

June 12, 2020

DELIVERED BY EMAIL TO comm-justicepolicy@ola.org

Standing Committee on Justice Policy
c/o Christopher Tyrell, Clerk
99 Wellesley Street West
Room 1405, Whitney Block, Queen's Park
Toronto, ON M7A 1A2

SUBMISSION ON BILL 161, SCHEDULES 15 & 16

ACTO RECOMMENDS that Schedules 15 and 16 not be adopted by this Committee based on widely expressed concerns about:

- the purposes proposed for the new *Legal Aid Services Act, 2019*;
- changes to the responsibility for identifying and addressing the legal aid service needs of low-income individuals and disadvantaged communities;
- changes to the funding, function and operation of community legal clinics;
- the definition of “poverty law” and related areas of law;
- the requirement for payment by clients from recoveries; and
- the proposed governance model of Legal Aid Ontario.

Specifically, we find the following sections of the proposed *Legal Aid Services Act, 2019* taken as a whole to be an unacceptable retreat from the obligation of the Province of Ontario to provide for delivery of legal services to low-income people and disadvantaged communities as provided for in current legislation:

1. The purpose of the legislation has been unreasonably narrowed;
3. There is no requirement that service be provided, and what service is provided would be restricted to “individuals”;
4. The definition of poverty law is unreasonably constrained;

- 5(1). The composition of clinic boards is unreasonably restricted;
- 5(5). The clinic role in determining how to provide legal services has been subordinated to the determinations of Legal Aid Ontario;
- 5(6). “Financial impact” of LAO decisions on service providers must be ignored;
6. Legal Aid Ontario is established as the sole arbiter of legal needs;
7. Individuals have the burden of establishing their eligibility, subject to review only if LAO’s rules provide;
- 10(3). Service providers must take on a new role of policing client eligibility, and LAO’s payment for service to them may be recovered under subs. (6) if they fail in this duty;
15. Payments currently the responsibility of the Ministry of the Attorney General are downloaded to LAO;
17. The objects of LAO are drawn too narrowly, permitting service only to “individuals” and failing to specify any objective relating to access to justice; the “principles” are merely advisory and have no real justice-oriented substance;
21. The removal of any requirements for membership on the LAO Board, apart from not being a lawyer for the majority of positions, is regressive and substantially limiting to LAO’s independence;
46. The expansive power granted to the LAO Board to make rules and the compromises independence. The process for making the public and service providers aware of proposed rules (14-day posting on the LAO website) is ridiculously inadequate.

This brief summary is submitted in support of, and should be considered with, the oral submissions made to the Committee today by Kenneth Hale, Director of Advocacy and Legal Services. These issues and other concerns that we share are set out more fully in the written submission of the Association of Community Legal Clinics of Ontario. We are proud members of that Association and we support that submission.