



THE CANADIAN
BAR ASSOCIATION
Saskatchewan Branch

OFFICE OF THE PRESIDENT

September 17, 2014

Ministry of Justice
Legislative Services Branch
800, 1874 Scarth Street
Regina, SK S4P 4B3

Attention: Neil Karkut
Crown Counsel

Email: Neil.Karkut@gov.sk.ca

Dear Sir:

Re: Proposed fee waiver legislation

I write on behalf of the CBA Saskatchewan regarding proposed fee waiver legislation intended to ensure that lower-income individuals in Saskatchewan have access to justice. In response to the request for feedback, we can advise as follows.

The CBA invited our membership to provide feedback on the proposed amendments, and can advise that detailed responses were sparse. However, the CBA can offer these general comments:

- The CBA Saskatchewan supports the idea of a fee waiver process for needy persons that would be applied uniformly and consistently across all courts and tribunals in Saskatchewan.
- Although it would be important for new legislation to allow some element of flexibility in deciding whether or not to grant a fee waiver, waivers ought to be granted or denied based on an objective criteria, which should create predictability and aid potential fee waiver applicants in assessing whether they are likely to qualify for a waiver or not.
- The need to grant a tribunal some element of flexibility or discretion in deciding whether or not to grant a fee waiver would also be important to guard against the possibility of abuse of the legislation. For example, a litigiously-minded low-income individual who could qualify for multiple waivers might feel no impediment to commencing numerous vexatious lawsuits.
- Although the primary criteria for qualification should be low-income, we assume there might also be a "means test" alternative in the qualifying criteria, i.e.: it could create unfairness if a single person who earns \$14,000 a year was able to qualify for a fee waiver, while a married person with a homemaker spouse and two children who earns \$16,000 a year was denied a fee waiver.

The CBA Saskatchewan would like to thank the Ministry for providing our organization with the opportunity to comment on this legislative proposal. The CBA is a volunteer organization that is an essential ally to all members of the legal profession, and an important advocate for the profession. The CBA as an organization is committed to (a) enhancing the profession interests of a diverse membership of practitioners from both the public and private sectors, and (b) protecting the independency of the judiciary and the bar.

Yours truly,

A handwritten signature in cursive script that reads "Gail Wartman".

Gail Wartman