



ONTARIO
BAR ASSOCIATION
A Branch of the
Canadian Bar Association

L'ASSOCIATION DU
BARREAU DE L'ONTARIO
Une division de l'Association
du Barreau canadien

Feb 15, 2022

The Hon. Stephen Lecce
Minister of Education
5th Floor, 438 University Ave,
Toronto, ON M7A 2A
minister.edu@ontario.ca

Dear Minister Lecce:

Re: Emergency Access to Childcare for members of the Defence Bar

We are writing to express our concern on behalf of the Criminal Bar with the Ontario Bar Association, regarding the ability to access emergency childcare services. We request that Schedule 5 of Ontario Regulation 82/20 regarding access to emergency childcare services be expanded to include criminal defence counsel.

The OBA is the largest and most diverse volunteer lawyer association in Ontario, with over 16,000 members who practice on the frontlines of the justice system, providing services to people and businesses in virtually every area of law in every part of the province. Each year, through the work of our 40 practice sections, the OBA provides advice to assist legislators and other key decision-makers in the interests of both the profession and the public and delivers over 325 in-person and online professional development programs to an audience of over 12,000 lawyers, judges, students and professors.

The Regulation currently allows essential workers to access emergency childcare services so they can work when an area is declared a shutdown zone. This includes individuals working in the Courts of Justice in Ontario, including Crown Attorneys, court clerks, court reporters, court office staff and courthouse custodial services. These are all services that are essential to the operation of our courts. However, the criminal justice system also cannot function without defence counsel. Under Section 47(g) of the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, ONTARIO REGULATION 82/20 (FORMERLY UNDER EMERGENCY MANAGEMENT AND CIVIL PROTECTION ACT), “professional and social services that support the legal and justice system” are essential services that may remain open in a shutdown zone. This includes criminal defence lawyers, but the regulation fails to make emergency childcare services available to them.

Defence lawyers are just as integral to the proper functioning of the justice system as are other stakeholders. There is no principled reason to treat them differently, which is precisely what the Regulation as drafted does. They navigate the justice system for clients, they represent clients on a variety of matters, including resolutions and trials. When they are not present the justice system grinds to a halt creating further backlog.

When defence counsel cannot access childcare, they are forced to ask for adjournments, often opposed by Crowns. The unavailability of defense counsel will delay justice in an already burdened court system and impact access to justice for those who have matters before the courts. It is for these reasons we recommend defence counsel be provided access to emergency childcare services during situations where they are provided as prescribed for Court and Justice Sector workers.

Yours very truly,

A handwritten signature in black ink, appearing to read "Karen Perron". The signature is written in a cursive, flowing style.

Karen Perron,
President