



**Family
Lawyers
Association**

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To the Standing Committee on Finance and Economic Affairs,

Re: 2020 Pre-Budget Consultations

I am writing on behalf of the Family Lawyers Association (FLA) in response to your invitation for input to the Pre-Budget Consultation Process, and thank you for this opportunity.

The FLA was founded 25 years ago in response to the legal aid funding crisis of the mid-1990s. The FLA is governed by an eight-member volunteer Board and our membership consists of Ontario lawyers working primarily for low-income clients. The majority of our members accept legal aid certificates and/or are on the panel of lawyers who represent children as Agents of the Office of the Children's Lawyer (OCL) in both custody and access and child protection matters. Accordingly, the focus of the FLA has always been to work towards improving Legal Aid Ontario (LAO) and protecting the rights of our most vulnerable low-income citizens. The FLA provided written submissions for the 2014, 2015 and 2019 round of pre-budget consultations and with your Government set to introduce its second budget, we hope to communicate to you again the importance of adequately funding LAO.

In April 2018, the province increased the certificate eligibility threshold again by six percent by raising the financial threshold for a single applicant without dependents from \$13,635 annual income to \$14,453. This increase resulted in approximately 153,000 more low-income Ontarians receiving legal services from LAO. Despite the 2018 increase, there were still many Ontarians living below the poverty line who still could not qualify for even a contributory certificate. We hoped that the 2018 increases to certificate eligibility were the initial steps and that government remained committed to making lasting improvements to the way low-income individual's legal needs are met.

The Family Lawyers Association is deeply concerned with last year's 30% cut to Legal Aid Ontario's budget. Cuts of this magnitude cannot be made without impacting client services. In the area of family law, these cuts have resulted in certificates not being issued for lawyers to assist clients with variations or motions to change an existing court order. Duty counsel, who are already stretched to the limit, now do these types of cases where domestic violence is not an issue when their workload allows. This has resulted in a significant reduction in access to justice. Clients do not have access to a lawyer in many situations, including where they are seeking to change a child support order or change parenting when the other parent is a danger to a child or refusing to pay adequate child support. Instead, they meet duty counsel the day of court and get cursory legal advice. When, as is often the case, more than two case conferences (court appearances geared towards settlement) are required on a matter, Counsel now has to prepare

materials and attend additional conferences without compensation. These cuts have left the most vulnerable unrepresented litigants to navigate the legal system on their own, resulting in a more costly use of justice system resources.

It is imperative to highlight that before the 2019 cuts to LAO'S budget, 40% of self-represented litigants in family court earned less than \$30,000.00 a year and another 17% earned between \$30,000.00 - \$50,000.00 a year. Without adequate funding for LAO the most vulnerable, unrepresented litigants, those earning between \$14,453 and \$30,000.00 are left without a viable solution to their access to justice issue as they are not in a financial position to retain the services of a lawyer in any capacity. Poverty in families is often a contributory factor to the difficulties with resolving family disputes outside of Court. Resources that are easily available to families with means are rarely a possibility for the working poor. Adequate funding of the LAO certificate program will have a positive impact on the lives of almost half of the self-represented low-income Ontarians involved in our family justice system if the eligibility threshold is increased to \$30,000.00.

While resources such as Duty Counsel services are available through LAO to clients with incomes that do not qualify for certificates, these programs only cover a modest number of additional clients who need legal assistance in court (and even less now following last year's cuts). Increasingly, litigants in family courts are finding themselves struggling with complex legal matters with very little or inadequate assistance and are often times self-represented.

In addition to the detrimental effects on the litigants themselves, unrepresented people strain court resources by increasing administrative costs to the court, increase costs for a represented party or for LAO where the other party is represented, or the Office of the Children's Lawyer by shifting the work to those who are represented.

In 2015, we saw a significant increase in the child protection tariff hours. The increase in the tariff was long over-due and an appreciated change. The FLA urges that similar attention be given to domestic matters to help those individuals struggling with issues such as custody, access, spousal and child support, restraining orders or obtaining an equitable share of marital assets.

The FLA position is that the above recommendations will assist in addressing the access to justice issues faced by Ontarians in the family court system.

Sincerely,



Julia R. Vera
Chair - Family Lawyers Association