



FEDERATION OF ONTARIO
LAW ASSOCIATIONS

FÉDÉRATION DES ASSOCIATIONS
DU BARREAU DE L'ONTARIO

Family Law Committee

Valerie Brown, Family Law Committee Chair

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REVIEW OF BONKALO'S MANDATE

- Justice Bonkalo appointed to lead a review to:
 1. Identify the legal services at different stages in a family law matter which, if provided by persons in addition to lawyers, could improve the family justice system by better enabling people to resolve their family law disputes.
 2. Identify persons other than lawyers (e.g. paralegals, law clerks and/or law students) who may be capable of providing those family legal services with appropriate safeguards put in place (e.g. education, training).
 3. Recommend procedures, mechanisms and/or safeguards (such as education, training, insurance, regulation and/or oversight) to ensure the quality of family legal services provided by alternative legal service providers.
- The scope of the family law services review does not include child protection matters under the *Child and Family Services Act*.

JUSTICE BONKALO'S REPORT

Ministry of the Attorney General

Family Legal Services Review

Report submitted to:

Attorney General Yasir Naqvi and Treasurer Paul Schabas

By: Justice Annemarie E. Bonkalo

Date: December 31, 2016

JUSTICE BONKALO'S REPORT

- 21 Recommendations (sample provided here):
 1. Lawyers should continue to offer **unbundled services** and should take steps to ensure the public is made aware of their availability. Lawyers should consider innovative opportunities to offer unbundled legal services, including affiliations with other lawyers and online platforms.
 2. **The Law Society of Upper Canada and LawPRO should continue to support the expanded use of unbundled services and should offer continuing legal education opportunities and tools to address the liability concerns** that lawyers have raised as an impediment to offering these services.
 3. The legal profession should **support the development of legal coaching** and offer continuing legal education opportunities to ensure lawyers are equipped to offer these services. Lawyers should be encouraged to take these training programs, and to offer and advertise coaching services. The Law Society of Upper Canada and LawPRO should consider providing incentives for lawyers to make legal coaching an integral part of their practice.

JUSTICE BONKALO'S REPORT

“There are few subjects that cause more controversy within the family justice community than the provision of legal services by paralegals. I appreciate the views of the bar and the bench and the sincere concerns expressed about the vulnerabilities of families attempting to navigate the court system.”

4. The Law Society of Upper Canada should create a specialized licence for paralegals to provide specified legal services in family law.
- ...
7. Paralegals wishing to specialize in family law should first be required to complete the current requirements for a paralegal licence.
- ...
12. Legal Aid Ontario should apply its interdisciplinary model to family law, using paralegals licensed in family law wherever possible.

THE POSITION OF THE LAW SOCIETY –
DECEMBER 1, 2017 CONVOCATION

(The Law Society will) develop a licence for licensed paralegals and others with appropriate training to offer some family law legal services, following resource-related discussions with government.

Recognising the urgency of the need, this licence will support training in process navigation, form completion, investigating forms such as financial, motions to change, and uncontested divorces, and possibly other areas outside the courtroom context.

LAW SOCIETY PROCESS

2. At the same time, (the Law Society will) assess what additional family legal services by providers other than lawyers, and including advocacy, are in the public interest, and consider how to develop a further expanded licence, following resource-related discussions with government.
3. Engage in a robust evaluation of the success of the family law legal services licence for providers other than lawyers, and make any adjustments that are in the public interest.

LAW SOCIETY PROCESS

4. As part of its priorities, consider experiential training for lawyer candidates in the licensing process, including how they may provide supports for the delivery of family law legal services under appropriate supervision.
5. Review its rules relating to the unauthorized practice of law and ensure that the rules are as clear as possible concerning the difference between legal information that might be provided by court staff to unrepresented litigants, and legal advice.
6. Continue to support the expanded use of unbundled services and legal coaching, including offering continuing legal education opportunities and tools to address liability concerns.

FAMILY LEGAL SERVICES LICENSING SCOPE OF PRACTICE WORKING GROUP

- The LSO conducted telephone interviews with various interest groups, including FOLA during March, 2018
- There is still a lot of resistance to paralegals conducting family law matters, but this has already been determined. What has yet to be determined is the scope of practice and credentialing
- FOLA has been invited to participate in 2 days of workshops on November 14th and 15th, 2018

UNBUNDLED FAMILY LAW SERVICES PROJECT

- ***Unbundled Family Law Services Project***
- to increase the use of “unbundled” legal services including:
 - limited scope services
 - legal coaching, and
 - privately paid duty counsel for family law cases in Ontario (does not replace LAO)
- The Project is intended to improve access to family justice for middle income individuals
- \$250,000 grant from the Law Foundation of Ontario, which will be spread over the three years of the Project.
- Will seek to educate the judiciary, mediators and other trusted intermediaries, as well as the public.
- The Project will create a website that will host a roster of trained lawyers from across Ontario who are willing and able to provide such services. The Website launches in January.
- The Project also has a research and evaluation component to study the perceptions of judges, lawyers and other justice system professionals, as well as clients, about the advantages and value of this type of service, as well as its limitations and how service delivery can be improved.
- Project is launching in Barrie November, 2018. The next training is Toronto on December 5th.

BILL C-78 (DIVORCE ACT)

- Introduced May 22, 2018 for First Reading. Second Reading October 4, 2018
- Changes the language of custody and access to “decision making responsibility”, “parenting time”, and “contact orders” for third parties
- Provides definitions “best interests”, including and defining “family violence”
- Requirement that parties protect children from conflict arising from the proceeding and direction to use family dispute resolution processes where appropriate
- Counsel has obligation to inform and encourage parties to use dispute resolution processes where appropriate
- Creates test and onus for mobility cases. Parties must give notice in writing of the change 60 days in advance
- Shared custody – moving party has onus to prove move is in child’s best interests
- Primary care – presumption in favour of that parent

UNIFIED FAMILY COURT



SECTIONS

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Budget 2018 provides millions in new justice funding, expanded Unified Family Courts

Tuesday, February 27, 2018 @ 6:01 PM | By Cristin Schmitz

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The federal budget proposed for the coming fiscal year includes millions in new legal aid funding for sexual harassment and immigration and refugee law