



**BY EMAIL**

May 7, 2019

The Honourable Serge Joyal,  
PC, OC, OQ, FRSC, Ad.E.  
Chair, Senate Standing Committee on Legal and Constitutional Affairs  
Senate of Canada  
Ottawa, Ontario  
Canada  
K1A 0A4

Dear Senator Joyal and the Honourable Senators of the Standing Committee on Legal and Constitutional Affairs,

Thank you for your consideration of the written and oral submissions of the Federation of Law Societies of Canada ("Federation") on Bill C-75, *An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts*. I write to you in response to your Committee's invitation to propose amending language to address our concerns that Bill C-75 will have negative implications for access to justice.

As you are aware, the Federation's concern is that Bill C-75 will impair access to justice by limiting the right of individuals who have been charged with summary conviction offences to be represented by agents. The Federation proposes the following amendment to s 802.1 of the *Criminal Code* to address our concerns:

**Limitation on the use of agents**

**802.1** Despite subsections 800(2) and 802(2), a defendant may not appear or examine or cross-examine witnesses by agent if he or she is liable, on summary conviction, to imprisonment for a term of more than six months, unless

- (a) the defendant is an organization;
- (b) the defendant is appearing to request an adjournment of the proceedings; ~~or~~
- (c) the agent is authorized to do so under a program approved — or criteria established — by the lieutenant governor in council of the province.; or
- (d) the agent is authorized to do so by the law of a province.

Our proposed language will ensure that persons accused of summary conviction offences will continue to be able to access the low cost or free services of law students, licensing candidates and paralegals as permitted by provincial and territorial law societies. It would also ensure that agents acting on potentially more serious summary conviction matters would do so subject to appropriate restrictions imposed by the regulators of the legal profession (including, for example, the requirement for law students and licensing candidates to be supervised by counsel).

The language we propose is consistent with the current s. 802.1 of the *Criminal Code* provisions (which refers to the lieutenant governor in council of the province) and with the provisions of the *Interpretation Act*. Section 35(1) of the *Interpretation Act* defines the term “province” as

... a province of Canada, and includes Yukon, the Northwest Territories and Nunavut;

Amending s. 802.1 to specify that an agent may act as authorized by the law of a province will preserve the power of the provinces and territories to regulate summary conviction appearances by law students, licensing candidates and paralegals.

We thank the Honourable Senators on the Committee for your consideration of our concerns and your invitation to propose language to assist you in your deliberations.

Yours truly,



Morgan Cooper  
Vice-President