

Ministry of the Attorney General

Court Services Division
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Attorney General

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Our Reference #: A-2025-288 (A)

August 18, 2025

Allen Wynperle
Chair
Federation of Ontario Law Associations
c/o Kelly Lovell
kelly.lovell@fola.ca

Dear Mr. Wynperle:

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

I am writing to request the participation of the Federation of Ontario Law Associations in a written consultation on Ontario's *Bail Act*.

Recent Amendments to the *Bail Act*

Bill 10, Protect Ontario Through Safer Streets and Stronger Communities Act, 2025, received Royal Assent on June 5, 2025.

Schedule 1 of the legislation amends the *Bail Act* by introducing a new provision in section 8.1 which allows the Attorney General to make a regulation requiring sureties to provide information that will assist in Ontario's collection of forfeited bail money and creating a provincial offence for failure to comply.

The Act was also amended to permit Crown Attorneys to delegate their powers and duties to file and discharge bail liens.

The *Bail Act* amendments are part of the government's larger and continuing commitment to a review of the bail system to make it more consequential and effective, which includes a review of the *Bail Act* with the intent to modernize the statute.

Objective of this Consultation Request

Court Services Division (CSD) of the Ministry of the Attorney General is in the process of:

- i. Developing the regulation under the *Bail Act* to improve collections; and
- ii. Reviewing the *Bail Act* to explore how it could be modernized.

Your feedback is requested on the following questions:

***Bail Act* Regulation**

1. What information should sureties be required to provide under the new regulation, and why? What considerations should guide this aspect of the new regulation?
2. How should sureties submit the required information and what is the best time in the process to provide this information? Why?
3. How should sureties be required to keep their submitted information up-to-date? What considerations should guide this aspect of the new regulation?

***Bail Act* Modernization**

4. What ideas or proposals should the ministry consider to modernize the *Bail Act*?

We also welcome any additional comments you would like to share.

Request for Input and Timeline

Your written feedback is requested by August 25, 2025, or earlier. As additional background, relevant legislative references are reproduced in Appendices A and B.

Please note that any written submissions may be subject to disclosure under freedom of information legislation.

Contact Person for Inquiries

Please direct your written feedback and responses to the consultation questions and any inquiries to:

Jason DeFreitas
Counsel, Court Services Division
(437) 772-2078
jason.defreitas@ontario.ca

I hope you will consider participating and thank you in advance for your contribution.

Yours truly,

A handwritten signature in grey ink, appearing to read "Katie Wood".

Katie Wood
Assistant Deputy Attorney General
Court Services Division
Ministry of the Attorney General

APPENDIX A

THE *BAIL ACT* AS AMENDED TO DATE R.S.O. 1990, CHAPTER B.1

Crown Attorney to deliver or transmit certificate of lien

1 (1) In cases in which a person has been committed for trial and is admitted to bail, the Crown Attorney shall, and, in any other case in which a person is admitted to bail, the Crown Attorney may, deliver or transmit a certificate of lien to the sheriff of the county in which the land mentioned therein is situate. R.S.O. 1990, c. B.1, s. 1; 2017, c. 20, Sched. 11, s. 3 (1).

Form of certificate

(2) The certificate of lien shall be in the form prescribed by regulation under this Act. 2017, c. 20, Sched. 11, s. 3 (2).

Lien established

2 Once the sheriff takes all the steps the sheriff is required to take under subsection 10 (4) of the *Execution Act* in respect of a certificate of lien that he or she has received, the Crown has a lien against the property of the surety that is described in the certificate of lien, for the amount for which the person is a surety as indicated in the certificate of lien. 2009, c. 33, Sched. 2, s. 8 (1); 2024, c. 2, Sched. 13, s. 4.

3.-5 REPEALED: 2009, c. 33, Sched. 2, s. 8 (1).

Certificate re execution against lands

6 Where a certificate respecting executions against lands is required from a sheriff or land registrar, he or she shall, without additional fee, include in the execution certificate a statement as to whether there is a name shown in the electronic database referred to in subsection 136 (1) of the *Land Titles Act* that is the same as the name shown on the certificate. R.S.O. 1990, c. B.1, s. 6; 2009, c. 33, Sched. 2, s. 8 (2).

Crown Attorney to deliver or transmit copy of certificate of discharge

7 (1) As soon as a surety is discharged, the lien is discharged, and the Crown Attorney shall deliver or transmit a certificate of discharge to the sheriff to whom the certificate of lien was delivered or transmitted. R.S.O. 1990, c. B.1, s. 7; 2017, c. 20, Sched. 11, s. 4 (1).

Form of certificate

(2) The certificate of discharge shall be in the form prescribed by regulation under this Act. 2017, c. 20, Sched. 11, s. 4 (2).

Disposal of certificate of lien

8 On receipt of a certificate of discharge, the sheriff shall attach the certificate of discharge to the certificate of lien to which it relates and remove the related entry from the electronic database referred to in subsection 136 (1) of the *Land Titles Act*. 2009, c. 33, Sched. 2, s. 8 (3).

Information from sureties, etc.

8.1 (1) A person described in subsection (2) shall provide, in accordance with the regulations and at the times specified in the regulations, such information as is prescribed in the regulations. 2025, c. 6, Sched. 1, s. 1.

Who may be required to provide information

(2) The persons referred to in subsection (1) are the following:

1. A surety.
2. A person who was a surety and has become a judgment debtor of the Crown in right of Ontario under section 771 of the *Criminal Code* (Canada). 2025, c. 6, Sched. 1, s. 1.

Clarification of application

(3) For greater certainty, subsection (1) applies even if no certificate of lien in respect of property of the person has been delivered or transmitted under subsection 1 (1). 2025, c. 6, Sched. 1, s. 1.

Offence

(4) A person who fails to comply with subsection (1) is guilty of an offence. 2025, c. 6, Sched. 1, s. 1.

Delegation

8.2 A Crown Attorney may delegate a power or duty under section 1 or 7 to a person employed in the Ministry of the Attorney General subject to such limitations or conditions as the Crown Attorney may set out in the delegation. 2025, c. 6, Sched. 1, s. 1.

Regulations

9 The Minister responsible for the administration of this Act may make regulations,

- (a) prescribing forms for the purposes of this Act and providing for their use;
- (b) for the purposes of subsection 8.1 (1), prescribing information to be provided under that subsection and governing the provision of such information, including specifying when it must be provided and who it must be provided to. 2025, c. 6, Sched. 1, s. 2.

FORMS 1, 2 REPEALED: 2017, C. 20, SCHED. 11, S. 6.

APPENDIX B

CRIMINAL CODE PROVISIONS RELEVANT TO ESTREATMENT

Criminal Code, RSC 1985, c C-46

Default to be endorsed

770 (1) If, in proceedings to which this Act applies, a person who is subject to an undertaking, release order or recognizance does not comply with any of its conditions, a court, provincial court judge or justice having knowledge of the facts shall endorse or cause to be endorsed on the undertaking, release order or recognizance a certificate in Form 33 setting out

- (a)** the nature of the default;
- (b)** the reason for the default, if it is known;
- (c)** whether the ends of justice have been defeated or delayed by reason of the default; and
- (d)** the names and addresses of the principal and sureties.

Transmission to clerk of court

(2) Once endorsed, the undertaking, release order or recognizance must be sent to the clerk of the court and shall be kept by them with the records of the court.

Certificate is evidence

(3) A certificate that has been endorsed on the undertaking, release order or recognizance is evidence of the default to which it relates.

Transmission of deposit

(4) If, in proceedings to which this section applies, the principal or surety has deposited money as security for the performance of a condition of an undertaking, release order or recognizance, that money must be sent to the clerk of the court with the defaulted undertaking, release order or recognizance, to be dealt with in accordance with this Part.

R.S., 1985, c. C-46, s. 770; R.S., 1985, c. 27 (1st Supp.), s. 203 1997, c. 18, s. 108 [2019, c. 25, s. 311](#)

Proceedings in case of default

771 (1) If an undertaking, release order or recognizance has been endorsed with a certificate and has been received by the clerk of the court,

- (a)** a judge of the court shall, on the request of the clerk of the court or the Attorney General or counsel acting on the Attorney General's or counsel's behalf, as the

case may be, fix a time and place for the hearing of an application for the forfeiture of the amount set out in the undertaking, release order or recognizance; and

(b) the clerk of the court shall, not less than 10 days before the time fixed under paragraph (a) for the hearing, send by registered mail, or have served in the manner directed by the court or prescribed by the rules of court, to each principal and surety, at the address set out in the certificate, a notice requiring the person to appear at the time and place fixed by the judge to show cause why the amount set out in the undertaking, release order or recognizance should not be forfeited.

Order of judge

(2) If subsection (1) has been complied with, the judge may, after giving the parties an opportunity to be heard, in the judge's discretion grant or refuse the application and make any order with respect to the forfeiture of the amount that the judge considers proper.

Judgment debtors of the Crown

(3) If a judge orders forfeiture of the amount set out in the undertaking, release order or recognizance, the principal and their sureties become judgment debtors of the Crown, each in the amount that the judge orders them to pay.

Order may be filed

(3.1) An order made under subsection (2) may be filed with the clerk of the superior court and if one is filed, the clerk shall issue a writ of *fiери facias* in Form 34 and deliver it to the sheriff of each of the territorial divisions in which the principal or any surety resides, carries on business or has property.

Transfer of deposit

(4) If a deposit has been made by a person against whom an order for forfeiture has been made, no writ of *fiери facias* may be issued, but the amount of the deposit must be transferred by the person who has custody of it to the person who is entitled by law to receive it.

R.S., 1985, c. C-46, s. 771; R.S., 1985, c. 27 (1st Supp.), s. 168, 1994, c. 44, s. 78, 1999, c. 5, s. 43, [2019, c. 25, s. 311](#)

Levy under writ

772 (1) Where a writ of *fiери facias* is issued pursuant to section 771, the sheriff to whom it is delivered shall execute the writ and deal with the proceeds thereof in the same manner in which he is authorized to execute and deal with the proceeds of writs of *fiери facias* issued out of superior courts in the province in civil proceedings.

Costs

(2) Where this section applies, the Crown is entitled to the costs of execution and of proceedings incidental thereto that are fixed, in the Province of Quebec, by any tariff applicable in the Superior Court in civil proceedings, and in any other province, by any tariff applicable in the superior court of the province in civil proceedings, as the judge may direct.

R.S., c. C-34, s. 706

Committal when writ not satisfied

773 (1) Where a writ of *fiери facias* has been issued under this Part and it appears from a certificate in a return made by the sheriff that sufficient goods and chattels, lands and tenements cannot be found to satisfy the writ, or that the proceeds of the execution of the writ are not sufficient to satisfy it, a judge of the court may, upon the application of the Attorney General or counsel acting on his behalf, fix a time and place for the sureties to show cause why a warrant of committal should not be issued in respect of them.

Notice

(2) Seven clear days notice of the time and place fixed for the hearing pursuant to subsection (1) shall be given to the sureties.

Hearing

(3) The judge shall, at the hearing held pursuant to subsection (1), inquire into the circumstances of the case and may in his discretion

(a) order the discharge of the amount for which the surety is liable; or

(b) make any order with respect to the surety and to his imprisonment that he considers proper in the circumstances and issue a warrant of committal in Form 27.

Warrant to committal

(4) A warrant of committal issued pursuant to this section authorizes the sheriff to take into custody the person in respect of whom the warrant was issued and to confine him in a prison in the territorial division in which the writ was issued or in the prison nearest to the court, until satisfaction is made or until the period of imprisonment fixed by the judge has expired.

Definition of *Attorney General*

(5) In this section and in section 771, ***Attorney General*** means, where subsection 734.4(2) applies, the Attorney General of Canada.

R.S., 1985, c. C-46, s. 773; 1995, c. 22, s. 10