



February 11, 2020

The Honourable Rod Phillips
Minister of Finance
c/o Budget Secretariat
Frost Building North, 3rd floor
95 Grosvenor Street
Toronto ON M7A 1Z1

Dear Minister Phillips,

Re: Pre-Budget Consultations, 2020

The Ontario Bar Association (“OBA”) appreciates the opportunity to provide this submission as part of your 2020 pre-budget consultations.

The Ontario Bar Association

The OBA is the largest volunteer lawyer association in Ontario, with over 16,000 members who practice on the frontlines of the justice system, providing services to people and businesses in virtually every area of law in every part of the province. Each year, through the work of our 40 practice sections, the OBA provides dozens of submissions to government for the profession and the public interest and delivers over 325 in-person and on-line professional development programs to an audience of over 12,000 lawyers, judges, students and professors.

As you work to prepare the government’s second budget of your mandate, the OBA recognizes your strong commitment to fiscal responsibility and looks forward to assisting in your priority of helping provide better services to Ontarians. In keeping with your requested format, this submission provides brief summaries of under 500 words for each topic area. However, we would be pleased to provide additional information about any of these recommendations.

Improving Access to Services

Ontario’s justice system is integral to our constitutional democracy, demonstrating our collective dedication to upholding legal rights and responsibilities and offering an essential forum for individuals and businesses to resolve their disputes. In addition to supporting administration of justice objectives, an effective, trusted system of resolving disputes is critical to the province’s

economic growth as it encourages business, attracts investment and enhances Ontario's ability to compete in a global economy.

The justice system depends upon sufficient fundamental investments from our government to carry out these important responsibilities, including:

- i. courthouse space, facilities and technology, such as wi-fi and electronic scheduling, filing and document management – which leverage efficiencies common in business environments to enhance access and save time and money for the system and its users;
- ii. the timely appointment of provincial judges, masters, JPs and tribunal adjudicators – who are essential for the public to access justice without undue delays; and,
- iii. expanded access to, and adequate resources for, Unified Family Courts (UFCs) across the province, including the high-volume centres of Milton, Brampton and Toronto, to reduce costs and complexity for Ontarians experiencing the turmoil of family breakdown.

Acting now to enhance and innovate justice services will yield benefits for the Ontario public in the short- and long-term. In conjunction with a strong private bar, these high-priority and prudent investments provide the pillars of a modern justice system that can address with efficiency the increasingly complex and evolving needs of the people it serves – making justice more expeditious, accessible and easier to navigate.

Legal Aid Ontario

The OBA has been a consistent advocate for a strong, sustainable legal aid system, which is critical to a strong civil society. Following last year's provincial budget, the OBA expressed concerns about the significant cuts to legal aid, and we committed to working with all parties involved in the system to find ways to serve the most vulnerable and treat our members fairly.

Since then, we have worked with the Canadian Bar Association to secure new funding from the federal government for refugee and immigration certificates, including emergency funding of \$26 million announced last July, the bulk of which was allocated to Ontario. The OBA has also contributed the expertise and experience of our members who serve on the frontlines of the legal aid system to the *Legal Aid Ontario Modernization Project* undertaken by the Attorney General and Legal Aid Ontario (LAO) – providing concrete recommendations to simplify access for clients, leverage the use of technology, reduce administrative burdens, and enhance the clinic service delivery model.

In December 2019, the Attorney General introduced Bill 161 with the stated aim of giving LAO the tools it needs to help clients resolve their legal issues faster and with fewer roadblocks. The ability for LAO to carry out its significantly expanded responsibilities effectively will depend upon a willingness to continue working with the OBA's members who deliver legal aid services, but it also depends upon adequate public funding of the system.

We therefore urge your government to:

- i. Commit to adequate and predictable funding for the legal aid system, which allows for long-term, sustainable planning. As part of this, government should allocate funding that allows for key rates to be connected to relevant benchmarks – such as connecting the financial eligibility threshold to the low income measure, and connecting certificate compensation to the expenditure that government makes in the associated prosecution of legal aid cases through Crown attorneys. This prevents the basic elements of the system from continuously falling behind and driving hard working lawyers who provide this public service out of the system.
- ii. Ensure adequate funding of a comprehensive strategy that recognizes the prevalence of mental health issues for society's most vulnerable who are served by lawyers in all areas of the legal aid system. LAO has estimated that 1 in 3 clients experience mental health or addiction issues – representing approximately 34,000 certificates and 200,000 duty counsel assists each year. The sheer prevalence of these issues, let alone their personal and societal impacts, cries out for immediate support for a comprehensive plan that includes items such as:
 - expanded funding of certificate representation of clients in criminal, family and child protection matters, to reflect the additional time and complexity in serving clients with mental health issues without unnecessary administrative burdens that increase delay and uncertainty;
 - funding to LAO for services that it may be directed to provide, such as certificates for Consent and Capacity Board ordered hearings, which are not presently reimbursed. This request is in keeping with the Attorney General's commitment to provide additional funding to LAO for costs of court-ordered representation, which are presently covered by the Attorney General but would become LAO's responsibility under Bill 161, if passed; and,
 - funding for enhanced educational materials and training programs for certificate lawyers, clinics and duty counsel to increase understanding and quality of services to clients with mental health needs.

Failure to address these can exacerbate mental health conditions and result in further resources and care being spent to address these issues by the health care and justice systems and by other branches of government.

Conclusion

Once again, the OBA appreciates the opportunity to provide this submission as part of your 2020 pre-budget consultations. The OBA would be pleased to meet with you and your staff to discuss these issues further, as we work towards the shared goal of a strong and prosperous province.

Sincerely,

A handwritten signature in cursive script, appearing to read "Colin Stevenson".

Colin Stevenson
President, Ontario Bar Association

cc: Hon. Doug Downey, Attorney General