goes on to list nine areas of law.

Rather than continuing to require LAO to provide legal services to low-income Ontarians who qualify, LAO's mandate would be to choose which services to provide on the basis of achieving the best value for money, without regard for an overarching purpose of providing low-income Ontarians with access to justice.

These changes will deepen Ontario's access to justice crisis, which will harm vulnerable Ontarians, and slow and add costs to Ontario's justice system.

Our members are also concerned about changes to LAO's governance structure, including how its board is appointed and the future role of advisory committees.

When the Harris government moved to create Legal Aid Ontario, it commissioned an independent review to inform how the new agency would be structured.

Written by the former dean of Osgoode Hall Law School, the report underscored the need to be – and be seen to be – fully independent of the government. That is

why LAO's board is comprised of appointees selected by the Attorney General, as well as the same number selected from a list provided by the Law Society of Ontario. Bill 161 tips that balance by increasing the number of provincial appointees to as many as eight and reducing Law Society appointees to as few as three. This could place an agency whose lawyers often have to directly oppose the Crown in an apparent or real conflict of interest.

As an organization serving a diverse and complex stakeholder community, LAO's Advisory Committees have contributed great value to the organization. LASA presently requires certain advisory committees and empowers LAO to create others as needs emerge. The Bill 161 reforms remove all reference to these committees. Advisory committees give former clients, community leaders, academics and lawyers with relevant experience and expertise a formal avenue to offer their best advice so LAO can apply its resources effectively. LASA should continue to require advisory committees.

Next I want to address an apparent attempt to download costs on to the already cash-strapped LAO budget. Bill 161 requires LAO to shoulder the costs of court-ordered appointments. Presently, Ministry of the Attorney General covers these costs as stipulated in a Memorandum of Understanding with LAO. Media reports have the government on record saying a similar arrangement will continue. If that is the case there is no need for the language added through Schedule 15, Section 39.1 subsection 3.

Finally, I want to discuss the impact of Bill 161 on legal clinics.

Due to the government's 2019 cuts, legal clinics are already in a perilous financial state. Bill 161 makes matters worse. The legislation removes the ability to request a formal reconsideration of LAO clinic funding decisions.

Additionally, Bill 161 restricts clinics' scope of work with respect to the services they are presently mandated to offer. If passed as is, Bill 161 would mean community legal clinics would not have a mandate to support vulnerable Ontarians in matters related to human rights, health, employment or education. Especially during a pandemic and when society as a whole is reflecting on how to support racialized people and promote equality, legal clinics must be mandated to continue doing this vital work.

In conclusion, Bill 161 will do immense harm to vulnerable Ontarians who need more – not less – access to justice. The Society of United Professionals calls on the government to abandon Bill 161 and instead participate in genuine, transparent and evidence-based consultation on access to justice reforms that will help vulnerable Ontarians. At minimum, we ask that schedules 15 and 16 of the bill be removed as they will cause the greatest damage to the clients, workers and overall administration of the justice system.

Thank you for your time. I would be pleased to answer any questions.