



August 25, 2025

Katie Wood
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Ministry of the Attorney General

Via Email (Jason.defreitas@ontario.ca)

*"The Voice of the
Practising Lawyer
in Ontario"*

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Dear Ms. Wood:

Re: Written Consultation Request Regarding the *Bail Act* (Ontario)

The Federation of Ontario Law Associations ["**FOLA**"] is pleased to provide this response to the written consultation request regarding the *Bail Act* (Ontario).

Introduction

FOLA represents Ontario's 46 county and district law associations, and through them, their members. Our association is the only provincial legal organization representing LSO licensees at the front-lines of legal services in communities in all parts of the province.

With respect to the questions asked as part of the consultation, we note that the one-week consultation period was short and does not allow for a fulsome and robust response. As such, we are not able to provide as detailed as a response as desired. We are happy to discuss in more detail at your convenience.

As a starting point, FOLA recognizes and acknowledges that the Supreme Court of Canada has on multiple occasions noted the importance of the presumption of innocence, the right to reasonable bail, and the overreliance on sureties, particularly in Ontario. We also recognize that there have been issues in some jurisdictions in Ontario with scheduling Escheatment hearings. However, this fault does not lie at the feet of the sureties, and more onerous conditions should not be placed on them to correct systemic issues, unless and until they are found to be judgment debtors.

Questions and Answers: *Bail Act* Regulations

What information should sureties be required to provide under the new regulation, and why? What consideration should guide this aspect of the new regulation?

At the outset of being a surety, sureties should only be required to provide the information that is currently required on the Surety Declaration form – their name, address, phone number, date of birth, employment or occupation, and name and address of employer. This is a significant amount of personal information that they are already required to provide to the Court. This information is already attached to the Information when the Surety Declaration, which is a sworn document, is filed with the Court.

Ontario must be guided by the *Charter of Rights and Rights* and the Supreme Court of Canada decisions about the presumption of innocence and the right to reasonable bail for accused persons. Part of reasonable bail requires that the government not make the disclosure requirements of sureties so onerous that no one will step forward to assist.

Unless the surety becomes a judgment debtor, the basic information on the surety declaration is the only information that should be provided. To require any additional information to be provided in advance is unnecessarily intrusive, invasive, and does not meet the ends of justice. It would be an additional barrier for many accused seeking release from bail. Finding suitable sureties for accused persons is already a burdensome task. It does not serve a purpose other than to dissuade otherwise suitable sureties from acting because of the potential intrusive nature of information sought at the outset of the bail process.

Any additional information required for the collection of debt should only be sought and required as part of the Escheatment process, after the surety is found to owe monies. Ontario already has a process in place for collecting on debts in matters. There are already clear remedies in place for the collection of debts, which include, but are not limited to debtor exams, garnishment, inability to renew driver's licences until fines are paid, etc.

How should sureties submit the required information and what is the best time in the process to provide the information? Why?

Basic contact information is already provided as part of the Surety Declaration, which is filed as part of the bail process. Any additional information that is being sought should only be provided once the surety is also a judgment debtor to Ontario. It should only be at that time that additional information can be sought and should be sought. Until the Escheatment process is complete and an order made, there is no basis to seek additional information from sureties. Pre-emptively seeking highly private financial information in advance of there being a debt is overly intrusive and unnecessary.

Once the surety is a judgment debtor then additional information should be sought from them, and can include, employer, banking information and assets, such as that already outlined as part of debt collection in Small Claims Court, such as the Financial Information Form, Form 20I Ont. Reg. No.: 258/98.

How should sureties be required to keep their submitted information up-to-date? What consideration should guide this aspect of the new regulation?

The Province of Ontario has access to more databases and information than any other creditor. Rather than putting the onus judgment debtor to submit up to date information – which will necessitate the creation of another form, another database, and require already overburdened court staff to process it, the Government should make use of the wide area of data available to them in the Ministry of Transportation database and otherwise to maintain up to date contact information. The Government should be required to take the same steps as any other creditor to enforce their judgment. There is no onus on a credit in any other context to provide up-to-date contact information and this should not be instituted for sureties who become judgement debtors.

Bail Act Modernization - What ideas or proposals should the Ministry consider to modernize the Bail Act?

Unfortunately, given the limited time provided to response, we are not in a position to provide submissions on this question. Should the deadline for submissions be extended, we would be happy to provide comment.

Should you have any questions please do not hesitate to contact Ian Hu, FOLA Director of Policy & Advocacy, at ian.hu@fola.ca.

Sincerely,

Karen Seeley

Karen Seeley
FOLA Criminal Law Committee Chair