



Law Society
of Ontario

Barreau
de l'Ontario

Access to Justice Committee

Report on Family Legal Services Provider Licence

January 21, 2022

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1. Motion

That Convocation:

1. Approve the proposal for a family legal services provider (“FLSP”) licence described in the Recommended Model (as defined and set out in detail below) with the following key features:
 - The FLSP will be permitted to provide representation, including court appearances for divorces, child support and spousal support with straightforward incomes only, and parenting orders and decision making (formerly known as custody and access).
 - The FLSP will be permitted to draft separation agreements limited to:
 - one matrimonial home and its contents;
 - bank accounts;
 - child support;
 - spousal support;
 - parenting orders and decision making; and
 - T4 determined income;
- provided that the FLSP recommend that the client obtain independent legal advice from a lawyer (“ILA”).

2. Context

A. Background

Unmet Legal Needs and the Family Legal Services Review Report

In February 2016, the then-Attorney General of Ontario and the then-Treasurer of the Law Society of Ontario (the “Law Society”) appointed Justice Annemarie E. Bonkalo to lead the Family Legal Services Review. The review explored whether the family justice system could be improved by expanding the delivery of legal services to providers other than lawyers, such as paralegals, law clerks and law students. The review included a consultation paper inviting written submissions from members of the public and over 25 meetings with groups and organizations. The review culminated in the Family Legal Services Review Report (the “Bonkalo Report”).¹

The Bonkalo Report revealed information about unmet legal needs in family law. It found that 57% of Ontarians did not have legal representation in family court in 2014/15; just over 21,000 people were unrepresented.² Unmet legal needs in family law are a persistent

¹ Justice Annemarie E. Bonkalo, “Family Legal Services Review. Report Submitted to Attorney General Yasir Naqvi and Treasurer Paul Schabas” (December 31, 2016), online:

https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/family_legal_services_review/.

² *Ibid.*

issue. Some studies indicate that the percentage of self-represented litigants (“SRLs”) is significantly higher than 57%. In 2012, 64% of individuals involved in applications under either the *Family Law Act*, the *Children’s Law Reform Act* or the *Divorce Act* were self-represented at the time of filing.³ In two of Toronto’s busy downtown courthouses, the percentages of SRLs were 73% and 74%.⁴ A Department of Justice Canada survey of family courts in 2016 showed that in the last 12-15 years, an increasing number of divorcing parents did not have representation when resolving child-related issues such as custody, access and child support.⁵ Further, a 2020 survey of 57 Ontario judges regarding their views of and experiences with self-represented family litigants (the “Judges Survey”) found that the judges reported a significant increase in the number of unrepresented family litigants in their courts over the past decade.⁶ Over two thirds indicated that there is “much more” self-representation, and almost all of the others noted that there were “more” SRLs.⁷

The Bonkalo Report also included statistics indicating that SRLs do not fare as well as those represented by counsel⁸ and argued, based on surveys of lawyers and judges, that the high volume of SRLs negatively impacts the already overburdened court system.⁹ In the Judges Survey, 95% indicated that self-representation significantly increases the amount of court time needed to resolve a case, particularly if both parties are self-represented.¹⁰ In addition, lawyers and judges have reported that SRLs consume more court time, are less likely to settle, and that when one party is represented and the other is not, the legal costs for the represented party increase.¹¹ Finally, research by the National Self-Represented Litigants Project (“NSRLP”) found that SRLs experience anxiety about appearing in court, with many SRLs describing themselves as “terrified” about the prospect of a court appearance.¹²

There are several factors that may lead to the high number of SRLs in the justice system, including in family court. Dissatisfaction with legal representation as well as a preference

³ Julie Macfarlane, “The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants Final Report” (May 2013) at 33 [Macfarlane], online: <https://representingyourselfcanada.com/wp-content/uploads/2016/09/srlreportfinal.pdf>.

⁴ *Ibid.*

⁵ Department of Justice Canada, “JustFacts: Self-Represented Litigants in Family Law” (2016), online: <https://www.justice.gc.ca/eng/rp-pr/fl-lf/divorce/jf-pf/srl-pnr.html> [*JustFacts*].

⁶ Rachel Birnbaum and Nicholas Bala, “Judicial Perspectives on Self-represented Litigants in Family Courts” (2020), online: <https://www.thelawyersdaily.ca/articles/21583>.

⁷ *Ibid.*

⁸ Bonkalo Report, *supra* note 1. Between January 2012 and April 2016 in the Superior Court of Justice, for motions, unrepresented litigants had 124 wins and 720 losses. For applications, they had nine wins and 56 losses. For trials, they had 30 wins and 84 losses.

⁹ Rachel Birnbaum, Nicholas Bala & Lorne Bertrand, “The Rise of Self-Representation in Canada’s Family Courts: The Complex Picture Revealed in Surveys of Judges, Lawyers and Litigants” (2013), 91 Can Bar Rev 67 at 81, online: <https://cbr.cba.org/index.php/cbr/article/view/4288/4281>.

¹⁰ Judges Survey, *supra* note 6.

¹¹ JustFacts, *supra* note 5.

¹² Macfarlane, *supra* note 3 at 95. The NSRLP is committed to advancing understanding of the hard choices facing the large numbers of Canadians who come to court without counsel. The NSRLP advocates for better and deeper understanding of the needs, motivations and challenges of SRLs.

for handling one's own matters have been cited as two factors.¹³ However, the most consistently cited reason for self-representation is the inability to afford to retain, or to continue to retain, legal counsel.¹⁴ Many clients do not meet the financial eligibility threshold for legal aid funding but cannot afford a lawyer. To qualify for legal aid in Ontario, a family of four must earn a combined income of less than \$45,440.¹⁵ Eligible families may receive legal aid for a number of matters, but support is not available for motions to change (unless there is domestic violence), ILA, separation agreements, or uncontested divorces.¹⁶

Recommendations from the Bonkalo Report

The Bonkalo Report included a number of recommendations directed at the Law Society relating to the creation of “a specialized licence for paralegals to provide specified legal services in family law.”¹⁷ The report noted that paralegals already play a well-developed role in providing access to justice in that they represent clients in tribunals and Small Claims Court and on minor criminal charges. The report also stated that individuals who do not qualify for legal aid and cannot afford a lawyer should have a greater ability to obtain some legal assistance in family law. Expansion of the scope of practice for paralegals to include some activities in family law, the report noted, would result in a greater choice of legal service providers for the middle class.

The Bonkalo Report proposed a scope of legal services for paralegals acting in family law matters that parallels the areas in which law students currently provide services. As such, according to the report, the recommended scope would draw workable and understandable lines that would help ensure paralegals remain within their permitted scope. The report recommended that paralegals licensed in family law be permitted to provide legal services in the following areas:

- custody;
- access;
- simple child support cases;
- restraining orders;
- enforcement; and
- uncontested and joint divorces without property.

The report recommended that paralegals not be permitted to provide services in cases involving:

¹³ Macfarlane, *supra* note 3 at 44 - 50.

¹⁴ *Ibid*, 39 - 44.

¹⁵ Legal Aid Ontario, online: <https://www.legalaid.on.ca/services/family-legal-issues/>.

¹⁶ Legal Aid Ontario, online: <https://www.legalaid.on.ca/lawyers-legal-professionals/2019-service-changes/#family>.

¹⁷ Bonkalo Report, *supra* note 1.

- the *Convention on the Civil Aspects of International Child Abduction*¹⁸ (i.e., the Hague Convention);
- child protection (which was outside the scope of the review);
- property;
- spousal support;
- complex child support in which discretionary determinations are necessary to arrive at an income amount (e.g., self-employment, undue hardship); and
- relocation.

Within the areas of practice set out above, paralegals licensed in family law would be permitted to do the following:

- conduct client interviews to understand the client's objectives and to obtain facts relevant to achieving that objective;
- perform the following forms-related tasks:
 - complete court-approved forms on the client's behalf;
 - advise the client on which form to use;
 - advise the client on how to complete the form;
 - sign, file and complete service of the form on the client's behalf;
 - obtain, explain and file any necessary supporting documents on the client's behalf;
- select, draft, complete or revise, or assist in the selection, drafting, completion or revision of, a document for use in a proceeding;
- determine what documents to serve or file in relation to the proceeding, determine on whom to serve or file a document, or determine when, where or how to serve or file a document;
- advise the client about the anticipated course of proceedings by which the court will resolve the matter;
- communicate with another party or the party's representative;
- represent a client in mediated negotiations;
- prepare a written settlement agreement in conformity with the mediated agreement;
- represent a client in court, other than at trials; and
- advise a client about how a court order affects the client's rights and obligations.

The Bonkalo Report recognized that the issue of paralegals representing clients in court on family law matters is one of "considerable controversy".¹⁹ However, the report concluded that precluding paralegals from appearing in court would be a disservice to clients. The report noted that the area in which unrepresented litigants require the most assistance is court appearances. Further, paralegals are currently permitted to appear in Small Claims Court, in the Ontario Court of Justice ("OCJ") with respect to certain matters and offences,

¹⁸ The Hague Convention, online: <https://www.hcch.net/en/instruments/conventions/full-text/?cid=24>.

¹⁹ Bonkalo Report, *supra* note 1. The report stated that "[b]roadly, large bar organizations and the bench tended to express considerable opposition to paralegals providing family law services."

and before tribunals. Moreover, the paralegal curriculum includes education and training in oral advocacy.

The Bonkalo Report recommended that paralegals wishing to provide services in family law first be required to complete the current requirements for a paralegal licence. Further, the report recommended that, at a minimum, the following topics be included in the training of paralegals in family law: gender-based violence; family dynamics; client counselling; forms completion; ethics and professionalism; substantive and procedural family law; and indicators that a client requires referral to a lawyer. The report also emphasized the importance of experiential learning to ensure that paralegal students obtain practical experience in family law.

Family Law Action Plan

Following the release of the Bonkalo Report, the Law Society and the Ministry of the Attorney General (“MAG”) jointly committed to an action plan to improve access to family legal services.²⁰ In December 2017, Convocation approved the Family Law Action Plan (“FLAP”), which was the Law Society’s contribution to the joint action plan with the province.²¹ In particular, Convocation approved:

- the development of a licence for licensed paralegals and others with appropriate training to offer some family law legal services. Recognizing the urgency of the need, this licence would support training in process navigation, form completion, investigating forms such as financial, motions to change, and uncontested divorces, and possibly other areas outside the courtroom context;
- an assessment of what additional family legal services by providers other than lawyers, and including advocacy, are in the public interest and consideration of how to develop a more expanded licence;
- a robust evaluation of the success of the family law legal services licence for providers other than lawyers, and any adjustments that are in the public interest;
- consideration of experiential training for lawyer candidates in the licensing process, including how they may provide supports for the delivery of family law legal services under appropriate supervision;
- a review of the rules relating to the unauthorized practice of law to ensure that the rules are as clear as possible concerning the difference between legal information

²⁰ Law Society of Ontario, “Improving Access to Justice for Families” (March 6, 2017), online: <https://lso.ca/news-events/news/2017/improving-access-to-justice-for-families>.

²¹ Report to Convocation from the Access to Justice Committee (December 1, 2017) at paras 21-22, online: <https://lawsocietyontario.azureedge.net/media/lso/media/legacy/pdf/2/2017-dec-convocation-access-to-justice-committee-report-final.pdf>.

that might be provided by court staff to unrepresented litigants, and legal advice; and

- continued support for the expanded use of unbundled services and legal coaching, including offering continuing legal education opportunities and tools to address liability concerns.

Since December 2017, the Law Society has worked towards implementation of all aspects of the FLAP and has recently launched the Family Law Rights of Appearance Pilot Project, in partnership with the Superior Court of Justice (“SCJ”) and the OCJ.²²

B. Developing the FLSP Licence

Components of the FLSP Licence

Since the approval of the FLAP, the Law Society’s Family Law Working Group (“FLWG”) and the Access to Justice Committee (the “Committee”)²³ have carried out a significant amount of work to develop the FLSP licence. The work has focused on three components: the scope of permissible activities; the enabling competencies (the knowledge, skills, and abilities required to carry out the permissible activities); and the education, training, and assessment. Each component is built on the other. The scope of permissible activities, which has been the subject of extensive study and deliberation, drives the competencies. The competencies have been developed primarily by family law subject matter experts under the guidance of psychometricians.²⁴ The training component is designed by education providers who will be selected to provide the program, based on the competencies and any additional standards and requirements set by the Law Society.

Guiding Principles

The development of the licence was informed by the following three guiding principles:

1. **Access to justice:** The licence should address areas of unmet legal needs in family law and have an impact on the challenges of access to justice.
2. **Public protection:** The activities that fall within the scope can be performed competently with appropriate education, training, licensing, and regulation.

²² Family Law Rights of Appearance Pilot Project, online: <https://lso.ca/news-events/news/latest-news-2021/family-law-rights-of-appearance-pilot-project>.

²³ The Committee’s mandate is to develop, for Convocation’s approval, policy options for promoting access to justice throughout Ontario. The FLWG was a subgroup of the Committee that reported to Convocation through the Committee. The FLWG was composed of lawyers who practise in the area of family law and paralegals with litigation experience.

²⁴ Psychometricians are scientists with expertise in the measurement of people’s knowledge, skills and abilities. The work of many psychometricians involves developing tests and other forms of assessment to measure such knowledge, skills and abilities.

3. **Viability:** The licence should form the basis of a viable practice that can attract a critical mass of candidates. It is important that the training requirements are attainable and that the prospective client pool is large enough to sustain a legal services practice.

Evolution of the Licence

The FLWG initially proceeded with the development of two licences in accordance with the FLAP: a licence with a narrow scope that could be developed rapidly and a broader licence to be developed in due course. In December 2018, the FLWG presented the draft narrow scope to the Committee, which determined that a narrow licence focussed on form completion and process navigation would be limited in responding to the needs of the average family experiencing marital breakdown. Further, the Committee concluded that the more limited licence would fail to harness paralegals' competencies and experience as advocates. Consequently, in the interest of efficiency and clarity, the two licences originally contemplated by the FLAP were collapsed into a single, broader licence and the FLWG was tasked with drafting a scope for a single licence. The proposed licensing models, at this time, contemplate paralegals as FLSP candidates, as those candidates have developed the advocacy competencies required by the paralegal licensing process.

In assessing how an FLSP licence could address unmet needs in family law, the FLWG considered the circumstances of an average family of modest means involved in divorce proceedings in Ontario. This family's household income was approximately \$74,287, according to census results at the time.²⁵ A family in this situation may own a matrimonial home, registered retirement savings plans ("RRSPs"), and possibly pensions and tax-free savings accounts. Many such families prefer to pursue out-of-court settlements instead of litigation, but still require a broad array of legal services to move their matters forward, including access to legal advice, assistance during negotiation of rights and interests, and representation in court. The FLWG found that assisting families with parenting, support, and division of property could safely fall within the scope of practice for a legal professional who has fulfilled the education and training requirements of the FLSP licence, and could provide a much needed, potentially more affordable resource in this area. Accordingly, the FLWG developed the draft licence set out below:

Scope of Permissible Activities

Guided by the principles of access to justice, public protection and viability, the FLWG devised a framework for the FLSP licence which was the subject of consultation in 2020 (refer to the FLSP Licence Consultation section on page 13). This section outlines a

²⁵ Ontario Ministry of Finance, Office of Economic Policy Labour Economics Branch, 2016 Census Highlights.

simplified version of the proposed scope of permissible activities. A more detailed version can be found in the chart in **Appendix A**.

The FLSP would be authorized to offer the following services:

- legal advice;
- drafting legal documents;
- representation in court or before an adjudicative body; and
- negotiating legal interests or rights.

The FLSP would be authorized to offer the above services in the following general areas of family law:

- divorces;
- parenting orders and decision-making (custody and access);
- child and spousal support;
- contempt/enforcement of orders;
- separation agreements, paternity agreements, and family arbitration agreements provided that the client agrees to obtain ILA from a lawyer;
- change of name applications; and
- division of property.

Out of scope activities would include:

- matters involving income determination (except in certain limited circumstances);
- use of third-party experts or valuers;
- relocation/mobility; and
- cohabitation agreements and marriage contracts.

Regarding property, the FLSP would not be able to act where there is more than one home, or where there are equitable or trust claims, or claims for unequal division of property.

More generally, the FLSP would not, at any time, be allowed to act in the following circumstances:

- where the client is under the age of 18 or is mentally incapable;
- child protection matters;
- adoptions;
- declarations of parentage;
- appeals or motions for leave to appeal;
- matters involving reproductive/fertility law issues;
- matters overlapping with an area that is out of scope for the FLSP licence;

- matters overlapping with an area that is out of scope for paralegals generally under the current By-Law 4²⁶; and
- where legal issues or assets are outside of Ontario.

Competencies

Enabling competencies are the knowledge, skills, and abilities that will allow an FLSP to safely and effectively perform the activities that fall within scope. The proposed FLSP competencies build on existing competencies required for paralegal licensure²⁷ with an emphasis on specific skills required to provide family legal services. Psychometricians, subject matter expert family law practitioners and educators developed a total of 209 competencies across the following eight areas:

1. Ethics and professional responsibility;
2. Knowledge of the law;
3. Substantive family law;
4. Problem, issue identification, analysis, and assessment;
5. Alternative dispute resolution;
6. Litigation process;
7. Practice management issues; and
8. Prohibitions.

Further details on the competencies can be found in **Appendix B**.

Training Program

The competencies form the foundation for the FLSP training program and the accompanying assessment regime. The proposed training program was informed by the Law Society's paralegal education framework. (The Law Society determines the curriculum for paralegal education. Colleges of applied arts and technology and private career colleges wishing to offer an accredited paralegal education program must apply to the Law Society for accreditation.) The proposed FLSP training program was also supported by an environmental scan of family law education programs for law students, law clerks, family lawyers, and others.

It was estimated that the training program would be a minimum of six to eight months on a full-time basis (20 instructional hours per week) or one year on a part-time basis (10 instructional hours per week). The training program would be delivered primarily in-person to support synchronous interactions between instructors and students, and facilitate analysis, discussion, and skills development opportunities. The duration and structure of

²⁶ Law Society By-Law 4 – Licensing, online: <https://lso.ca/about-lso/legislation-rules/by-laws/by-law-4>.

²⁷ Law Society of Ontario, “Entry-Level Paralegal Competencies,” online: <https://lso.ca/becoming-licensed/paralegal-licensing-process/licensing-examinations/entry-level-paralegal-competencies>.

the training program would be fully determined in conjunction with the selected education providers.

3. Consultation and Research

A. FLSP Licence Consultation

Following the development of the proposed model described above, the Committee released a call for comment entitled “Family Legal Services Provider Licence: Consultation Paper” (the “Consultation Paper”).²⁸ Lawyers, paralegals, licensing candidates, legal organizations, and members of the public were invited to provide submissions to assist with assessing whether the proposed model outlined above is an effective approach to improving access to justice in family law. The consultation period commenced on June 26, 2020 and closed on November 30, 2020.

During the consultation, the Law Society engaged in discussions with 33 organizations and individuals, and targeted outreach with an invitation to meet to an additional 23 organizations and professionals. The Law Society also conducted focus groups with SRLs/former SRLs regarding their views of specially trained paralegals providing legal services in family law.

The Consultation Paper included a number of questions relating to the scope of permissible activities, competence, the training program, and other components of licensure, such as prerequisite experience and the length and form of experiential training. The Consultation Paper also noted that the following areas required external input and further information:

- affordability of services to be provided by FLSPs;
- capacity of FLSPs to address unmet legal needs;
- level of interest from paralegals in qualifying for the licence;
- availability and cost of insurance for FLSPs;
- interest from potential education providers and cost of the FLSP education program;
- views of end-users (i.e., family law litigants); and
- rights of appearance in the SCJ.

While the Law Society has obtained further input and information on all of these topics, as discussed in detail in this report, additional information regarding insurance and rights of appearance in the SCJ and Unified Family Court has been limited to date. Preliminary efforts to obtain estimates of FLSP insurance costs were unsuccessful because the

²⁸ Family Legal Services Provider Licence: Consultation Paper, online:
<https://lawsocietyontario.azureedge.net/media/lso/media/about/convocation/2020/flsp-consultation.pdf>.

FLSP's scope of practice was undetermined. Early exploratory initiatives indicate that the insurance market is volatile and estimates obtained now may not apply in the future. The Law Society will continue to investigate this issue. As to rights of appearance in the SCJ, the court provided its recommendations in its response to the Consultation Paper. Further efforts to explore this issue are currently in abeyance, pending Convocation's determination of the scope of the licence.

The Consultation Paper also included a request for information seeking feedback from educational institutions to gather information on the feasibility of the proposed training program. In particular, the request for information sought feedback on design and delivery options for the program, the duration of the program, criteria for faculty selection, and the assessment requirements to ensure fulfillment of the competencies that would form the basis of the FLSP licence.

B. Response to FLSP Consultation

Statistics/Demographics

The Law Society received 172 submissions responding to the Consultation Paper: 132 from individuals and 40 from organizations. The submissions and the stakeholder surveys (refer to the section on Stakeholder Surveys on page 21) will be made available to Convocation and the public at www.lso.ca/familylaw/flsp-call-for-comment.

Of the 132 individual submissions, almost half were from paralegals (43 responses) and paralegal candidates/students (16 responses). The remaining responses were from lawyers (34), members of the public (30), lawyer candidates and law students (two), law clerks (two) and five other individuals.

Total submissions	172
Total submissions from organizations	40
Total submissions from individuals	132
- Paralegals	43
- Lawyers	34
- Members of the Public	30
- Paralegal Candidates/Students	16
- Other (Law Professor, Mediator, Legal Technology CEO, Law and Justice Student, Unspecified Student)	5
- Lawyer Candidates/Students	2
- Law Clerks	2

Of the 132 responses from individuals, the majority, 39%, (52) indicated the Greater Toronto Area as their workplace. Twenty-seven percent (39) specified their workplace as sole or small firm²⁹, 7% (9) as medium firm³⁰, and 0 as large firm³¹. Many individuals (32% or 42 responses) did not specify the size or nature of their workplace.

Geographic locations (individuals only)	
GTA	52
Central East	20
Central South	17
Central West	11
East	15
Northeast	2
Southwest	6
Other	9

Of the 40 submissions from organizations, ten organizations represented lawyers and four organizations represented paralegals. The list of organizations that provided submissions is set out in **Appendix C**.

Summary of Submissions

Overview

There was almost universal recognition among consultation participants of the access to justice crisis in family law and many agreed that paralegals have a role to play in addressing that crisis. However, stakeholders expressed a range of views as to whether the FLSP licence would enhance access to justice.

Most members of the public, paralegals and paralegal organizations supported the FLSP licence on the basis that it offers a more affordable alternative to lawyer services and will therefore increase access to justice and result in more timely and orderly court processes. Many of those respondents wanted some elements of the proposed licence to change, such as a shorter training program or a grandparenting component for experienced paralegals.

Lawyers and lawyer organizations expressed the most concern about the proposed licence, including questioning whether FLSPs would actually provide more affordable services to litigants who are currently unrepresented. Some said that if certain elements of the licence were to change, such as narrowing the scope or lengthening the training, they

²⁹ A small firm has between 2 and 5 licensees.

³⁰ A medium firm has between 6 and 199 licensees.

³¹ A large firm has 200 or more licensees.

may be more supportive. Several supported paralegals providing legal services in family law with some form of lawyer supervision. Some opposed the development of the licence on the basis that it would offer competition to family law lawyers, particularly young lawyers, small firms, sole practitioners, and racialized and female lawyers.

Organizations that assist victims of family violence were generally supportive of a role for paralegals in family law matters. They cited the high number of unrepresented women fleeing abusive situations and the potential for FLSPs to provide lower cost services and increased access to justice for survivors of family violence. However, these organizations advocated for a more clearly defined scope of practice as well as additional training in family violence, including training to screen for such cases.

Affordability and Access to Justice

Many consultation participants said that FLSPs would be more affordable, accessible and available than lawyers. A submission that elaborated on the reasons for the greater affordability of paralegals argued that a substantial number of paralegals do not have large business overhead expenses and work from home offices. Further, many paralegals accept limited scope retainers and bill in flat rates or block fees, allowing clients greater opportunity to control their costs. It also pointed out that paralegals' education costs are generally much lower than those of lawyers.

With respect to access to justice, it was noted that FLSPs would be able to address the increased demand for family law services as a result of the COVID-19 pandemic. FLSPs could potentially assist with the anticipated "family law tsunami" resulting from more separations due to the pandemic.³² Moreover, FLSPs would facilitate access to justice and speed up the court process because there would be fewer SRLs.

A number of stakeholders were not convinced that FLSPs would offer greater affordability. They pointed to a lack of empirical evidence to support this assertion. Further, the FLSP licence would require such significant training and education that its ability to deliver less expensive legal services is doubtful. It was also noted that the majority of SRLs would not be able to afford legal services under the FLSP proposal. FLSPs, it was argued, will gravitate towards clients with the funds to pay them, leaving the most vulnerable and least well-off unserved. Even if FLSPs were to charge lower hourly rates, this would not necessarily result in lower costs to the client; there may be increased costs due to more time spent on matters. Several submissions also pointed out that lawyers already provide low-cost legal services in family law, including unbundled services, discounted and sliding scale fees, Legal Aid Ontario certificates, pro bono work, and the use of articling students

³² Lorne Wolfson, "Canada: The Coming Family Law Tsunami" (April 2020) [Wolfson], online: <https://www.mondaq.com/canada/family-law/922028/the-coming-family-law-tsunami>.

and law clerks. Some stakeholders also argued that the FLSP proposal would direct investment away from other pressing access to justice initiatives.

Scope of Practice

Some consultation participants supported the scope of practice as proposed, lauding its focus on areas where the public has struggled to find representation in family court, its ability to provide access to justice for vulnerable clients, and its breadth, which would be conducive to a viable business model.

Others commented that the scope was too broad or confusing, arguing that it goes beyond what was proposed in the Bonkalo Report. Some advocated for a more staged approach with a narrower scope given that the FLSP is a novel concept. Some submissions proposed a more restricted scope that would include services such as uncontested divorces, straightforward child and spousal support, enforcement of support orders and limited division of property.

It was also argued that family law matters are not discrete legal issues; they are inextricably linked with one another and it is difficult to accurately identify out of scope issues at the outset of a matter. A client who retains an FLSP would be required to transition to a lawyer when the matter exceeds the permitted scope. Rather than protecting the public and increasing access to affordable legal services, the transition may result in higher costs, delayed resolution, and increased stress and emotional toll on clients. A number of respondents also argued that family law intersects with several other areas of law, such as tax, pensions, corporate, estates, bankruptcy, employment and criminal law, and that FLSPs would therefore require broad legal knowledge that extends beyond family law.

Family Violence

The issue of domestic, family, and intimate partner violence (family violence) frequently arose. Some advocated for including family violence issues in the FLSP scope on the basis that victims need access to additional services in family law. The contrasting view was that, given the vulnerability of victims and the degree of specialization required to support victims, family violence issues should be excluded from the scope. However, more organizations (including organizations that assist victims of family violence, organizations of professionals who provide services related to family law and a paralegal organization) supported the inclusion of family violence issues within the scope, with additional training, rather than excluding it from the scope entirely. Concerns were raised that if family violence issues were excluded from the scope, clients may intentionally withhold such vital information in order to retain an FLSP.

Some submissions suggested the creation of a specialist, with appropriate training, who could provide services in family law to victims of family violence.

A number of submissions also identified the need for broader training and knowledge about family violence across the family justice system.

Education and Training

Most organizations found the proposed length of six to eight months for the training program appropriate or advocated for a longer training program. While most submissions from individuals found the length of the training program to be appropriate, many paralegals noted that it would not be feasible for practising paralegals to attend a lengthy full-time program. Repeated comments included the need for flexible, part-time, and virtual training options.

Most submissions supported an experiential learning component of the training program. It was suggested that field placements should be with experienced family lawyers, but concerns were raised about the potential shortage of placements in law firms. Other placement options included legal clinics, family law information centres, family courts, and non-traditional settings such as shelters, the Children's Aid Society and community counselling centres. Some submissions argued that because FLSPs will have less formal education than lawyers, they should have a longer supervised placement than articling students.

Several submissions supported a continuing professional development (“CPD”) requirement focussed on family law for FLSPs once licensed.

Responses to Request for Information (“RFI”) and Educational Advisor’s Recommendation for FLSP Framework

Responses to RFI

The Consultation Paper included an RFI seeking feedback from potential educational institutions on design and delivery options for the training program, the duration of the program, criteria for faculty selection, and the assessment requirements to ensure fulfillment of the competencies that will form the basis of the FLSP licence. The RFI was based on the scope of practice and enabling competencies detailed in the Consultation Paper. Further, it was understood that the information provided would be preliminary and assist the Committee in its consideration of the FLSP licence.

The Law Society sent targeted invitations to respond to the RFI to 125 legal education providers, including all Canadian law schools and 24 accredited paralegal education providers (14 public and ten private). This engagement included reaching out to French education providers.

Nine educational institutions responded to the RFI. The respondents included seven community colleges, one private career college, and one law school’s CPD provider. All of the respondents proposed a combination of in-person and remote classes, live on-line

classes, and self-directed learning, with the option to offer a fully remote program in response to COVID-19 restrictions.

Some education providers acknowledged the need for flexibility to accommodate paralegals who will be carrying on their practice while attending the program, noting that the FLSP proposal includes a suggested prerequisite of prior work experience.

The proposed program duration for full-time studies ranged from five and one-half months to one year, plus additional time for a field placement. The program duration for a part-time option for the program ranged from one year to two years, with some intensive in-person training and with evening and weekend classes.

Proposals for field placements included durations of two weeks to ten weeks, with reduced options for those attending the program on a part-time basis. Challenges arising from a possible shortage of field placements were noted.

Some education providers included estimates for tuition ranging from \$3,630 to \$8,160 for the program, with additional costs for books and materials, including one estimate of \$1,000 for books. The majority of education providers would not commit to an estimate for the cost for the program, noting that they need to consider a variety of factors, including demand and proposed enrolment, the cost for development and delivery of the program, faculty expenses, facilities and operating expenses.

Educational Advisor's Recommendation for FLSP Framework

After receiving the responses from education providers and other submissions, the Committee consulted with an expert in paralegal education, Linda Pasternak (the “Educational Advisor”)³³, who reviewed the RFI responses and drew on her knowledge and experience to make recommendations. In making her recommendations, the Educational Advisor considered the model proposed in the Consultation Paper and the Recommended Model (as defined at page 44) proposed in this report.

Graduate Certificate Program

The Educational Advisor recommended that the education program for the FLSP licence be a college graduate certificate program comprised of two 14-week semesters

³³ Linda Pasternak began her professional career as an elementary school teacher. After pursuing a Master of Education, she switched direction, graduating from Osgoode Hall Law School in 1984. Linda was called to the Ontario bar in 1986. In 1989, Linda returned to teaching. She taught law clerks, court administrators and court agents at Seneca College. She became very involved with paralegal regulation and presented to the Standing Committee on Justice at the provincial legislature on the education and training of what would become the future paralegal profession. Linda also assisted the Law Society in the development of the regulatory scheme for the paralegal profession. Linda returned to Seneca in 2009 and acted as Paralegal Coordinator until December 2020 when she retired.

(approximately six and a half months) plus a field placement.³⁴ Graduate certificate programs in the college system have, as a prerequisite, a university degree, college certificate or college diploma for admission and therefore build on knowledge and experience gained through previous post-secondary education. These programs may have a field or co-op placement at the end of the academic portion of the program or integrated into the program as the institution decides. The Educational Advisor noted that graduate certificate programs are flexible and have the necessary rigour to ensure that participants can achieve the entry-level competencies that will be tested in the FLSP licensing examination. While the Educational Advisor's expert guidance focussed on a college graduate certificate program, she pointed out that other educational institutions (such as law school professional development providers) could offer the FLSP program.

Tuition

The Educational Advisor advised that tuition for a graduate certificate program typically costs between \$4,000 and \$5,000. However, the final costs of the FLSP training program would depend on the structure and length of the program. There would be additional costs for books and materials and students would need a laptop to participate in course work. Students may qualify for the Ontario Student Assistance Program, scholarships and bursaries. A student taking the program and also operating their own paralegal practice would be able to deduct these costs as business expenses. Employed students might receive tuition assistance from their employer.

Virtual and In-Person Learning

The Educational Advisor recommended that many of the classes should be taught virtually, on both a synchronous and asynchronous basis, but the program should not be fully online. She emphasized that the Law Society should determine which courses are to be delivered in-person to ensure consistency in the programs offered by different colleges. However, each college should be allowed to determine how best to address the in-person segment of the program in terms of scheduling.

Field Placements

The Educational Advisor pointed out that the availability of field placements could be an issue, just as the availability of articling positions is an issue. One alternative to placements would be to adopt an approach similar to Ryerson's Law Practice Program ("LPP")³⁵ in which law students in the LPP are trained through tasks and assessments that take place in simulated, virtual law firms. The focus is on developing the skills and competencies

³⁴ The recommendation that the FLSP training program consist of two 14-week semesters plus a field placement applies irrespective of the model chosen (section 4, "Analysis and Discussion", below) with the exception of the Narrow Model (defined below). For this model, a college certificate program is recommended, which would be delivered on a part time basis on evenings and weekends.

³⁵ Ryerson's LPP, online: <https://lpp.ryerson.ca/>.

required for safe and effective entry-level practice. The Educational Advisor suggested considering integrating a simulated legal services placement into the FLSP program to offset challenges in sourcing placements and to create a consistent and rigorous practical training approach.

C. Additional Research and Consultation

Stakeholder Surveys

As noted in the Consultation Paper, additional information was required on a number of points, including the affordability of services to be provided by FLSPs, the level of interest from paralegals in qualifying for the licence, and the views of end-users (i.e., family law litigants). Moreover, the Access to Justice Committee requested further information to ensure that the issues raised during the consultation were being fully considered and to provide additional support for its recommendation to Convocation. Some Committee members also considered the perspectives of the various stakeholders who would be impacted by the FLSP licence as critical in fashioning the licence. Accordingly, the Law Society retained a research firm to conduct the following five surveys to collect further data from the legal community and the public related to the licence:

1. **Paralegal survey:** this survey gauged paralegals' level of interest in obtaining the FLSP licence and provided more information about their business structures and billing models;
2. **Family law bar survey:** this survey provided information on the business structures and billing models of members of the family law bar and identified what family lawyers think would make the FLSP licence more viable in the family justice sector;³⁶
3. **Law clerk survey:** this survey determined what, if any, family law services are currently provided by clerks under the supervision of a lawyer, the billing rates, and whether clerks have an interest in qualifying for the FLSP licence at a future date;
4. **End-user survey:** this survey gathered information from end-users about their legal needs in family law, their views regarding affordability, their perceptions of legal services providers, and their openness to using trained, non-lawyer legal professionals for family law matters; and

³⁶ To gather more information to support their submissions to the Law Society in response to the Consultation Paper, The Advocates' Society, in consultation with the Federation of Ontario Law Associations and the Toronto Lawyers Association, developed and disseminated a survey of family lawyers across Ontario to collect data to provide information surrounding the current state of the provision of family legal services. The survey was launched on October 29, 2020 and data was collected between that date and December 1, 2020. The survey results will be made publicly available at www.lso.ca/familylaw/flsp-call-for-comment.

5. **Public perceptions survey:** this survey sought to understand Ontarians' perceptions of access to justice, particularly among marginalized groups.

Paralegal, Family Lawyer, and Law Clerk Surveys

The Law Society sent e-mail invitations with a link to the survey to all family lawyers and paralegals. The Law Society sent 5,535 invitations to family lawyers and received 935 responses, for a 16.9% response rate. The Law Society sent 9,500 invitations to paralegals and received 1,927 responses, for a 20.3% response rate. These response rates are considered to be very good. According to the research firm that conducted the surveys, studies with professionals typically garner a response rate of under 10%.

For law clerks, the Law Society relied on law clerk associations to distribute the invitations. In total, 156 responses were received. A response rate cannot be calculated, as it is not known how many invitations were distributed.

The surveys took place during January and February of 2021.

Paralegal Demographics

As of October 31, 2021, the Law Society had 10,426 paralegal members. Among the paralegal survey respondents, 40% reported that they provide legal services in the City of Toronto. Thirty percent indicated that they work in the southwest region of Ontario and 24% reported that they work in the east of the province. The survey found that of respondents, almost two thirds (64%) of practicing paralegals work in small, dedicated paralegal practices. Among them, 69% are sole practitioners, and 26% work in a paralegal firm with five or fewer people. Eighteen percent of paralegals provide legal services at a law firm. The top three areas in which paralegal survey respondents provide legal services are Small Claims Court matters (59%), landlord and tenant issues (51%), and *Provincial Offences Act* matters (44%).

Family Lawyer Demographics

As of October 31, 2021, the Law Society had 57,684 lawyer members. The survey of family lawyers revealed that they are most likely to offer services in the City of Toronto (47%) and the southwest (49%) and east (46%) regions of Ontario. Fifty-three percent of the family lawyer survey respondents reported that they work as sole practitioners and the next largest group work for a law firm (40%). The majority of those responding to the survey (61%) said that family law makes up 75% or more of their practice. The respondents have long-term practices: the vast majority (76%) have been practicing family law for more than five years and 61% for more than ten years.

Law Clerk Demographics

The majority of law clerk respondents are located in the City of Toronto (35%) or the

central east region of the province (37%). Sixty-two percent of respondents indicated that they are employed by a law firm in Ontario. Eleven percent reported that they are employed as an in-house law clerk and 8% are employed in education or government in Ontario. The survey showed that law clerks work in many areas of law but most commonly in civil litigation (39%), family/matrimonial (38%), corporate/commercial (33%), wills/estates/trusts (29%) and real estate (26%).

Billing Practices

The surveys identified differences in the billing practices of law firms and paralegal firms. Family lawyers are far more likely to charge a retainer and hourly rates than paralegals, and to offer flexible payment plans or reduced fees. Paralegals are much more likely than family lawyers to charge a flat fee (61% versus 32%, respectively) and less likely to charge an hourly rate (55% versus 85%, respectively).

When retainers are involved, family lawyers reported far higher average amounts than paralegals (\$2925 and \$828, respectively).

Paralegals are far more likely than family lawyers to bill upon completion of a specific service (44% versus 10%, respectively).

Hourly Billing Rates

Paralegals who charge an hourly rate reported much lower hourly billing rates than family lawyers. Paralegals working as sole practitioners or for a paralegal firm charge an average³⁷ of \$144 per hour, whereas family lawyers charge, on average, \$330 an hour. Focusing only on sole practitioners among both paralegals and family lawyers, the averages are \$138 and \$332 per hour, respectively.

The average hourly rate charged by a law firm for a paralegal's services varied somewhat depending on whether it was reported by a lawyer (\$127 an hour) or a paralegal (\$160 an hour).

Hourly Rates Charged for Legal Services

	Paralegal firms	Law firms
Sample size	370	730
	%	%
Less than \$100	18	1

³⁷ The average refers to the median amount charged.

	Paralegal firms	Law firms
\$100 - \$149	37	2
\$150 - \$199	31	4
\$200 - \$249	8	14
\$250 or more	7	79
Median amount	\$144	\$330

Support Staff and Billing Rates

Paralegal firms reported far fewer support staff and lower average billing rates for such staff than law firms. Law firms are far more likely than paralegal firms to employ law clerks (60% versus 14%, respectively).

Among those who do employ law clerks, paralegal firms are less likely than law firms to charge out their time (57% versus 71%, respectively) and more likely to charge a lower hourly rate when they do (\$84 versus \$132, respectively).

Law firms are also more likely to employ assistants than paralegal firms (68% compared to 29%, respectively), although both types of firm generally do not bill them out directly. When they do, however, law firms bill out assistants at a higher rate than paralegal firms (\$104 compared to \$44, respectively).

Overhead Costs

The surveys revealed that law firms, being larger, have higher office costs than paralegal firms. With many more paralegals working from home compared to family lawyers (44% and 11%, respectively) paralegals were much less likely to report paying rent or having office maintenance costs. Paralegals were somewhat more likely to report mortgage expenses. More law firms than paralegal firms also reported incurring costs for practice management software.

Interest in FLSP Program

The survey results showed that there is widespread interest among paralegals and law clerks in the FLSP program. Eighty-five percent of paralegals and 71% of law clerks are very or somewhat interested in expanding their practice to include some family legal services. Two thirds of paralegals and half of law clerks are very interested.

Among family lawyers, there is less enthusiasm for FLSPs. Forty-five percent said there are no benefits to permitting non-lawyers with appropriate training and regulation to

provide legal services in family law. Further, only 21% of family lawyers indicated that they are likely to offer a co-op or placement to an FLSP, 6% of whom said they are ‘very’ likely. Over one-in-five were unsure, while close to 60% said they are not likely to offer this opportunity. However, a number of family lawyers cited the benefits of permitting trained non-lawyers to provide family legal services, including a reduced number of SRLs (36%), broader outreach to vulnerable clients (26%), greater ability to resolve matters (25%), and broader outreach to diverse communities (20%).

The degree of interest among paralegals and law clerks declines as the length of the program increases. Most paralegals and law clerks are very interested only if the program is less than six months. Seventy-three percent of paralegals who indicated that they are very or somewhat interested in pursuing an FLSP licence are interested in a training program of less than six months. For a training program of six months to one year, only 32% of paralegals who are very or somewhat interested in obtaining an FLSP licence remain interested. The percentage drops to 12% for a one to two year training program and 5% for a training program of greater than two years. Family lawyers, on the other hand, support a much longer training period: 46% prefer that it be more than two years, with only 2% in favour of a training program of less than six months.

With respect to a field placement, a majority of interested law clerks (56%) and paralegals (66%) want either no field placement or one of eight weeks or less. In contrast, over three quarters of family lawyers believe the field placement should be 12 weeks or more and only 3% are in favour of there being no field placement.

There is sensitivity among paralegals and law clerks to program costs. Eighty-four percent of paralegals and 80% of law clerks reported that cost is a very large or somewhat large factor in their decision making. Both paralegals and law clerks exhibited resistance to program costs above \$2,000. With tuition between \$1000-\$2000, 70% of paralegals interested in the licence said they would be likely to register. With tuition between \$2001-\$2500, the percentage declines to 16%. With tuition between \$2501 and \$5000, only 4% of paralegals are likely to register; the percentage drops to 2% for tuition greater than \$5000.

In terms of program delivery, an online format drives interest and an in-person format reduces it significantly. Among paralegals who are very or somewhat interested in the FLSP licence, 76% favour online delivery and only 21% support a purely in-person format. Thirty-five percent indicated interest in a hybrid format that is primarily online with some in-person elements. Interest for most is also dependent on the program being offered on weekends/evenings.

End-user Survey

The end-user survey was conducted via two online panels: panel 1 and panel 2. All respondents were screened to ensure that they were involved in an ongoing family law matter or one that was completed over the past 10 years.

A total of 1503 people were surveyed from panel 1: 422 were currently dealing with a family legal matter. For 1024 respondents, the matter had been settled; 57 were unsure of the case's current status.

A total of 376 people were surveyed from panel 2. Panel 2 was comprised of immigrants, most of whom spoke English as a second language. For 153 respondents, the family law matter was ongoing and for 174 it was settled. Forty-nine were unsure of the current status of the matter.

Legal Representation

The survey revealed that most respondents had paid for legal representation to deal with their family law matter (72%), and most of this group (89%) had paid for a lawyer. Only a minority (5%) had paid for help from a trained, non-lawyer, legal professional. While the incidence of paying for legal representation did not differ between the two panels, panel 2 was more likely to have used a trained non-lawyer, legal professional and mediators, and less likely to have used a lawyer.

Satisfaction with legal representation was quite high. Approximately 8-in-10 respondents said they were satisfied with their paid legal representation, a proportion which did not differ significantly between the two panels.

Affordability and Costs

Over half (53%) of respondents were of the view that legal services for family law matters are not affordable for them. Of those who paid for legal representation, 39% paid more than \$5,000 and 21% more than \$10,000. Panel 2 reported paying less for their representation, with 72% paying less than \$5,000, and only one-in-ten paying more than \$10,000. Three-in-ten of those with legal representation reported needing to borrow money to pay for it.

Among panel 1, 35% indicated that they are willing to pay less than \$100/hour for legal representation, while a further 23% are willing to pay between \$100-\$150/hour. Among panel 2, 30% are willing to pay less than \$100/hour and 31% are willing to pay between \$100-\$150. Twenty percent of panel 1 and 8% of panel 2 reported that they are unable to pay any lump sum amount as a retainer. Thirty-nine percent of panel 1 and 42% of panel 2 said they could afford a retainer of \$2,000 or less.

Self-Representation

Thirty-nine percent of panel 1 and 45% of panel 2 reported having represented themselves at some point during the process. The primary reason for representing oneself was that they felt they could do it on their own (33% of panel 1; 26% of panel 2). Nineteen percent of panel 1 and 16% of panel 2 reported that they chose self-representation for reasons related to affordability.

Areas of Need

While those representing themselves would have appreciated assistance at numerous stages, panel 1 reported the greatest need for help in the following areas: learning about their rights and options; filing paperwork; and drafting a settlement agreement. For panel 2, the top three areas of need were filing paperwork, learning about rights and options, and learning about the legal process.

When asked what they would be willing to pay for family law services, respondents cited legal representation for trial, child custody disputes and child support disputes as the three services for which they would be willing to pay the most. Panelists are willing to pay the least for applications for divorce.

Trained Non-Lawyer Professionals

Approximately 80% of panelists said that they would find it acceptable to work with a trained non-lawyer legal professional on a family law matter. Panel 1 found working with such a professional more acceptable: 26% said it was 'very' acceptable versus 19% among panel 2. Further, perceived acceptability was stronger among those with exposure to paralegals.

Most (80% of panel 1; 85% of panel 2) reported that they would feel comfortable using a non-lawyer legal professional if the Law Society accredits them. The majority (75% of panel 1; 80% of panel 2) also agreed that a trained non-lawyer legal professional would provide a lower-cost service and the same basic set of family law skills as a lawyer.

Fifty-nine percent of panel 1 would be willing to pay between 11% to 50% more for a lawyer than a trained non-lawyer legal professional. Among panel 2, this proportion rises to 68%.

Regarding fee options for non-lawyer legal professionals, flat fees were considered the most acceptable option. Paying for specific services (with the option of not getting help for other services), paying a block fee for a specific service, and paying an hourly rate were also considered highly acceptable options. Regarding retainers, 56% of panel 1 and 63% of panel 2 reported that a retainer is acceptable for non-lawyer legal professionals.

Choice between Lawyers and Paralegals

Among panel 1, lawyers are most likely to be chosen over non-lawyer legal professionals if the issues are expected to go to court, or if there is custody, child support or spousal support involved. Lawyers also have a slight edge if division of property is involved.

As compared to panel 1, there is a stronger preference for using a lawyer among panel 2. However, panel 2 is more likely to choose non-lawyer legal professionals over lawyers if the matter can be resolved without going to court or if it only involves drafting documents.

Satisfaction with Paralegals

One-third of those surveyed reported that they have been exposed to paralegal services. Satisfaction with paralegal services was high. Among those who had used paralegals, 77% of panel 1 and 84% of panel 2 reported satisfaction. Respondents cited affordability, good service, knowledge, and the fact that paralegals got results as the key reasons for being satisfied. Where there was dissatisfaction with paralegals, the main reasons given included incompetence / lack of experience, the fact that the paralegal did not succeed in achieving what the client wanted, and lack of knowledge / training.

Public Perceptions Survey

A total of 1,000 Ontarians completed the public perceptions survey via an online or telephone methodology. The survey took place in October 2020. The goals of the survey were to understand respondents':

- experience in using the justice system in Ontario;
- awareness of different legal channels;
- barriers to accessing legal assistance;
- current perceptions of, and confidence in, the legal system in Ontario;
- comfort levels in using online services in accessing information in the legal system; and
- attitudes toward the legal system.

Impressions of the Justice System

In terms of general attitudes, two-thirds of Ontarians have confidence that they will be treated fairly by the legal system, although only 20% have 'a great deal' of confidence. The level of confidence is lower than in the province's health care and public education systems. Those with a more serious civil or family law problem are less likely to have confidence they will be treated fairly by the legal system (54%) compared to those with a less serious issue (68%). Ontarians' level of confidence in the justice system is largely based on perceptions of criminal law rather than on civil or family law. Further, the public bases their confidence in Ontario's justice system largely on what they have seen, read or heard in the news or on social media.

Almost nine-in-ten agree that wealthy people have better access to the Ontario justice system than less affluent people do, with 68% 'strongly' agreeing with this. Seven-in-ten believe the Ontario justice system is intimidating and hard to understand. Only 32% of respondents agree that there is equal access to the Ontario justice system irrespective of race, citizenship status, language, gender, class, geographic location, sexual orientation or religion.

Affordability and Access

While seven-in-ten respondents are confident they can find a lawyer or paralegal when needed, only 41% have confidence they can afford their services. Among those respondents that did not hire a legal professional to help with their matter, over half (57%) said it was because it was ‘too expensive/unaffordable’.

Overall, respondents indicated some comfort level using online technologies and/or services to help resolve a legal problem. However, comfort levels were lower among those with incomes under \$30,000, an education of high school or less and a disability, and residents of the North.

Racialized and Indigenous People

Racialized and Indigenous respondents who were experiencing a legal problem had significantly lower levels of confidence that they would be able to find the legal information needed to resolve their problem. They were also more likely to report that they would appreciate assistance with filling out legal forms and reading the legal materials.

Racialized and Indigenous people were also less likely to have hired a legal professional (and more likely to report they couldn’t afford the services of a lawyer or paralegal). However, awareness of resources available is similar to the general population.

Overall, racialized and Indigenous people were more likely to report that their legal problem was not resolved.

Persons with Disabilities

Ontarians with a disability are significantly more likely than the general public to report that in the last five years they needed or wanted legal information (47% and 35%, respectively) and more likely to indicate that their problem was serious.

Respondents with disabilities have significantly lower levels of confidence that they will be able to find the legal information needed to resolve their problems. Further, individuals with a disability expressed more concern about their ability to access online technologies/services, the difficulty using them, and the personal cost. Lastly, they reported being less satisfied with the outcome of their civil or family law problem.

NSRLP Data on SRLs

The Law Society engaged the NSRLP to collect data from SRLs about their use of and experience with paralegals, as well as their views on using specially trained paralegals for family law matters. Participants were former or current self-represented family litigants in Ontario, with incomes between \$30,000 and \$100,000, and representative of various regions and diverse groups.

The NSRLP held three focus groups with a total of 13 participants who were recruited through their SRL Database, Facebook, and Twitter.

Following an initial analysis of the focus group notes, the NSRLP created a survey using similar questions as were presented for the focus groups. The NSRLP advertised for participation through Facebook, Twitter, Instagram, LinkedIn, and the NSRLP website. They received 21 completed surveys from past and present SRLs and other litigants.

Satisfaction with Paralegals

The study showed a high level of satisfaction with paralegal services. Eighty-five percent were satisfied with the services they received and only 15% described themselves as dissatisfied. One participant commented that “the paralegal knew exactly what they were doing”. Those who were dissatisfied cited costs and being given “bad legal advice” as the reasons.

Affordability

The study found that SRLs want more affordable service options for family matters and widely view paralegals as viable and credible options. They want to ensure that paralegals are properly trained and held to the highest ethical standards through regulation.

Participants assumed that paralegals will be more affordable on an hourly basis than lawyers, with strong support for both fixed fee and unbundled legal services. There was a repeated desire to have a ballpark figure and to pay for services as needed, in stages (as in a limited scope retainer arrangement). There was significant and repeated discomfort expressed about a sense that lawyers would often not provide a ballpark cost estimate or offer flat fee services, leaving litigants with little or no idea of eventual cost. Fifty-three percent of respondents indicated they would be willing to pay \$50 per hour for a paralegal whereas only 5% indicated they would be willing to pay \$200 per hour for a paralegal’s services.

Choice between Lawyers and Paralegals

The focus group participants described three categories of work for which they would seek the services of a paralegal over that of a lawyer.

1. **Legal administrative support** – 62% of survey respondents indicated that they would choose a paralegal over a lawyer for legal administrative support. SRLs typically relied on paralegals for forms assistance, to organize documents and materials, to explain process and set out options, and to commission documents.
2. **Emotional support** – 23% of survey respondents would choose a paralegal over a lawyer for emotional support. There was a widely shared perception that paralegals would be easier to relate to and communicate with (“more ‘on my level’”) than

lawyers. Some litigants/SRLs said they believed that paralegals would have the type of real-world experience that would help them to be more understanding of an SRL's feeling of vulnerability in the legal system.

3. **Cultural/“insider” knowledge** – 14% of survey respondents would choose a paralegal over a lawyer for cultural/“insider” knowledge. Some participants said their paralegal was helpful because they were “insiders” who knew the courthouse staff, lawyers and judges, and possessed significant “cultural” knowledge about court processes and procedures.

Participants consistently cited three reasons, other than cost, for their preference to work with a paralegal: accessibility; ethics; and communication skills.

With respect to accessibility, respondents noted that access to paralegals would be more direct than access to lawyers because there is no “middleman” (e.g., a secretary that hinders one-on-one contact between the lawyer and client). Further, some SRLs pointed out that the FLSP licence would lead to a greater choice of legal services providers. Third, there was a general sense that a paralegal would be more “on my level” than a lawyer and more of a “team player.”

Regarding ethics, there was a perception that lawyers were less transparent and potentially more self-serving in their advice and business decisions than paralegals or law clerks. Half of the survey respondents said that their belief that paralegals would be more ethical than lawyers would be an important factor in a decision to hire a paralegal over a lawyer.

Many participants expressed the belief that paralegals have better client communication skills than lawyers. Moreover, respondents viewed them as better at listening and following client instructions and at communicating transparently with clients. Sixty percent of survey respondents cited better communication skills as a reason to hire a paralegal over a lawyer.

Participants acknowledged that there are matters for which a lawyer should be required, rather than a paralegal, such as matters with high stakes outcomes (50%) or highly acrimonious matters (57%), citing “dividing up” in a divorce, domestic abuse, or high-conflict custody and access matters.

Participants suggested that paralegals should automatically be given a “McKenzie Friend”³⁸ role within the court. This would allow SRLs to bring a paralegal to court as a

³⁸ A “McKenzie Friend” refers to a support person who sits with an SRL in the front of the courtroom or hearing room, offering emotional support. The McKenzie Friend typically cannot speak on behalf of the SRL but may assist with organizing documents, taking notes, and helping the SRL to stay calm. The term was derived from an English case, *McKenzie v McKenzie* [1970] 3 WLR 472; [1970] 3 All ER 1034, CA. McKenzie

support person without a formal speaking role, especially for SRLs with disabilities and/or low education levels.

Concerns with Paralegals

A frequently cited concern was judicial bias against paralegals. Participants expressed the view that paralegals are only slightly more respected by lawyers and judges than are SRLs. They worried that paralegals may feel inferior in the court process when arguing against lawyers. A consistent theme was the perception that a lawyer would be able to “overpower” or “intimidate” a paralegal.

There was a consensus that paralegals should be properly trained to ensure that they understand and apply the rules of professional conduct. Participants also expressed a clear interest in paralegals being held to the highest ethical standards.

4. Analysis and Discussion

A. Addressing Unmet Legal Needs

The research, consultation and analysis undertaken by the Law Society established that the FLSP can play a vital role in providing legal services to those with unmet legal needs in family law. Although views diverge as to the optimum scope of the FLSP activities, there is widespread agreement among the judiciary, family law bar and paralegal community that an access to justice crisis exists in family law and that paralegals have a role to play in addressing that crisis.

This consensus is supported by the research on views of litigants. According to our surveys, litigants are willing to work with paralegals in resolving issues in family law. In the end-user survey, approximately 80% of respondents said that they would find it acceptable to work with a trained non-lawyer legal professional on a family law matter. Moreover, of the end-users who had retained paralegals, 77% of panel 1 and 84% of panel 2 reported satisfaction, noting that paralegals were affordable and knowledgeable, provided good service, and got results.

FLSPs have the potential to offer more affordable and accessible services than lawyers. The surveys indicate that paralegals have lower hourly billing rates than family lawyers, paralegal firms have far fewer support staff and lower average billing rates for such staff than law firms, and law firms have higher office costs than paralegal firms. In addition, litigants may benefit from the diversity in the paralegal profession. Law Society data from 2019 shows that approximately 41% of paralegals are racialized or Indigenous versus 25%

Friends are common in England and Wales, Northern Ireland, the Republic of Ireland, Scotland, New Zealand, Australia, and Singapore.

of lawyers. As the public perceptions survey demonstrated, racialized and Indigenous people have less confidence that they will be able to resolve their legal issue and are less likely to hire a legal professional. Having a more diverse pool of service providers who can assist with family law matters may increase the likelihood that racialized and Indigenous litigants will seek professional legal assistance for their issues and get the help they would not otherwise receive.

The surveys also demonstrate that paralegals are interested in providing family law services. Eighty-five percent of paralegal respondents expressed interest in expanding their practice or expertise to include some family legal services, with 63% ‘very’ interested. In addition, the rigorous education and training program proposed in this report would help to ensure that the FLSPs would have the knowledge and skills to competently serve their family law clients.

B. Principles to Determine Scope of Activities

The Committee was tasked with determining the appropriate scope for the FLSP licence in light of the research, consultation and the following three guiding principles:

1. **Access to justice:** Does the option address critical unmet legal needs for diverse populations?
2. **Public protection:** Are the educational requirements appropriate for the scope? Is the scope clear and comprehensible? Are the hand-off points between FLSPs and lawyers feasible? Are the safeguards that help ensure adherence to the scope feasible?
3. **Viability:** Will the scope generate interest from paralegals in taking the training program? Is the training program palatable to paralegals? Does the scope support a sustainable family law practice for FLSPs?

In considering the target clientele for the FLSP, the Committee considered a family of modest means, with an income of between \$30,000 and \$100,000, depending on where they reside. A family in this situation may own a matrimonial home, RRSPs, and possibly pensions and tax-free savings accounts. Many such families prefer to pursue out-of-court settlement instead of litigation, but still require a broad array of legal services to move their matters forward, including access to legal advice, assistance during negotiation of rights and interests, and representation in court.

With the target clientele for the FLSP in mind, the Committee considered four possible models for the FLSP licence: the Consultation Model (which was introduced earlier in this report and is the model set out in the June 26, 2020 Consultation Paper), the Narrow Model, the Intermediate Model and the Recommended Model. Each model has a different

scope of permitted services and is discussed in detail below. A comparison of the scope of each of the four models can be found in **Appendix D**. Ultimately, a majority of the Committee decided to recommend the Recommended Model to Convocation. A minority of Committee members either favoured the Narrow Model (as defined below) or the Intermediate Model (as defined below).

C. Analysis of Possible Models for FLSP Licence

Consultation Model

Overview

At a high level, the Consultation Model (which was introduced earlier in this report and is the model set out in the Consultation Paper) proposed the following areas as within the scope of the FLSP licence (refer to **Appendix A** for more details on the scope):

- divorces;
- parenting orders and decision making (custody and access);
- child and spousal support;
- division of property;
- contempt/enforcement of orders;
- some domestic contracts, including separation agreements and paternity agreements, provided that the client agrees to obtain ILA from a lawyer; and
- change of name applications.

Property was included in this option as it was noted that those within the target for the licence may own a house, car, some investments, etc. The Consultation Paper estimated that the training program would be a minimum of six to eight months on a full-time basis (20 instructional hours per week) or one year on a part-time basis (ten instructional hours per week). However, the Educational Advisor subsequently advised that the training program could be offered as a college graduate certificate program comprised of two 14-week semesters (approximately six and a half months) plus a field placement.

Most submissions from lawyer organizations and the judiciary expressed concerns about the expansive scope of the Consultation Model, arguing that it goes well beyond what was recommended in the Bonkalo Report. There were also concerns that the Consultation Model does not provide a workable distinction between in- and out-of-scope activities. Interconnected issues may not be able to be resolved if they involve an out-of-scope matter.

Access to Justice

The scope of the Consultation Model was broad to ensure that members of the public were supported at critical stages of their family law matter. This model's breadth would allow for

greater access to justice for the public in a number of areas. As the end-user survey demonstrates, respondents were dealing with a variety of family law issues, including divorce, separation, division of property, custody and access, child support, and spousal support. A broad licence would enable FLSPs to serve clients in all these areas. Further, the submissions from the public showed a need for legal support in a number of areas. They identified the following as the top three areas of law where assistance was needed: (1) uncontested or joint divorces; (2) custody and access; and (3) separation agreements. With respect to services, the public submissions reported the top three areas of need as: (1) representation; (2) process navigation; and (3) document preparation, form filling, mediation/arbitration, and negotiating.

While the broad scope of services would help facilitate access to justice, it also means that other areas of law are more likely to be implicated, such as business organizations, tax, real property, bankruptcy, and criminal law. This increases the chances that the matter could necessitate input from a lawyer or other professionals and increase the cost to the client. A number of the submissions pointed out that family law intersects with many other areas of law and emphasized the importance of understanding the various factors that may impact a family law issue. Rather than facilitating access to justice, the need to involve a lawyer or other professional could delay the resolution of matters, increase costs to the client and frustrate clients.

Public Protection

The Committee considered the challenges in determining regulatory lines because of the nuances related to property and income determination for both child and spousal support. In the Consultation Model, some property and income determination issues are in scope while others are not. For example, RRSPs are in scope but pensions are not. These nuances create confusion regarding what is in and out of scope and uncertainty regarding the appropriate hand-off points between an FLSP and a lawyer.

There is also reasonable potential for the matter to move out of scope given the many other areas of law that may intersect with a client's issues, which would necessitate the referral of the matter to a lawyer. Where a matter is passed off to a lawyer, the result will be higher costs to clients, delayed resolution, and increased stress and emotional toll. As the public perceptions survey demonstrates, most Ontarians find the justice system difficult to navigate. Seven-in-ten believe the legal system is intimidating and hard to understand. Moreover, confidence in the system is lower than in the province's health care and public education systems. As such, it is important for the FLSP licence not to exacerbate these impressions by creating frustration among the public.

Viability

An advantage of a broad scope is that paralegals with an FLSP licence could turn family legal services into their primary area of practice. As one submission noted, in order to create a viable business, paralegals need a scope large enough to allow them to complete

a single matter from beginning to end without having to refer a client to a lawyer. Others could complement their practices with relatively transactional and low-conflict services, such as applications for uncontested divorce.³⁹

While the scope of the Consultation Model would allow FLSPs to engage in a wide range of legal services, that is not the only factor to be considered in determining viability. Like all legal professionals, FLSPs would need to develop a client base composed of individuals who can identify them as providing the required service and are willing and able to pay them. While the survey results indicate that paralegals generally charge significantly less than lawyers, FLSPs could charge similar rates to lawyers if they provide the same services. As revealed in the end-user survey, litigants with certain types of issues (e.g., those that are expected to go to court or that involve custody, child support or spousal support) are more likely to rely on representation from a lawyer as opposed to a trained paralegal. If potential clients are unable to differentiate between a lawyer and an FLSP given the numerous areas of overlap in their services and FLSP services are not noticeably more affordable, clients may decide to hire a lawyer rather than a novel provider of family legal services. This could hinder FLSPs' ability to develop a viable practice.

However, the end-users' perceptions are based on the current context in which paralegals are not permitted to provide family legal services. It is anticipated that these perceptions may change with the introduction of a licence that allows FLSPs to provide services that were previously not within paralegals' scope of practice.

A minority of the Committee noted that the survey results indicate that the length and cost of the education and training program could deter many paralegals from seeking to qualify as FLSPs. The minority members pointed out that some paralegals may have expected to add discrete and limited family law services to their existing practices but would not do so if the investment in education and training was too significant. The minority concluded that an extensive education and training program might make the licence less viable and minimize the access to justice benefits of the licence.

Narrow Model

Overview

In light of the concerns with the Consultation Model, the Committee considered a model with a narrower scope (the "Narrow Model").

The Narrow Model includes applications for divorce, motions to change for child support based on straight-forward income, and enforcement through the Family Responsibility

³⁹ In an uncontested divorce, the only issue before the court is the dissolution of the marriage. There are no other claims (e.g., for support or parenting time), as they are either not disputed or have been addressed in a separation agreement.

Office (“FRO”). Court appearances, legal advice, and negotiations are also included in this option.

The length of the training program for the Narrow Model is estimated to be three months, which is less than one semester at a college or university, with a short field placement or job shadowing requirement.

The Narrow Model includes completing applications for divorce and motions to change for child support, based on the payor’s “line 150/T4 slip” income, and dealing with the FRO. Income determination issues, such as self-employment or the imputation of income, are not included. The proposed scope includes court appearances on motions to change, but not those related to income determination issues.

The proposed details are as follows:

Area	Inside Scope	Out of Scope
Process Navigation	<ul style="list-style-type: none">- Providing process navigation and informing the client of applicable court procedures, including filing deadlines	
Divorce	<ul style="list-style-type: none">- Completing the divorce application for joint/uncontested divorces- Filing domestic contracts with the court- Change of name	<ul style="list-style-type: none">- Annulments- Motions to sever the divorce from corollary relief- Where a party resides outside of Canada
Motions to change – child support	<ul style="list-style-type: none">- Completing the paperwork and arguing in court motions to change child support, where income can be determined in accordance with an employer issued T4 slip and line 150 income- Includes special and extraordinary expenses within the motion	<ul style="list-style-type: none">- Deviations from child support amounts defined in the Child Support Guidelines (e.g., incomes over \$150,000, undue hardship, children over the age of majority, special provisions)- Income determination issues, including third-party experts, such as income evaluators- Where a party resides or is earning income outside of Canada
Enforcement	<ul style="list-style-type: none">- Dealing with the FRO	<ul style="list-style-type: none">- Motions for contempt

The proposed training program for the Narrow Model is an estimated 13 weeks or three months on a full-time basis to support approximately 98 competencies. The proposed

training program can be found at **Appendix E** and the proposed competencies are set out in **Appendix F**.

Access to Justice

With a shorter training program of approximately three months, the Law Society could move more quickly to implement the licence, thereby enhancing access to justice in a critical area of need. A key aspect of the Narrow Model is uncontested or joint divorces, which were cited as the highest area of need in the submissions from the public and from individual lawyers and paralegals. Thus, this model provides access to justice in a vital area of need. Further, there was support in the organizational submissions for FLSPs completing uncontested or joint divorces where issues have been settled by way of a separation agreement or court order, or where there is no property or contested corollary relief.

Process navigation and filing domestic contracts are key elements of the scope. This aligns with the results of the end-user survey, which found that SRLs reported the highest need for learning about their rights and options followed by filing paperwork. Additionally, process navigation was the second highest area of need cited in the submissions received from the public. The scope also aligns with the public perceptions survey, which found that racialized and Indigenous people were also more likely to report that they would appreciate assistance with filling out legal forms and reading legal materials. Under the Narrow Model, the FLSP could assist with these identified areas of need.

Motions to change child support were included in this scope to reflect the frequency of these motions in the OCJ. These motions may become even more frequent given the anticipated long-term financial consequences of COVID-19. Some submissions noted that there will be an increase in demand for family services in the future due to COVID-19. FLSPs could potentially assist with the anticipated increase, where it is suggested that the highest rise in cases will be variations in support due to a material change in circumstances.⁴⁰

Some Committee members were concerned that the Narrow Model is so circumscribed that it would only facilitate limited access to justice in family law matters. Respondents to the end-user survey cited drafting a settlement agreement as the third highest area of need. Moreover, custody and access were cited as the second highest areas of need and separation agreements as the third highest area of need in the submissions from members of the public. Under the Narrow Model, FLSPs would not be permitted to address any of these matters, leaving key areas of need unmet.

⁴⁰ Wolfson, *supra* note 32.

Public Protection

The Narrow Model sets out a limited number of distinct services that FLSPs can offer, making it clear to the public, professions, and courts what is in scope and what is not. A minority of the Committee believes that the Narrow Model will result in fewer instances where clients would initially retain an FLSP and subsequently need to retain a lawyer as the matter moves out of the FLSP scope. Because the FLSP would offer a limited number of discrete services, clients would not expect the FLSP to deal with the entirety of a family law matter.

Viability

According to the Committee's minority, the Narrow Model's shorter and less costly training program may be more attractive to paralegals, particularly those who are currently practising and may wish to complement their practices with the ability to provide certain family law services, such as joint or uncontested divorces. If the family law services are offered as a complement to the existing practice, it is likely that the services would be billed in the same way as other paralegal services, such as through a flat fee or for a comparatively affordable billing rate.

The minority highlighted the survey which indicated that paralegals are more interested in obtaining the licence with a shorter training program. Seventy-three percent of paralegals who indicated that they are very or somewhat interested in pursuing an FLSP licence are interested in a training program of less than six months. Further, many paralegals and paralegal organizations that responded to the Consultation Paper suggested a shorter training program.

According to the minority, the Narrow Model would also have more support within the family law bar, as a majority of lawyer organizations and some individual lawyers provided qualified support for a licence with a narrower scope in their submissions. The minority believes that support from the bar is critical to the development of a successful FLSP model, as family law lawyers would be needed to teach in the FLSP program, offer placements and accept referrals from FLSPs in a collaborative manner.

The minority also asserts that the Narrow Model would allow the Law Society to move forward iteratively as demand for services and confidence in the licence increases. An iterative approach would enable the Law Society to assess the licence at different stages to ensure it is meeting its objectives.

The contrary view at Committee is that a restricted scope of services could not form the basis for a viable business model. As one submission stated, in order to create a viable business, paralegals need a scope broad enough to allow them to complete a single matter from beginning to end without having to refer a client to a lawyer. It is not clear that it would make economic sense for paralegals to invest the time and money to pursue an FLSP licence that only allows for a very limited scope of practice even if the training

program was significantly shorter than that required for the Recommended Model. The majority of the Committee thought that the increased cost and longer duration of the education and training program for the Recommended Model (as defined below) would not deter paralegals from participating in the program if the licence provided for a scope broad enough to build a viable business.

Moreover, the majority of the Committee thought that an iterative approach would not be practical, given the time and resources involved in developing the FLSP licencing model in the first instance. The members in the majority point out that the Bonkalo Report was released in March 2017 and in January 2022, the Law Society is still in the process of developing the FLSP licence.

Finally, the majority thought that the Committee should develop the scope of the licence on the basis of the guiding principles and the research, regardless of the current views of the bar and judiciary. The majority indicated that views would likely change if the FLSP licensing framework proves successful in addressing unmet legal needs.

Intermediate Model

Overview

The Committee devised a third model for the FLSP licence with a more limited scope than the Consultation Model, but a broader scope than the Narrow Model (the “Intermediate Model”). The Intermediate Model permits the FLSP to provide representation, including court appearances for divorces, child support and spousal support with straight-forward incomes only, and parenting orders and decision making (formerly known as custody and access).

The Intermediate Model builds on the activities proposed in the Narrow Model and includes applications for divorce, issues related to parenting orders and decision making, child support payable based on the *Child Support Guidelines* and spousal support, both based on the payor’s “line 150/T4 slip” income. Income determination issues, such as self-employment or the imputation of income, are not included. Within the proposed scope, the FLSP may appear in court on parenting orders and decision making, child support, and spousal support, including entitlement, quantum, and duration.

The Intermediate Model allows for almost full representation at the OCJ level, as the proposed scope mirrors the jurisdiction of the OCJ and the SCJ. Some submissions supported using the differing jurisdictions of the courts to define the scope of practice for the FLSP.

The details of the Intermediate Model are as follows:

Area	Inside Scope	Out of Scope
Divorce	<ul style="list-style-type: none"> - Completing the divorce application for joint/uncontested divorces (with no proviso that a separation agreement, mediated minutes of settlement or court order be obtained in advance) - Appearing in court where the issue is the divorce (e.g., one party is challenging the grounds for divorce), parenting and decision making, or child support where there are no income determination issues - Attendance at alternative dispute resolution proceedings, including mediations, where the issues are related to the divorce, child support, and parenting orders and decision making - Filing domestic contracts with the court 	<ul style="list-style-type: none"> - Annulments - Motions to sever the divorce from corollary relief - Where a party resides outside of Canada
Child Support	<ul style="list-style-type: none"> - Child support, where it can be determined in accordance with an employer issued T4 slip and line 150 income - Special and extraordinary expenses (and may appear in court on related motions, provided there are no income determination issues) - Motions to change child support - Enforcement of orders and contempt where support has not been paid, including dealing with the FRO 	<ul style="list-style-type: none"> - Deviations from child support amounts defined in the Child Support Guidelines (e.g., incomes over \$150,000, undue hardship, children over the age of majority, special provisions) - Income determination issues, including third-party experts, such as income evaluators - Dependant's relief claims - Parental support - Where a party resides or is earning money outside of Canada
Parenting Orders and	<ul style="list-style-type: none"> - Attendance at court to argue parenting orders and decision-making matters 	<ul style="list-style-type: none"> - Issues related to parentage - Where third-party experts have been ordered or retained by the court

Area	Inside Scope	Out of Scope
Decision Making (Custody and Access)	<ul style="list-style-type: none"> - Motions to vary parenting and decision making - Applications for divorce where the corollary relief includes parenting orders and decision making 	<ul style="list-style-type: none"> - Relocation or mobility issues - Child abduction or Hague Convention matters
Spousal Support	<ul style="list-style-type: none"> - Attendance at court to argue entitlement, quantum, and duration of spousal support - Variations, reviews, and motions to change spousal support - Applications for divorce where the corollary relief includes spousal support 	<ul style="list-style-type: none"> - Income determination issues, including third-party experts, such as income evaluators - Dependant's relief claims - Parental support - Where a party resides or is earning money outside of Canada

The proposed training program for the Intermediate Model was estimated at 23 weeks or five months on a full-time basis to support approximately 173 competencies. Based on these estimates, the Committee developed the proposed training program for the Intermediate Model found at **Appendix G**, and the related competencies at **Appendix H**. The field placement would range from four to six weeks. Subsequently, however, the Educational Advisor advised that the training program would likely be offered as a college graduate certificate program comprised of two 14-week semesters (approximately six and a half months) plus a field placement.

Access to Justice

The Intermediate Model would enable paralegals to engage in a broader range of activities than under the Narrow Model and therefore better addresses unmet legal needs. The Intermediate Model provides fairly comprehensive service related to the children of the marriage with the inclusion of parenting and decision making, as well as child support, with the exception of income determination issues. The majority of the Committee concluded that income determination should be excluded because it could involve many aspects of corporate and tax law that would not be addressed in the FLSP education program.

Courtroom advocacy is included in the Intermediate Model. The majority of the Committee thought that advocacy should be a key component of the FLSP licence. Both the public's submissions and the individual submissions identified representation in court at various stages as the highest area of need. Further, the surveys found that end-users are willing to pay the most for legal representation for trial and disputes involving child custody or child support, both of which the FLSP would be able to address under this model. In addition,

parenting orders and decision making were the second highest area of need cited in the submissions by the public and those from individual lawyers and paralegals.

While the inclusion of spousal support goes beyond the recommendations in the Bonkalo Report, the majority thought that its inclusion would facilitate greater access to justice. Spousal support and child support are often intertwined. Allowing FLSPs to address both issues means that clients would not have to seek out a lawyer to assist with key aspects of their matter, which could lead to increased costs and delay.

Given the impact of the COVID-19 pandemic on people's incomes, it is anticipated that there may be an increased number of motions to change and variations. Although the Intermediate Model would take longer to operationalize than the Narrow Model, the FLSP would likely be more able to assist with the anticipated backlog post-COVID-19.

The scope of the Intermediate Model includes drafting minutes of settlements and consent orders that reflect settlements reached by the parties on in-scope items (e.g., parenting decisions, child support and spousal support). However, separation agreements are not included in this model. According to the majority, this omission is a significant shortcoming. Separation agreements were cited as the third highest area of need by the public in the submissions. According to the end-user survey, 56% of panel 1 is willing to pay less than \$1,000 for a separation agreement and 21% are willing to pay between \$1,000 and \$2,499. The Committee majority thinks that FLSPs could play an important role in facilitating access to justice by preparing some separation agreements, given:

- The unwillingness of some to pay a significant amount for such agreements; and
- The finding that paralegals charge lower hourly rates and are much more likely than family lawyers to charge a flat fee.

Public Protection

The Committee majority thought that the Intermediate Model would better protect the public than the Consultation Model: it includes clearer regulatory lines and more defined hand-off points between FLSPs and lawyers, providing better clarity to consumers. The Intermediate Model presents much more defined lines related to property and income determination, creating a clear restriction that where these issues arise, the FLSP may not act. These limitations may be more obvious to the public, professions, and courts, and may help to avoid the FLSP having to transfer the file to a lawyer mid-way through representation if an issue moves out of scope.

The scope of the Intermediate Model also mirrors the OCJ jurisdiction in family law, for the most part. The Committee took note of growth of the Unified Family Courts, where the distinction between OCJ and SCJ jurisdiction has been eliminated. However, the majority felt that the traditional distinction between OCJ and SCJ jurisdiction was familiar to the family law community and would still provide greater clarity, particularly when contrasted with the scope of the broader Consultation Model. Some submissions stated that the Consultation Model was confusing, noting that where the scope was linked to specific

statutes, it would not be clear to the public what the limitations would be. Further, some submissions pointed out that it was unclear why some domestic contracts, such as separation agreements, were included, while others, such as marriage contracts, were not.

Viability

With its inclusion of divorces, parenting orders and decision making, child support, and spousal support, the Intermediate Model is broad enough to support a viable family law practice. It would provide specially trained paralegals with more business opportunities in family law than under the Narrow Model. As noted previously, a minority of the Committee said that the cost and length of the education and training program could deter paralegals from participating in the program, particularly if they have established practices and are only interested in providing discrete services such as joint or uncontested divorces. However, the Committee majority thought that paralegals would be willing to take a longer program if it supports a broad and viable practice.

Recommended Model

Overview

The majority of the Committee recommends that Convocation adopt a fourth model: the Intermediate Model with the addition of limited scope separation agreements (the “Recommended Model”). This model would allow the FLSP to draft separation agreements limited to:

- Matters within scope of the Intermediate Model: child support, spousal support, parenting orders and decision making, and T4 determined income; and
- Property limited to: one matrimonial home and its contents and bank accounts

provided that the FLSP recommend that the client obtain ILA from a lawyer. Notably, the Recommended Model differs from the Consultation Model in that the only domestic contract the FLSP can prepare under the Recommended Model is the separation agreement. In contrast, the Consultation Model would permit the FLSP to also draft paternity agreements and family arbitration agreements, in addition to separation agreements. Further, under the Recommended Model, the FLSP’s ability to address property matters is much more circumscribed: it is limited to one matrimonial home and its contents and bank accounts in the context of a separation agreement. Lastly, under the Consultation Model, the FLSP can address income determination in certain limited circumstances (i.e., imputation of income related to child support and spousal support), whereas under the Recommended Model, income determination is out of scope.

As with the Consultation Model and the Intermediate Model, the training program for the Recommended Model could be offered as a college graduate certificate program comprised of two 14-week semesters (approximately six and a half months) plus a placement. The competencies for the Recommended Model have not yet been considered

in detail but would be based on and similar to the original competency listing developed for the Consultation Model (which had 209 competencies) (refer to **Appendix B**), with modifications. A preliminary assessment suggests that there would be a total of approximately 200 competencies.

Access to Justice

According to the majority, the Recommended Model would enhance access to justice for the reasons outlined above in connection with the Intermediate Model. With the addition of separation agreements, the Recommended Model provides even greater access to justice. The submissions on the Consultation Paper recognized the public's need for assistance with separation agreements: they were cited as the third highest area of need by the public. Those experiencing marital breakdown generally want to settle their disputes outside the courtroom. Accordingly, the ability to draft limited scope separation agreements is a key component of facilitating access to justice through the FLSP licence.

The minority noted that the Intermediate Model provides the FLSP with a broad scope of activities that could assist a significant number of litigants in both attending court and settling issues in dispute. Moreover, the proposed permissible scope for preparing separation agreements is itself limited. A minority questioned whether FLSPs would be able to effectively serve clients who need separation agreements, given the limitations of the Recommended Model.

The majority pointed out that while the requirement that the FLSP recommend ILA⁴¹ from a lawyer would necessitate engaging two legal professionals rather than one, it is likely that the cost would still be lower than retaining a lawyer to prepare the separation agreement from start to finish. As the survey results demonstrated, paralegals have much lower hourly billing rates than family lawyers. Also, in providing ILA, the lawyer is engaging in a discrete, limited task rather than preparing the agreement from the outset, which helps to contain costs.

Public Protection

The Committee minority and some submissions expressed concerns that the inclusion of separation agreements would increase the potential risks to clients. Since some issues that arise in a separation agreement are out of scope, clients may be tempted to minimize the extent of their assets or the severity of their issues, in the hopes that the matter could stay within FLSP scope. Moreover, some also raised the concern that separation agreements are more difficult to prepare than other domestic contracts due to potential

⁴¹ In general, ILA is provided by a lawyer who is unrelated to the client's matter, associated parties, or the lawyer or paralegal, and who does not have a conflicting interest. The lawyer is retained for the limited purpose of providing ILA so that the party appreciates the nature and consequences of the terms of the separation agreement.

issues with family violence, power imbalances, and the high emotions of parties going through a separation.

In response, the Committee majority proposed a number of practices and resources to assist FLSPs in working optimally within the scope of the Recommended Model and to help address concerns with the inclusion of separation agreements in the FLSP scope (refer to section 5, “Measures to Enhance the Recommended Model”, at page 46). These measures would help to ensure that the scope is clearly defined and communicated, enhancing both the public protection and viability elements of this model. Moreover, the requirement that the FLSP recommend ILA from a lawyer would promote a second review of the separation agreement, adding another layer of protection for clients.

Viability

The Recommended Model would allow paralegals to develop a broader practice than the Narrow Model and Intermediate Model that would better serve the needs of the public. As the paralegal survey demonstrated, 85% of paralegals are very or somewhat interested in expanding their practice to include some family legal services. The inclusion of separation agreements would allow FLSPs to develop a broader practice than under the narrower models and may make the licence more attractive to paralegals and therefore more viable. The scope is wide enough to enable FLSPs to offer a variety of services that can complement their existing paralegal practices or become their primary practice areas.

As mentioned previously, a minority of the Committee said that the cost and length of the education and training program could deter paralegals from participating in the program, particularly if they have established practices and are only interested in providing discrete services such as joint or uncontested divorces. However, the Committee majority thought that paralegals would be willing to take a longer, more expensive program if it supports a broad and viable practice.

5. Measures to Enhance the Recommended Model

The key theme underlying the proposed measures is that various practices and resources should be incorporated into the FLSP education program and placement and reinforced by the Law Society through the licensing process, guidance, practice supports and resources, and in some cases, rules. This continuum would help to ensure that these practices and tools become an integral and effective part of FLSPs’ practices, bolstering confidence in the licence and enhancing public protection.

This pragmatic approach to FLSP training is consistent with innovative new approaches to legal education that emphasize assignments and experiences that focus on practical skills to enable students to “hit the ground running”. For example, the Integrated Practice Curriculum, offered by the Ryerson and Lakehead law faculties, integrates the experiential aspects of articling into the three-year law school curriculum. This pragmatic approach to

FLSP training would provide FLSPs with critical hands-on learning coupled with a strong theoretical foundation.

These measures would be in addition to the existing requirements and supports that establish and maintain competence and professional conduct of all licensees, including licensing examinations, CPD obligations, liability insurance requirements and practice supports, such as the Practice Management Helpline, Coach and Advisor Network and online resources.

A. Hierarchy of Issues

The generally accepted approach to family law matters is based on a hierarchy of issues, with parenting addressed first. Stabilizing the children's circumstances is the primary concern. The remaining issues are typically addressed in the following order: child support, spousal support, matrimonial home, and equalization / property division. The FLSP education program could instruct FLSPs to address matters in this order to ensure consistency in the approach to issues. Further, the Law Society could promote the use of this approach during the licensing process and develop guidance, practice supports and resources that outline and encourage this approach.

B. Checklists and Forms

Checklists and forms are an effective way to help ensure FLSPs consider all the relevant issues. Lawyers and paralegals regularly use them in their practices. The following checklists and forms would be helpful:

- a standard form describing what an FLSP is and setting out the FLSP's scope of practice to be provided to prospective clients;
- a checklist of documents to obtain from the client;
- a checklist or roadmap for the separation meeting between the client and FLSP setting out the various issues that need to be addressed; and
- a parenting plan checklist that lists the various issues that should be addressed in a parenting plan.

All of these resources already exist (except for the first item) and could be standardized and used in the FLSP education program. The Law Society could create and provide the standard form describing FLSPs and their scope of practice. Such a document would be of assistance to FLSPs as well as clients, the public, the judiciary and lawyers. The Law Society could encourage FLSP candidates to continue using these resources during the licensing process and after licensure.

Another resource that would assist FLSPs is a checklist of assets that the FLSP must discuss with potential clients to determine the extent of their assets. This important resource would help FLSPs determine if the requested separation agreement would be

within scope. For example, the checklist would capture whether the potential client has more than one matrimonial home, making it clear that the FLSP could not act for the client on a separation agreement in this situation. The Law Society could develop and provide this resource, which could be used in the FLSP training program and reinforced as a key practice tool via guidance.

C. DivorceMate (“DM”) and Other Resources

DM provides software tools to Canadian family law professionals, including separation agreement precedents and clauses. This key resource is widely used by the Ontario family law bar. DM offers subscriptions that can be renewed annually. Legislative and tax updates are included in the subscription, providing certainty that the most recent information is being used.

Other resources that family law practitioners find helpful include:

- MySupportCalculator⁴²: an online child and spousal support calculator. Many practitioners append the MySupportCalculator calculations to separation agreements;
- Association of Family and Conciliation Courts (“AFCC”) parenting plan guide and parenting plan template⁴³: AFCC, an interdisciplinary association dedicated to the resolution of family conflict through education, innovation and collaboration, has created these resources to assist with the development of child-focused parenting plans. AFCC has detailed precedents that address challenging parenting scenarios and can be used to supplement the DM precedents;
- Government of Canada parenting plan tool⁴⁴: this tool assists with the creation of parenting plans; and
- Standard clauses for family court orders⁴⁵: the Ontario Ministry of the Attorney General has developed standard clauses to help individuals draft family court orders.

DM and other resources could be introduced and used in the FLSP education program, particularly during the experiential training component. The Law Society could encourage FLSP candidates to continue using resources such as these during the licensing process and after licensure, via guidance.

D. Independent Legal Advice

The proposed scope of practice requires the FLSP to recommend that the client obtain ILA

⁴² <https://www.mysupportcalculator.ca/>

⁴³ <https://afccontario.ca/parenting-plan-guide-and-template/>

⁴⁴ <https://canada.justice.gc.ca/eng/fl-df/parent/ppt-ecppp/form/form.html>

⁴⁵ <http://ontariocourtforms.on.ca/en/family-law-rules-forms/standard-clauses/>

from a lawyer on the separation agreement. The Committee majority recommends the adoption of measures to help ensure that clients obtain ILA. First, the FLSP education program could stress the key role of ILA in the drafting of separation agreements. For example, FLSP candidates could be instructed to raise the matter of ILA at the start of the retainer so that the client understands the importance of obtaining ILA if they want to retain the FLSP to draft a separation agreement. Further, the Law Society could develop a template for advising clients about ILA and documenting the client's agreement to obtain ILA, which could be used in the training program. The Law Society could also adopt a rule requiring FLSPs to recommend ILA.

Despite advising clients to obtain ILA, it is possible that some clients may decide to forgo ILA. FLSPs could have access to ILA waiver precedents that they can use in these circumstances.

The requirement to recommend ILA from a lawyer underscores the importance of FLSPs having relationships with lawyers who can be called upon to provide ILA. Networking is a key tool for developing these relationships. The paralegal survey revealed that 77% of paralegals refer clients to a specific lawyer or law firm if a matter is out of scope or not within their area of expertise. Among those who provide referrals, only 16% have a formal referral arrangement in place. The Law Society could offer CPD seminars for FLSPs about networking with lawyers to help enhance referral arrangements. Further, encouraging FLSPs to use the aforementioned resources would help FLSPs to establish referral relationships with lawyers because both the FLSP and the lawyer would likely work with the same precedents and tools.

E. Family Violence

The Committee considered concerns raised in the submissions that separation agreements are more difficult to prepare than other domestic contracts due to potential issues with family violence. As with the other proposed models, the FLSP education program would include a component that addresses family violence⁴⁶. The Educational Advisor recommended that the FLSP education program include a course on intimate partner violence and that instructors with specialized knowledge be available to teach this topic. This recommendation is consistent with the proposal in the Bonkalo Report that the training of paralegals in family law include the topic of gender-based violence. As a number of submissions stated, there is a need for a deeper understanding of family violence across the family justice system, not just amongst FLSPs.

F. Awareness Campaign

The launch of the FLSP licence could be accompanied by a Law Society awareness

⁴⁶ Refer to sections 3.12 - 3.12.131 of the competencies for the Narrow, Intermediate and Consultation Models.

campaign including targeted outreach and communication. The campaign would launch in early 2025 as the first FLSP cohort became licensed. It could target licensees, mediators and the public and describe what an FLSP is and their scope of services to help justice sector stakeholders understand what FLSPs are and are not permitted to do. This would help ensure that clients are aware of and directed to the appropriate type of practitioner to fulfill their legal needs, enhancing access to justice.

The cost of a campaign would depend on its scope and the target audiences identified. A modest campaign relying primarily on internal resources would likely require a minimum of \$30,000 to \$35,000 in additional expenditure.

6. Evaluation

As noted previously, the FLAP approved by Convocation requires the Law Society to engage in a robust evaluation of the success of the FLSP licensing framework. The evaluation will report on success in relation to the three guiding principles of access to justice, public protection and viability. It is expected that the evaluation will be launched approximately three years after the first cohort of FLSPs has completed the licensing process. The results of the evaluation will be reported through the Committee to Convocation on completion.

7. Implementation

A. Continued Development and Costs of the FLSP Licence

As noted throughout the report, the implementation of the FLSP licence involves the development of a pre-licensure education program that fulfills the enabling competencies and related curriculum requirements. Through the RFI included in the Consultation Paper and subsequent input from subject matter experts, the Law Society has obtained a preliminary indication of the approaches that should be taken to ensure that the education program effectively addresses both the substantive and practical aspects of family legal services provision, including the need for a sufficiently robust experiential training component. Once Convocation approves a model for the FLSP, the Law Society will finalize the program criteria, establish a process for selecting education providers, and collaborate with providers to establish a timeline and plan for development and delivery of the education program. It is reasonable to expect that it will take a minimum of 12-18 months to develop the education program and that the first education program intake may occur by the fall of 2023, at the earliest.

The Law Society will also establish a licensing process for the FLSP, which includes creating an application process and developing a licensing examination, and associated infrastructure. The licensing examination requires the involvement of Law Society personnel and external subject matter experts working under the guidance of

psychometrists to ensure appropriate rigour and defensibility. The timeline for the establishment of the licensing process is estimated to be approximately 24 months. The Law Society would develop the licensing process concurrently with the development of the education program. Assuming that the start date for the education program occurs in the fall of 2023 as projected, the first intake of FLSP licensing candidates may occur by the summer or fall of 2024, with the first cohort of licensed FLSPs potentially in place within six months to one year, depending on the scheduling of the FLSP licensing examination, and the time required to process results and issue licences.

The next steps and timelines associated with the FLSP licence development are set out below:

FLSP Licence Development Workplan

Component	Key Activities	Projected Time Frame
1. Competencies	<ul style="list-style-type: none"> Adjust the competencies to support the scope of permissible activities as approved by Convocation. 	3 months
2. Education Program	<ul style="list-style-type: none"> Finalize criteria for education program, including prerequisites, curriculum, delivery model and assessment protocols, experiential training requirements. Select education provider(s) and establish timelines for program development and implementation. Provide ongoing support and monitoring to education providers during development phase. 	12-18 months First education intake potentially by fall 2023
3. a) Licensing Examination – Parameters	<ul style="list-style-type: none"> Assemble advisory group of subject matter experts to support examination development process. Assess and determine examination methodology. Define examination blueprint under guidance of psychometrists. 	24 months
	<ul style="list-style-type: none"> Recruit subject matter experts to develop test questions under guidance of psychometrists. If formats include constructed response (e.g., short answer questions, written tasks), develop assessment scenarios. Establish performance standards and assessment rubrics. 	24 months Concurrent with 3a)

	Component	Key Activities	Projected Time Frame
	c) Licensing Examination – Candidate Supports	<ul style="list-style-type: none"> Identify appropriate format and platform (written materials, online resources, etc.) Retain subject matter experts to create content. 	24 months Concurrent with 3a) and 3b)
4.	Candidate Administration	<ul style="list-style-type: none"> Create registration protocols and policies, including application criteria and documentation requirements. Determine examination delivery platform and schedule. Establish contracts with service providers. Make system adjustments to support new licence category. 	6 months First licensing candidate intake potentially by summer or fall 2024 First cohort of FLSP licensees potentially within approximately 6 months of intake

It is estimated that the initial implementation activities described above will require the allocation of two full-time personnel in the Licensing and Accreditation Department for the duration of the 24-month development period, requiring backfill to support ongoing operations in the licensing area. Related to the activities noted in lines 3a)-3c), the development of the licensing examination will require the services of psychometricians and subject matter experts to establish the appropriate examination blueprints, assessment content and rubrics, and candidate supports in accordance with best practices in high stakes assessment.⁴⁷ The evaluation of the licensing framework will require the services of an independent evaluator. The projected direct resource requirements for the development of the FLSP licence are expected to be in the range of \$550,000 to \$800,000⁴⁸, to fund backfills for a counsel and a coordinator position in the licensing area, psychometric services, subject matter experts, and system modifications.

⁴⁷ In a high stakes assessment, the result has significant consequences, such as access to professional licensure. By contrast, a low stakes assessment does not have a major impact on educational outcomes; rather, the goal is for students to learn from their mistakes with minimal academic penalty.

⁴⁸ The cost is dependent on the duration required of the backfill positions, recognizing that the same area will be focused on operations and implementation of the experiential training enhancements that were recently approved by Convocation.

Development costs are typically borne by the Law Society and do not get passed on to licensing candidates. When the Law Society initially established the FLAP in 2017, funding from MAG in the amount of \$150,000 was provided to support the development of the competencies framework for the licence. In 2019, the Law Society budgeted \$570,000 for the development of the FLSP. A significant amount of work has been completed on the competencies and the majority of MAG funding has been utilized. At this time, \$555,000 remains earmarked for the FLSP in the Law Society's Special Projects Fund.⁴⁹ The balance of \$555,000 will be fully allocated to support the continued development of the FLSP licence. Should funding beyond what is available in the Special Projects Fund be required, Convocation may approve the use of the budgeted \$1 million in contingency funds.

B. Cost Recovery Model of the FLSP Licensing Process

Once developed, the FLSP licensing process will be subject to a cost recovery model like the lawyer and paralegal licensing processes. The Law Society will be required to establish a licensing process fee that supports the ongoing maintenance of the FLSP licensing process. The maintenance of a distinct licensing process for a new category of licence is a significant operational activity. Most notably, this includes new workflows and ongoing costs arising from an additional layer of advisory groups, psychometric services, content creation, and French translation that will be required to sustain the FLSP licensing process over the longer term. The FLSP licensing process will need to be situated within an existing licensing framework that supports over 4,500 lawyer applicants and 2,400 paralegal applicants who are working their way through the licensing process at any given time. It is likely that the maintenance of the FLSP licensing process will require additional full-time personnel in the longer term, however this can only be determined once the licensing process has been implemented and considered in light of other initiatives that have been approved in the licensing area, including the recently approved experiential training enhancements for licensing candidates. Correspondingly, a licensing process fee can only be established once all the ongoing costs of the FLSP licensing process have been fully ascertained and the Law Society has an accurate estimate of the number of potential applicants for licensure.

The new FLSP licensees will ultimately be integrated into the Law Society's existing licensee administration systems and procedures. In particular, the Law Society's policies and systems will need to evolve to support a framework where some licensees may hold a limited licence and licensees will be permitted to hold multiple licences. This introduces a new dimension to the regulatory framework that will require development and/or modification of information technology and processes. Regardless of whether only licensed

⁴⁹ The 2021 budget planned for the use of \$270,000, raised from paralegals in 2019, to reduce the paralegal annual fee in 2021. Due to pandemic related savings, the funding was not required and remains available for the FLSP.

paralegals are eligible for the FLSP licence or whether in the future other types of legal service providers are permitted to qualify for the credential (e.g., law clerks), it is expected that many aspects of the Law Society's regulatory activities will be impacted in some way. FLSP licensees will be required to comply with applicable by-laws relating to insurance, reporting requirements, and payment of fees. Similarly, both the Law Society's competence stream (practice supports, CPD, Coach and Advisor Network, Practice Management Helpline, practice audits) and regulatory stream (complaints, investigations, discipline, compensation fund claims) will have to take account of the FLSP and may experience increased demand or volume. The integration of the FLSP will also impact support departments such as the Client Service Centre, Finance, and External Relations and Communications. Decisions will need to be made regarding the appropriate funding structure to address regulatory resources and risks for this new category of licence, and annual fees will be determined accordingly.

C. Operational Risks

The need for legal services in family law has been well explored in this report, as have the opportunities to support increased access to justice in family law through the creation of an FLSP with an appropriate scope of practice. If the Law Society does not respond in some way to this need, there is a risk that the organization could be seen to be ignoring its obligation to facilitate access to justice.

Although there are indications from paralegals and others that there is interest in the licence, there remains a risk that the Law Society will expend resources to develop a licence that attracts a small number of applicants and is therefore not financially sustainable as an independent stream with funding raised solely from this category of licensees (FLSPs). Under this scenario, the FLSP program could be funded by the lawyer and paralegal professions through their annual fees, subject to Convocation approval. If the desire is to have this licensee category be self-funded by only those holding an FLSP licence, this risk will have to be managed and monitored throughout the implementation phase so that appropriate mitigation steps may be taken.

Appendix A: Scope of Permissible Activities for FLSP Licence in Consultation Paper

The FLSP can provide legal services,¹ which includes the provision of legal advice, drafting legal documents, representation in court or before an adjudicative body, or negotiating legal interests or rights, in the following areas:

Area	Scope of Permissible Activities for Family Legal Services Provider Licence	
	Inside Scope	Out of Scope
1. Uncontested or Joint Divorces	- Divorce applications and motions to sever where the corollary relief sought is within the scope as articulated below	- Contested corollary relief out of scope as articulated in the areas below; or - Annulments
2. Parenting Orders (Access) and Decision Making (Custody), including Motions to Change	Claims Involving: a) Decision-making/custody; or b) Parenting time/access.	Claims involving: a) Third party experts ordered by the court or retained by a party, other than a mediator, parenting coordinator, or access supervisor (e.g., custody and access assessments under section 30 of the <i>Children's Law Reform Act</i>); b) Relocation/mobility issues; or c) Child abduction or other international cases/Hague Convention matters.

¹ *Law Society Act*, R.S.O. 1990, c. L.8, ss. 1(5) and (6)

3. Child Support, including Motions to Change	<p>Claims involving:</p> <ul style="list-style-type: none"> a) Self-employed payors, unless there is an income determination issue; b) Special or extraordinary expenses; c) Imputation of income where a parent is claiming the payor is intentionally under-employed or unemployed; d) Life insurance to secure support obligations; e) The Family Responsibility Office; or f) Undue hardship. 	<p>Claims involving:</p> <ul style="list-style-type: none"> a) Questions of income determination including matters that fall within section 17 (pattern of income; non-recurring losses), section 18 (shareholder, director, or officer; adjustment to corporation's pre-tax income) and section 19(1) (b) to (i) of the <i>Ontario Child Support Guidelines</i> (i.e., exempt from taxes; lives in country where income tax rate is significantly lower than Canada; income has been diverted; property is not reasonably utilized to generate income; failure to provide legal information; unreasonable expense deductions; income derived from dividends, capital gains or other sources taxed at lower rate than employment or business income; parent or spouse is beneficiary under a trust or recipient of income or benefits from a trust); b) Third party experts ordered by the court or retained by a party, other than a mediator, parenting coordinator, or access supervisor (e.g., custody and access assessments under section 30 of the <i>Children's Law Reform Act</i>); c) Dependant's Relief claims; d) Relocation/mobility cases; or e) Child abduction/other international cases (Hague Convention)
4. Spousal Support, including Variations and Reviews	<p>Claims involving:</p> <ul style="list-style-type: none"> a) Self-employed, unless there is an income determination issue; b) Imputation of income where a spouse is claiming the payor is intentionally under-employed or unemployed; 	<p>Claims involving:</p> <ul style="list-style-type: none"> a) Questions of income determination including matters that fall within section 17 (pattern of income; non-recurring losses), section 18 (shareholder, director, or officer; adjustment to corporation's pre-tax income) and section 19(1) (b) to (i) of the <i>Ontario Child Support Guidelines</i> (i.e., exempt from taxes; lives in country where income tax rate is significantly lower than

	<p>c) Life insurance to secure support obligations; or</p> <p>d) The Family Responsibility Office.</p>	<p>Canada; income has been diverted; property is not reasonably utilized to generate income; failure to provide legal information; unreasonable expense deductions; income derived from dividends, capital gains or other sources taxed at lower rate than employment or business income; parent or spouse is beneficiary under a trust or recipient of income or benefits from a trust);</p> <p>b) Third party experts ordered by the court or retained by the party, such as vocational or occupation experts;</p> <p>c) Dependant's Relief claims; or</p> <p>d) Parental support</p>
5. Property	<p>Claims involving:</p> <p>a) Household contents and personal property, vehicles, pets, CPP, whole life insurance, RRSP, RIF, LIRA and cash-only assets held by a financial institution (i.e., bank accounts, TFSA, and GIC).</p>	<p>Claims involving:</p> <p>a) Third party valuators;</p> <p>b) Joint family ventures (e.g., common law spouses)</p> <p>c) Equitable and trust claims;</p> <p>d) Family or other Trusts;</p> <p>e) Interests in a sole proprietorship, partnership or corporation;</p> <p>f) Pensions (excluding CPP and RRSP/LIRA/RIF held by a financial institution);</p> <p>g) Bankruptcy;</p> <p>h) Unequal division (Section 5(6) <i>Family Law Act</i> claims);</p> <p>i) Spousal election;</p> <p>j) An Estate; or</p> <p>k) Contingent assets and liabilities (excluding limited costs of disposition of the assets).</p>
6. Home/ Matrimonial Home	<p>Claims involving:</p>	<p>Claims involving:</p> <p>a) Third party valuators (other than appraisals for the value of the matrimonial home and for market rent);</p>

	<ul style="list-style-type: none"> a) One matrimonial home, including sole ownership, joint tenancy, tenants in common; b) Exclusive possession or possession; c) Partition and sale; or d) Occupation rent. 	<ul style="list-style-type: none"> b) Severance of the joint tenancy; c) Equitable and trust claims; d) Unequal division (Section 5(6) <i>Family Law Act</i> claims); or e) An Estate.
7. Contempt/ Enforcement of Orders	<ul style="list-style-type: none"> - For matters within scope of permitted activities 	<ul style="list-style-type: none"> - All matters listed in the excluded areas.
8. Setting Aside Minutes of Settlement, an Order, or a Domestic Contract	<ul style="list-style-type: none"> - Orders obtained without effective service (Family Law Rules 25(19)(b-e) and 25(20)). 	<ul style="list-style-type: none"> - All matters listed in the excluded areas.
9. Domestic Contracts	<ul style="list-style-type: none"> - Drafting and negotiation of separation agreements which may include standard releases that address issues outside of scope where a precedent is used (e.g., Divorce Mate precedent), provided clients obtain ILA from a lawyer; - Paternity agreements, provided clients obtain ILA from a lawyer; or - Family arbitration agreements, including agreements for parenting coordination, provided clients obtain ILA from a lawyer. - 	<ul style="list-style-type: none"> - All matters listed in the excluded areas; - Cohabitation agreements; or - Marriage contracts.
10. Change of Name under the <i>Change of Name</i> Act	<ul style="list-style-type: none"> - Allowed. 	

Overarching Restrictions

An FLSP may not act where, for, or in:

1. A client is under the age of 18 years;
2. Special parties where the court or the PGT has determined a party cannot represent her or himself (*Family Law Rules*, Rule 2 and Rule 4(2));
3. Child protection proceedings or where there are allegations of sexual abuse at the outset or that arise during the retainer; or
4. Applications for adoptions;
5. Declarations of parentage;
6. Issues concerning reproductive or fertility law matters, including surrogacy contracts, known donor, IVF, frozen embryos, etc.;
7. Appeals or motions for leave to appeal;
8. There are issues that are outside of the current scope for paralegals as articulated in By-Law 4;
9. There is/are issue(s) outside of scope, whether it/they exist at the outset of the retainer or arises during the course of the retainer; or
10. There are legal issues or assets outside of Ontario.

Appendix B: Consultation Model – Competencies

CODE	FLSP COMPETENCY STATEMENT
1.0	ETHICS AND PROFESSIONAL RESPONSIBILITY
1.1	Ethics and Professionalism
1.1.1	identifies the instructing client and the client's role in the matter (e.g., parent, spouse, family member, multiple parties, authority to bind, authority to communicate).
1.1.2	recognizes, and is sensitive to, the client's circumstances, special needs, and intellectual capacity (e.g., diversity, language, levels of literacy, socioeconomic status, disability, health).
1.1.3	develops appropriate communication strategies for the client, recognizing the unique nature of family law (e.g., manages vulnerable or high-need client, does not become personally invested in a client or client matter, communicates in a timely and effective manner, copies the client on correspondence, and obtains approval of drafts).
1.1.4	manages and updates the client's expectations with respect to processes, timeframes, results, and costs.
1.1.5	understands the impact of involving third-party authorities, such as police or a Children's Aid Society, and the duty to report.
1.1.6	demonstrates civility and professionalism in dealings with others, especially in high conflict situations (e.g., establishing and respecting boundaries, deescalating conflict, respecting courtroom etiquette, consenting to reasonable requests for adjournments and time extensions).
1.1.7	fulfills obligations related to dealing with unrepresented persons.
1.1.8	recognizes situations that constitute a conflict of interest or potential conflict of interest (e.g., receiving cold calls/emails, representing opposing parties in a dispute, having a close personal or sexual relationship with a client or a personal financial interest in a client's affairs, representing or responding to third parties, acting against former clients; transferring firms, doing business with a client).
1.1.9	takes appropriate action in situations where an actual or potential conflict of interest is identified (e.g., declines to act, establishes reasonable measures to ensure non-disclosure of confidential information, advises the client of the consequences if a potential conflict materializes, documents the steps taken when a potential conflict of interest has been identified, withdraws when appropriate).
1.1.10	recognizes issues arising from joint retainers and fulfils duties accordingly (e.g., required disclosure prior to accepting the retainer, communication issues, obligations if a conflict develops that cannot be resolved, joint applications for divorce).

1.1.11	understands the meaning and enforceability of undertakings and trust conditions, fulfills all undertakings and trust conditions, and does not give an undertaking or agree to a trust condition that cannot be fulfilled.
1.1.12	manages monies held in trust and client property in accordance with Law Society requirements.
1.1.13	understands diversity (e.g., culture, religion, nationality) and its potential impact in family law matters (e.g., religious barriers, advice on barriers to remarriage, parenting).
2.0	KNOWLEDGE OF THE LAW
2.1	Legislation, Regulations, Guidelines, Practice Directions, & Case Law
2.1.14	understands the organization of the federal and provincial court systems and the Unified Family Court.
2.1.15	understands jurisdiction and the appropriate forum.
2.1.16	understands the <i>Divorce Act</i> , regulations, and related case law.
2.1.17	understands the <i>Family Law Act</i> , regulations, and related case law.
2.1.18	understands the <i>Child Support Guidelines</i> (federal and provincial) and related case law.
2.1.19	understands the <i>Spousal Support Advisory Guidelines</i> and related case law.
2.1.20	understands the <i>Children's Law Reform Act</i> , regulations, and related case law.
2.1.21	understands the <i>Family Law Rules</i> and related case law.
2.1.22	understands the <i>Ontario Disability Support Program Act</i> and the <i>Ontario Works Act</i> , regulations, and related case law.
2.1.23	understands the federal and provincial <i>Income Tax Act</i> , regulations, interpretation bulletins, and related case law applicable to family law matters (e.g., deductibility of spousal support, child care expense deduction, child tax benefits, tuition tax credits).
2.1.24	understands the <i>Partition Act</i> , regulations, and related case law applicable to family law matters.
2.1.25	understands the <i>Insurance Act</i> , regulations, and related case law applicable to family law matters (e.g., designation of beneficiaries).
2.1.26	understands the <i>Change of Name Act</i> , regulations, and related case law.
2.1.27	understands the <i>Succession Law Reform Act</i> , regulations, and related case law (e.g., effect of separation or divorce on inheritance rights).
2.1.28	understands relevant statutes, regulations, and related case law applicable to family law matters (e.g., <i>Evidence Act</i> (Ontario), <i>Canada Evidence Act</i> , <i>Limitations Act</i> , 2002, <i>Rules of Civil Procedure</i> , <i>Courts of Justice Act</i> (e.g., interests, costs, jurisdictional limitations (<i>parens patriae</i>), family court, Children's Lawyer), <i>Civil Marriage Act</i> , <i>Arbitration Act</i> , 1991, <i>Canada Pension Plan</i> (credit splitting provisions)).
2.1.29	understands enforcement statutes, regulations, and related case law (e.g., <i>Family Orders and Agreements Enforcement Assistance Act</i> ; <i>Family Responsibility and Support Arrears Enforcement Act</i> , 1996, <i>Personal Property Security Act</i>).
2.1.30	understands statutes, regulations, and case law relevant to Indigenous family law matters (e.g., <i>Indian Act</i> , <i>Family Homes on Reserves and Matrimonial Interests or Rights Act</i>).

2.1.31	applies the principles of statutory interpretation in conjunction with the case law.
2.1.32	understands the importance of remaining current regarding changes to legislation, regulations, guidelines, practice directions, and case law.
3.0	SUBSTANTIVE FAMILY LAW
3.1	Parenting Orders and Decision Making, including Motions to Change
3.1.33	identifies, initially and on an ongoing basis, when custody and access issues are out of FLSP scope and declines to act or continue to act (i.e., claims involving (a) third party experts ordered by the court or retained by a party, other than a mediator, parenting coordinator, or access supervisor (e.g., custody and access assessments under section 30 of the <i>Children's Law Reform Act</i>); (b) relocation/mobility issues; or (c) child abduction or other international cases/Hague Convention matters).
3.1.34	understands who is a "child" or "child of the marriage," as defined by the applicable statute(s), regulations, and/or case law.
3.1.35	determines the appropriate jurisdiction (e.g., habitual residence, substantial connection).
3.1.36	establishes parentage for the purposes of bringing an application for custody/parenting orders and access/time sharing (e.g., rules of parentage, statutory presumptions).
3.1.37	applies the principle of "best interests of the child" based on legislation and case law (e.g., contact issues, child's wellbeing, parental conduct, bonding, stages of child development, special needs, religious and ethical upbringing, financial needs, sibling separation, special considerations for First Nations, Inuit, and Métis children).
3.1.38	applies principles related to custody/decision-making, including different parenting arrangements (e.g., parallel parenting, shared parenting, joint parenting, sole parenting, split parenting, and primary residence).
3.1.39	applies principles related to determining parenting time/access (e.g., maximum contact principle, <i>de facto</i> custody and <i>status quo</i>).
3.1.40	applies principles related to ancillary matters of parenting and decision making (e.g., consent to treatment, access to health and school records, passport issues, travel authorizations).
3.2	Child Support, including Motions to Change
3.2.41	identifies, initially and on an ongoing basis, when child support issues are out of FLSP scope and declines to act or continue to act (i.e., claims involving (a) questions of income determination including matters that fall within section 17 (pattern of income; non-recurring losses), section 18 (shareholder, director, or officer; adjustment to corporation's pre-tax income) and section 19(1) (b) to (i) of the <i>Ontario Child Support Guidelines</i> (i.e., exempt from taxes; lives in country where income tax rate is significantly lower than Canada; income has been diverted; property is not reasonably utilized to generate income; failure to provide legal information; unreasonable expense deductions; income derived from dividends, capital gains or other sources taxed at lower rate than employment or business income; parent or spouse is beneficiary under a trust or recipient of income or benefits from a trust); (b) third party experts ordered by the court or retained by a party, other than a mediator, parenting coordinator, or access supervisor (e.g., custody and access assessments under section 30 of the <i>Children's Law Reform Act</i>)).

	Children's Law Reform Act); (c) Dependant's Relief claims; (d) relocation/mobility cases; or (e) child abduction/other international cases (Hague Convention).
3.2.42	determines who is eligible to apply for child support (e.g., parent, eligible dependent, government agency).
3.2.43	determines who is obligated to pay child support by applying the appropriate legislation and case law (e.g., settled intention, potential for multiple payors).
3.2.44	determines entitlement to receive child support by applying the appropriate legislation and case law (e.g., "child of the marriage", dependent children, withdrawal from parental control, retroactivity, "undue hardship").
3.2.45	understands the effects of parenting arrangements on child support (e.g., 60-40 split, multiple households, shared, split households, prior families, age of children, tax credits, deductions).
3.2.46	determines payor(s)'s income (e.g., CRA Notice of Assessment, line 150 of income tax return, imputation of income only under s. 19.1(a) of the <i>Child Support Guidelines</i> , self-employed unless there is an income determination issue).
3.2.47	determines quantum of child support.
3.2.48	recognizes deviations from child support amounts defined in the <i>Child Support Guidelines</i> (e.g., incomes over \$150,000, undue hardship, children over the age of majority, special provisions).
3.2.49	determines and calculates payments for special or extraordinary expenses under the <i>Child Support Guidelines</i> (Ontario), including consideration the child's contribution to special or extraordinary expenses.
3.2.50	understands principles related to termination of child support.
3.2.51	determines security for child support obligations, including jurisdiction and quantum (e.g., life insurance).
3.3	Spousal support, including Variations and Reviews
3.3.52	identifies, initially and on an ongoing basis, when spousal support issues are out of FLSP scope and declines to act or continue to act (i.e., claims involving (a) questions of income determination including matters that fall within section 17 (pattern of income; non-recurring losses), section 18 (shareholder, director, or officer; adjustment to corporation's pre-tax income) and section 19(1) (b) to (i) of the <i>Ontario Child Support Guidelines</i> (i.e., exempt from taxes; lives in country where income tax rate is significantly lower than Canada; income has been diverted; property is not reasonably utilized to generate income; failure to provide legal information; unreasonable expense deductions; income derived from dividends, capital gains or other sources taxed at lower rate than employment or business income; parent or spouse is beneficiary under a trust or recipient of income or benefits from a trust); (b) third party experts ordered by the court or retained by the party, such as vocational or occupation experts; (c) Dependant's Relief claims; or (d) parental support).
3.3.53	determines eligibility for spousal support by applying the appropriate legislation (e.g., who is a "spouse").
3.3.54	determines entitlement to spousal support by applying the appropriate factors and objectives (e.g., compensatory; transitional; needs, means, and circumstances; contractual; gross repudiation; retroactivity).

3.3.55	determines who is obligated to pay spousal support by applying the applicable legislation (e.g., former spouses).
3.3.56	calculates quantum and duration of spousal support including periodic and lump sum support (e.g., appropriate use of the <i>Spousal Support Advisory Guidelines</i> and relevant legal software, incomes in excess of \$350,000, consumer price index).
3.3.57	understands the formulas used by the <i>Spousal Support Advisory Guidelines</i> (e.g., without child, with child, spousal support payable by custodial parent).
3.3.58	understands the role of judicial discretion in the application of the <i>Spousal Support Advisory Guidelines</i> .
3.3.59	determines payor(s)'s income (e.g., CRA Notice of Assessment, line 150 of the income tax return, imputation of income only under s. 19.1(a) of the <i>Child Support Guidelines</i> (Ontario) as it applies to the <i>Spousal Support Advisory Guidelines</i> , self-employed unless there is an income determination issue, double dipping).
3.3.60	determines security for spousal support obligations, including jurisdiction and quantum (e.g., life insurance).
3.3.61	determines tax consequences related to spousal support (e.g., tax inclusion, tax deduction, lump sum, periodic, retroactivity, delineation between child and spousal support, increased tax deductions at source).
3.3.62	recognizes that a spousal support order may be assigned to and enforced by a government agency.
3.4	Variations, Review and Motions to Change
3.4.63	identifies, initially and on an ongoing basis, when variations, reviews, and motions to change are out of FLSP scope and declines to act or continue to act.
3.4.64	identifies a material change in circumstances or other specified threshold in a court order or separation agreement relevant to parenting orders, child support, and spousal support.
3.4.65	understands the differences between a variation, a review, and a suspension of orders.
3.4.66	understands principles related to termination of orders.
3.5	Property
3.5.67	identifies, initially and on an ongoing basis, when property issues are out of FLSP scope and declines to act or continue to act (i.e., claims involving: (a) third party valuators; (b) joint family ventures (e.g., common law spouses); (c) equitable and trust claims; (d) family or other Trusts; (e) interests in a sole proprietorship, partnership or corporation; (f) pensions (excluding CPP and RRSP/LIRA/RIF held by a financial institution); (g) bankruptcy; (h) unequal division (Section 5(6) <i>Family Law Act</i> claims); (i) spousal election; (j) an Estate; or (k) contingent assets and liabilities (excluding limited costs of disposition of the assets)).
3.5.68	ensures parties qualify under the <i>Family Law Act</i> for an equalization of net family property (e.g., common-law, co-habitation).
3.5.69	identifies what constitutes property under the <i>Family Law Act</i> (e.g., asset vs. income (severance, pension, annuity), debt (joint or sole), real, personal, intellectual, contingent assets and liabilities, pets, reward points, investments (e.g., whole life

	insurance, RRSP, RIF, LIRA, cash-only assets held by a financial institution (e.g., bank accounts, TFSA, and GIC)).
3.5.70	understands the principles of ownership, including presumptions (e.g., titled ownership, equitable claims, resulting trust, constructive trust, joint family venture).
3.5.71	identifies the date of marriage and valuation date (e.g., understands the difference between the valuation date and the date of separation for divorce purposes).
3.5.72	understands the principles of valuation of specific assets (e.g., appraisal of the matrimonial home as property, costs of disposition).
3.5.73	understands exclusions and deductions (e.g., gifts, inheritances, and personal injury settlements).
3.5.74	applies the principles of tracing (e.g., gifts, inheritances, personal injury settlements).
3.5.75	calculates net family property (NFP) and equalization payment, if any, and understands the effect of a negative NFP.
3.5.76	determines when preservation of property or non-depletion orders are appropriate.
3.5.77	determines when sale or transfer of property is appropriate.
3.5.78	understands when equalization or division of household contents is appropriate and implements it appropriately (e.g., jewellery, vehicles, furnishings, tools, art, antiques).
3.5.79	understands tax consequences or exemptions upon the transfer of assets (e.g., vehicles, RRSP rollover, matrimonial home).
3.5.80	determines the type of security required to secure an equalization or other property payment, if appropriate.
3.6	Financial Disclosure
3.6.81	identifies, initially and on an ongoing basis, when financial disclosure issues are out of FLSP scope and declines to act or continue to act (e.g., if financial disclosure reveals income determination issues other than under s. 19(1)(a) of the <i>Child Support Guidelines</i> (Ontario)).
3.6.82	advises the client of the initial and ongoing obligation to disclose financial information (e.g., statutory, proportionality, relevance).
3.6.83	determines disclosure and supporting documentation necessary to establish income for calculating spousal and child support, including special or extraordinary expenses under the <i>Child Support Guidelines</i> .
3.6.84	determines disclosure and supporting documentation for exclusions, tracing, and/or deductions.
3.6.85	determines disclosure and supporting documentation necessary to establish the value of real and other property.
3.6.86	completes the appropriate financial forms (e.g., with or without property claim including supporting disclosure, with support claim, certificate of financial disclosure).
3.6.87	understands and takes appropriate action with respect to non-disclosure of financial information (e.g., knows what to request, how to compel disclosure, motions to require disclosure).
3.7	Home/Matrimonial Home
3.7.88	identifies, initially and on an ongoing basis, when home/matrimonial home issues are out of FLSP scope and declines to act or continue to act (i.e., claims involving (a) third

	party valuers (other than appraisals for the value of the matrimonial home and for market rent); (b) severance of the joint tenancy; (c) equitable and trust claims; (d) unequal division (Section 5(6) <i>Family Law Act</i> claims); or (e) an Estate.)
3.7.89	identifies ownership interests in the matrimonial home (i.e., joint tenants, tenants in common, sole ownership).
3.7.90	applies the appropriate principles related to the matrimonial home when calculating net family property.
3.7.91	understands the principles related to exclusive possession of the matrimonial home and contents and possession of the home and contents (e.g., common-law couples).
3.7.92	identifies entitlement to and calculates quantum of occupation rent.
3.7.93	brings a motion for partition and sale of the home/matrimonial home when appropriate.
3.7.94	advises on the rights and limitation on transfers and encumbrances on a matrimonial home and the appropriateness of a motion to dispense with consent.
3.7.95	advises on whether to sever joint tenancy or register a matrimonial home designation or a certificate of pending litigation and refers the client to a lawyer to register the appropriate document on title
3.8	Contempt/Enforcement of Orders
3.8.96	identifies, initially and on an ongoing basis, when contempt/enforcement of order issues are out of FLSP scope and declines to act or continue to act.
3.8.97	advises and acts on the enforcement of domestic contracts.
3.8.98	files domestic contracts with the court under the appropriate legislation.
3.8.99	understands the jurisdiction of the Family Responsibility Office (FRO) to enforce court-ordered support payments (e.g., whether FRO is responsible for enforcement or if payment can be enforced privately).
3.8.100	understands the implications of withdrawal from the Family Responsibility Office (FRO) and advises the client accordingly.
3.8.101	advises and acts on Family Responsibility Office (FRO) matters for enforcement of support orders (e.g., forms, procedures, enforcement, motions to stay or suspend enforcement and the underlying order, restraining orders, alternate payment orders, suspension of driver's licence, suspension of passport).
3.8.102	determines enforcement options other than through the Family Responsibility Office (FRO) (e.g., private enforcement, questioning, judgment debtor examination, writ of seizure and sale, garnishment, <i>Personal Property Security Act</i> registration, charge against land).
3.8.103	brings a motion for contempt when appropriate.
3.9	Domestic Contracts
3.9.104	identifies, initially and on an ongoing basis, when domestic contract issues are out of FLSP scope and declines to act or continue to act (i.e., cohabitation agreements, marriage contracts).
3.9.105	determines when a matter is incapable of performance under the law and advises accordingly (e.g., unreasonable contract inclusions).
3.9.106	understands the types of domestic contracts (i.e., cohabitation, marriage, separation, paternity, and family arbitration agreements).

3.9.107	understands how to draft full, partial, or temporary domestic contracts using appropriate language and clauses (e.g., using appropriate software, inclusion of standard release terms (e.g., support, claims against the estate, contribution to property), security, material change in circumstances).
3.9.108	ensures domestic contracts are properly executed under the <i>Family Law Act</i> .
3.9.109	recommends that independent legal advice (ILA) be provided by a lawyer prior to execution of a domestic contract and declines to continue to act when ILA is refused.
3.9.110	identifies and avoids circumstances that could invalidate a domestic contract under the <i>Family Law Act</i> and at common law (e.g., lack of financial disclosure, fraud, hidden information).
3.9.111	understands the principles of unjust enrichment to identify when a matter is out of scope and to ensure appropriate releases are contained in a domestic contract (e.g., common law relationships).
3.10	Change of name under the <i>Change of Name Act</i>
3.10.112	determines eligibility for change of name, including solvency, consent, and notice.
3.10.113	understands how to complete the appropriate change of name forms and follows the appropriate process.
3.10.114	understands when to use the abbreviated change of name procedure (e.g., for marriage, cohabitation, dissolution of marriage).
3.10.115	understands how to respond where the other parent(s) wishes to oppose or revoke a change of name.
3.11	Divorces
3.11.116	identifies where a marriage is void or voidable (e.g. annulment, capacity) and identifies initially and on an ongoing basis, where corollary relief, if any, is out of FLSP scope and declines to act or continue to act (e.g., income determination issues, pensions, unequal division, trust claims, third party valuators).
3.11.117	identifies the grounds for divorce (i.e., breakdown of the marriage: living separate and apart for one year, cruelty, and adultery).
3.11.118	identifies the appropriate jurisdiction in which to bring a divorce proceeding.
3.11.119	fulfills the statutory duty to advise regarding reconciliation, facilities, and negotiating support or custody through mediation.
3.11.120	understands the bars to divorce (e.g., collusion, connivance, condonation, reasonable arrangements not made for the children).
3.11.121	understands the consequences of a divorce (e.g., limitation periods, succession rights, health benefits, spousal entitlement, pension, beneficiary designations).
3.11.122	advises about the option and consequences of severing a divorce from corollary relief and brings a motion to sever, where appropriate.
3.11.123	drafts, serves, and files an application for divorce and takes appropriate steps to obtain a final order.
3.11.124	advises the client about the availability of waiver of the appeal period for a divorce and takes appropriate steps.

3.12	Victims of Domestic Abuse and Intimate Partner Violence
3.12.125	understands and identifies, initially and on an ongoing basis, when domestic abuse and intimate partner violence issues are out of FLSP scope and declines to act or continue to act.
3.12.126	identifies power imbalances, domestic abuse, or intimate partner violence.
3.12.127	takes appropriate action when there is an imminent risk of harm (e.g., safety plan, duty to report (Children's Aid Society, police, primary care provider)).
3.12.128	takes appropriate legal steps where domestic abuse or intimate partner violence has been identified (e.g., emergency motions, <i>ex parte</i> motions, exclusive possession, restraining orders).
3.12.129	refers the client to appropriate community resources where domestic abuse or intimate partner violence has been identified.
3.12.130	understands how to draft orders related to domestic abuse and intimate partner violence with sufficient specificity, including police enforcement.
3.12.131	serves orders related to domestic abuse and intimate partner violence on all relevant police forces.
3.13	Intersecting Legal Issues
3.13.132	identifies, initially and on an ongoing basis, where intersecting legal issues render a matter out of the FLSP scope and declines to act or continue to act (e.g., child protection, estate matters (e.g., actions arising from the death of spouse, testamentary trusts, Henson trusts)).
3.13.133	understands the interrelationship between family law and other areas of the law (e.g., privacy, business, real estate, estates, immigration (sponsorship agreements), torts, trusts, contracts (other than domestic contracts)).
3.13.134	understands criminal law principles in family law matters and when to consult a criminal law licensee (e.g., impact of bail conditions, admissions, communications).
3.13.135	understands tax principles in family law matters and when to consult tax experts.
3.13.136	understands property law (e.g., real property, interests in land, systems of land registration, mortgages, negotiable instruments, the <i>Personal Property Security Act</i>) and when to consult a real estate lawyer.
3.14	Indigenous Issues in Family Law
3.14.137	identifies, initially and on an ongoing basis, where Indigenous issues in family law render a matter out of the FLSP scope and declines to act or continue to act (e.g., child protection).
3.14.138	demonstrates awareness of the impact of self-governance and customary laws on Indigenous communities, including inherent jurisdiction, self-government agreements, and law/by-law making authority (e.g., customary marriages).
3.14.139	demonstrates an awareness of the application of s. 19(1)(b) of the <i>Child Support Guidelines</i> (Ontario) to child support orders (e.g., gross-up of non-taxable income).
3.14.140	demonstrates an awareness of the application of s. 89 of the <i>Indian Act</i> to the enforcement of support orders (e.g., exemptions).

3.14.141	understands the principles within the <i>Family Homes on Reserves and Matrimonial Interests or Rights Act</i> (e.g., use, occupation, and possession of family homes on reserves; division of property).
4.0	PROBLEM, ISSUE IDENTIFICATION, ANALYSIS, & ASSESSMENT
4.1	Information Gathering, Case Analysis, and Planning
4.1.142	identifies, obtains, and reviews relevant facts and documents.
4.1.143	identifies the relevant legal issues.
4.1.144	complies with all privacy legislation when gathering information.
4.1.145	recognizes urgency and takes emergency steps where necessary (e.g., restraining orders, restraining orders, and preservation orders).
4.1.146	understands the importance of conducting legal research (e.g., distinguishing case law) and preparing memoranda of law or facta.
4.1.147	demonstrates the ability to investigate facts related to a client matter, including when to engage experts.
4.1.148	advises about available resources (e.g., Family Responsibility Office, Ministry websites, support calculators, parenting resources, counselling, coaching).
4.1.149	develops an informed theory of the case and reassesses the theory of the case as the matter evolves.
4.1.150	applies legal reasoning and engages in critical thinking to prepare pleadings, arguments, or submissions to court.
4.1.151	develops an appropriate plan and strategies based on the law and in consultation with the client to achieve desired results.
5.0	ALTERNATIVE DISPUTE RESOLUTION
5.1	Alternative Dispute Resolution
5.1.152	identifies, initially and on an ongoing basis, when ADR issues are out of FLSP scope and declines to act or continue to act.
5.1.153	understands various dispute resolution processes (e.g., negotiation, mediation (open versus closed), arbitration, collaborative, parenting coordination).
5.1.154	determines whether alternative dispute resolution (ADR) is necessary or appropriate (the nature of the disputed and undisputed issues), when it can be ordered, and the potential implications of choosing to use or not use alternative dispute resolution.
5.1.155	addresses potential power imbalances in alternate dispute resolution.
5.1.156	prepares the client for alternative dispute resolution (process, forms, and dynamics).
5.1.157	applies appropriate strategies and tactics during alternate dispute resolution.
5.1.158	understands the obligations when acting as a mediator (e.g., cannot represent parties, ensuring parties understand the role of the mediator and when communications with the mediator are not covered by confidentiality).
6.0	LITIGATION PROCESS
6.1	Processes
6.1.169	understands that attempts to resolve the matter without litigation are integral from inception to completion of the matter.

6.1.160	complies with practice directions and local practices (e.g., family information sessions, dispute resolution officers, first appearance court, standard track/fast track).
6.1.161	drafts, serves, files, and amends pleadings (application, answer, reply) and forms as required (e.g., confirmations (with respect to proceeding), requests for information, minutes of settlement, draft orders, bills of costs, costs submissions, confirmations of assignment).
6.1.162	recognizes when case management is available.
6.1.163	applies the basic principles of admissibility of evidence (e.g., relevance, materiality, weight, prejudicial effect, probative value), especially electronic and/or social media communications.
6.1.164	understands exceptions to admissibility (e.g., hearsay, opinion, privilege, improperly obtained evidence, settlement discussions).
6.1.165	understands the notice and delivery requirements for specific documentary evidence (e.g., business records, medical and other expert reports).
6.1.166	understands how and when to bring a motion to change an order under Rule 25(19)(b-e) or 25(20) of the <i>Family Law Rules</i> .
6.1.167	ensures the appropriate endorsement is made and takes out the order after court appearances (motions, conferences, trials).
6.1.168	advises on applicable appeal periods and refers the client to a lawyer for appeals.
6.2	Case, Settlement, and Trial Management Conferences
6.2.169	demonstrates an understanding of the purposes and potential outcomes of case, settlement, and trial management conferences.
6.2.170	understands the jurisdiction of the judge to make orders at conferences.
6.2.171	prepares for and attends conferences (e.g., identifies objectives and limitations; drafts, serves, and files the conference brief; updates and files financial statements and other documents as required).
6.2.172	prepares clients for conferences and explains the purposes of the conference.
6.3	Motions and Temporary Relief Proceedings
6.3.1734	understands the availability and merits of temporary relief (procedural motions, Form 14B, motions with and without notice).
6.3.1745	understands how to draft, serve, and file notice of motion and any amendments, supporting affidavits, <i>facta</i> , and offers to settle the motion as necessary.
6.3.1756	understands when and how to obtain an order to question the other side.
6.3.176	understands when to attend and how to conduct questioning and how to use the transcript of questioning.
6.3.177	prepares for and argues motions.
6.4	Trial or Hearing Preparation
6.4.178	understands required timelines for trial or hearing.
6.4.179	drafts and negotiates agreed statements of facts.
6.4.180	drafts and responds to requests to admit.
6.4.181	prepares own witnesses for examination and cross-examination.
6.4.182	prepares and conducts examination of own witnesses.

6.4.1834	prepares and conducts cross-examination of witnesses of other parties.
6.4.184	understands how and when to compel witnesses, including issuing a summons to witness.
6.4.185	prepares, raises, and responds to objections (e.g., hearsay, relevance).
6.4.186	prepares and presents opening and closing statements.
6.5	Conduct of Trial
6.5.187	understands the <i>Family Law Rules</i> governing trials (e.g., trial record, evidence, focussed trials, mini trials).
6.5.188	updates documents for trial (e.g., financial statements, net family property statements, comparisons of net family property).
6.5.1890	ensures the matter has been completed and documented appropriately in accordance with the disposition (e.g., judgment/order issued, support deduction order filed and/or withdrawn).
6.5.190	advises client on how to implement the final order (e.g., arranging for sale the matrimonial home, , transferring funds, taking any child-related actions).
6.6	Motions to Change
6.6.191	brings a motion to change under Rule 15 of the <i>Family Law Rules</i> .
6.6.192	prepares and serves a confirmation of assignment when necessary.
6.6.193	understands the role of family support workers under s. 59 of the <i>Ontario Works Act</i> and regulations thereunder (e.g., Ontario Regulation 134/98).
6.7	Costs of Each Step in Litigation
6.7.1945	advises on the principles related to costs, offers to settle, and security for costs (e.g., Rule 24 of the <i>Family Law Rules</i> , parties' ability to fund or pay for a cost order and whether the obligation would affect the care, maintenance, or interests of the children).
6.7.195	prepares submissions on costs.
7.0	PRACTICE MANAGEMENT ISSUES
7.1	Practice Management
7.1.196	demonstrates proficiency with industry-specific software and online services (e.g., MySupportCalculator, DivorceMate, SupportMate, federal child support look-up, Ontario child support recalculation service).
7.1.197	complies with Law Society client identification and verification requirements (By-Law 7.1).
7.1.198	complies with Law Society marketing and advertising rules regarding firm name, letterhead, and FLSP scope of practice.
7.1.199	maintains competence (e.g., skill and knowledge, care and diligence, client service) and quality of service and seeks appropriate assistance when the matter is beyond the family legal service provider's abilities.
7.1.200	complies with continuing professional development requirements.
8	PROHIBITIONS
8.1	Practice Restrictions
8.1.201	does not act in matters where a client is under the age of 18 years or there are "special parties" (i.e., where the court or the Public Guardian and Trustee has

	determined that party cannot represent her or himself (Family Law Rules, Rules 2 and 4(2)).
8.1.202	does not act when there are legal issues, or assets, outside of Ontario (e.g., extraterritorial jurisdictional issues, <i>Interjurisdictional Support Orders Act</i> , if a party files income tax in another jurisdiction).
8.1.203	does not act where there are child protection proceedings or where there are allegations of sexual abuse at the outset or that arise during the retainer.
8.1.204	does not act on applications for adoptions.
8.1.205	does not act on applications for declaration of parentage.
8.1.206	does not act when there are reproductive or fertility law issues (e.g., surrogacy agreements, known donor, IVF, frozen embryos, etc.).
8.1.207	does not act on appeals, including motions for leave to appeal, but may waive the appeal period for divorce.
8.1.208	does not act where there are issues outside of the current scope for paralegals as articulated in By-law 4.
8.1.209	declines to continue to act and refers the matter to a lawyer where issues arise during the course of the retainer that are outside of the scope of permissible practice.

Appendix C: List of Organizational Submissions to FLSP Consultation Paper

	Organization
1.	ADR Institute of Ontario Inc
2.	L'Association des juristes d'expression française de l'Ontario
3.	Canadian Equal Parenting Council
4.	Community Legal Education Ontario
5.	County of Carleton Law Association
6.	Ontario Court of Appeal
7.	Durham Community Legal Clinic
8.	Durham Region Paralegal Network
9.	Family Dispute Resolution Institute of Ontario
10.	Family Law Limited Scope Services Project
11.	Family Lawyers Association
12.	Father's Resources Ontario (Facebook Group with over 10,000 members in Ontario)
13.	Federation of Ontario Law Associations
14.	Federation of Ontario Paralegals
15.	Hastings & Prince Edward Law Association
16.	Law Society Indigenous Advisory Group
17.	Institute of Law Clerks of Ontario
18.	Law Students' Society of Ontario
19.	Legal Aid Ontario
20.	Law Society Equity Advisory Group

21.	Luke's Place Support & Resource Centre for Women & Children
22.	Native Child and Family Services of Toronto
23.	Ontario Association of Black Paralegals
24.	Ontario Association of Collaborative Professionals
25.	Ontario Bar Association
26.	Ontario Court of Justice
27.	Ontario Federation of Indigenous Friendship Centres
28.	Ontario Paralegal Association
29.	REAL Women of Canada
30.	Robert Shawyer – on behalf of 51 family law lawyers
31.	Sheridan College Institute of Technology and Advanced Learning
32.	Society of United Professionals
33.	Superior Court of Justice
34.	The Advocates' Society
35.	The Barbra Schlifer Commemorative Clinic
36.	The Hamilton Law Association
37.	Thunder Bay Law Association
38.	Toronto Lawyers Association
39.	Waterloo Region Law Association
40.	Women's Law Association of Ontario

Appendix D: Comparison of FLSP Models

Area	Narrow Model	Intermediate Model	Recommended Model	Consultation Model
Joint / Uncontested Divorces	Yes	Yes. Includes corollary relief within scope.	Yes. Includes corollary relief within scope.	Yes. Includes motions to sever where the corollary relief sought is within the scope.
Decision Making (Custody)	No	Yes	Yes	Yes
Parenting Orders (Access)	No	Yes	Yes	Yes
Child Support	Motions to change, no income determination issues.	Yes, no income determination issues.	Yes, no income determination issues.	Yes, some income determination issues.
Spousal Support	No	Yes, no income determination issues.	Yes, no income determination issues.	Yes, some income determination issues.
Enforcement	FRO proceedings	FRO proceedings	FRO proceedings	Contempt and enforcement.
Restraining Orders	No	No	No	Yes
Property	No	Undisputed only	Undisputed only, and as permitted in separation agreements.	Yes, with some limitations.
Matrimonial Home	No	Undisputed only	Undisputed only, and as permitted in separation agreements.	One matrimonial home, exclusive possession, partition and

Area	Narrow Model	Intermediate Model	Recommended Model	Consultation Model
				sale, occupation rent.
Separation Agreements	No	No	Yes, with ILA and limited to one matrimonial home and its contents, bank accounts, child support, spousal support, parenting orders and decision making, and T4 determined income.	Yes, with ILA.
Paternity Agreements and Family Arbitration Agreements	No	No	No	Yes, with ILA.
Representation in Court	Yes	Yes	Yes	Yes

Appendix E: Narrow Model – Training Program

- Minimum of 260 mandatory instructional hours⁵⁰ to support approximately 98 competencies⁵¹ – estimated at a minimum of 13 weeks or approximately three months on a full-time basis (20 instructional hours per week) or six months on a part-time basis (ten instructional hours per week).⁵²
- Field Placement (including simulated placements): Proposals for placements within the submissions included durations of two weeks to ten weeks. With a narrower scope, rather than a placement, a brief period of one to two weeks of job shadowing a family lawyer could follow or be part of the training program.
- Topics for courses are presented below and may be combined into courses as the selected education provider(s) deems appropriate.

Topics and related competencies in brackets	Number of Competencies	Minimum Instructional Hours
1 Family Violence (7)	7	20
2. Knowledge of the Law (18)	21	55
Understanding Substantive Areas Outside of Scope Outside of Scope ⁵³ (3)		

⁵⁰ The minimum instructional hours were calculated using a weighting methodology and taking into account the average number of instructional hours per competency under the Law Society's Paralegal Education Program Accreditation Policy, and in some cases, the number was rounded up or down. The Paralegal Education Program Education Policy requires a minimum of 710 instructional hours, consisting of 590 hours in mandatory coursework and 120 hours in elective coursework to support 306 entry-level paralegal competencies, which equals an average of approximately 2.7 hours per competency. The framework for the training program proposed within the Consultation Paper included a weighting exercise to reflect that some competencies may be able to taught in a shorter time span, while other competencies are iterative and will require additional teaching time.

⁵¹ Competencies would need to be reviewed and finalized in conjunction with the selected education provider(s). The number of competencies would heavily influence the length of training program, with the actual duration and format to be finalized working together education provider(s).

⁵² The duration, format, and structure of the training program would be fully determined in conjunction with the selected education provider(s).

⁵³ Competencies would need to be revised such that the FLSP is able to identify the legal issues, recognize that they are out of scope, and decline to act or continue to act if a dispute arises. The first competency proposed would be developing a basic understanding of the legal principles within the areas outside of scope, the second would be developing a broad understanding of the prohibitions, and the third would be upon recognizing a matter is out of scope, declining to act or continuing to act, and referring the matter to a lawyer, if appropriate. While in-depth knowledge of the various areas of law may not be required, a basic understanding of the law, concepts, procedures, etc. should be taught.

3.	Divorce (9)	13	35
	Change of Name (4)		
4.	Child Support (10)	18	45
	Financial Disclosure (5)		
	FRO (Family Responsibility Office (3)		
5	Indigenous Issues in Family Law (4)	4	10
6.	Court Processes and Family Law Procedure ⁵⁴ :	11	30
	- Variations, Review and Motions to Change (2)		
	- Motions and Temporary Relief Proceedings (4)		
	- Motions to Change (3)		
	- Costs (2)		
7	Alternative Dispute Resolution (6)	6	15
8	Ethics and Professionalism (13)	18	50
	Practice Management Issues (5)		
	TOTALS:	98	260

⁵⁴ Some competencies related to court procedures necessary to support process navigation are included under Knowledge of the Law. To avoid double-counting, those competencies were only included once.

Appendix F: Narrow Model – Competencies

CODE	FLSP COMPETENCY STATEMENT
1.0	ETHICS AND PROFESSIONAL RESPONSIBILITY
1.1	Ethics and Professionalism
1.1.1	identifies the instructing client and the client's role in the matter (e.g., parent, spouse, family member, multiple parties, authority to bind, authority to communicate).
1.1.2	recognizes, and is sensitive to, the client's circumstances, special needs, and intellectual capacity (e.g., diversity, language, levels of literacy, socioeconomic status, disability, health).
1.1.3	develops appropriate communication strategies for the client, recognizing the unique nature of family law (e.g., manages vulnerable or high-need client, does not become personally invested in a client or client matter, communicates in a timely and effective manner, copies the client on correspondence, and obtains approval of drafts).
1.1.4	manages and updates the client's expectations with respect to processes, timeframes, results, and costs.
1.1.5	understands the impact of involving third-party authorities, such as police or a Children's Aid Society, and the duty to report.
1.1.6	demonstrates civility and professionalism in dealings with others, especially in high conflict situations (e.g., establishing and respecting boundaries, deescalating conflict, respecting courtroom etiquette, consenting to reasonable requests for adjournments and time extensions).
1.1.7	fulfills obligations related to dealing with unrepresented persons.
1.1.8	recognizes situations that constitute a conflict of interest or potential conflict of interest (e.g., receiving cold calls/emails, representing opposing parties in a dispute, having a close personal or sexual relationship with a client or a personal financial interest in a client's affairs, representing or responding to third parties, acting against former clients; transferring firms, doing business with a client).
1.1.9	takes appropriate action in situations where an actual or potential conflict of interest is identified (e.g., declines to act, establishes reasonable measures to ensure non-disclosure of confidential information, advises the client of the consequences if a potential conflict materializes, documents the steps taken when a potential conflict of interest has been identified, withdraws when appropriate).
1.1.10	recognizes issues arising from joint retainers and fulfils duties accordingly (e.g., required disclosure prior to accepting the retainer, communication issues, obligations if a conflict develops that cannot be resolved, joint applications for divorce).
1.1.11	understands the meaning and enforceability of undertakings and trust conditions, fulfils all undertakings and trust conditions, and does not give an undertaking or agree to a trust condition that cannot be fulfilled.
1.1.12	manages monies held in trust and client property in accordance with Law Society requirements.
1.1.13	understands diversity (e.g., culture, religion, nationality) and its potential impact in family law matters (e.g., religious barriers, advice on barriers to remarriage, parenting).
2.0	KNOWLEDGE OF THE LAW
2.1	Legislation, Regulations, Guidelines, Practice Directions, & Case Law

2.1.14	understands the organization of the federal and provincial court systems and the Unified Family Court.
2.1.15	understands jurisdiction and the appropriate forum.
2.1.16	understands the <i>Divorce Act</i> , regulations, and related case law.
2.1.17	understands the <i>Family Law Act</i> , regulations, and related case law.
2.1.18	understands the <i>Child Support Guidelines</i> (federal and provincial) and related case law.
2.1.19	understands the <i>Spousal Support Advisory Guidelines</i> and related case law.
2.1.20	understands the <i>Children's Law Reform Act</i> , regulations, and related case law.
2.1.21	understands the <i>Family Law Rules</i> and related case law.
2.1.22	understands the <i>Ontario Disability Support Program Act</i> and the <i>Ontario Works Act</i> , regulations, and related case law.
2.1.23	understands the federal and provincial <i>Income Tax Act</i> , regulations, interpretation bulletins, and related case law applicable to family law matters (e.g., deductibility of spousal support, child care expense deduction, child tax benefits, tuition tax credits).
2.1.24	understands the <i>Partition Act</i> , regulations, and related case law applicable to family law matters.
2.1.25	understands the <i>Insurance Act</i> , regulations, and related case law applicable to family law matters (e.g., designation of beneficiaries).
2.1.26	understands the <i>Change of Name Act</i> , regulations, and related case law.
2.1.27	understands the <i>Succession Law Reform Act</i> , regulations, and related case law (e.g., effect of separation or divorce on inheritance rights).
2.1.28	understands relevant statutes, regulations, and related case law applicable to family law matters (e.g., <i>Evidence Act</i> (Ontario), <i>Canada Evidence Act</i> , <i>Limitations Act</i> , 2002, <i>Rules of Civil Procedure</i> , <i>Courts of Justice Act</i> (e.g., interests, costs, jurisdictional limitations (<i>parens patriae</i>), family court, Children's Lawyer), <i>Civil Marriage Act</i> , <i>Arbitration Act</i> , 1991, <i>Canada Pension Plan</i> (credit splitting provisions)).
2.1.29	understands enforcement statutes, regulations, and related case law (e.g., <i>Family Orders and Agreements Enforcement Assistance Act</i> ; <i>Family Responsibility and Support Arrears Enforcement Act</i> , 1996, <i>Personal Property Security Act</i>).
2.1.30	understands statutes, regulations, and case law relevant to Indigenous family law matters (e.g., <i>Indian Act</i> , <i>Family Homes on Reserves and Matrimonial Interests or Rights Act</i>).
2.1.31	applies the principles of statutory interpretation in conjunction with the case law.
2.1.32	understands the importance of remaining current regarding changes to legislation, regulations, guidelines, practice directions, and case law.
3.0	SUBSTANTIVE FAMILY LAW
3.2	Child Support, including Motions to Change
3.2.41	identifies, initially and on an ongoing basis, when child support issues are out of FLSP scope and declines to act or continue to act (i.e., claims involving (a) questions of income determination (b) third party experts ordered by the court or retained by a party, other than a mediator, parenting coordinator, or access supervisor (e.g., custody and access assessments under section 30 of the Children's Law Reform Act); (c) Dependant's Relief claims; (d) relocation/mobility cases; or (e) child abduction/other international cases (Hague Convention); (e) deviations from guideline amounts.

3.2.42	determines who is eligible to apply for child support (e.g., parent, eligible dependent, government agency).
3.2.43	determines who is obligated to pay child support by applying the appropriate legislation and case law (e.g., settled intention, potential for multiple payors).
3.2.44	determines entitlement to receive child support by applying the appropriate legislation and case law (e.g., "child of the marriage", dependent children, withdrawal from parental control, retroactivity, "undue hardship").
3.2.45	understands the effects of parenting arrangements on child support (e.g., 60-40 split, multiple households, shared, split households, prior families, age of children, tax credits, deductions).
3.2.46	determines payor(s)'s income (e.g., CRA Notice of Assessment, line 150 of income tax return,).
3.2.47	determines quantum of child support.
3.2.49	determines and calculates payments for special or extraordinary expenses under the <i>Child Support Guidelines</i> (Ontario), including consideration the child's contribution to special or extraordinary expenses.
3.2.50	understands principles related to termination of child support.
3.2.51	determines security for child support obligations, including jurisdiction and quantum (e.g., life insurance).
3.4	Variations, Review and Motions to Change
3.4.63	identifies, initially and on an ongoing basis, when variations, reviews, and motions to change are out of FLSP scope and declines to act or continue to act.
3.4.64	identifies a material change in circumstances or other specified threshold in a court order or separation agreement relevant to, child support.
3.6	Financial Disclosure
3.6.81	identifies, initially and on an ongoing basis, when financial disclosure issues are out of FLSP scope and declines to act or continue to act (e.g., if financial disclosure reveals income determination issues other than under s. 19(1)(a) of the <i>Child Support Guidelines</i> (Ontario)).
3.6.82	advises the client of the initial and ongoing obligation to disclose financial information (e.g., statutory, proportionality, relevance).
3.6.83	determines disclosure and supporting documentation necessary to establish income for calculating child support, including special or extraordinary expenses under the <i>Child Support Guidelines</i> .
3.6.86	completes the appropriate financial forms (e.g., with or without property claim including supporting disclosure, with support claim, certificate of financial disclosure).
3.6.87	understands and takes appropriate action with respect to non-disclosure of financial information (e.g., knows what to request, how to compel disclosure, motions to require disclosure).
Family Responsibility Office	
	understands the jurisdiction of the Family Responsibility Office (FRO) to enforce court-ordered support payments (e.g., whether FRO is responsible for enforcement or if payment can be enforced privately).
3.8.100	understands the implications of withdrawal from the Family Responsibility Office (FRO) and advises the client accordingly.

3.8.101	advises and acts on Family Responsibility Office (FRO) matters for enforcement of support orders (e.g., forms, procedures, enforcement, motions to stay or suspend enforcement and the underlying order, restraining orders, alternate payment orders, suspension of driver's licence, suspension of passport).
3.10	Change of name under the <i>Change of Name Act</i>
3.10.112	determines eligibility for change of name, including solvency, consent, and notice.
3.10.113	understands how to complete the appropriate change of name forms and follows the appropriate process.
3.10.114	understands when to use the abbreviated change of name procedure (e.g., for marriage, cohabitation, dissolution of marriage).
3.10.115	understands how to respond where the other parent(s) wishes to oppose or revoke a change of name.
3.11	Divorces
3.11.116	identifies where a marriage is void or voidable (e.g. annulment, capacity) and identifies initially and on an ongoing basis, where corollary relief, if any, is out of FLSP scope and declines to act or continue to act (e.g., income determination issues, pensions, unequal division, trust claims, third party valuators).
3.11.117	identifies the grounds for divorce (i.e., breakdown of the marriage: living separate and apart for one year, cruelty, and adultery).
3.11.118	identifies the appropriate jurisdiction in which to bring a divorce proceeding.
3.11.119	fulfills the statutory duty to advise regarding reconciliation, facilities, and negotiating support or custody through mediation.
3.11.120	understands the bars to divorce (e.g., collusion, connivance, condonation, reasonable arrangements not made for the children).
3.11.121	understands the consequences of a divorce (e.g., limitation periods, succession rights, health benefits, spousal entitlement, pension, beneficiary designations).
3.11.122	advises about the option and consequences of severing a divorce from corollary relief.
3.11.123	drafts, serves, and files an application for divorce and takes appropriate steps to obtain a final order.
3.11.124	advises the client about the availability of waiver of the appeal period for a divorce and takes appropriate steps.
3.12	Victims of Domestic Abuse and Intimate Partner Violence
3.12.125	understands and identifies, initially and on an ongoing basis, when domestic abuse and intimate partner violence issues are out of FLSP scope and declines to act or continue to act.
3.12.126	identifies power imbalances, domestic abuse, or intimate partner violence.
3.12.127	takes appropriate action when there is an imminent risk of harm (e.g., safety plan, duty to report (Children's Aid Society, police, primary care provider)).
3.12.128	takes appropriate legal steps where domestic abuse or intimate partner violence has been identified (e.g., emergency motions, <i>ex parte</i> motions, exclusive possession, restraining orders).
3.12.129	refers the client to appropriate community resources where domestic abuse or intimate partner violence has been identified.
3.12.130	understands how to draft orders related to domestic abuse and intimate partner violence with sufficient specificity, including police enforcement.

3.12.131	serves orders related to domestic abuse and intimate partner violence on all relevant police forces.
3.14	Indigenous Issues in Family Law
3.14.137	identifies, initially and on an ongoing basis, where Indigenous issues in family law render a matter out of the FLSP scope and declines to act or continue to act (e.g., child protection).
3.14.138	demonstrates awareness of the impact of self-governance and customary laws on Indigenous communities, including inherent jurisdiction, self-government agreements, and law/by-law making authority (e.g., customary marriages).
3.14.139	demonstrates an awareness of the application of s. 19(1)(b) of the <i>Child Support Guidelines</i> (Ontario) to child support orders (e.g., gross-up of non-taxable income).
3.14.140	demonstrates an awareness of the application of s. 89 of the <i>Indian Act</i> to the enforcement of support orders (e.g., exemptions).
5.0	ALTERNATIVE DISPUTE RESOLUTION
5.1	Alternative Dispute Resolution
5.1.152	identifies, initially and on an ongoing basis, when ADR issues are out of FLSP scope and declines to act or continue to act.
5.1.153	understands various dispute resolution processes (e.g., negotiation, mediation (open versus closed), arbitration, collaborative,)).
5.1.154	determines whether alternative dispute resolution (ADR) is necessary or appropriate (the nature of the disputed and undisputed issues), when it can be ordered, and the potential implications of choosing to use or not use alternative dispute resolution.
5.1.155	addresses potential power imbalances in alternate dispute resolution.
5.1.156	prepares the client for alternative dispute resolution (process, forms, and dynamics).
5.1.157	applies appropriate strategies and tactics during alternate dispute resolution.
6.0	LITIGATION PROCESS
6.3	Motions and Temporary Relief Proceedings
6.3.173	understands the availability and merits of temporary relief (procedural motions, Form 14B, motions with and without notice).
6.3.174	understands how to draft, serve, and file notice of motion and any amendments, supporting affidavits, <i>facta</i> , and offers to settle the motion as necessary.
6.3.175	understands when and how to obtain an order to question the other side.
6.3.176	understands when to attend and how to conduct questioning and how to use the transcript of questioning.
6.3.177	prepares for and argues motions.
6.6	Motions to Change
6.6.191	brings a motion to change under Rule 15 of the <i>Family Law Rules</i> .
6.6.192	prepares and serves a confirmation of assignment when necessary.
6.6.193	understands the role of family support workers under s. 59 of the <i>Ontario Works Act</i> and regulations thereunder (e.g., Ontario Regulation 134/98).
6.7	Costs of Each Step in Litigation
6.7.1945	advises on the principles related to costs, offers to settle, and security for costs (e.g., Rule 24 of the <i>Family Law Rules</i> , parties' ability to fund or pay for a cost order and whether the obligation would affect the care, maintenance, or interests of the children).

6.7.195	prepares submissions on costs.
7.0	PRACTICE MANAGEMENT ISSUES
7.1	Practice Management
7.1.196	demonstrates proficiency with industry-specific software and online services (e.g., MySupportCalculator, DivorceMate, SupportMate, federal child support look-up, Ontario child support recalculation service).
7.1.197	complies with Law Society client identification and verification requirements (By-Law 7.1).
7.1.198	complies with Law Society marketing and advertising rules regarding firm name, letterhead, and FLSP scope of practice.
7.1.199	maintains competence (e.g., skill and knowledge, care and diligence, client service) and quality of service and seeks appropriate assistance when the matter is beyond the family legal service provider's abilities.
7.1.200	complies with continuing professional development requirements.

Appendix G: Intermediate Model – Training Program

- Minimum of 465 mandatory instructional hours⁵⁵ to support approximately 173 competencies⁵⁶ – estimated at a minimum of 23 weeks or approximately five months on a full-time basis (20 instructional hours per week) or ten months on a part-time basis (10 instructional hours per week).⁵⁷
- Field Placement (including simulated placements): Proposals for placements within the submissions included durations of two weeks to ten weeks. The placement could range from approximately four to six weeks.
- Mandatory topics are presented below and may be combined into courses as the selected education provider(s) deems appropriate.

Topics and related competencies in brackets	Number of Competencies	Minimum Instructional Hours
1 Family Violence (7)	7	20
2 Knowledge of the Law (18)	20	55
Understanding Substantive Areas Outside of Scope Outside of Scope ⁵⁸ (2)		
3 Divorce (9)	9	25
4 Child Support (10)	24	65

⁵⁵ The minimum instructional hours were calculated using a weighting methodology and taking into account the average number of instructional hours per competency under the Law Society's Paralegal Education Program Accreditation Policy, and in some cases, the number was rounded up or down. The Paralegal Education Program Education Policy requires a minimum of 710 instructional hours, consisting of 590 hours in mandatory coursework and 120 hours in elective coursework to support 306 entry-level paralegal competencies, which equals an average of approximately 2.7 hours per competency. The framework for the training program proposed within the Consultation Paper included a weighting exercise to reflect that some competencies may be able to taught in a shorter time span, while other competencies are iterative and will require additional teaching time.

⁵⁶ Competencies would need to be reviewed and finalized in conjunction with the selected education provider(s). The number of competencies would heavily influence the length of training program, with the actual duration and format to be finalized working together education provider(s)

⁵⁷ The duration, format, and structure of the training program would be fully determined in conjunction with the selected education provider(s).

⁵⁸ Competencies would need to be revised such that the FLSP is able to identify the legal issues, recognize that they are out of scope, and decline to act or continue to act if a dispute arises. The first competency proposed would be developing a basic understanding of the legal principles within the areas outside of scope, and the second would be recognizing a matter is out of scope, declining to act or continuing to act, and referring the matter to a lawyer, if appropriate. While in-depth knowledge of the various areas of law may not be required, a basic understanding of the law, concepts, procedures, etc. should be taught.

	Financial Disclosure ⁵⁹ (5)		
	Reviews and Motions to Change ⁶⁰ (4)		
	Family Responsibility Office (5)		
5	Parenting Orders and Decision Making (Custody and Access) (8)	12	30
	Change of Name (4)		
6	Spousal Support ⁶¹ (11)	11	30
7	Ethics and Professionalism (13)	18	45
	Practice Management Issues (5)		
8	Intersecting Legal Issues (5)	5	15
9	Indigenous Issues in Family Law (5)	5	15
10	Written and Oral Advocacy:	17	45
	<ul style="list-style-type: none"> - Problem, Issue Identification, Analysis and Assessment (10) - Alternative Dispute Resolution (7) - Oral Advocacy⁶²: (included in Family Law Procedure below) 		
11	Family Law Procedure	36	95
	<ul style="list-style-type: none"> - Process (10) - Case, Settlement, and Trial Management Conferences (4) - Motions and Temporary Relief Proceedings (4) - Trial or Hearing Preparation (9) - Conduct of Trial (4) - Motions to Change (3) - Costs (2) 		
12	Prohibitions (9)	9	25

⁵⁹ A basic understanding of the division of assets upon marital breakdown would be taught.

⁶⁰Competencies related to Motions to Change would also apply to parenting orders and decision making but to avoid double counting, they were included under Child Support.

⁶¹ Some financial disclosure and variation proceeding competencies are included under the heading of child support to avoid double counting.

⁶² Some advocacy related competencies are included under Family Law Procedure. To avoid double-counting, those competencies were only included once.

TOTALS:

173

465

Appendix H: Intermediate Model – Competencies

CODE	FLSP COMPETENCY STATEMENT
1.0	ETHICS AND PROFESSIONAL RESPONSIBILITY
1.1	Ethics and Professionalism
1.1.1	identifies the instructing client and the client's role in the matter (e.g., parent, spouse, family member, multiple parties, authority to bind, authority to communicate).
1.1.2	recognizes, and is sensitive to, the client's circumstances, special needs, and intellectual capacity (e.g., diversity, language, levels of literacy, socioeconomic status, disability, health).
1.1.3	develops appropriate communication strategies for the client, recognizing the unique nature of family law (e.g., manages vulnerable or high-need client, does not become personally invested in a client or client matter, communicates in a timely and effective manner, copies the client on correspondence, and obtains approval of drafts).
1.1.4	manages and updates the client's expectations with respect to processes, timeframes, results, and costs.
1.1.5	understands the impact of involving third-party authorities, such as police or a Children's Aid Society, and the duty to report.
1.1.6	demonstrates civility and professionalism in dealings with others, especially in high conflict situations (e.g., establishing and respecting boundaries, deescalating conflict, respecting courtroom etiquette, consenting to reasonable requests for adjournments and time extensions).
1.1.7	fulfills obligations related to dealing with unrepresented persons.
1.1.8	recognizes situations that constitute a conflict of interest or potential conflict of interest (e.g., receiving cold calls/emails, representing opposing parties in a dispute, having a close personal or sexual relationship with a client or a personal financial interest in a client's affairs, representing or responding to third parties, acting against former clients; transferring firms, doing business with a client).
1.1.9	takes appropriate action in situations where an actual or potential conflict of interest is identified (e.g., declines to act, establishes reasonable measures to ensure non-disclosure of confidential information, advises the client of the consequences if a potential conflict materializes, documents the steps taken when a potential conflict of interest has been identified, withdraws when appropriate).
1.1.10	recognizes issues arising from joint retainers and fulfils duties accordingly (e.g., required disclosure prior to accepting the retainer, communication issues, obligations if a conflict develops that cannot be resolved, joint applications for divorce).
1.1.11	understands the meaning and enforceability of undertakings and trust conditions, fulfils all undertakings and trust conditions, and does not give an undertaking or agree to a trust condition that cannot be fulfilled.
1.1.12	manages monies held in trust and client property in accordance with Law Society requirements.
1.1.13	understands diversity (e.g., culture, religion, nationality) and its potential impact in family law matters (e.g., religious barriers, advice on barriers to remarriage, parenting).
2.0	KNOWLEDGE OF THE LAW
2.1	Legislation, Regulations, Guidelines, Practice Directions, & Case Law

2.1.14	understands the organization of the federal and provincial court systems and the Unified Family Court.
2.1.15	understands jurisdiction and the appropriate forum.
2.1.16	understands the <i>Divorce Act</i> , regulations, and related case law.
2.1.17	understands the <i>Family Law Act</i> , regulations, and related case law.
2.1.18	understands the <i>Child Support Guidelines</i> (federal and provincial) and related case law.
2.1.19	understands the <i>Spousal Support Advisory Guidelines</i> and related case law.
2.1.20	understands the <i>Children's Law Reform Act</i> , regulations, and related case law.
2.1.21	understands the <i>Family Law Rules</i> and related case law.
2.1.22	understands the <i>Ontario Disability Support Program Act</i> and the <i>Ontario Works Act</i> , regulations, and related case law.
2.1.23	understands the federal and provincial <i>Income Tax Act</i> , regulations, interpretation bulletins, and related case law applicable to family law matters (e.g., deductibility of spousal support, childcare expense deduction, child tax benefits, tuition tax credits).
2.1.24	understands the <i>Partition Act</i> , regulations, and related case law applicable to family law matters.
2.1.25	understands the <i>Insurance Act</i> , regulations, and related case law applicable to family law matters (e.g., designation of beneficiaries).
2.1.26	understands the <i>Change of Name Act</i> , regulations, and related case law.
2.1.27	understands the <i>Succession Law Reform Act</i> , regulations, and related case law (e.g., effect of separation or divorce on inheritance rights).
2.1.28	understands relevant statutes, regulations, and related case law applicable to family law matters (e.g., <i>Evidence Act</i> (Ontario), <i>Canada Evidence Act</i> , <i>Limitations Act</i> , 2002, <i>Rules of Civil Procedure</i> , <i>Courts of Justice Act</i> (e.g., interests, costs, jurisdictional limitations (<i>parens patriae</i>), family court, Children's Lawyer), <i>Civil Marriage Act</i> , <i>Arbitration Act</i> , 1991, <i>Canada Pension Plan</i> (credit splitting provisions)).
2.1.29	understands enforcement statutes, regulations, and related case law (e.g., <i>Family Orders and Agreements Enforcement Assistance Act</i> ; <i>Family Responsibility and Support Arrears Enforcement Act</i> , 1996, <i>Personal Property Security Act</i>).
2.1.30	understands statutes, regulations, and case law relevant to Indigenous family law matters (e.g., <i>Indian Act</i> , <i>Family Homes on Reserves and Matrimonial Interests or Rights Act</i>).
2.1.31	applies the principles of statutory interpretation in conjunction with the case law.
2.1.32	understands the importance of remaining current regarding changes to legislation, regulations, guidelines, practice directions, and case law.
3.0	SUBSTANTIVE FAMILY LAW
3.1	Parenting Orders and Decision Making, including Motions to Change
3.1.33	identifies, initially and on an ongoing basis, when custody and access issues are out of FLSP scope and declines to act or continue to act (i.e., claims involving (a) third party experts ordered by the court or retained by a party, other than a mediator, parenting coordinator, or access supervisor (e.g., custody and access assessments under section 30 of the <i>Children's Law Reform Act</i>); (b) relocation/mobility issues; or (c) child abduction or other international cases/Hague Convention matters.
3.1.34	understands who is a "child" or "child of the marriage," as defined by the applicable statute(s), regulations, and/or case law.

3.1.35	determines the appropriate jurisdiction (e.g., habitual residence, substantial connection).
3.1.36	establishes parentage for the purposes of bringing an application for custody/parenting orders and access/time sharing (e.g., rules of parentage, statutory presumptions).
3.1.37	applies the principle of "best interests of the child" based on legislation and case law (e.g., contact issues, child's wellbeing, parental conduct, bonding, stages of child development, special needs, religious and ethical upbringing, financial needs, sibling separation, special considerations for First Nations, Inuit, and Métis children).
3.1.38	applies principles related to custody/decision-making, including different parenting arrangements (e.g., parallel parenting, shared parenting, joint parenting, sole parenting, split parenting, and primary residence).
3.1.39	applies principles related to determining parenting time/access (e.g., maximum contact principle, <i>de facto</i> custody and <i>status quo</i>).
3.1.40	applies principles related to ancillary matters of parenting and decision making (e.g., consent to treatment, access to health and school records, passport issues, travel authorizations).
3.2	Child Support, including Motions to Change
3.2.41	identifies, initially and on an ongoing basis, when child support issues are out of FLSP scope and declines to act or continue to act (i.e., claims involving (a) questions of income determination (b) third party experts ordered by the court or retained by a party, other than a mediator, parenting coordinator, or access supervisor (e.g., custody and access assessments under section 30 of the Children's Law Reform Act); (c) Dependant's Relief claims; (d) relocation/mobility cases; or (e) child abduction/other international cases (Hague Convention)).
3.2.42	determines who is eligible to apply for child support (e.g., parent, eligible dependent, government agency).
3.2.43	determines who is obligated to pay child support by applying the appropriate legislation and case law (e.g., settled intention, potential for multiple payors).
3.2.44	determines entitlement to receive child support by applying the appropriate legislation and case law (e.g., "child of the marriage", dependent children, withdrawal from parental control, retroactivity, "undue hardship").
3.2.45	understands the effects of parenting arrangements on child support (e.g., 60-40 split, multiple households, shared, split households, prior families, age of children, tax credits, deductions).
3.2.46	determines payor(s)'s income (e.g., CRA Notice of Assessment, line 150 of income tax return,).
3.2.47	determines quantum of child support.
3.2.48	recognizes deviations from child support amounts defined in the <i>Child Support Guidelines</i> (e.g., incomes over \$150,000, undue hardship, children over the age of majority, special provisions).
3.2.49	determines and calculates payments for special or extraordinary expenses under the <i>Child Support Guidelines</i> (Ontario), including consideration the child's contribution to special or extraordinary expenses.
3.2.50	understands principles related to termination of child support.
3.2.51	determines security for child support obligations, including jurisdiction and quantum (e.g., life insurance).

3.3	Spousal support, including Variations and Reviews
3.3.52	identifies, initially and on an ongoing basis, when spousal support issues are out of FLSP scope and declines to act or continue to act (i.e., claims involving (a) questions of income determination (b) third party experts ordered by the court or retained by the party, such as vocational or occupation experts; (c) Dependant's Relief claims; or (d) parental support).
3.3.53	determines eligibility for spousal support by applying the appropriate legislation (e.g., who is a "spouse").
3.3.54	determines entitlement to spousal support by applying the appropriate factors and objectives (e.g., compensatory; transitional; needs, means, and circumstances; contractual; gross repudiation; retroactivity).
3.3.55	determines who is obligated to pay spousal support by applying the applicable legislation (e.g., former spouses).
3.3.56	calculates quantum and duration of spousal support including periodic and lump sum support (e.g., appropriate use of the <i>Spousal Support Advisory Guidelines</i> and relevant legal software, incomes in excess of \$350,000, consumer price index).
3.3.57	understands the formulas used by the <i>Spousal Support Advisory Guidelines</i> (e.g., without child, with child, spousal support payable by custodial parent).
3.3.58	understands the role of judicial discretion in the application of the <i>Spousal Support Advisory Guidelines</i> .
3.3.59	determines payor(s)'s income (e.g., CRA Notice of Assessment, line 150 of the income tax return, imputation of income only under s. 19.1(a) of the <i>Child Support Guidelines</i> (Ontario) as it applies to the <i>Spousal Support Advisory Guidelines</i> , self-employed unless there is an income determination issue, double dipping).
3.3.60	determines security for spousal support obligations, including jurisdiction and quantum (e.g., life insurance).
3.3.61	determines tax consequences related to spousal support (e.g., tax inclusion, tax deduction, lump sum, periodic, retroactivity, delineation between child and spousal support, increased tax deductions at source).
3.3.62	recognizes that a spousal support order may be assigned to and enforced by a government agency.
3.4	Variations, Review and Motions to Change
3.4.63	identifies, initially and on an ongoing basis, when variations, reviews, and motions to change are out of FLSP scope and declines to act or continue to act.
3.4.64	identifies a material change in circumstances or other specified threshold in a court order or separation agreement relevant to parenting orders, child support, and spousal support.
3.4.65	understands the differences between a variation, a review, and a suspension of orders.
3.4.66	understands principles related to termination of orders.
3.6	Financial Disclosure
3.6.81	identifies, initially and on an ongoing basis, when financial disclosure issues are out of FLSP scope and declines to act or continue to act (e.g., if financial disclosure reveals income determination issues other than under s. 19(1)(a) of the <i>Child Support Guidelines</i> (Ontario)).
3.6.82	advises the client of the initial and ongoing obligation to disclose financial information (e.g., statutory, proportionality, relevance).

3.6.83	determines disclosure and supporting documentation necessary to establish income for calculating spousal and child support, including special or extraordinary expenses under the <i>Child Support Guidelines</i> .
3.6.86	completes the appropriate financial forms (e.g., with or without property claim including supporting disclosure, with support claim, certificate of financial disclosure).
3.6.87	understands and takes appropriate action with respect to non-disclosure of financial information (e.g., knows what to request, how to compel disclosure, motions to require disclosure).
3.8	Contempt/Enforcement of Orders
3.8.96	identifies, initially and on an ongoing basis, when contempt/enforcement of order issues are out of FLSP scope and declines to act or continue to act.
3.8.98	files domestic contracts with the court under the appropriate legislation.
3.8.99	understands the jurisdiction of the Family Responsibility Office (FRO) to enforce court-ordered support payments (e.g., whether FRO is responsible for enforcement or if payment can be enforced privately).
3.8.100	understands the implications of withdrawal from the Family Responsibility Office (FRO) and advises the client accordingly.
3.8.101	advises and acts on Family Responsibility Office (FRO) matters for enforcement of support orders (e.g., forms, procedures, enforcement, motions to stay or suspend enforcement and the underlying order, restraining orders, alternate payment orders, suspension of driver's licence, suspension of passport).
3.10	Change of name under the <i>Change of Name Act</i>
3.10.112	determines eligibility for change of name, including solvency, consent, and notice.
3.10.113	understands how to complete the appropriate change of name forms and follows the appropriate process.
3.10.114	understands when to use the abbreviated change of name procedure (e.g., for marriage, cohabitation, dissolution of marriage).
3.10.115	understands how to respond where the other parent(s) wishes to oppose or revoke a change of name.
3.11	Divorces
3.11.116	identifies where a marriage is void or voidable (e.g. annulment, capacity) and identifies initially and on an ongoing basis, where corollary relief, if any, is out of FLSP scope and declines to act or continue to act (e.g., income determination issues, pensions, unequal division, trust claims, third party valuators).
3.11.117	identifies the grounds for divorce (i.e., breakdown of the marriage: living separate and apart for one year, cruelty, and adultery).
3.11.118	identifies the appropriate jurisdiction in which to bring a divorce proceeding.
3.11.119	fulfills the statutory duty to advise regarding reconciliation, facilities, and negotiating support or custody through mediation.
3.11.120	understands the bars to divorce (e.g., collusion, connivance, condonation, reasonable arrangements not made for the children).
3.11.121	understands the consequences of a divorce (e.g., limitation periods, succession rights, health benefits, spousal entitlement, pension, beneficiary designations).
3.11.122	advises about the option and consequences of severing a divorce from corollary relief.
3.11.123	drafts, serves, and files an application for divorce and takes appropriate steps to obtain a final order.

3.11.124	advises the client about the availability of waiver of the appeal period for a divorce and takes appropriate steps.
3.12	Victims of Domestic Abuse and Intimate Partner Violence
3.12.125	understands and identifies, initially and on an ongoing basis, when domestic abuse and intimate partner violence issues are out of FLSP scope and declines to act or continue to act.
3.12.126	identifies power imbalances, domestic abuse, or intimate partner violence.
3.12.127	takes appropriate action when there is an imminent risk of harm (e.g., safety plan, duty to report (Children's Aid Society, police, primary care provider)).
3.12.128	takes appropriate legal steps where domestic abuse or intimate partner violence has been identified (e.g., emergency motions, <i>ex parte</i> motions, exclusive possession, restraining orders).
3.12.129	refers the client to appropriate community resources where domestic abuse or intimate partner violence has been identified.
3.12.130	understands how to draft orders related to domestic abuse and intimate partner violence with sufficient specificity, including police enforcement.
3.12.131	serves orders related to domestic abuse and intimate partner violence on all relevant police forces.
3.13	Intersecting Legal Issues
3.13.132	identifies, initially and on an ongoing basis, where intersecting legal issues render a matter out of the FLSP scope and declines to act or continue to act (e.g., child protection, estate matters (e.g., actions arising from the death of spouse, testamentary trusts, Henson trusts)).
3.13.133	understands the interrelationship between family law and other areas of the law (e.g., privacy, business, real estate, estates, immigration (sponsorship agreements), torts, trusts, contracts (other than domestic contracts)).
3.13.134	understands criminal law principles in family law matters and when to consult a criminal law licensee (e.g., impact of bail conditions, admissions, communications).
3.13.135	understands tax principles in family law matters and when to consult tax experts.
3.13.136	understands property law (e.g., real property, interests in land, systems of land registration, mortgages, negotiable instruments, the <i>Personal Property Security Act</i>) and when to consult a real estate lawyer.
3.14	Indigenous Issues in Family Law
3.14.137	identifies, initially and on an ongoing basis, where Indigenous issues in family law render a matter out of the FLSP scope and declines to act or continue to act (e.g., child protection).
3.14.138	demonstrates awareness of the impact of self-governance and customary laws on Indigenous communities, including inherent jurisdiction, self-government agreements, and law/by-law making authority (e.g., customary marriages).
3.14.139	demonstrates an awareness of the application of s. 19(1)(b) of the <i>Child Support Guidelines</i> (Ontario) to child support orders (e.g., gross-up of non-taxable income).
3.14.140	demonstrates an awareness of the application of s. 89 of the <i>Indian Act</i> to the enforcement of support orders (e.g., exemptions).
3.14.141	understands the principles within the <i>Family Homes on Reserves and Matrimonial Interests or Rights Act</i> (e.g., use, occupation, and possession of family homes on reserves; division of property).

4.0	PROBLEM, ISSUE IDENTIFICATION, ANALYSIS, & ASSESSMENT
4.1	Information Gathering, Case Analysis, and Planning
4.1.142	identifies, obtains, and reviews relevant facts and documents.
4.1.143	identifies the relevant legal issues.
4.1.144	complies with all privacy legislation when gathering information.
4.1.145	recognizes urgency and takes emergency steps where necessary (e.g., restraining orders, restraining orders, and preservation orders).
4.1.146	understands the importance of conducting legal research (e.g., distinguishing case law) and preparing memoranda of law or facta.
4.1.147	demonstrates the ability to investigate facts related to a client matter, including when to engage experts.
4.1.148	advises about available resources (e.g., Family Responsibility Office, Ministry websites, support calculators, parenting resources, counselling, coaching).
4.1.159	develops an informed theory of the case and reassesses the theory of the case as the matter evolves.
4.1.150	applies legal reasoning and engages in critical thinking to prepare pleadings, arguments, or submissions to court.
4.1.151	develops an appropriate plan and strategies based on the law and in consultation with the client to achieve desired results.
5.0	ALTERNATIVE DISPUTE RESOLUTION
5.1	Alternative Dispute Resolution
5.1.152	identifies, initially and on an ongoing basis, when ADR issues are out of FLSP scope and declines to act or continue to act.
5.1.153	understands various dispute resolution processes (e.g., negotiation, mediation (open versus closed), arbitration, collaborative, parenting coordination).
5.1.154	determines whether alternative dispute resolution (ADR) is necessary or appropriate (the nature of the disputed and undisputed issues), when it can be ordered, and the potential implications of choosing to use or not use alternative dispute resolution.
5.1.155	addresses potential power imbalances in alternate dispute resolution.
5.1.156	prepares the client for alternative dispute resolution (process, forms, and dynamics).
5.1.157	applies appropriate strategies and tactics during alternate dispute resolution.
5.1.158	understands the obligations when acting as a mediator (e.g., cannot represent parties, ensuring parties understand the role of the mediator and when communications with the mediator are not covered by confidentiality).
6.0	LITIGATION PROCESS
6.1	Processes
6.1.169	understands that attempts to resolve the matter without litigation are integral from inception to completion of the matter.
6.1.160	complies with practice directions and local practices (e.g., family information sessions, dispute resolution officers, first appearance court, standard track/fast track).
6.1.161	drafts, serves, files, and amends pleadings (application, answer, reply) and forms as required (e.g., confirmations (with respect to proceeding), requests for information, minutes of settlement, draft orders, bills of costs, costs submissions, confirmations of assignment).
6.1.162	recognizes when case management is available.

6.1.163	applies the basic principles of admissibility of evidence (e.g., relevance, materiality, weight, prejudicial effect, probative value), especially electronic and/or social media communications.
6.1.164	understands exceptions to admissibility (e.g., hearsay, opinion, privilege, improperly obtained evidence, settlement discussions).
6.1.165	understands the notice and delivery requirements for specific documentary evidence (e.g., business records, medical and other expert reports).
6.1.166	understands how and when to bring a motion to change an order under Rule 25(19)(b-e) or 25(20) of the <i>Family Law Rules</i> .
6.1.167	ensures the appropriate endorsement is made and takes out the order after court appearances (motions, conferences, trials).
6.1.168	advises on applicable appeal periods and refers the client to a lawyer for appeals.
6.2	Case, Settlement, and Trial Management Conferences
6.2.169	demonstrates an understanding of the purposes and potential outcomes of case, settlement, and trial management conferences.
6.2.170	understands the jurisdiction of the judge to make orders at conferences.
6.2.171	prepares for and attends conferences (e.g., identifies objectives and limitations; drafts, serves, and files the conference brief; updates and files financial statements and other documents as required).
6.2.172	prepares clients for conferences and explains the purposes of the conference.
6.3	Motions and Temporary Relief Proceedings
6.3.1734	understands the availability and merits of temporary relief (procedural motions, Form 14B, motions with and without notice).
6.3.1745	understands how to draft, serve, and file notice of motion and any amendments, supporting affidavits, <i>facta</i> , and offers to settle the motion as necessary.
6.3.1756	understands when and how to obtain an order to question the other side.
6.3.176	understands when to attend and how to conduct questioning and how to use the transcript of questioning.
6.3.177	prepares for and argues motions.
6.4	Trial or Hearing Preparation
6.4.178	understands required timelines for trial or hearing.
6.4.179	drafts and negotiates agreed statements of facts.
6.4.180	drafts and responds to requests to admit.
6.4.181	prepares own witnesses for examination and cross-examination.
6.4.182	prepares and conducts examination of own witnesses.
6.4.1834	prepares and conducts cross-examination of witnesses of other parties.
6.4.184	understands how and when to compel witnesses, including issuing a summons to witness.
6.4.185	prepares, raises, and responds to objections (e.g., hearsay, relevance).
6.4.186	prepares and presents opening and closing statements.
6.5	Conduct of Trial
6.5.187	understands the <i>Family Law Rules</i> governing trials (e.g., trial record, evidence, focussed trials, mini trials).
6.5.188	updates documents for trial (e.g., financial statements,).

6.5.1890	ensures the matter has been completed and documented appropriately in accordance with the disposition (e.g., judgment/order issued, support deduction order filed and/or withdrawn).
6.5.190	advises client on how to implement the final order (e.g., transferring funds, taking any child-related actions).
6.6	Motions to Change
6.6.191	brings a motion to change under Rule 15 of the <i>Family Law Rules</i> .
6.6.192	prepares and serves a confirmation of assignment when necessary.
6.6.193	understands the role of family support workers under s. 59 of the <i>Ontario Works Act</i> and regulations thereunder (e.g., Ontario Regulation 134/98).
6.7	Costs of Each Step in Litigation
6.7.1945	advises on the principles related to costs, offers to settle, and security for costs (e.g., Rule 24 of the <i>Family Law Rules</i> , parties' ability to fund or pay for a cost order and whether the obligation would affect the care, maintenance, or interests of the children).
6.7.195	prepares submissions on costs.
7.0	PRACTICE MANAGEMENT ISSUES
7.1	Practice Management
7.1.196	demonstrates proficiency with industry-specific software and online services (e.g., MySupportCalculator, DivorceMate, SupportMate, federal child support look-up, Ontario child support recalculation service).
7.1.197	complies with Law Society client identification and verification requirements (By-Law 7.1).
7.1.198	complies with Law Society marketing and advertising rules regarding firm name, letterhead, and FLSP scope of practice.
7.1.199	maintains competence (e.g., skill and knowledge, care and diligence, client service) and quality of service and seeks appropriate assistance when the matter is beyond the family legal service provider's abilities.
7.1.200	complies with continuing professional development requirements.
8	PROHIBITIONS
8.1	Practice Restrictions
8.1.201	does not act in matters where a client is under the age of 18 years or there are "special parties" (i.e., where the court or the Public Guardian and Trustee has determined that party cannot represent her or himself (<i>Family Law Rules</i> , Rules 2 and 4(2)).
8.1.202	does not act when there are legal issues, or assets, outside of Ontario (e.g., extraterritorial jurisdictional issues, <i>Interjurisdictional Support Orders Act</i> , if a party files income tax in another jurisdiction).
8.1.203	does not act where there are child protection proceedings or where there are allegations of sexual abuse at the outset or that arise during the retainer.
8.1.204	does not act on applications for adoptions.
8.1.205	does not act on applications for declaration of parentage.
8.1.206	does not act when there are reproductive or fertility law issues (e.g., surrogacy agreements, known donor, IVF, frozen embryos, etc.).
8.1.207	does not act on appeals, including motions for leave to appeal, but may waive the appeal period for divorce.

8.1.208	does not act where there are issues outside of the current scope for paralegals as articulated in By-law 4.
8.1.209	declines to continue to act and refers the matter to a lawyer where issues arise during the course of the retainer that are outside of the scope of permissible practice.