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Our Reference #: M-2021-6395

May 4, 2021

Dear Stakeholder:

As part of our government's commitment to keeping Ontarians safe and supporting Ontarians' access to justice in response to the COVID-19 pandemic, we brought into force an emergency order in April 2020 to allow virtual witnessing of powers of attorney and wills on a temporary basis.

As we continue to work urgently to move justice services online and break down barriers to justice for Ontarians no matter where they live, I am pleased to advise that those temporary virtual witnessing measures were brought permanently into law through the *Accelerating Access to Justice Act, 2021* which received Royal Assent on April 19, 2021.

When our government introduced that Act, we set out to simplify a complex and outdated justice system and make it easier for people to resolve their legal matters. We also sought to assist and protect vulnerable Ontarians.

As a result, the *Accelerating Access to Justice Act, 2021* also contains slight legislative changes to the virtual witnessing process to require that the signatures of witnesses be made when the virtual witnessing occurs and not at a later date. These amendments clarify concerns about the validity of wills and powers of attorney that arose out of non-contemporaneous signing. These changes will operate on a go-forward basis, when they come into force on May 20, 2021. On that same date, O. Reg. 129/20, which initially enabled the virtual witnessing process on a temporary basis, will expire.

In addition, the estates modernization provisions which would amend the *Succession Law Reform Act* will be proclaimed in force on January 1, 2022.

You will recall that these legislative changes to the *Succession Law Reform Act* would allow, in certain cases, for separated married spouses to be treated in the same way as divorced spouses in allocating the estate where a spouse dies with or without a will.

An additional consequential amendment to the *Family Law Act*, would clarify spouses' rights to elect to seek or not to seek an equalization of net family property under the *Family Law Act* following the exclusion of separated married spouses from inheriting when there is no will.

Lastly, in order to prevent a testator's wishes from being frustrated by failure to meet formal requirements, an amendment to the *Succession Law Reform Act* would grant courts the authority to validate wills that reflect testamentary wishes, but which were not made in complete compliance with the formality requirements for making a will.

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Once again, I would like to take this opportunity to thank those of you who participated in our estate reforms consultation as well as those who provided submissions to the Standing Committee – your input has been invaluable.

I look forward to our ongoing collaboration on estates reform as our government continues our work to make Ontario's justice system more accessible, responsive, and resilient.

Sincerely,

A handwritten signature in black ink that reads "Doug Downey". The signature is written in a cursive style with a long, sweeping underline that extends under both names.

Doug Downey
Attorney General