

November 13, 2001

Hon. Anne McLellan, P.C., M.P.
Minister of Justice
Department of Justice
284 Wellington Street
Ottawa, ON K1A 0H8

Dear Minister,

Re: Funding for Family Law Services

On behalf of the National Family Law Section of the Canadian Bar Association, I wish to express appreciation for the Department's past commitments to fund family law services — in particular the \$29 million for the fiscal years 2000-01 and 2001-02. We continue to stress that such services need more sufficient and sustained funding and hope that the federal government will be in a position to increase this amount and ensure its ongoing nature.

Family services have assumed great importance for families and children on marriage breakdown, since the Child Support Guidelines were introduced in 1997. Legislated guidelines and administrative assistance have helped our clients resolve issues which were previously often disputed. The result has been to raise the public's awareness of dispute resolution by means other than litigation. While it is necessary to maintain the litigation process to resolve some family disputes, litigation is not the answer for the majority of families. The Department needs to be funding new and more effective ways of dealing with these issues.

As noted in our July 2001 submission on *Divorce Act* reform, tangible services for families facing marital breakdown are critical to the implementation of the *Act*. Healing and restoring healthy family foundations for children of divorcing parents — an important goal of the *Divorce Act* — cannot be realized without properly funded services. Legislation and the judicial system are not enough. In particular, the government's approach to implementing the Child Support Guidelines needs to be expanded to the difficult areas of custody and access.

Many initiatives across the country speak of the creativity and resourcefulness of the system to adapt to changing needs. These include low cost and timely custody assessments for judges and lawyers, parenting education upon separation, legal aid criteria which give priority to family crisis and the appointment of counsel for children at the centre of dispute. However, more

funding is needed for these initiatives. They are ideas which need development and broader application to all regions of the country.

We continue to have serious concerns about the level of civil legal aid funding. Outside of criminal law and immigration law, no additional funds have recently been devoted to civil legal aid, which is in a state of crisis. Given the federal government's shared jurisdiction over family law, we believe it must play a greater role in funding civil legal aid to ensure access to justice in family law matters. We enclose a resolution passed by the CBA's National Council, which urges more civil legal aid funding.

Our Section is convinced that family services, supporting modest legislative change, is the key to implementing the goals of the *Divorce Act*. Such services have an enormous impact on the growing number of children who are at the centre of divorces. Certainly, where such services exist in a community, they change the way family law practice can and should be conducted. Our Section is ready to provide the necessary leadership within our profession, as government responds to the need for legal solutions to intensely personal problems.

We appreciate what has been done and we encourage your continued commitment toward a more service oriented justice system for families in Canada.

Yours truly

Carla Courtenay
Chair, National Family
Law Section