



**THE CANADIAN
BAR ASSOCIATION**
British Columbia Branch

Submission to the Standing Committee on Finance & Government Services

2015-16 Provincial Budget

Prepared by:

The Canadian Bar Association

British Columbia Branch

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Good afternoon – Mr. Chair, Committee members.

My name is Alex Shorten and I appear before you today in my capacity as President of the BC Branch of the Canadian Bar Association. Thank you once again for hosting these consultations.

The Canadian Bar Association is dedicated to supporting the rule of law, and improvement in the law and the administration of justice. As President, I am honoured to represent 6,900 lawyers, judges and law students that reach every region in the province.

And while it can at times be difficult to provide a common voice for such a diverse membership, I am pleased to be before you today with what is now the CBABC's twelfth submission to the Standing Committee on Finance and Government Services.

The CBA has a proud history of collaboration with government. We are often consulted by ministries considering changes in law and policy and we make substantial submissions on a variety of topics. Our efforts are fuelled by the very volunteers who are the backbone of our organization.

In the past year we have prepared submissions on:

- + Proposed amendments to the *Insurance (Vehicle) Act*
- + Proposed amendments to the *Family Compensation Act*
- + And we are currently completing our contributions to both the *Societies Act* and the *Franchises Act*.

Change in the justice system requires ongoing collaboration and I am proud of the contributions that CBA members make to reform the justice system. We value our role as trusted advisors and are always happy to provide our recommendations.

Last year we told you about the CBABC document called *An Agenda for Justice*, in which we proposed investments in the justice system as resources become available as well as almost two dozen no-cost and low-cost legislative law reforms designed to make life better for

families, businesses, communities and the public. It encouraged British Columbians and governments to be part of the solution to solving the problems in our justice system. A number of our recommendations including such things as expanded hours to the Family LawLINE have advanced – yet another example of partnership we can contribute towards.

We remain mindful of your need to control spending and deliver a balanced budget. As a member-funded, not-for-profit organization, we fully appreciate fiscal restraint.

Yet as BC stands on the precipice of what the Premier has called the opportunity of a lifetime, is now not the time to consider what value this will bring to British Columbians? Is it not time to reinvest in a compassionate society which values and protects **access to justice** as a fundamental right?

We are aware that money alone will not solve the system's problems. Non-monetary reforms to the justice system are in motion and the results have been meaningful.

The legal profession and the Bar Association has a storied and long past. But that does not make us immune to change or reform. In fact, we pride ourselves on the many recent improvements that have been brought on as a result of our desire to adapt.

One such initiative is the CBA *Futures Initiative* which we embarked upon alongside our colleagues from across the country. This recently launched report seeks to shine a light on the many transformational pressures being exerted on our country's legal professionals. The process allowed for a certain introspection that we don't commonly allow for, but the results were informative. Relevant to our discussion today is the finding that a renewed understanding of legal service delivery must, at its core, have a commitment to affordable services to a broad range of Canadians. We looked at solutions to access issues that ranged from eliminating the billable hour through to unbundling legal services and even taking legal professionals out of the picture for some services.

BC was at the forefront of these discussions and will continue to challenge the current situation if it means bettering the system.

Government too has been actively pursuing reform. The scope of reform undertaken by the government to address systemic issues has been significant and has provided results. The CBABC appreciates being a valued participant in the discussions around law and justice reform. It's with pride that I say that the CBABC has made substantial contributions to the development of these initiatives.

The case for change is compelling and over the years we have been joined by a number of valuable allies.

This past summer the BC Chamber of Commerce unanimously passed a resolution calling for a timely and effective justice system through strategic investments and a fixed complement of Provincial Court Judges. The support of the BC Chamber adds yet another voice advocating for the justice system.

The resolution represents three years of our volunteer members working with the BC Chamber and its provincial members. Plainly, it represents the *business case* for the access to justice. It recognizes that delays in the justice system impacts business and businesses in BC will benefit from reforms and strategic investments in the justice system. The Chamber's position verifies that a lack of funding for legal aid not only affects those who need it most, it reverberates through the whole system and in fact, the entire province.

Just last year, we were pleased to learn that your Committee – based on our submission – recommended to the Legislative Assembly that the provincial government incrementally increase legal aid funding as per our submission. The Committee recommended a commitment to long-term and stable funding of the Court Services Branch and an incremental increase to legal aid funding. In fact, the Committee has included our recommendations in many of its reports over the years.

However, today we return to reiterate that BC's legal aid per capita is still nowhere near sufficient.

Access to justice is not a phrase that we use lightly. It is, in our view, the foundation upon which our society is based. And ensuring that access to justice is meaningful in practice falls to our government. CBABC suggests that meaningful access to justice should be

viewed no differently than healthcare or education. It is the administration of justice and the ability to access justice that are the foundation to ensuring that all other social and economic structures in society are preserved and protected.

This past August marked the two year anniversary of the Cowper report. In his report, Mr. Cowper expressed the view that an investment in legal aid “would be money well spent.” The additional \$2-million given to the Legal Services Society to expand criminal and family legal aid services was a respectable start.

We view the \$2-million increase favourably – but know that this is not the significant investment that is needed. We welcome the recent announcements providing new legal aid services for families which concerns two of a potential five projects to be set up for the use of this funding.

Access to justice is also impaired by the increased pressures on justice infrastructure – be it human or capital and by the inadequate funding provided for citizens to access legal aid. An investment in legal aid is critical to increasing the overall effectiveness in the justice system – and in this fiscal climate, the need to spend every dollar with a view to future gains is particularly relevant.

Each year, our members dedicate thousands of hours to providing pro bono and additional LSS services. But these actions cannot alone fill the gaps across the system. The reality is that change in the absence of funding will change nothing.

The CBABC requests that the 2015/2016 Budget make an immediate and substantial investment in Legal Aid services. We recommend an immediate contribution to legal aid funding of \$10,000,000 over the next three years starting with \$4,000,000 this year and \$3,000,000 in each of the two years following.

For years now we have stated why legal aid matters. Today I reiterate why legal aid matters **now more than ever**. Low legal aid funding qualifications, backlogs in the courts and the increase in self-represented litigants is barring many and helping few. Families and businesses are both suffering in debt and in silence while we continue to drip funds into a system in crisis.

The Attorney General, in the mandate given to her by the Premier earlier this summer, will continue to pursue justice reform including integration and court efficiencies as envisioned in the Cowper Report. We remain committed to supporting her as she delivers on this important mandate in the coming months.

On behalf of the BC Branch of the Canadian Bar Association, I once again thank you for allowing us to participate in your deliberations. We look forward to your recommendations and appreciate your consideration of our submission.