



# The Advocates' Society La Société des plaideurs

February 11, 2022

VIA EMAIL: [submissions@ontario.ca](mailto:submissions@ontario.ca)

The Honourable Peter Bethlenfalvy, M.P.P.  
Minister of Finance  
c/o Budget Secretariat  
Frost Building North, 3<sup>rd</sup> Floor  
95 Grosvenor Street  
Toronto, Ontario M7A 1Z1

Dear Minister:

## **RE: 2022 Budget Consultations**

The Advocates' Society (the "Society") is a not-for-profit association representing approximately 5,500 advocates throughout Canada, including approximately 4,500 in Ontario. The Society's mandate includes making submissions to governments on matters that affect access to justice and the administration of justice. For more information about the Society, please see [advocates.ca](http://advocates.ca).

Throughout the COVID-19 pandemic, the justice system has rightly been considered an essential service for Ontarians. However, prior to the pandemic, funding for the justice system was rarely seen as a priority. Now is the time to remedy this longstanding neglect and make real, forward-looking investments in court staff, technology, court infrastructure, and legal aid to ensure access to justice for all Ontarians.

### **I. The Pressing Need for Court Staff and Technology**

The COVID-19 pandemic has intensified the strain on Ontario's under-resourced justice system. The need to limit in-person court operations through successive waves of the pandemic has created substantial backlogs and delays in our courts. The justice system is on the brink of a crisis that has only been avoided so far by exceptional and, in the long term, unsustainable efforts by the judiciary, court staff, and the bar. This cannot continue indefinitely. The only realistic solution is the overdue addition of human and technical resources to the system.

First, court staff have been under immense and increasing pressure throughout the pandemic. Court staff are essential to the proper functioning of all levels of court. Their work includes providing information to the public, accepting court filings, collecting fees, maintaining court records, scheduling court cases, managing the jury system, providing administrative and courtroom support to judges, organizing court interpretation services, and court reporting. The exigencies of the pandemic have resulted in repeated changes to courthouse procedures and the digitization of previously paper-based processes. Court staff have had to take on new, complex responsibilities in the shift to virtual proceedings, such as accepting online filings and administering virtual courtrooms. There has been very significant turnover in court staff during the pandemic. One problematic consequence of these issues (among others) is inconsistency in staff practices, leading to confusion and delay for litigants.

There are several factors contributing to staff turnover. First, the wages are not commensurate with the new skillset and demands associated with the role, or with other similar positions in the civil service or private sector. Second, the work is often contract-based. As such, the Society recommends that the 2022 budget include funding for:

1. Reclassification of some of the current court services positions to account for the new skills required in the role, to put them in higher pay categories;
2. More full-time equivalent positions to ensure court staff positions can be filled on a full-time and permanent basis.

This will assist courts with attracting, training, and retaining skilled staff, so matters can continue moving through the courts efficiently, the judiciary is properly supported, and access to justice for Ontarians is improved.

Second, the courts have required long-overdue technology upgrades to implement e-filing, remote court services, online case management, and virtual hearings. There is still an ongoing need to equip judges, courtrooms, and court staff with the technology and training necessary to provide effective remote services to litigants in Ontario's courts. This investment will ensure that as we move out of the pandemic, stakeholders in the justice system can collectively strike the optimal balance among remote, in-person, and hybrid proceedings to ensure justice system resources are allocated as efficiently as possible. In this regard, the Society acknowledges the recent announcement of a \$65 million investment to increase access to remote hearings across the province, and we hope the budget will reflect a commitment of the funds necessary for much-needed court modernization in Ontario.

## **II. Planning for the Implementation of the Unified Family Court across Ontario**

Canada's federal system means that court jurisdiction over family law matters is divided in Ontario between the Superior Court of Justice and the Ontario Court of Justice. Families in the midst of legal disputes must therefore often avail themselves of two different forums unless their region is serviced by a Unified Family Court ("UFC"). In sites where they exist, UFCs are "one stop" courts that have exclusive jurisdiction over all family law matters. Currently, there are 25 UFCs in Ontario.<sup>1</sup> However, many areas of the province (including populous municipalities in the Greater Toronto Area) are not yet served by UFCs.

This "two-tiered" court process takes an unnecessary additional financial and emotional toll on families, including children. This process is particularly difficult to navigate for self-represented litigants, of whom there are many in family actions. Expanding UFCs would significantly reduce the financial burden on middle and low-income families as they navigate the justice system. Areas of Ontario that are not currently served by a UFC, including Toronto, therefore require UFCs as soon as possible. The Society urges the government to include funding in the 2022 budget for the accommodation of UFCs in existing and new court infrastructure, to ensure that court sites across Ontario are ready to receive federally-appointed judges who are allocated to UFCs.

## **III. Greater Funding for Legal Aid**

Unrepresented litigants add to costs and delays in the justice system. To help mitigate this issue, the Society strongly supports consistent, increased funding for Legal Aid in the 2022 budget. The Society is a longstanding

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<sup>1</sup> Barrie, Belleville, Bracebridge, Brockville, Cayuga, Cobourg, Cornwall, Hamilton, Kingston, Kitchener, Lindsay, London, L'Orignal, Napanee, Newmarket, Oshawa, Ottawa, Peterborough, Pembroke, Perth, Picton, St. Catharines, St. Thomas, Simcoe, Welland.

member of the Alliance for Sustainable Legal Aid (“ASLA”), and we reiterate our support for ASLA’s submission to you in the current consultation dated December 21, 2021 (attached).

Thank you for providing The Advocates’ Society with the opportunity to make these submissions.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'DEB', with a long horizontal stroke extending to the right.

Deborah E. Palter  
President

**Attachments:**

1. Letter from the Alliance for Sustainable Legal Aid to the Hon. Peter Bethlenfalvy, dated December 21, 2021

**CC:** The Honourable Doug Downey, M.P.P., Attorney General of Ontario  
Vicki White, Chief Executive Officer, The Advocates’ Society