

TARIFF AND BILLING HANDBOOK



LEGAL AID ONTARIO

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Title

Tariff and billing handbook

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Ce document est disponible
en français.

Legal Aid Ontario receives
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and the Government of
Canada.

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LAO contact information

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Toronto ON M5G 2H1

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Toll free: 1-800-668-8258
Website: <https://www.legalaid.on.ca>

Departments

- **Lawyer Service Centre**
 - To check on the status of an account
 - Questions about direct deposit /banking information
 - Help with online billing using Legal Aid Online
 - Change of contact information
 - General tariff information
 - Experience level increases
 - Information about review of an account

416 979-9934 or 1-866-979-9934

- **LAO LAW (Research Facility)**

416-979-1321 or 1-800-265-1392 (toll-free)
www.research.legalaid.on.ca
research@lao.on.ca

- **Reciprocity Coordinator** (for out of province issues)

416-204-4703

- **Client Account Services** (collections)
 - For all inquiries about contribution agreements and liens.

Main #, Press “0” during business hours to speak to an operator

- **Mentoring**

See information on LAO's website at: [Mentoring opportunities at Legal Aid Ontario](#)

1. Introduction

1.1 Legal Aid Ontario's Statement of Principles

LAO's services promote access to justice. We provide legal aid services to eligible individuals in Ontario. We are a vital part of a strong justice system.

We are committed to our clients, our work and our important role. We have a foundational framework of values and commitments that we have built over time, which we continue to strengthen. This framework informs our work on a daily basis, and we are proud of it.

We are presenting the framework in this statement of principles as LAO transitions from its founding statute, the *Legal Aid Services Act, 1998*, to updated legislation, the *Legal Aid Services Act, 2020*. Our principles and commitments are part of our strong tradition of service and they will continue to be foundational to our work under our new statute. This transition is an opportunity for us to reaffirm and to celebrate our principles.

Applying our principles

We put clients at the centre of all we do.

We deliver client-focused services in accordance with our mandate and the principles established in *LASA, 2020*. We are accountable to the province of Ontario for ensuring value for money in the expenditure of public funds.

As set out in *LASA, 2020*, LAO's mandate is to provide high-quality legal aid services that consider the needs of clients and communities in Ontario, including Indigenous and Francophone individuals and communities. We must also be mindful of the cost of the services and our financial resources.

Our statutory principles are in s. 17(2) of *LASA, 2020*, which says that LAO should make continual efforts to maintain and improve the effectiveness and quality of legal aid services while ensuring value for money and that legal aid services should:

- promote access to justice
- be efficient, effective and high-quality
- be provided in a client-focused, innovative, transparent and accountable manner,
- be responsive to the needs of low-income individuals and disadvantaged communities in Ontario,

- promote early resolution, where appropriate, and
- be coordinated with other aspects of the justice system and with community services.

Equity and human rights

LAO strives to uphold the values of equity, diversity, and inclusion within our organization and in our client services.

As a provider of services to low-income Ontarians—many of whom are Indigenous, Black, racialized, and members of other equity-seeking communities—we recognize that our clients face barriers in accessing justice because of systemic racism and other forms of discrimination, such as those faced by persons with disabilities and those who are 2SLGBTQIA+.

LAO works to combat these impacts by:

- respecting and advancing the principles of equity and human rights
- following the letter and spirit of the Ontario *Human Rights Code*
- providing legal aid services through service providers who are respectful, recognize the dignity and worth of every client, and are free of bias, discrimination, harassment, and racism, including anti-Indigenous and anti-Black racism
- applying an equity analysis, including race equity, to our work
- strengthening our organizational capacity and client services by fostering an inclusive and diverse workplace that reflects the clients and communities we serve.

LAO actions these values in a variety of ways:

- We have implemented a client-centred approach for reducing barriers and improving service quality for our core clients, including individuals and communities who are Indigenous, Black, or racialized, and people with disabilities.
- We are committed to working with Indigenous communities and the provincial and federal governments to advance the goals of truth and reconciliation and to implement the Truth and Reconciliation Commission of Canada's Calls to Action, particularly those addressed to the justice community.
- LAO's rules and policies require service providers and staff to deliver services in a manner that is respectful, recognizes the dignity and worth of every client, and is free of bias, discrimination, harassment, and racism, including anti-Indigenous and anti-Black racism.

- We have established an equity, diversity and inclusion committee. We value the broad range of diversity in our staff, service providers, stakeholders and clients across Ontario, and are committed to building inclusion and supporting equity and a sense of belonging. Through the committee, LAO has developed a multi-year strategic plan to address barriers and move LAO closer to its vision.

LAO's values and strategic goals

Our values are leadership, excellence, creative thinking, and respect. We lead by being a strong voice in representing our clients and promoting access to justice. We continuously work to improve what we do. We respect our clients, our service providers and all others with whom we interact.

Our strategic goals include:

- a client-centred focus
- value for money
- innovative services engaged staff, and
- effective collaboration.

We advance these goals by:

- focusing on client-centred service delivery
- supporting the community legal clinic system, Indigenous legal services organizations and student legal services organizations in serving legally-aided clients and communities
- listening to our clients, service providers and staff

Accessibility

We are committed to a proactive approach to accessibility in communication and customer service by developing and implementing accessibility policies and procedures in accordance with the *Accessibility for Ontarians with Disabilities Act, 2005*.

Our [Accessibility Policy](#) sets out LAO's policies and procedures to promote the core principles of dignity, independence, inclusion, integration, responsiveness and equality of opportunity for people with disabilities.

French Language Services

We are committed to meeting the needs of French-speaking clients and ensuring that legal aid services are readily available in French, in keeping with the principle of active offer and in accordance with Ontario's *French Language Services Act* (FLSA).

LAO's French Language Services (FLS) strategic plan, created as part of the overall FLS Strategic Plan for the Justice Sector in Ontario, sets out our ongoing commitments and priorities for FLS.

Service providers

LAO carries out its mandate with the dedication and commitment of its staff and its service providers, including roster members who deliver legal aid services, community legal clinics, Indigenous legal services organizations, and student legal services organizations.

They share our commitment to serving low-income individuals and disadvantaged communities in Ontario. Each individual and organization plays an integral part in helping LAO to deliver on its mandate. We value their work, the important role they play, and the relationships we have with them.

1.2 About this handbook

Who is the audience?

This handbook is intended for lawyers and their staff, to outline the policies and procedures for billing pursuant to the legal aid tariff (Schedule 2) and the Legal Aid Service Rules. The handbook is for lawyers who are already roster members (duty counsel and/or certificate). If you have not yet registered for roster membership, please contact your local Director-General at the Legal Aid office.

For more detailed information on the regulations and schedules, see the following documents:

- [The Legal Aid Services Act, 2020](#)
- [Legal aid service rules](#)
- [LASA 2020 rules and policies](#)

Where to look?

The handbook contains detailed information about certificate billing rules, including daily and annual limits and billing deadlines. It also contains individual chapters for Criminal Law and Civil Law. The tariff maximums are detailed in the Schedule to Rule 2, Payment to Roster Members.

For rules and requirements for billing disbursements please refer to the [Disbursements Handbook](#).

The Costs chapter discusses the lawyer's obligations with regard to costs recovered or awarded, statutory charges and settlements. It also outlines the lawyer's responsibilities in terms of the client's contribution agreement with Legal Aid Ontario.

For information on Duty Counsel requirements and billing rules, access the LAO Web site at www.legalaid.on.ca.

For more information

For more information about this handbook, please contact:

Lawyer Service Centre

Legal Aid Ontario

20 Dundas St. West, Suite 730

Toronto, ON M5G 2H1

Telephone: 416-979-9934 or 1-866-979-9934

Fax: 416-979-7326

Email: pl-lsc@lao.on.ca

1.3 Resources for lawyers

1.3.1 LAO LAW

Lawyers acting on legal aid certificates have access to research and resources through *LAO LAW*'s web site. Materials are available in Aboriginal, correctional, criminal, family, immigration & refugee law, and mental health law. General memoranda of law, factums, and other legal materials are provided free of charge to practitioners who are active LAO roster members.

In addition, *LAO LAW* publishes both weekly case summaries and a newsletter of current criminal, family law and refugee law developments. The case summaries (*The Bottom Line*) and newsletter (*LAW@LAO*) are available to roster members by email subscription (through the web site) and are also found on the web site itself.

Research focusing on legal issues arising in the context of a particular legally-aided client's case is available upon request.

To contact LAO LAW:

Website: <http://www.research.legalaid.on.ca>

Address: LAO LAW, Legal Aid Ontario
20 Dundas St. West, Suite 730
Toronto, Ontario M5G 2H1

Telephone: 416-979-1321 or toll free at 1-800-265-1392

Fax: 416-979-8946

1.3.2 Mentor service

LAO provides a mentor service to assist less experienced lawyers who represent clients with legal aid certificates. See LAO's website at legalaid.on.ca for more information.

1.3.3 Legal aid district offices

Legal aid certificates allow clients to receive legal services from their choice of a private lawyer or from lawyers employed by LAO at Family Law Offices, Criminal Law Offices and the Refugee Law Office. The certificate is the lawyer's guarantee of payment from LAO, subject to the rates and limitations set out in the legal aid tariff.

Certificates are available for a variety of legal problems, including specific criminal, family, immigration and refugee matters, and some mental health legal proceedings.

The Client Service Centre and staff in LAO offices across Ontario receive and process client applications and issue legal aid certificates to financially eligible people for cases that meet LAO's coverage guidelines. District offices are grouped into regional services division districts, which are managed by a Director-General. The Director-General or their delegate is responsible for authorizing all legal services on the certificate, and for making any required changes (called amendments) to the certificate. Amendments to a certificate may include, for example, travel authorizations, coverage for additional charges in criminal matters, or further allotments of time in family matters.

1.3.4 Lawyer Services and Payments department

The central administration of LAO is located at the provincial office in Toronto. The Lawyer Services and Payments department at the provincial office is responsible for all aspects of billing and payment for lawyers' certificate and duty counsel services. The department has three divisions:

1. Lawyer Services and Payments

- Pays lawyers' accounts by applying the legal aid tariff to all accounts for work done by lawyers on legal aid certificates (including enforcing the time limit for the submission of accounts);
- Determines discretionary increases when requested (for hours billed in excess of the tariff maximums);
- Authorizes disbursements on legal aid certificates (for example, the cost of transcripts, interpreters and family assessments);
- Approves the settlement of civil and family law actions, including:
 - waiving LAO's claim for costs in civil and family litigation;
 - negotiating LAO's claim for reimbursement from settlement funds obtained by a

client represented on a legal aid certificate.

2. Lawyer Service Centre

The [Lawyer Service Centre \(LSC\)](#) is your first point of contact. It provides the bar with assistance over the telephone for billing issues such as billing/tariff instruction/enquiries, account status/outstanding payment status, block fee enquiries, application status, portal amendment request status, new solicitor assistance, deposit slip reconciliation as well as technical support including password reset.

This call centre is available from 8:00 AM – 5:00 PM Monday to Friday.

3. Big Case Management

This group manages the big case management program for criminal certificates likely to exceed \$20,000. For more information, see [section 2.8.1](#) or visit [Big Case Management](#) at LAO's website.

1.4 Accepting certificates

When a client bearing a legal aid certificate contacts you, you can accept or refuse the certificate within 30 days of receiving it in accordance with Rule 48(2). Certificates are usually in electronic form. If you accept the certificate, you generally follow these steps:

1. Check the certificate to see that it covers the steps that you believe must be taken, and note any conditions or limitations, as well as the certificate's effective date and termination date.

If you feel that the client needs services that the certificate does not cover, request an amendment from the Director-General in a timely fashion before performing any services.

If you wait until after the services are complete, the Director-General may require evidence of the client's continuing eligibility to add services to the certificate that were not previously authorized. The Director-General may not approve the additional services pursuant to legal aid policies.

2. If the client does not prove continuing eligibility, or cannot be located, your requested amendment might not be granted.
3. If the client has entered into a contribution agreement, note its terms. If the client falls into arrears under the agreement, the certificate is cancelled. For more information on contribution agreements, see [Chapter 6: Costs and Contributions](#).
4. Check the tariff that applies to the service to be performed so that you know the fee allowed and the details of the tariff.

On each legal aid certificate, the Director-General outlines in broad, general terms the legal services authorized to be performed on behalf of the client. All civil certificates set out the number of hours allowed by the tariff for the authorized services. The maximum number of hours in criminal cases is determined by the type of charges authorized, the progress of the case and how the charges are disposed of.

5. If you can tell that the services authorized by the certificate in the specific circumstances of your case are so exceptional or unique that the tariff maximum is clearly not enough, write to the Director-General with a copy to the Lawyer Services and Payments Department. Your letter should set out the detail of the case and include an estimate of the amount of time needed to complete the case. If you do not let the Director-General know that the tariff maximums may be substantially exceeded, the settlement of your account could be affected.
6. Acknowledge or decline acceptance of the certificate through *Legal Aid Online* and submit the acknowledgement to the district office within 30 days of receiving the certificate. When acknowledging the certificate, confirm whether funds were paid before

or after the effective date and whether you have performed a conflict check.

Please review Legal Aid Services policy [Certificate acknowledgement \(legalaid.on.ca\)](https://legalaid.on.ca) for information on your obligations and responsibilities for actions taken by staff, including submitting accounts through *Legal Aid Online*.

A roster member who has previously represented a client as duty counsel may not accept a certificate for the same matter without prior approval. Refer to policy [Representation where roster member previously provided duty counsel services \(legalaid.on.ca\)](https://legalaid.on.ca) for more information.

1.5 Refusing certificates

You do not have to accept the case of every client with a legal aid certificate. You may refer the client to another lawyer, as long as the lawyer is a roster member and is willing to act. You may not provide the certificate number, client number, or other confidential client information to another lawyer without the client's consent.

If you do not accept the certificate, notify the Director General within 30 days of receiving the certificate.

1.6 Legal aid service standards

1.6.1 General

For the services standards for lawyers authorized to provide legal aid services, please see [Schedule 1 of the Legal Aid Service Rules](#).

1.6.2 Lawyer referral list

Lawyers must accept or work on three or more certificates per year to be included on the referral lists given to clients. This ensures that the referral lists given to clients are up to date and include only those lawyers who are actively accepting legal aid certificates. Director-General may waive the policy for lawyers who are handling major cases or are on a leave of practice. Should you have any concerns about this policy, please contact your Director-General.

1.7 Contacting the District Office

Contact the office for assistance with all issues connected with the certificate:

- Reinstate an expired certificate;
- Reinstate/appeal the cancellation of a certificate;
- Change the effective date of the certificate (the effective date is the date shown on the certificate indicating the date on which you can begin providing services to the client);
- Obtain authorization for travel time; without the Director-General's authorization, no fees or disbursements relating to travel are paid;
- Obtain an amendment to the certificate;
- Change your client's contribution agreement (required when the cost of the legal proceedings exceeds the original estimate);
- Arranging a settlement conference or a variation conference in a family law matter;
- Advise if you have been removed from the record in accordance with the Law Society of Ontario's Rules of Professional Conduct
- Cancel a certificate, with your client's consent.

1.7.1 Change in client's circumstances

Clients might tell you that their financial circumstances have changed, or you might discover it yourself. In either case, you must notify the District Office. You must also notify the District Office if you find any of the following:

- The client may have misrepresented their circumstances in applying for legal aid;
- The client failed to make full disclosure at the time of applying for legal aid;
- Anything that indicates that the client may no longer be entitled to the certificate.

1. The certificate

Each legal aid certificate has an issue date, effective date and end date. The dates are listed on the certificate itself. The legal aid certificate specifies the services authorized and in some cases, the maximum number of hours available for the authorized services. If the maximum hours are not indicated on the certificate, you should

calculate the maximums by referring to the tables contained in Schedule 2.

To be payable under the certificate, all services performed for the client must be authorized by the district office.

Make sure that the services performed and billed on an account are after the effective date of the certificate and are authorized under the legal aid certificate. This avoids unnecessary delays in the processing of an account and/or reductions in the amount paid on an account.

A certificate authorizes you to represent the client in connection with the specified services from the effective date of the certificate until any of these events occur:

- The certificate is cancelled;
- The certificate reaches its end date (3 years after its issuance);
- The services authorized by the certificate are completed;
- Your retainer is otherwise terminated. For example, you are removed as solicitor of record, your client fails to appear and does not reappear within a reasonable time, or you lose touch with the client.

CAUTION

Please do not continue to bill for services performed after a certificate has been cancelled or terminated. If the certificate has been cancelled, contact the district office to discuss the possibility of reactivating it. If the certificate has reached its end date, contact the district office to discuss the possibility of extending the certificate.

The *Legal Aid Services Act, 2020* and Rules prohibit a lawyer from seeking reimbursement from a client for fees or disbursements disallowed by LAO incurred in connection with a matter covered by a legal aid certificate.

Legal Aid is not bound by provisions of Court Orders ordering payment of any kind unless LAO was represented in Court and was allowed to make submissions on the issue prior to the order being made.

If you have acted for the client on a private retainer before the certificate was issued, check the effective date carefully before signing and acknowledging the certificate. Because services performed after the effective date are covered by the certificate, funds received privately for work done after the effective date are set off by LAO against fees otherwise due to you under the certificate. For more information regarding private retainers, please see [Receiving money from a client](#).

If the file is taken over by another lawyer, they should contact the district office to request a change of solicitor and a new certificate.

1.7.2 Certificate authorizations

Each certificate authorizes you to perform legal services from a particular date, called the effective date. Lawyer Services and Payments pays for services provided up to one month before the effective date of the certificate, as long as you have not received any money from the client privately. For services over one month before the effective date, contact the District Office to request that the certificate be backdated to the first date of services. Certificates will not be backdated where there has been a private retainer for the matter covered by the certificate.

If the certificate is cancelled, you are no longer authorized to perform legal services for that certificate. If you do any work after the cancellation date, your account for that work is not allowed, other than work relating to being removed from the record.

In criminal matters, additional charges arising within 12 months of the issuance of the certificate can be added to the certificate as an amendment. If the additional charges arise more than 12 months after, your client must make a new application for a new certificate.

In family law matters, you can request additional time issue allotments as a case progresses, although a detailed opinion letter is also required. The time issue allotments are issued based on legal aid priorities. Each time issue allotment reflects only the most serious issue in the case (for example, decision-making and parenting time), even though the client may have many other corollary issues in their case (for example, support or exclusive possession).

1.8 Expired and cancelled certificates

1.8.1 Expiration

Each legal aid certificate expires if it is not acknowledged within 90 days of being issued. If the certificate is acknowledged within 180 days of being issued, the district office can reinstate it.

Accounts cannot be submitted through *Legal Aid Online* for work done on an expired certificate. The certificate must first be reinstated by the district office prior to billing online.

A certificate is not reinstated if a client has failed to sign or honour a contribution agreement or lien, or if legal aid has been prejudiced and released a client from a contribution agreement or lien because the certificate had expired.

1.8.2 Cancellation

Refer to the [Certificate reinstatement and extension \(legalaid.on.ca\)](https://legalaid.on.ca) policy regarding your obligations regarding reinstating a cancelled certificate.

There are many reasons why the district office can cancel a certificate. If the cancellation occurs because of your client's failure to attend for a financial or other reassessment, then you should encourage your client to contact the CLSC so that the certificate can be reinstated.

The certificate may also be cancelled due to a lawyer's failure to keep the district office informed about the progress of a case. Respond promptly to all requests for information.

Fees and disbursements for work done after the date of cancellation are not paid. However, fees and disbursements for services relating to the steps necessary to be removed as lawyer of record immediately after the date of cancellation are allowed.

You or your client may ask the district office to cancel a certificate. If you and your client wish to agree on a private retainer instead of the certificate, notify the district office at once so that consideration can be given to cancelling the certificate. If the district office does agree to the cancellation, an administrative fee may be charged.

1.8.3 Termination

Certificates have an end date three years from the issue date. You will be notified through Legal Aid Online prior to the three-year anniversary. Where the legal aid services that are to be provided under the certificate have not been completed, the acknowledging lawyer shall, no later than 60 days before the termination date of the certificate provide a report to the Corporation pursuant [LASA 2020 Rule 45 \(4\)\(a\)](#).

Refer to the [Certificate reinstatement and extension \(legalaid.on.ca\)](#) policy regarding your obligations regarding an extension to termination.

1.9 Change of lawyer

The client should apply to formally change lawyer. This involves having the client apply for the change and qualify for a new certificate. If the client's request for a change of lawyer meets legal aid guidelines and the client continues to qualify, a new certificate may be issued, with new authorizations and time allotments.

Refer to the [Change of lawyer \(legalaid.on.ca\)](https://legalaid.on.ca) policy for the factors that are taken into consideration when determining if a change of lawyer certificate will be approved.

1.10 Other legal aid policies

1.10.1 Accepting private payment

Section 44 of the *Legal Aid Services Act, 2020* strictly prohibits anyone providing legal aid services from requesting or accepting payment or any other benefit from or on behalf of a legally-aided client. You cannot request payment from your client for services or disbursements in connection with the proceedings authorized by the certificate.

1.10.2 Compliance

Compliance

Lawyers have the ability to self-generate payments using LAO's online billing system. Accounts are paid automatically by the online payment system if the account is billed under the authorized tariff for fees and disbursements or are not late billed without detailed scrutiny by an LAO staff member. Compliance Departments such as Audit and Compliance Department Unit (ACU) and Investigations Department regularly conduct audits and investigations to ensure accounts are accurate and billed appropriately.

Any account billed by a lawyer may be reviewed and is required to be billed in compliance with LAO's billing rules outlined in the following:

- *Legal Aid Service Act 2020* (LASA) and its Rules
- LAO's Tariff and Billing Handbook
- Disbursements Handbook
- Better Billing Bulletin communications
- E-Bulletins
- Practice Directions communications
- Any other communications provided to lawyers on Ontario Legal Aid's website

In accordance with Rule 71, any account billed by a lawyer may be subject to audit or investigation. Further, in accordance with Rule 63(1), lawyers are required to maintain detailed records for at least six years after the end of the year in which the final account is submitted.

During an audit or investigation, you are required to comply with requests made by the Compliance Departments including but not limited to:

- Providing supporting documentation for disbursements billed and paid
- Responding to inquiries for additional explanation(s)
- Providing written consent for Legal Aid to independently obtain documentation and records from third parties
- Any other requests for additional information

The requirement to respond and provide the requested documentation and information can be found under Rules 30 (1) and (2), and 71(3) and (4). Failing to respond may result in a finding of breaching section 67(4)(a) of the Rules.

For more detailed information about the policies and processes used by the [Compliance Departments](#), please visit LAO's website.

Payments after an audit

Legal Aid's billing system allows lawyers to self-generate tariff entitlements according to their online selections. Dockets do not generate payments. Most accounts are paid by our automated billing system without prepayment scrutiny of the contents of lawyers' dockets and without review of discretion requests where the hours billed are within the self-generated tariff maximum. Accordingly LAO places a high level of trust in lawyers to bill accurately and to ensure that they are entitled to the payment for services and disbursements to which they are billing. The detailed docket which is attached contemporaneously upon submission of the online account is necessary to verify the contents of the online account. Dockets must contain sufficient detail to allow LAO to ascertain what work was done on the date docketed.

a. Discretion Requests

The appropriate time for counsel to request discretion is upon submission of their online account, and where the account is not within tariff, the payment will be settled and discretion considered by the Lawyer Services and Payments Department.

In cases where counsel has self-generated a tariff greater than that to which counsel was actually entitled, hours billed more than the applicable tariff will have been automatically improperly paid as billed without recourse to discretion. Where the Investigations Department or the ACU has made a finding that an account was improperly paid, pursuant to s.71 of the Legal Aid Service Rules (or where applicable,

s.31 of the *Legal Aid Services Act 1998*), a determination of an overpayment will be made and the overpayment will be recovered.

Discretion requested after an account has been determined to have been overpaid by the Investigations Department or the ACU will not be considered.

In cases where counsel has self-generated a payment within or below tariff, accounts identified as improperly paid once under audit or investigation, overpayments will be collected without recourse to discretion requests.

b. Authorizations

In cases where counsel has self-generated payments with improper or inaccurate authorizations, overpayments will be processed without recourse to requests for adjusted authorizations.

c. Backdating of certificates

In cases where counsel has self-generated payments for services 30 days prior to the effective date, overpayments will be collected without recourse for requests to backdating certificates.

d. Late billed accounts

In cases where counsel has self-generated payments for services that are considered late billed in accordance with this handbook, overpayments will be made without recourse for requests for late submissions.

Once accounts are subject to audit or investigation requests for payments or adjustments to certificates are disallowed. LAO does not accept revised dockets once an account is subject to audit or investigation.

For further information please refer to the *Legal Aid Services Act 2020*, Legal Aid Service Rules sections 46, 58, 64, 65, 67, 70 and 71.

1.10.3 *Freedom of Information and Protection of Privacy Act (FIPPA)*

Legal Aid Ontario is covered by the *Freedom of Information and Protection of Privacy Act*.

- **Lawyer-client privilege and confidentiality**

Almost all the records made and kept by Legal Aid Ontario are subject to an extended lawyer-client privilege provided by s.40 of the *Legal Aid Services Act 2020* or to the confidentiality provision in s.42. Those provisions prevail over FIPPA.

No LAO records that are subject to lawyer-client privilege or to the confidentiality provision in s.42 are subject to access under FIPPA. These records may be disclosed only with the consent of the client, or when necessary, in the performance of legal aid duties, or by authorization by the Corporation.

- **Lawyers' opinion letter**

Generally, information that is contained in a client's file with Legal Aid is accessible to the client. An exception is available where disclosure of the opinion letter or discretionary increase request would reasonably cause a lawyer to fear for their health or safety.

- When a client makes a request for a copy of an opinion letter or discretionary increase request, Legal Aid contacts the lawyer to determine whether the lawyer has any concerns for their health or safety as a result of the release of the document;
- If the lawyer has any concerns, the client is asked to make a formal request under the *Freedom of Information and Protection of Privacy Act*;
- The lawyer is provided with the opportunity to make written representations to the FIPPA Coordinator as to why the opinion should not be released;
- General Counsel (designated function from the President) then makes a determination as to release;
- If the release of the opinion is refused, the client may appeal this refusal to the Information and Privacy Commission.

LAO anticipates that lawyers will be as forthright in their opinion letters to LAO as lawyers would be in advising a fee-paying client of modest means whether to proceed.

- **Accounts and related documents**

All accounts and related documents kept by LAO are confidential and will not be

released to Crowns, the client's new lawyer (in the case of a change of lawyer), agents or other service providers, such as private investigators, subject to the following exceptions:

- On request, LAO can provide agents and other service providers with information specific to their own account;
- Although it is the responsibility of the lawyer to provide the client with a copy of their account, LAO can provide clients with a copy of their lawyer's account, if requested. When requested by the client, LAO will provide the client with copies of the online account and the attached dockets.
- If a client's new counsel requests copies of accounts submitted by previous counsel, LAO will require the client's authorization before releasing the online accounts and attached dockets.

Nothing in this section prohibits the Investigations Department from disclosing to a client's new lawyer (in the case of a change of lawyer) information including account information and related documents where the services and billing of the prior lawyer are subject to investigation.

1.11 French Language Services

The *Legal Aid Services Act, 2020* requires the Corporation to ensure that its services are provided in compliance with the *French Language Services Act*. As such, LAO is required to provide services in French in all designated areas of the province. Private bar lawyers receive service from LAO and are therefore entitled to all services in the French language.

Lawyers have the right to communicate and correspond with LAO in either English or French, and can expect to receive written and/or verbal responses in that language.

2. Hourly tariff and block fee billing

2.1 The certificate

Refer to Section 1.10 and the [LASA 2020 Rules and Policies](#) for detailed information regarding legal aid certificates.

The legal aid certificate specifies the services authorized and, in some cases, the maximum number of hours available for the authorized services. If the maximum hours are not indicated on the certificate, you should calculate the maximums by referring to the charts in [Schedule 2 to the Rules](#).

2.1.1 Reduction of fees otherwise payable

LAO pays for services authorized under the certificate in accordance with the legal aid tariff. Rule 67(2) provides that the Corporation may disallow all or some fees or disbursements otherwise payable to the lawyer if any of the following apply:

- The proceeding was unreasonably taken or prolonged;
- The proceeding was not likely to advance the applicant's interests;
- The proceeding was incurred through negligence or the ineffective assistance of the roster member;
- An improper or unnecessary document was prepared;
- A document took an unreasonable length of time to prepare;
- There was any preparation that was unreasonable in nature, scope, or in the time spent;
- The lawyer withdraws or was removed from the record due to a conflict that the roster member could have reasonably anticipated;
- The lawyer provides legal aid services while subject to a suspension imposed by the Law Society of Ontario or while no longer holding the status of "In Private Practice";

2.2 Remuneration

2.2.1 Hourly rates

Lawyers, law clerks, and articling students bill on an hourly basis for certificate services. There are three different hourly rates, or tier levels, for lawyers, depending on their certified years of experience.

Years of practice for an experience increase are calculated by multiplying the number of years of practice by the percentage of your practice devoted to either criminal law or civil litigation.

You must apply and receive LAO certification to move to a higher tier level.

- The tariff hourly rate is based on the **ISSUE DATE** of the certificate - check the certificate issue date to determine which hourly rate applies
- Duty counsel rates are based on the **SERVICE DATE**

2.2.2 Hourly and travel rates

See [Legal aid services rules, Schedule 2](#) for hourly rates as of October 16, 2023

Table 1: Hourly rates for roster members, law clerks and articling students, including northern rates and duty counsel.

Table 2: Hourly rates for travel time, including northern rates and the Guaranteed Daily rate.

For certificates issued prior to October 16, 2023, consult the [Point-in-Time Rules](#) on the Legal Aid Ontario website.

For more information on travel time and travel disbursements, refer to [Chapter 5, Travel Tariff](#).

2.2.3 Block fee payment structure

See [Legal Aid Services Rules, Schedule 2](#), Part C for block rates.

- Table 8: Criminal block fees

2.2.4 Big Case Management (BCM) - Complex Case Rate (CCR)

See [Legal aid services rules, Schedule 2](#), Table 1 for the CCR hourly rates.

For a case to receive CCR funding, the following three-part test must be satisfied:

- The case must be accepted into the BCM program;
- The case must meet the CCR case eligibility criteria; and,
- The roster member must be on the CCR panel.

For additional information on the CCR roster and the CCR case eligibility criteria, please refer to the [CCR policy](#).

The Complex Case Rate (CCR) will be applied to BCM Cases that have been flagged as CCR and the vendor is on the CCR roster.

- CCR rate viewable on the account page for applicable lawyers
- No Experience Increase
- 10% Northern incentive applies in designated regions

2.2.5 Applying for a Tier Level Increase

Roster members may apply for change to their hourly tier rate provided for in Rule 2 based on the number of years of practice. LAO calculates the weight of the average years of experience to reflect the percentage of the roster member's practice in criminal law and/or civil litigation. Practice in other areas of law is not included in the determination of tier rate increase eligibility. The following requirements do not apply to the Complex Criminal Case

rate (CCR). For more information on the CCR, please review the [CCR policy](#) located on LAO's external website.

Roster members are eligible to apply for a tier level increase upon certifying that they have met the following practice requirements:

- **Criminal**
 - Criminal roster members are eligible to apply for the tier two rate once they have the equivalent of four full-time years of practice in criminal law.
 - Criminal roster members are eligible to apply for the tier three rate once they have the equivalent of 10 full-time years of practice in litigation (criminal law and civil litigation), including at least four full-time years of practice in criminal law.
- **Civil**
 - Civil roster members are eligible to apply for the tier two rate once they have the equivalent of four full-time years of practice in civil litigation.
 - Civil roster members are eligible to apply for the tier three rate once they have the equivalent of 10 full-time years of practice in litigation (criminal law and civil litigation), including at least four full-time years of practice in civil litigation.

To qualify please complete the [Application Form for Tier Level Increase](#) at LAO's website.

- Tier levels are not automatically increased by LAO so be sure to apply as soon as you determine that you may be eligible;
- The effective date of the experience increase is always the first day of the month following approval of the application. Tier increases are not paid retroactively;
- For out-of-province experience, LAO's policy is to calculate your entitlement to a higher level of compensation by including all Canadian criminal law experience and one half of your Canadian civil litigation experience;
- Tier increases do not apply to the rates paid for students-at-law, law clerks, paralegals or duty counsel;
- The experience level of the lawyer acknowledging the certificate applies only to work personally performed by that lawyer and billed hourly.

How to bill an account after receiving a tier level increase

CAUTION

Should you bill an account for hourly legal services that span the effective date of your tier level increase; LAO's payment system will not correctly apply the tier level increase to your accounts. Hours incorrectly billed with dates of service spanning a tier increase will be paid at the lower rate.

You are required to bill an online account for all hourly services up to the date before your tier level increase on all certificates you acknowledged for any services performed prior to the effective date of the tier increase.

You must also ensure, where you have acted as agent on another roster member's legal aid certificate, that you submit a detailed account to that roster member for any services performed up to the date of your tier level increase. The best practice is for the acknowledging lawyer to submit a separate online account for your agency services and to select the dates of service on the online account corresponding to the date of service on your agency account.

Once you have billed any and all hourly legal aid services conducted prior to your tier level increase, you may then submit subsequent online accounts for services performed after the tier level increase came into effect.

This billing rule does not apply to block fee accounts, as block fee rates are not tiered.

2.2.6 Law clerks and articled students

- Students working in the north in one of five designated areas (Cochrane, Area 05, Kenora, Area 15, Rainy River, Area 35, Temiskaming, Area 39 and communities served by Nishnawbe-Aski Legal Services Corporation (NALSC) Area 48) will receive the normal hourly rate for articled students, plus 10 per cent;
- A lawyer may include in their account, services performed by a law clerk or student. These services are treated as preparation time and allowed up to the tariff maximums allowable under the certificate.
- Each hour of law clerk or student time counts as a third of an hour for the purpose of calculating the tariff maximum. When billing online, our system automatically divides student and law clerk hours by three.
- Court attendance by a law clerk with the lawyer for preliminary hearing or trial is not

normally covered, and requires prior authorization by the Director-General.

- Administrative services are not separately compensated. Unlike law clerk services, administrative services are part of the lawyer's office overhead and are covered by the hourly rate paid to counsel.

TIP

Examples of law clerk services include:

- client interviews;
- court attendances;
- reviewing and summarizing disclosure material;
- document drafting.

Examples of administrative services include:

- typing documents;
- faxing and photocopying;
- collating and binding;
- telephone calls;
- appointment scheduling.

2.2.7 Daily billing limit

Each lawyer, student and law clerk is limited to a maximum of ten hours per day of professional services rendered to Legal Aid Ontario for work on a certificate. Time in court spent at trial or at a preliminary hearing is counted as one-half of the actual time spent for the purpose of the ten-hour rule.

For example, if you spend eight hours in one day at trial, this would count as four hours towards the ten-hour maximum. If you spend eight hours in one day on procedural attendances such as remands and bail hearings, this would count as eight hours towards the ten-hour rule.

2.2.8 Annual billing limit

A roster member shall not be paid in a fiscal year for more than the dollar value equivalent of 2,350 hours of services provided by the roster member multiplied by the member's tier rate specified in Schedule 2.

LAO's fiscal year runs from April 1 each year to March 31 of the following year. On April 1 each year, every lawyer's annual billing limit starts over again. Only hours billed to LAO that are paid in the fiscal year are included in your annual billing limit. If you submit accounts that are not paid by March 31, they will be included in your annual billing limit for the next fiscal year starting April 1, that is, in the fiscal year in which they are paid.

Only the hours paid for work performed by an individual lawyer are included in their annual billing limit. Student or law clerk time is also excluded from hours allocated to the annual billing limit.

For example, if you acknowledge a certificate, but another lawyer performs the work required by the client, the amount billed is included in the other lawyer's annual billing limit, not in yours, even though you are required to sign the account because you acknowledged the certificate.

- Notices are sent to lawyers who reach 50%, 75%, 90% and 100% of the annual billing limit, however it is your responsibility to monitor your own legal aid billings. You are in the best position to know the amount you have billed and been paid by LAO.

You should take all necessary steps to ensure that you do not exceed the annual billing limit. Amounts billed in excess of the annual billing limit are disallowed and not paid, although disbursements and amounts billed by other lawyers on the same account are paid. The balance of the accounts, consisting of fees paid to the lawyer, cannot be paid.

The unpaid fees cannot be resubmitted for reconsideration or payment at a later date.

Acknowledgement fees usually paid at the time the first account is submitted are disallowed and not paid if you reach 100% of the annual billing limit. The acknowledgement fee will no longer be paid on certificates issued after June 12, 2019.

If you are close to your annual billing limit, you may want to consider at what point in time you will submit further accounts to LAO. You may decide to hold back accounts and submit them in the new fiscal year, that is, after April 1.

In considering when to bill your accounts, remember that time limits for submitting accounts are subject to strict enforcement. All accounts must be submitted in accordance with the applicable time limits.

- It is possible to request an exemption from the application of the annual billing limit if special circumstances exist in relation to a particular certificate. Your request must be in writing and must provide sufficient details to enable a decision to be made.

The following is included in the annual billing limit:

- All hourly fees paid on a certificate (including regular tariff rate, northern rate and complex case rate)
- All block fees paid
- Certificate acknowledgement fee
- Fees paid for Guaranteed Daily Rate (certificate and Duty Counsel)
- Fees paid as per diem Duty Counsel including appearance fee
- All fees paid for travel (Duty Counsel and certificate)

The following is not included in the annual billing limit:

- Disbursements
- Travel mileage
- Fees for Protocol Case Unit certificates
- Lawyers providing external advice (e.g.: assessment of merit of appeals)

2.3 Account payment timelines

LAO's target is to process the tariff portion of your account within 14 – 19 days of receipt of the account, if all of the following conditions apply:

- The account is correctly completed and submitted online;
- You did not request nor did you require the exercise of discretion;
- All disbursements are authorized and correctly billed;
- The account is otherwise in compliance with tariff and billing requirements.

LAO's target is to process the discretionary portion of accounts originally paid up to the tariff maximum and all other accounts within 60 days of receipt, provided that we have sufficient information from you to make a payment decision.

- Accounts that bill for disbursements only are generally paid quickly by our automated billing system. Interim accounts are accepted whenever disbursements reach \$50.00 or more;
- As of the date of publication, two pay cycles are run weekly; a pay cycle is run on Tuesday for the next day Wednesday's deposit, and on Thursday for the next day Friday's deposit. This schedule may change from time to time. Changes will be posted on LAO's website, [Payment Schedule](#)
- If your account is paid, you will receive a direct deposit into your bank account as well as an Electronic Funds Transfer "EFT" advice slip which indicates the account to which the payment relates;
- If your account has been altered by Lawyer Services and Payments, the EFT advice slip will advise you of the adjustment made;

2.4 General rules and practices

2.4.1 Acknowledgement of the certificate

Before submitting your account online or submitting any portal requests (e.g., disbursements), please check to make sure you have first properly acknowledged the certificate through [Legal Aid Online](#). The automated billing system will not recognize submissions on an unacknowledged certificate.

2.4.2 Direct Deposit

LAO pays all lawyers by way of direct deposit. You must be registered for direct deposit to receive payment for certificate or duty counsel work. Please contact the Lawyer Service Centre at (416) 979-9934 or 1-866-979-9934 for more information.

2.4.3 Who can bill?

To bill, lawyers must be on a legal aid roster and have a valid legal aid lawyer number. Lawyers must apply for roster membership at the Legal Aid Ontario district office in the county where their practice is located. For more information please refer to the [Enrolment Information](#) on the website.

Accounts are only paid to the lawyer who acknowledged the legal aid certificate.

Agent accounts are to be submitted to the lawyer who acknowledged the certificate and who is responsible for the payment of the agent's account. The acknowledging lawyer is required to submit the agent's account to LAO for payment.

Acknowledging lawyers should submit agent accounts in a timely manner.

2.4.4 Payment of agents' accounts

Services performed by Ontario lawyers within Ontario

Prior approval is not required to retain an agent in connection with proceedings authorized by a certificate. Be sure the agent is on the LAO roster, accepts legal aid rates, and submits their account in accordance with LAO policies.

- The number of hours billed by the agent is included in the maximum fees allowed by the certificate. If the total number of hours billed by the agent and by the lawyer who acknowledged the certificate is greater than the tariff maximum, a discretionary increase may be requested. The maximum preparation is allotted first to the acknowledging lawyer's account.
- The agent must submit an account to the lawyer who acknowledged the certificate, who then submits it with their own account to LAO. LAO pays the lawyer who acknowledged the certificate for their own account and the agent's account. The lawyer who acknowledged the certificate is responsible for paying the agent. LAO does not make payment directly to the agent.
- Billing deadlines, including both fees and disbursements, apply to agents' accounts. The lawyer who acknowledged the certificate is responsible for submitting all agents' accounts within the necessary time limits.
- All Ontario lawyers, including agents, who bill for work done in connection with a certificate, must have a Legal Aid Ontario roster number, which can be obtained from the district office in the county in which the lawyer practices. Make sure that the agent's legal aid roster number is included in the account. When submitting accounts online the agent's hours should be input by creating another line with the agent's roster number in the Allocation of Lawyers section. Do not bill another lawyer's agency account as a disbursement.
- Agents must bill only the legal aid hourly rate plus any experience increase that the agent is entitled to.
- Agents must bill any disbursements in accordance with the provisions of the [Disbursements Handbook](#) and LAO policies.
- Prior approval is required from the Director General for all lawyer's travel time and travel-related disbursements, including any travel time or disbursements incurred by an agent.
- If you require an agent only for the purpose of serving and filing documents refer to '*Service and filing of documents*' in the [Disbursements Handbook](#)

Services performed outside Ontario

- Do not retain an agent for legal services to be performed in proceedings taking place outside Ontario without approval. In civil matters, LAO has reciprocal arrangements with other provincial legal aid plans for providing counsel. If you require an agent in these circumstances, contact the Reciprocity Coordinator at Legal Aid Ontario at 416-204-4703, or at 1-800-668-8258, ext. 4703.
- LAO does not cover any out of country services. If your client requires the assistance of counsel outside Canada they should contact the embassy or consulate of that country to find out how best to apply for coverage through the legal aid system in that country.
- If confirmation of eligibility for legal aid in Ontario is required before consideration of an application in a foreign jurisdiction, contact the Reciprocity Coordinator to facilitate this local financial assessment.
- If you require an agent to serve documents on a party residing outside Ontario see '*Service and filing of documents outside Ontario*' in the [Disbursements Handbook](#).
- LAO does not pay for agency work performed in Ontario for out of province lawyers unless authorized in advance by the Reciprocity Coordinator. An inter-provincial referral must be completed before initiating services to ensure that an Ontario certificate is available for the Ontario portion of the proceedings.
- If your client is no longer resident in Ontario, but legal proceedings are continuing in Ontario, contact the Reciprocity Coordinator. Your client must be reassessed financially, and some conditions may need to be confirmed before Ontario coverage may continue. LAO is not obliged to continue coverage for clients who are not resident in Ontario, however, if the client is eligible for legal aid in another province, our reciprocity agreement allows LAO to continue coverage in most cases.

Payment of accounts to someone other than the acknowledging lawyer

LAO makes all payments directly to the acknowledging lawyer. LAO does not accept directions to pay a different lawyer. If the file is taken over by another lawyer, they should contact the district office to request a change of lawyer and a new certificate.

2.4.5 Receiving money from a client

If you have received money from a client for services relating to the matter covered under the certificate, and any part of those services were performed on or after the certificate effective date, the money received should be deposited to your trust account and will be deducted from your account.

If you are billing a client privately for services performed before the effective date of the certificate, your legal aid account must include a copy of the private account to the client showing the services provided, the dates and times of those services and indicating the amount that was paid by the client.

Amounts paid on private accounts submitted to clients who later receive a legal aid certificate may be deducted from the lawyer's legal aid account if the fees paid are unreasonable on a private basis or overlap the services provided on a legal aid certificate.

NOTE

Please check the effective date carefully. It is important to understand that by acknowledging the certificate you agree that the client is entitled to the benefit of legal aid rates **from the effective date, not from the date of acknowledgement**.

You are prohibited from accepting any payment or gift from the client in addition to the fees and disbursements allowed for services provided on a legal aid certificate.

2.4.6 Client liens and Contribution Agreements

(See Chapter 6: Costs and Contributions for more information.)

Some legally-aided clients sign a contribution agreement requiring them to make either a single or monthly contribution to the cost of legal aid. In other cases, if the legally-aided client owns property, LAO may require a lien against the property.

The amount of the contribution agreement or lien is based on an estimate of the cost of the legal services authorized on the certificate. The client may have agreed to pay all or part of the cost of their legal aid. You must ensure that you are billing legal aid regularly and keeping your client informed about the cost of legal services.

You must advise the Director-General whenever the total estimated legal aid bill will exceed the amount of payment or lien that the client has agreed to.

If you fail to advise the Director-General of a change in the total estimated legal aid bill, any amounts not covered by the contribution agreement may be deducted from your account or may affect the payment of discretionary increases.

Legal Aid is not bound by a court order or private agreement affecting property secured by a lien. You must contact the Lawyer Services and Payments Department before entering into any such private agreement.

2.4.7 Harmonized Sales Tax (HST)

Legal Aid is required to pay the HST on all fees and disbursements paid.

You must be HST registered and must provide your registration number.

Calculating net fees and HST on fees

Total net fees and HST on fees are automatically calculated by *Legal Aid Online* when you prepare your account.

HST on disbursements

Legal Aid is required to pay the 13% HST on all disbursements paid to the lawyer regardless of whether or not HST was charged to the lawyer. Disbursements are itemized at the end of the online account. The HST on disbursements is automatically calculated by *Legal Aid Online* when you prepare your account.

CAUTION

The itemized disbursements should not include the HST. Our automated billing system automatically adds 13% HST to the total disbursements billed so it is important that the HST not be included in the amounts entered online.

2.4.8 Restrictions on billing

Your account must be for more than \$500 in fees (or more than \$50 in disbursements) before you submit it. You may only submit an account for less than \$500 (or \$50 in disbursements) in order to meet the billing deadlines (see [Billing Deadlines, section 2.6](#)).

2.4.9 Interest on accounts

Legal Aid Ontario does not pay any interest on accounts billed.

2.4.10 Which tariff applies?

From time to time, the tariff maximums and hourly rates may be adjusted by Rules and Schedules. The certificate issue date governs which version of the tariff applies. If a certificate is amended, the issue date of the certificate still governs the tariff to be applied.

2.5 Billing procedures

Legal Aid requires that you submit your accounts online. *Legal Aid Online* is a secure online billing system introduced by Legal Aid to make the billing process easier for lawyers who do legal aid work. The program allows you to submit accounts online, check the status of your accounts, update your basic contact information, request authorizations and communicate with LAO. Submitting an account online is quick and easy and ensures that the work that you did is accurately entered into our automated online billing system.

Legal Aid Online is also the mode of communication to and from Lawyer Services and Payments and other LAO departments. You should check regularly for notifications and communication from LAO regarding settlement of your account, requests for information, notification of changes in a certificate and billing deadline reminders.

To locate our secure billing system, go to www.legalaid.on.ca, select the link for Legal Professionals,” and then click on the [Legal Aid Online](#) link. Here you will be able to access the *Legal Aid Online* sign in link, the Frequently Asked Questions, *Legal Aid Online* Training Tutorial, Technical Requirements, and the *Legal Aid Online* User Agreement. If you require any assistance with *Legal Aid Online*, please contact the Lawyer Service Centre at (416) 979-9934 or toll free, 1-866-979-9934 Monday to Friday between 8:00 a.m. – 5:00 p.m.

If you provide legal aid services, you should invoice LAO according to the procedures set out below, and send a copy of your invoice to your client and to any person who has signed a contribution agreement or lien in connection with your client’s certificate.

When you submit your accounts online, you should provide a summary account of the information that would be contained in a detailed account on a pre-populated form, entering basic information such as first and last date of service, hours spent by each person who worked on the file, and disbursements incurred. *Legal Aid Online* requires that you select an authorization (the most serious offence in criminal matters), and indicate the total hours you billed. In some cases (pursuant to certain certificate authorizations granted) you will be able to enter the number of hours in court and number of extra days of proceedings beyond the first (please see [Legal Aid Online User Guide for details](#)). In civil matters, including family and refugee matters, certificate authorizations are preselected for you by the *Legal Aid Online* program. Approximately 70% of online accounts will be matched and paid automatically by our automated online billing system.

2.5.1 Supporting documentation/detailed accounts

You are required to attach your detailed dockets online for all non-block fee account. There are a number of basic requirements for all detailed accounts.

Refer to policy [Submitting certificate accounts \(legalaid.on.ca\)](https://legalaid.on.ca) for information on the requirements for completing and submitting dockets

Roster members shall ensure that all dockets submitted to LAO:

1. are computer generated (not handwritten)
2. list services provided in chronological order
3. describe the services provided in detail (e.g., what service, where the service was provided, who provided the service)
4. include dates and actual time spent for all services recorded in tenths of an hour. Times of day are required for all services of a half-hour or more; and
5. specify the times of court attendances and the nature of court attendances

CAUTION

Be clear about what happened at each court appearance. Failure to properly identify the services performed on a court day and distinguish preparation time from attendance will affect our ability to calculate the appropriate tariff maximum.

TIP

If billing lengthy letters in the body of the account and short letters using the block fee at the end, please indicate that you are aware of the policy by including either 'not included in total at end' or 'excluding those listed in body of account'. The fee for a letter is not increased if several copies of that letter are sent, nor is the fee increased if the client or Director-General is copied.

NOTE

You are not allowed fees for the preparation of accounts except in family law matters where the maximum for preparing an account is 0.2 hours.

2.5.2 Supporting documentation/disbursements

Even though an invoice may not be required to be submitted with your account, you are required to hold the invoice in your file, and make it available if requested by Legal Aid Ontario. If you are not able to provide an invoice or other supporting documentation when requested, you may be required to reimburse LAO.

You must attach an invoice for every disbursement that exceeds \$1000.00.

If the amounts billed for disbursements are excessive or not in accordance with reasonable commercial rates, the Lawyer Services and Payments Department may request copies of invoices and an explanation before payment is made.

A limited number of disbursements do not require supporting documentation. Where invoices are not required, specific information must be included in your account describing the disbursement.

Disbursements for which invoices are not required include:

- faxes;
- mileage;
- photocopies (in house and being charged at LAO rate of \$0.10 per copy);
- postage;
- telephone - long distance and collect calls \$100.00 or less.

2.6 Billing deadlines

Each legal aid certificate is issued with a notice on billing deadlines. Take careful note of the anniversary date (one year after the issue date), the certificate end date (three years from the issue date) and the billing deadlines (no later than six months after each anniversary date).

Billing deadlines are strictly enforced, and accounts that are not received by the billing deadlines are not eligible for payment.

You can apply to LAO for an extension of the final date for submission when you submit the account. Your application must be in writing and with reasons. An extension may be approved where in the opinion of LAO there were extenuating circumstances preventing the submission of the account prior to the deadline. If LAO has been prejudiced by the delay in submission of the account, an extension is not granted. Send your correspondence to the attention of the Director of Lawyer Services and Payments.

You must submit an interim or final account for fees and disbursements incurred on certificates according to the following rules:

- **If the case is completed within 12 months**, your final account and any supplementary accounts must be received no later than six months after the one year anniversary date of the certificate.
- **If you have submitted a final account**, any fees or disbursements you may have overlooked must be billed no later than six months after the one year anniversary date of the certificate.
- **If the case is not completed within 12 months**, you must submit an interim account for all fees and disbursements incurred during the first 12 months. This account must be received no later than six months after the one year anniversary date of the certificate.
- **If you have submitted an interim account**, you must ensure that any additional unbilled fees and disbursements incurred during the first 12 months are billed no later than six months after the one year anniversary date of the certificate. Do not resubmit or re-bill any work or disbursements previously billed, and only bill any additional work or disbursements incurred up to or after the end of the 12 month period.
- For all work completed within each subsequent 12-month period after the first, further interim or final accounts must be submitted within six months of each subsequent anniversary.
- Before each billing deadline, you must ensure that you have billed for all work and disbursements incurred during the entire 12-month period. You should not resubmit or re-bill any work or disbursements that you have already billed.

- You can submit accounts at any time before the billing deadline. However, you must make sure to bill all additional fees and disbursements incurred after the first interim account was submitted and up to the certificate anniversary date. These accounts must be received within six months of the anniversary date.
- Accounts that are not received by the billing deadlines are not eligible for payment.
- In extenuating circumstances where an account has been submitted beyond the billing deadline, you may ask LAO for an extension of time. This decision is not reviewable.
- You must submit interim accounts within the billing deadlines, even if the fees or disbursements are minimal. In these circumstances, LAO accepts interim accounts for less than \$500 in fees and \$50 in disbursements. Do not delay submitting your account because it is under the traditional threshold.

2.6.1 Block fee accounts & late billing

The requirement to submit a final account after the date of resolution for block fee matters may be in conflict with the 18-month billing requirement. For the purpose of block fee accounts the billing requirements are as follows:

- The date of resolution for a block fee account is a critical date for billing purposes.
- If the date of resolution is within the appropriate anniversary date and the account is submitted within the deadline, the entire account is on time and can be paid in whole, even if the first service date in the account is late.
- The system may read the first service date and identify the account as late and put the account into Exceptions.
- If the date of resolution is within the anniversary date but the account is after the billing deadline, the account is late-billed.
- There is no need to get dockets: the account cannot be paid as tariff and it is either all on time or all late based on the resolution date.
- Impact of Enhancers: The service date of an enhancer must be within the billing deadline in order to be paid and is not linked to the resolution date.

2.7 Billing interim, final or supplementary accounts

It is extremely important that you correctly identify your account as interim, final or supplementary as we cannot alter the selection.

2.7.1 Interim accounts

- Interim accounts are required in order to comply with the certificate's billing deadlines.
- Accounts submitted without a clear indication that the matter is ongoing may be processed as final and the certificate closed. After a period of time, closed certificates are removed from our computer system. Payment for further accounts may be delayed or rejected.
- Bill accounts for 'opinion only certificates' as "Final" as LAO does not normally amend or add authorizations to "opinion only certificates."

2.7.2 Final accounts

- Final accounts are submitted when you stop acting for the client or when all services authorized have been completed. Final accounts are required when a certificate has reached its end of life.
- Final accounts are to be submitted in accordance with the certificate's billing deadlines.
- If you cease to act due to a formal change of lawyer, you should bill your account as "final". A new certificate will be issued to the new lawyer.

2.7.3 Supplementary accounts

- Supplementary accounts should be submitted as soon as possible as the submission of a final account will have already triggered the closing of the certificate which occurs six months after a final account is submitted.
- Supplementary accounts are submitted when there are further fees or disbursements owing on a certificate following the payment of a final account.

- Supplementary accounts must be submitted in accordance with the certificate's billing deadlines.

2.7.4 Reporting to your client

- You must send a copy of your account to your client and to any person who has signed a contribution agreement or lien in connection with your client's certificate.
- LAO contacts clients randomly to confirm that they have received a copy of the account.
- In appropriate circumstances, a Director-General may waive the forwarding of an account and other material to the client.

2.7.5 Billing co-accused

Roster members must seek LAO's prior authorization to act for more than one co-accused, Refer to Legal Aid Services policy [Representing co-accused and witnesses in criminal proceedings](#) (legalaid.on.ca) for further information.

- Where the Director General or designate have granted an exemption allowing you to act for two or more persons charged with the same offence or a similar offence arising out of the same occurrence, and the proceedings are heard in the same court at the same time, you are entitled to be paid up to the tariff maximum for one client, plus an additional 40%.
- Please note that there is no additional 40% allowance for representing additional clients beyond the first two clients, in respect of the same occurrence.
- Be aware that the additional 40% applies only to tariff maximums. It does not apply to discretionary increase allowances. If you have exceeded tariff maximums, please remember to include a discretionary increase request along with your account.
- Our automated billing system is not designed to accommodate the on-line billing of co-accused persons. Where a lawyer represents more than one accused the lawyer should submit an identical dockets through *Legal Aid Online* for each co-accused. Our staff will enter and process these special accounts. You will be paid 140% of the tariff maximum for one client. If a discretionary increase is granted, the increase will be paid at your hourly rate with no additional 40% allowance.
- In cases where separate work has been done for one of the co-accused, such as a bail hearing or a bail review, a separate account, for those separate services, must be

submitted for that client alone.

In the rare circumstance where a Director General approves counsel to act for two or more persons and counsel is subsequently found to have acted in a conflict of interest with the result that there is mistrial, miscarriage of justice or discharge of counsel for conflict, LAO may seek reimbursement of fees billed for services which ultimately did not advance the client(s)' case.

NOTE

- If you do a bail hearing, you are entitled to one separate four -hour maximum for each client for whom you conduct a hearing. The time spent on the client's bail hearing should be billed only on that client's certificate, and is additional to the basic amount plus 40% otherwise payable. Likewise, if you do an authorized bail review for a client, you should bill for that service only on that client's certificate.
- Travel time is paid only as for one client. You are not entitled to bill an additional 40% on travel time because you are travelling on behalf of more than one client.
- If one client pleads guilty and the charge against the co-accused is withdrawn, you are entitled to bill up to the higher tariff maximum, plus 40%.
- In lengthy trials, where there are a number of co-accused represented on legal aid certificates, and you are absent for all or part of a trial day, the extra 40% fee is not paid to another lawyer to represent a co-accused and cover for you, unless evidence was heard that directly involves your client

2.7.6 Billing with private retainer for co-representation

Where a lawyer has received authorization from the District Office to represent co-accused, the lawyer shall disclose this when billing LAO. Where authorization has been granted to represent a legally aided client and a client on a private retainer or pro bono retainer in the same matter, the lawyer shall make reasonable efforts to prorate all disbursements and preparation between the private or pro bono client and the Legal Aid Client.

For more information, please see LAO's policy on [representing co-accused and witnesses in criminal proceedings](#).

2.8 Case management

2.8.1 Big Case Management (Rule 61)

A roster member should apply for a Big Case Management budget where they acknowledge a certificate and are of the opinion that the following criteria are met:

- the proceeding is exceptionally complex;
- the fees and disbursements are likely to exceed the available tariff for the stage and;
- any of the following apply:
 - the total amount of the fees and disbursements for the criminal proceeding is likely to exceed \$20,000,
 - the criminal proceeding involves more than one accused person and the total amount of the fees and disbursements is likely to exceed \$50,000 for all accused persons,
 - the preliminary hearing is likely to take more than 10 days.

Where the criteria above are not met, the majority of services have already been provided or the roster member has not provided the information required, the application may be refused. This decision is not reviewable.

How to apply

Lawyers seeking a Big Case budget must complete the [Trial Opinion Guideline form](#) or the [Preliminary Hearing Opinion Guideline form](#). Please use the preliminary hearing opinion guideline form for sentencing and dangerous offender hearings. You can use either form to apply for co-counsel, but these requests are granted only in exceptional circumstances.

Please note that all information disclosed in the opinion letter, and discussions between the case manager and counsel in the BCM meeting or at the exceptions committee, are treated as confidential, and are protected by solicitor-client privilege.

Application process

Once the BCM office has reviewed your request, a case manager will determine if the matter will be admitted into the program and advise the roster member of this decision in writing.

If the case is admitted into the program the case manager may set a budget based on the information provided, may request additional information, and/or may request that the roster

member attend a case management meeting to discuss the budget.

A budget that is likely to exceed \$75,000, may be sent to an exceptions committee for review. An exceptions committee is composed of LAO staff and highly respected private bar lawyers with expertise in conducting large cases.

The committee considers any written materials and oral submissions and makes budgetary recommendations to LAO. LAO will consider the recommendations and make the final decision.

Guidelines

- The BCM budget does not supersede basic tariff provisions such as the hourly rate for lawyers, the limit of billing to 10 hours per service provider per calendar day, or restrictions on travel within the immediate metropolitan area. Please note that the annual billing limit of 2,350 hours also applies to BCM matters.
- If a case is accepted into the BCM program, you will be provided with a number of hours to prepare for the proceeding. Per diem hours will be allocated for preparation during the proceeding. Any questions about the budget should be brought to the attention of the case manager.
- A case manager will confirm the budget in writing. Please note that LAO will not pay more than the budget, and will only amend in exceptional and unforeseen circumstances.
- Bring any changes in circumstance to the case manager's attention as soon as they arise. LAO does not set retroactive budgets.
- Before you submit your accounts, be sure to clearly indicate the type of proceeding, the type of preparation hours and the time spent in court for the proceeding.
- Make any further requests for disbursement authorizations to the BCM program.
- If a request for a budget is denied, Lawyer Services & Payments will consider a discretion request. If counsel does not apply for a criminal budget in a timely fashion, or does not provide an explanation as to why a budget was not requested, LAO will pay up to \$20,000 (\$30,000 for first or second degree murder) or pay tariff.

Disputes

Where the roster member is not satisfied with the amount of the budget, they should attempt to resolve the matter with the assigned case manager. If an agreement cannot be reached, the case manager may at their sole discretion refer the matter to an exceptions committee for a recommendation or to confirm their decision. If still unsatisfied with the outcome, the roster member may appeal the decision to LAO's President within 30 days of the final decision being made.

2.8.2 Mid-level case management (Rule 62)

A roster member should apply for a Mid-level Case Management budget in criminal matters where they acknowledge a certificate and are of the opinion that the following criteria are met:

- a. the total amount of the fees and disbursements for the proceeding is likely to be between \$8,000 and \$20,000;
- b. the proceeding has been set down for a preliminary hearing or trial, or both;
- c. the amount of the fees and disbursements for the proceeding is likely to exceed the available tariff;
- d. the proceeding is exceptionally complex

A roster member should apply for a Mid-level Case Management budget in CYFSA/family law matters where they acknowledge a certificate and are of the opinion that the following criteria are met:

- a. the total amount of the fees and disbursements
 - i. is likely to exceed \$8,000, in the case of a proceeding under the *Child, Youth and Family Services Act, 2017*, other than for a supervision order,
 - ii. is likely to exceed \$12,000, in the case of a family law proceeding;
- b. the total amount of the fees and disbursements for the proceeding is likely to exceed the available tariff;
- c. the proceeding is exceptionally complex

Where the criteria above are not met, the majority of services have already been provided or the roster member has not provided the information required, the application may be refused. This decision is not reviewable.

How to Apply

Roster members seeking a Mid-level Case Management budget must complete the appropriate Mid-level Case Management Assessment form and forward it to LAO. The forms include the following:

- [Criminal mid-level case management Assessment – Preliminary Hearings](#)
- [Criminal mid-level case management Assessment – Trial](#)
- [Family Case Management Assessment form](#)

Please note that all information disclosed in the Assessment form and discussions between the LAO case manager and roster member, are treated as confidential and are protected by solicitor client privilege.

Application Process

Once an LAO case manager has reviewed the form, the case manager will determine if the matter will be admitted into the program and advise the roster member of this decision in writing.

If the case is admitted into the program, the case manager will contact the roster member to discuss the case. The roster member and the case manager will then collaborate on setting a budget comprised of tariff authorizations and blocks of hours.

Once the work is complete and the account is submitted, it will be paid within 14-19 days as long as it does not exceed the budget, does not breach any billing rules, and is not late-billed.

Guidelines

- Any questions about the budget should be brought to the attention of the case manager.
- A case manager will confirm the budget in writing. Please note that LAO will not pay more than the budget, and will only amend in exceptional and unforeseen circumstances.
- Bring any changes in circumstance to the case manager attention as soon as they arise. LAO does not set retroactive budgets.
- Make any further requests for disbursement authorizations to the mid-level case management program.
- If a request for a budget is denied, Lawyer Services & Payments will consider a discretion request.

Disputes

Where the roster member is not satisfied with the amount of the budget, they should attempt to resolve the matter with the assigned case manager. If an agreement cannot be reached, the roster member should submit a review request through *Legal Aid Online* in accordance with the process provided for in rule 74.

2.9 Discretion payments in exceptional circumstances

Legal aid tariff normally applies

The legal aid tariff reflects the fees customarily paid by a client of modest means and except in exceptional circumstances, the fees provided in the legal aid tariff applies.

Before LAO can consider a discretion request, counsel must seek and obtain all available authorizations on a certificate before billing. It is expected that all accounts billed will be within the hours authorized on the certificate.

If the legal aid tariff on the certificate with all available authorizations is clearly inadequate for the services required, please ensure you promptly notify the Director-General and the Lawyer Services and Payments (LSP) Director of the details of the case and an estimate of the time and services required, prior to incurring any costs. The matter may be eligible for mid-level case management budget. This requirement to notify Legal Aid Ontario is found in section 6(d) of Schedule 2 of the Rules of the *Legal Aid Services Act 2020*. Failure to notify the Director-General prior to incurring the costs will be a factor in the settlement of your account.

2.9.1 Discretionary increases

If counsel notifies the Director-General as required, in some cases where an account exceeds the tariff maximum authorized on the certificate and the matter is not eligible for mid-case or big case management, a discretionary increase may be granted if counsel can establish that exceptional circumstances exist.

Where an account exceeds the amount of time authorized under the certificate, and where a discretionary increase is not requested or the request does not contain sufficient information on which to make a discretionary decision, the account will be settled in accordance with the tariff maximum for the certificate.

Discretionary increase requests are dealt with by the Lawyer Services and Payments Department, and, in some cases, in consultation with the Director-General.

2.9.2 How to make a Request for Discretion

All discretionary increase requests should be attached to the specific account for which an increase is being sought; a request should not be sent separately. A separate request is required for each account which addresses the work completed during the service period of that account,

Discretionary increase requests must be made in writing using [LAO's Request for Discretion form](#).

The discretionary increase request must include detailed reasons for each Discretion Guideline factor selected. The request must outline the exceptional circumstances of the case which justify a discretionary increase and should address the period of service of the specific account. Copies of earlier opinion letters rendered in the matter can also be attached to the account.

The onus is on counsel to establish exceptional circumstances. Unless persuaded that there are exceptional circumstances in the case, LAO will not be able to grant an increase in payments.

A discretion increase request must include:

- A brief narrative of the nature of the case;
- The issues involved;
- Any special difficulties or complications;
- The progress of the case resulting from the work billed;
- The purpose and outcome of any court attendances;
- The exceptional circumstances of the case which justify an increase in fees.

Dockets must be attached to your online account and should provide details of the services rendered. Dockets are considered in conjunction with the discretionary increase request.

2.9.3 Rule 70

Rule 70 of LASA 2020 states that the fees may be increased if the roster member establishes exceptional circumstances that justify authorizing an increase and if a reasonable privately paying client of modest means would pay for the services under similar circumstances.

In determining if exceptional circumstances exist, LAO will consider if an increase is justified having regard to all the circumstances, including,

- Result obtained;
- Complexity of the matter;
- Contributions of the client or other contributors;
- Amount of time realistically set aside in anticipation of a lengthy trial which time was not otherwise filled by the lawyer;
- Any other relevant factor which would warrant an increased fee.

2.9.4 Exceptional circumstances guidelines

The Guidelines describe and clarify in accordance with the rules exceptional circumstances for which you may be eligible for an increased payment.

The Guidelines are not exhaustive. A discretionary increase request with circumstances or factors not listed in the Guidelines is assessed by the Lawyer Services and Payments Department in consultation with the Director General. The Director General will have authority to determine whether a discretionary increase request based on factors that are not contained in the Discretion Guidelines meets the exceptional circumstances test.

Requests for discretion will be fairly and fully considered. The Director General exception should be utilized in few and limited circumstances.

2.9.5 Principles for discretionary increases

- Legal Aid Ontario recognizes that lawyers doing legal aid work meet their professional obligations and represent clients to the best of their abilities, and make every effort to do so within the tariff available. Meeting these standards in and of itself does not support a discretionary increase.
- The onus is on the lawyer to provide sufficient details and explanation as to how the matter meets the exceptional circumstances test. Simply indicating one of the guidelines has been met is not sufficient. LAO cannot infer from the outcome that a discretionary increase is appropriate.
- The details supporting a discretionary increase need to indicate how the time spent was necessary to advance the proceedings and achieve resolution. The time spent must be time well spent.
- The exercise of discretion is not without checks and controls. LAO is subject to regular independent audits and quality assurance reviews.
- When exercising discretion, LAO has to justify and explain the exceptional circumstances relied upon if paying more than the normal tariff maximum.
- Once the exceptional circumstances test is met, LAO will determine the amount of discretion after considering:
 - What is usually billed for cases of similar type based on the experience of Lawyer Services & Payments staff in processing discretionary accounts and the practice of law.
 - The nature of the exceptional circumstances.
 - What a client of modest means would pay.
 - The work done by a lawyer based on the information provided in the lawyer's discretion request and detailed accounts.

2.9.6 Guidelines

Criminal exceptional circumstances guidelines

Exceptional circumstances guidelines for criminal cases for which you may be eligible for an increase include:

- **Results obtained**

- All charges withdrawn as a result of your actions.
- Comments: Please explain in detail how your actions resulted in the withdrawal of all charges.
- Discharge of all charges at preliminary hearing as a result of your actions
- Comments: A discharge can only happen after the accused has been arraigned. If an accused is discharged after arraignment without the calling of any crown evidence, please explain how the results obtained meet the exceptional circumstances test.
- Acquittal of all charges at trial as a result of your actions.
- Sentence significantly reduced as a result of your actions.
- Comments: LAO cannot infer the outcome was a result of your actions. Please explain how your actions resulted in a significant reduction in sentence (e.g. additional research, forcing issues at sentencing, etc.) A good result is not sufficient; it must be exceptional. For example, a sentence reduced from 5 years to 4 years or 60 days to 30 days is good, but not exceptional)
- Material contribution to an outcome that is precedent-setting, that affects the administration of justice in favour of the defendant.

- **Complexity**

- Novel legal issue or unusual factual situation.
- Rare motion (e.g. third party records, recusal motion, mistrial).
- Comments: There are not a lot of rare motions. Please explain in detail how the motion is not a “boiler plate” (standard/typical) motion and how the circumstances of the motion meet the exceptional circumstances test. Please be specific.

Avoid use of cursory descriptors (e.g., Charter motion). For a rare Charter motion, for example, explain in detail the nature of the Charter motion; any special difficulties or complications; the outcome; and how the circumstances of the Charter motion meet the exceptional circumstances test.

- Forensic/expert evidence.
 - Comments: If a forensic/expert report is not disputed or preparation to cross examine is not undertaken, please explain in detail how the forensic/expert evidence meets the exceptional circumstances test.
 - Client's special needs – e.g., mental illness (unique proceedings).
 - Comments: Please be specific. Avoid use of cursory descriptors (e.g., client bipolar). Please explain in detail how client's special needs meet the exceptional circumstances test and/or how client's special needs materially affect the proceedings. For example, the court proceeding had to be adjourned four times due to erratic behaviour.
 - Characteristic of witness – e.g., child witness (testamentary capacity).
- **Any other relevant factor that may warrant an increased fee**
 - Defence facing exceptional Crown/prosecutorial resources.
 - Comments: Exceptional circumstances beyond the norm should be detailed. For example, if the prosecution assigns two Crowns, this may constitute exceptional circumstances.
 - Disclosure.
 - Comments: Please explain in detail how disclosure in your case may be considered exceptional circumstances. Avoid use of single word descriptors (e.g., voluminous) be specific. Relevant questions for your consideration include:
 - i. What was the nature of the legal proceeding? (e.g., theft under, break and enter);
 - ii. What was the volume of disclosure? (e.g., three bankers boxes, 300 pages);
 - iii. What was the nature of the disclosure? (e.g., cell phone tower records, medical/technical reports, three videotaped interviews);
 - iv. What challenges were faced in reviewing the disclosure? (e.g., witness recording with heavy accent;
 - v. How did the nature or volume of disclosure relate to your preparation of the case;
 - vi. Was the disclosure relevant to the proceedings, and if so, how?; and
 - vii. Have you discharged the onus of establishing exceptional circumstances by providing sufficient details regarding the disclosure in your dockets and your discretion request form?

- Extended sentencing hearing
- Timeliness/reduction in appearances
 - Comments: Early resolution in and of itself does not support exceptional circumstances. Explain how your actions resulted in early resolution and/or reduction in appearances.
- High profile case
 - Comments: Most high profile cases will end up in the BCM Program or mid-level case management. High profile cases typically involve the media and increased Crown resources.

Factors that generally require the existence of exceptional circumstances contained in the Guidelines:

- Your degree of skill and competence.
- Number of co-accused only.
- Parity between counsel.
- Comments: “Parity between counsel” refers to lawyers acting for co-accused or opposing counsel on the same case with the anticipated outcome being that the amount of discretion, if any, allowed would generally be similar.
- Client out of jurisdiction.
- Young person

Child Protection - CYFSA Exceptional Circumstances Guidelines

Exceptional circumstances guidelines for *Child, Youth and Family Services Act* (CYFSA) cases for which you may be eligible for an increase include:

- **Results**
 - Protection Application – child is not found to be in need of protection. No protection order made.
 - Motion – temporary care and custody – child is not found to be in need of protection. No temporary care and custody order made.
 - Motion – summary judgment on protection application – successfully defended and/or costs awarded.
 - Status review – lesser protection order made.

- **Complexity**

- Child or parent special needs – e.g., mental illness, addiction.
- Comments: Please be specific. Avoid use of single word descriptors (e.g., Client bipolar.) Please explain in detail how client's special needs meet the exceptional circumstances test. For example, explain in detail how client's special needs materially affect the proceedings. For example, the client's mental health directly affects the issues in dispute.
- Sexual or serious physical abuse allegations (criminal charges).
- Aboriginal factors, band issues.

- **Any other relevant factor that may warrant an increased fee**

- Disclosure
 - Comments: Please explain in detail how disclosure in your case may be considered exceptional circumstances. Avoid use of cursory descriptors (e.g., voluminous); be specific. Relevant questions for your consideration include:
 - i. What was the nature of the legal proceeding?;
 - ii. What was the volume of disclosure? (e.g., three bankers boxes, 300 pages);
 - iii. What was the nature of the disclosure? (e.g., case worker notes, medical records or assessments, supervised access notes);
 - iv. What challenges were faced in reviewing the disclosure?;
 - v. How did the nature or volume of disclosure relate to your preparation of the case?;
 - vi. Was the disclosure relevant to the proceedings, and if so, how?; and
 - vii. Have you provided sufficient details in your dockets regarding the nature and volume of disclosure?
- Forensic/expert evidence.
- Multiple children/parents/parties.
- Well-funded litigant. This includes a litigant who takes an unreasonable position or who takes steps to unnecessarily or deliberately delay the proceeding. Note: this does not include CAS.
- Timeliness/reduction in appearances through mediated/negotiated settlement.

Factors that generally require the existence of exceptional circumstances contained in the Guidelines:

- Your degree of skill and competence;
- Parity between counsel;
- Client out of jurisdiction.

Family (support, decision making and parenting time) Exceptional Circumstances Guidelines

Exceptional circumstances guidelines for family (support, decision making, and parenting time) cases for which you may be eligible for an increase include:

- **Results**
 - Motion for interim spousal support: award at high end of Spousal Support Guidelines;
 - Motion for interim child support:
 - retroactive to date of application or, support ordered where other party stands “in loco parentis”;
 - Parenting time, decision making responsibility: or, change in decision making and parenting time due to parental alienation
 - Contested mobility application affecting where the child will primarily reside
 - Change in interim decision making/ parenting order;
 - Contested order for no parenting time or no contact.
- **Complexity**
 - Client’s special needs – e.g., mental health;
 - Comments: Client’s special needs includes: addictions, minor parents. Please be specific. Avoid use of cursory descriptors (e.g., client bipolar.) Please explain in detail how client’s special needs meet the exceptional circumstances test and/or explain in detail how client’s special needs materially affect the proceedings. For example, the client’s mental health directly affects the issues in dispute.
 - Self-employed payor, imputing income for child /spousal support issues;
 - Sexual or serious physical abuse allegations (criminal charges);
 - Hague Convention matters.

- **Any other relevant factor that may warrant an increase**

- Disclosure
 - Comments: Please explain in detail how disclosure in your case may be considered exceptional circumstances. Avoid use of cursory descriptors (e.g., voluminous) be specific. Relevant questions for your consideration include:
 - i. What was the nature of the legal proceeding? (e.g., issue being negotiated or litigated);
 - ii. What was the volume of disclosure? (e.g., three bankers' boxes, 300 pages);;
 - iii. What was the nature of the disclosure? (e.g., financial disclosure including bank statements, business records, medical records/reports from third-party agencies such as CAS or police);
 - iv. What challenges were faced in reviewing the disclosure?
 - v. How did the nature or volume of disclosure relate to your preparation of the case;
 - vi. Was the disclosure relevant to the proceedings, and if so, how; and
 - vii. Have you provided sufficient details in your dockets regarding the nature and volume of disclosure?
- Forensic/expert evidence;
- Multiple children/parents/parties;
- Well-funded litigant (this includes a litigant who takes an unreasonable position or who takes steps to unnecessarily or deliberately delay the proceeding);
- Timeliness/reduction in appearances through mediated/negotiated settlement

Factors that generally require the existence of exceptional circumstances contained in the Guidelines:

- Your degree of skill and competence;
- Parity between counsel; and
- Client out of jurisdiction.

Refugee Exceptional Circumstances Guidelines

Exceptional circumstances guidelines for refugee cases for which you may be eligible for an increase include:

- **Results**
 - Successful refugee claim – IRB country acceptance rate of 20% or less
- **Complexity**
 - Exclusion raised
 - Ministerial intervention
 - Multiple countries of citizenship
 - Novel claim types
- **Any other relevant factor that may warrant an increased fee**
 - Principal claimant is a minor
 - Domestic Violence
 - Mental health or cognitive impairment
 - Comments: Please be specific. Avoid use of cursory descriptors (e.g., client bipolar.) Please provide details regarding a client's mental illness or cognitive impairment and how it impacted the amount of time required to prepare for the proceedings.
 - Illiteracy
 - Expert witness preparation

The factors below will generally be insufficient without the existence of exceptional circumstances pursuant to the guidelines above:

- Counsel's degree of skill and competence
- The number of claimants in a family
- Country research was required

2.9.7 Other factors

Two discretion provisions apply to all areas of law

- Contributions of the applicant or other contributors.
 - Comments: The fact the client has signed a contribution agreement will be considered when a discretion request is made. LAO reviews accounts from the perspective of the reasonable client of modest means.
 - Although LAO will be indemnified for the cost of the services, it does not mean that as a consequence, all requests for discretion should be paid.
 - Certificates with contribution agreements are typically the cases where LAO gets client complaints about the services provided by the lawyers because the client is on the line for the payment.
 - LAO employees exercising discretion are required to adhere to the discretion policies and guidelines, so that if the account is subject to a complaint by the client (who is in a unique position to know what the lawyer did or did not do, and to assess the outcome) LAO can clearly justify the exercise of discretion based on exceptional circumstances.
- Amount of time realistically set aside in anticipation of a lengthy trial, which was not otherwise filled by the lawyer.
 - Comments: This applies when a lengthy trial “collapses” (as a result of, for example, an unexpected guilty plea, withdrawal, stay) at beginning of or early in scheduled trial proceedings and discretion would be exercised with respect to hours actually worked, not the notional hours that the lawyer would have performed had the trial proceeded (counsel is expected to mitigate)
 - While it is extremely important to the Legal Aid Ontario that matters be resolved in an expeditious manner, and while the result may be a favorable one, (withdrawal or early resolution such as trial collapsing – savings to LAO) we do not pay for notional time set aside. Notional lost court time is a factor that may be considered when deciding whether to grant discretion with respect to the hours that counsel actually expended above the tariff maximum in preparing for trial. A reasonable client of modest means would not be expected to pay a lawyer for trial time that did not actually occur because the client’s matter was settled on the eve of trial.

2.10 Questioning the settlement of an account

Lawyers are expected to send all account and certificate-specific communication such as requests for discretion, reviews, expedites and disbursements to Lawyer Services & Payments (LSP) via electronic document submission on *Legal Aid Online*.

If your account is altered, your Electronic Funds Transfer Advice “EFT” notice will indicate why it was not paid as billed.

If you have a question about the settlement of an account, contact the [Lawyer Service Centre](#) at (416) 979-9934 or toll free at 1-866-979-9934.

2.10.1 Retroactive request for discretionary increase

If an account was settled at the tariff maximum because you did not include a request for discretionary increase with your account, rule 70(2) provides that you may submit a retroactive discretion request and a copy of your detailed account within 60 days of the settlement, for consideration of the outstanding balance. The Retroactive Discretion Request form on the website is required.

2.10.2 Review of final settlement

If you are dissatisfied with the disposition of your discretion request, you may submit a written request for a review in accordance with the process described in rule 74.

Acceptance of payment does not prejudice your right to review the settlement of the account.

Rule 74 requires that a review request must include:

- a. the name and contact information of the individual requesting the review;
- b. a copy of the reasons for the decision or determination;
- c. written submissions that identify the account to be reviewed and that set out the grounds for the review and the reasons the individual is disputing the decision or determination

with respect to

- i. the interpretation or application of these Rules, or
- ii. if the Corporation exercised discretion, the principles on which it did so

An LSP Staff Lawyer amends or confirms the settlement, and any further fees are paid by subsequent direct deposit.

Failure to write within 60 days; failure to set out the items objected to; and/or failure to set out the grounds of objection will result in confirmation of the settlement. This will be strictly enforced.

2.11 Block fees

The block fee program was introduced to improve, modernize and simplify LAO's criminal certificate services and policies and procedures.

LAO has compiled the following rules that will apply to the issuance of certificates and the billing of accounts.

Block fees are premised on the principle that the majority of cases are resolved through guilty pleas, withdrawals of charges and diversion, and may be adequately compensated by a block fee. Cases that proceed to trial, however, have degrees of complexity and difficulty and are best suited to an hourly tariff.

At the same time, however, LAO recognizes that cases that are slated to go to trial may end up being resolved by a guilty plea, but only after much work and preparation. For that reason, cases will move to the hourly tariff once they have been set down for trial.

Cases where the defence has a right of election will be considered to have been set down for trial when an election to have a trial in the Superior Court by judge alone or by judge and jury is made. A preliminary inquiry, then, will be subject to the hourly tariff.

While the offences that are included on the lists of block-fee eligible charges are generally not considered complex, there may be rare cases where issues or procedural matters arise rendering compensation by block fee inadequate. These cases may be moved into the hourly tariff at the discretion of the District Director-General. The factors that will be applied by the Director-General are included below.

Please refer to [Schedule 2, Part C, Table 8](#) for a list of block fees.

NOTE

Please refer to the Table in the Appendix for the applicable block fee based on the date of certificate issuance.

2.11.1 Offences

Block fees are paid for legal services billed on certificates authorizing summary and most indictable offences in the *Criminal Code*. For certificates issued on or after March 4, 2024, the Rules were amended to create a single rate for all Summary offences. There are now two offence categories for block fees: Summary and Indictable.

Certificates issued prior to March 4, 2024

Summary I

Summary I charges include all provincial and federal non-CCC offences and all summary conviction and Crown-Elect or Hybrid offences where the Crown proceeds summarily or an election is not made, and the maximum sentence was six months prior to the Bill C-75 amendments. These charge(s) are paid by block fees unless the matter is set down for trial, at which time the hourly tariff applies. Preliminary inquiries and trials for all charges are paid by the hourly tariff. [Chart “A”](#) contains a list of Summary I charges.

Summary II

Summary II charges include all Crown-Elect or Hybrid offences where the Crown proceeds summarily or an election is not made, and the maximum sentence was greater than six months prior to the Bill C-75 amendments. Also included are charges that were newly hybridized by the Bill C-76 amendments when the Crown proceeds summarily. These charge(s) are paid by block fees unless the matter is set down for trial, at which time, the hourly tariff applies. Preliminary inquiries and trials for all charge(s) are paid by the hourly tariff. [Chart “B”](#) contains a list of Summary II charges.

Certificates issued on or after March 4, 2024

Summary Conviction Charges

Summary charges include all provincial and federal non-CCC offences and all summary conviction and Crown-Elect or Hybrid offences where the Crown proceeds summarily. These charge(s) are paid by block fees unless the matter is set down for trial, at which time, the hourly tariff applies. Preliminary inquiries and trials for all charge(s) are paid by the hourly tariff.

Indictable Charges

Indictable charges include all offences and Crown-option offences where the Crown proceeds by way of indictment. These charge(s) are paid by block fees unless the matter is set down for trial, at which time the hourly tariff applies. Preliminary inquiries and trials for all charge(s) are paid by the hourly tariff. [Chart “C”](#) contains a list of Indictable charges.

Excluded Charges

Excluded charges cover very serious criminal charges or offences. Certificates that include excluded charge(s) are paid by the hourly tariff and are not part of the block fee program. [Chart “D”](#) contains a list of excluded charges.

2.11.2 Excluded processes

Excluded processes are paid under the hourly tariff. This list may be amended from time to time. All charge(s) that are not excluded charges or excluded processes are paid by block fees unless set down for trial. Examples of excluded processes are:

- BCM/CCR cases
- Appeals
- YCJA matters
- Dangerous Offender proceedings
- Extraordinary Remedies/Prerogative Writs
- ORB hearings
- Miscarriage of Justice reviews
- Protocol Case Unit cases
- Long Term Offender applications
- Breach of Conditional sentences
- Extradition Proceedings

2.11.3 Director-General exemptions

LAO may exempt matters within the block fee program on a case-by-case basis in accordance with the criteria set out in section 7(2) of Schedule 2. Roster members must apply in writing to their Director-General prior to submitting an account on the certificate. Exempted block fee matters will be billed by the hourly tariff. An exemption will be granted only in exceptional circumstances. Directors-General will consider such factors

as exceptional Crown resources devoted to the prosecution, exceptional disclosure, an exceptional number of charges, the likelihood of multiple proceedings, novel facts or legal arguments, lengthy sentencing proceedings and any other factors that LAO considers relevant. Exemptions must be made as soon as you become aware of the need for an exemption and must be submitted prior to submitting an account.

Once an account with a resolution has been submitted on a block fee certificate, the certificate is ineligible for an exemption and will be paid on a block-fee basis.

2.11.4 Most serious offence

The most serious offence determines the resolution block fee that is payable upon conducting and completing the resolution of a block fee eligible charge.

Certificates that include excluded charges or are issued for excluded processes are paid by the hourly tariff.

2.11.5 Setting matter(s) down for trial

Once set down for trial, all work must be billed under the hourly tariff. Counsel may interim bill accounts for bail hearing blocks and judicial pre-trial blocks completed prior to setting the matter down for trial. Once set down for trial, all services provided on that certificate must be billed hourly.

Cases where the defence has a right of election will be considered to have been set down for trial when an election is made to have a trial in the Superior Court by judge alone or by judge and jury. A preliminary inquiry, then, will be subject to the hourly tariff.

2.11.6 Resolution blocks

Guilty pleas and Stays/Withdrawals are billed as resolution blocks. The payment includes notional preparation and attendance in court to conduct and complete the resolution of a block fee eligible criminal charge. Resolution blocks do not include payment for judicial pre-trials, motions, *Gladue*, etc. Lawyers may bill the resolution block and other blocks alone or in combination with each other. (E.g. resolution block +JPT). Resolution blocks may not be billed until the service to the client is finally completed and all authorized

criminal charges are withdrawn, or the client pleads guilty and is sentenced.

For certificates issued on or after March 4, 2024, the Rules were amended to create a single rate for all Summary resolution blocks

2.11.7 Block fees for ancillary services

Authorization from LAO is not required for judicial pre-trials, bail hearings, and bail variations. The mental health block, Gladue, bail reviews, and detention reviews (Myers) require authorization from LAO before the service is rendered and the block billed.

- **Pre-trial Proceeding Blocks**

Coverage for bail hearings, s.524 bail hearings, bail variations, and detention reviews was discontinued on certificates issued after July 7, 2019, but was reintroduced as a temporary measure as part of LAO's response to the pandemic. For certificates issued on or after March 4, 2024, the Rules have now been amended to include this as a part of LAO's standard coverage.

- **Judicial Pre-Trials (JPT)**

JPTs are payable when you prepare for and attend a pre-trial hearing before a judge and make substantive representations related to disclosure, the nature and particulars of applications, the admissibility of evidence, the simplification of issues, the possibility of admissions and/or the length of trial.

Only one per trial is allowed and available for selection on the online account page where the matter has not been set down for trial, unless the charges proceed entirely independent of one another and are disposed of on a different day in a different court from one another. In that case, the charges are considered to have proceeded separately, and you must request a new certificate to bill the second JPT and the resolution for the separate criminal proceeding.

- **Second JPT in the Ontario Court of Justice**

Second JPT's are not covered on block fee certificates as the matter must have been set down for either a preliminary inquiry or trial in order to be eligible.

- **Covid JPTs**

Covid JPTs are not covered on block fee certificates as the matter must have been set down for either a preliminary inquiry or trial in order to be eligible. Covid JPTs were

implemented as a temporary response to the pandemic and are not an amendment to the Rules.

NOTE

Following the November 1, 2023 *Jordan*-compliant Trial Scheduling Practice Direction LAO anticipates an increased need for additional JPTs in the Ontario Court of Justice. In response, LAO will temporarily change the eligibility criteria (above) for the Covid JPT to remove the requirement that the matter be set down for trial. The Covid JPT can now be requested using the online portal request form at any point in the proceeding instead of requiring the matter to be set down for either a preliminary inquiry or trial in order to be eligible. This temporary measure applies to both block and hourly certificates.

- **Bail Hearings**

The block is payable for a bail hearing when it has been conducted and completed by the roster member, whether contested or on consent by the Crown.

Where charges proceed entirely independent of one another and are disposed of on a different day in a different court from one another, the charges are considered to have proceeded separately, and the roster member may, using the online charges heard separately form, request that a new certificate be issued in order to bill for the separate bail hearing and resolution.

For certificates issued prior to March 4, 2024

Coverage for bail hearings was removed on block fee certificates issued after July 2019, but were re-introduced as a temporary COVID measure on March 16, 2020.

For certificates issues on or after March 4, 2024

The Rules have been amended to include a block-fee payment for a bail hearing as part of LAO's standard coverage.

- **Bail Hearings where no s.524 application is made**

For certificates issued prior to March 4, 2024

- For certificates that are being billed under the hourly tariff, counsel must continue to request discretion for a second bail hearing when charges proceeding separately are ultimately resolved together.

For certificates issued on or after March 4, 2024

- Where an accused is charged with new offences, it is LAO policy to add the new charges to an existing certificate where counsel expects that the charges will resolve together or is unsure whether or not the charges will resolve together.
- Where new charges are added to an existing certificate and roster members have conducted two separately occurring bail hearings (heard before a different judge) they may bill for a second bail hearing. An authorization for a “Bail Hearing No s. 524” has been added to the online account page, which allows counsel to bill for the second bail hearing where the same bail hearing has not been billed on another certificate.
- Where counsel is unsure if the separately occurring offences will ultimately resolve together and they acknowledge two certificates they should bill each of the first and the second bail hearing on the certificate authorizing the most serious charge. This complies with LAO’s charges heard separately policy, which requires that charges heard together be billed on one certificate. Should, the charges later resolve separately counsel must ensure that they do not bill for either of the previously billed bail hearings on the other certificate(s).

TIP

Bail hearings conducted on the same day, in front of the same justice for separate charges does not constitute another “first bail” hearing.

- **s.524 Bail Hearings (where an application under s.524 is made)**

S.524 bail hearings were not payable on block fee certificates issued after July 2019, but were re-introduced as a temporary COVID measure on March 16, 2020. The LASA 2020 Rules have now been amended to include this bail hearing as part of the standard coverage for criminal offences.

The s.524 bail hearing is billable if the Crown brings a s 524(4) hearing regardless of whether or not a first bail hearing was billed. A first and second bail hearing cannot be billed for the same hearing. The block fee is payable when a bail hearing was conducted and completed, whether it was contested or on consent by the Crown

- If a second certificate has been issued, the s.524 bail hearing may be billed against either the first or second certificate for which the s 524(4) applies.

NOTE

On the account page in *Legal Aid Online* the name of the authorization has changed from “second bail hearing” to “Bail Hearing, s.524” to accurately reflect the types of bail hearings available for authorization.

NOTE

When billing a s.524 bail hearing, roster members should ensure that they indicate clearly on their dockets that an application pursuant to s. 524 was made.

- **Bail Variations**

Bail variations were not payable on block fee certificates issued after July 2019, but were re-introduced as a temporary COVID measure on March 16, 2020. The LASA 2020 Rules have now been amended to include bail variations as part of LAO’s standard coverage.

Preparation and filing of a bail variation is billable on the certificate for the charges related to the bail variation, regardless of who conducted the original bail hearing (e.g. original bail hearing by duty counsel).

- **Bail Reviews**

Bail reviews require prior authorization and must be requested by submitting an online request form through *Legal Aid Online*.

Bail reviews and youth bail de novo applications are payable when the roster member conducts a bail review (including preparation and attendance at the hearing), or if the Crown consents to a release, after materials are prepared and filed.

The Director-General may authorize more than one bail review.

- **Detention Reviews**

Detention reviews require prior authorization and must be requested by submitting an online request through *Legal Aid Online*.

Payable for all services, including preparation and attendances at the hearing, for an application to the Superior Court of Justice pursuant to section 525 of the *Criminal Code* (Canada) to determine whether or not an accused should be released from custody.

The block is not payable where the accused has waived their right to a hearing.

- **Vulnerable Client Blocks**

- ***Gladue***

For certificates issued after July 7/2019 the *Gladue* block is no longer added when the accused self-identifies. Lawyers on the *Gladue* roster may request that LAO add the *Gladue* authorization only when they confirm that a publicly-funded *Gladue* report was used for either the bail hearing or sentencing. This block fee is paid upon the preparation and/or delivery of *Gladue* submissions if applicable. When billing the *Gladue* authorization, all *Gladue* preparation should be specifically docketed and should contain sufficient detail to identify the specific work done in addition to the *Gladue* Report for the legally-aided client. It must include sufficient details about the source of the *Gladue* Report, including where appropriate, the author and/or organization responsible.

- **Mental Health**

The mental health block is authorized upon the issuance of the block fee certificate for accused that have an identifiable history of mental health issues. This is identified by a prior certificate issuance for Consent and Capacity (CCB) hearings, Ontario Review Board (ORB) hearings and certificates issued pursuant to Rule 47 of LASA 2020.

If the mental health block was not authorized upon the issuance of the block fee certificate, lawyers may also request that the mental health block be authorized if the list of indicators below applies.

- Rule 47 appointment, made under LASA 2020
- Prior s. 85 LASA 1998 or Rule 47 of LASA 2020, CCB or ORB certificate
- Client appears in Mental Health Court
- Treatment order is in place
- Court has signed Form 48
- Contested fitness hearing

The mental health block can only be billed on a final account with a resolution block or as a supplementary account following the billing of a resolution block.

The mental health block is payable once per certificate. Where charges are

resolved together, the mental health authorization is only billable on the certificate where the resolution was billed. It is not billable on certificates billed as “Resolved on other Certificate”.

The District office can grant authorizations if not requested at intake by completing the online request form. This authorization may be combined with other block fees.

TIP

Requests must be made utilizing a standard form via the portal.

2.11.8 Disbursements

Inherent disbursements

The following three inherent disbursements have been calculated in the block fee payment and are included for all block fee accounts. All other inherent disbursements on a block fee account will be available for selection.

- fax charges
- photocopies (except out-of-office photocopies)
- process servers - service and filing of documents within Ontario

TIP

When a certificate is cancelled, no inherent disbursements will be paid

Excluded disbursements

Excluded disbursements are disbursements not included in the block fee price. Some excluded disbursements require pre-authorization prior to incurring (e.g., private investigators). Some excluded disbursements, such as long-distance telephone calls, and binding may be selected from the disbursements menu on the lawyer portal block fee account. All excluded disbursements are subject to existing disbursement rules under the hourly tariff. Supporting invoices, must be provided upon request.

TIP

For your assistance, an electronic form is available on our website at www.legalaid.on.ca. For more information please visit the [Disbursements Handbook](#).

2.11.9 Amendments

It is LAO policy that if a client is charged with additional criminal offences after a certificate has been issued and both criminal proceedings will be resolved without a trial being scheduled lawyers should conduct a global resolution of the multiple charges and bill under a single certificate. The Block resolution fee was priced to include the historical cost of multiple charges resolved together. When a certificate client is charged with additional criminal offences after a certificate has been issued, a lawyer should use the form to request that the additional charges be added to the existing certificate.

Where a lawyer is unsure as to how the criminal case will proceed, the lawyer should request that the new charges be added to the existing certificate. Refer to the policy [New criminal charges and charges heard separately \(legalaid.on.ca\)](#) for further information as to when a new certificate may be issued.

Amendment of Excluded Certificates

Excluded criminal charge certificates will continue to be amended in accordance with LAO's current amendment rules. Providing the certificate has not been final billed, the certificate can be amended to add new related charge(s) after issuance of the certificate up to 12 months and after 12 months for administration of justice charge(s). A new certificate will be issued for unrelated criminal charge(s). If the certificate has been final billed, a new certificate is issued.

2.11.10 Billing block fees

Block fee type	When is it payable?
Guilty plea	<ul style="list-style-type: none"> Attendance at Court and representing client in entering guilty plea to all charges before the Court; You must be present in court and representing your client <u>on the record</u> at the time of the: <ul style="list-style-type: none"> entering of the guilty plea(s), speaking to sentence and sentencing; Where charge(s) are withdrawn or stayed upon the guilty plea to an alternative charge that arises out of the same circumstances, (Kienapple) only the guilty plea is billable; [Distinguished from Pleading Guilty to Lesser Offence]
Stay/ Withdrawal	<p><u>Withdrawal of One or More Charges:</u></p> <ul style="list-style-type: none"> Attendance at Court and representing client in proceedings where one or more of the charges before the Court are withdrawn or stayed; You must be present in court and representing your client <u>on the record</u> at the time of the withdrawal or stay; <p><u>Plea Arrangements</u></p> <p>If the withdrawal or stay of proceedings was part of a plea arrangement whereby your client was pleading guilty to one or more charges and one or more charges are withdrawn or stayed on a different day from <u>either</u> The Guilty Plea or Sentencing:</p> <ul style="list-style-type: none"> You may not bill LAO for conducting a Withdrawal or Stay until after the matter is completed and the client sentenced and the Withdrawal or Stay of Proceedings is formally entered.

Block fee type	When is it payable?
Stay/ Withdrawal (continued)	<ul style="list-style-type: none"> Following a Guilty Plea, if the matter is adjourned for sentence, even if the Crown has withdrawn or stayed one or more charges upon entering of the Guilty Plea, you must personally attend in Court at the time of sentencing to be eligible to bill the block fee for the Withdrawal or Stay. You may not bill for both a Guilty Plea and a Withdrawal or Stay even if the Withdrawal or Stay occurred on a different day from the entering of the Guilty Plea or Sentencing. You may only bill the higher Resolution Block for conducting the Withdrawal or Stay. Where there was a Guilty Plea to a lesser and included offence or to a substituted less serious charge, this is billed as a withdrawal of the more serious charge. Where the charge is read, no evidence is called and the charge is dismissed, you may <u>not</u> bill LAO for conducting a Contested Trial - the matter is to be billed as a Withdrawal. If the matter had not been set down for trial the Withdrawal Resolution Block should be entered. If the matter has been set down for trial "Withdrawal" should be entered into the "hourly" Online account. Where charge(s) are withdrawn upon being replaced with charge(s) on another Court Information, a withdrawal resolution may not be billed

2.11.11 Multiple charge certificates

- For certificates authorizing multiple charges, the portal will pay lawyers according to the most serious charge on the certificate.
- Where charges are heard together, only one resolution fee will be paid.
- Where there are two or more block fee charges on a certificate, the higher dollar value block fee will be paid according to the block fee schedule
- Where there are two or more charges on a block fee certificate, resolution on one charge, trial set on other charges, a new certificate is required for the charges that are set for trial. Please request a new certificate through the *Legal Aid Online*

- Where there are two or more charges and a block fee charge is the most serious charge, one block fee will be paid according to the block fee schedule.
- Where there are two or more charges and a non-block fee charge is the most serious charge, fees will be paid in accordance with the hourly tariff.

2.11.12 Block charges heard separately under multiple certificates for the same client

- Block charges under multiple certificates for the same client are resolved separately when the charges for each certificate are resolved in different courtrooms, on different days or different times subject to the comments above with respect to plea arrangements.
- If the stay of proceedings was part of a plea arrangement whereby your client was pleading guilty to one or more charges and one or more charges are withdrawn or stayed on a different day from either the guilty plea or Sentencing, the charges are not considered to be heard separately (see 2.11.11 Billing block fees)
- Where multiple block charges for the same client are resolved separately, lawyers may bill LAO separately under each of the certificates
- Example:
 - 1st set of charges heard June 2, 2021: Assault + Fail to Comply = Block 1 charges withdrawn
 - 2nd set of charges heard September 3, 2021: Breach of Probation + Fail to Comply = Block 2 guilty plea
 - 3rd set of charges heard October 8, 2021: Fail to Comply x4 = Block 3 guilty plea

TIP

For the applicable resolution blocks for charges of different case categories, the highest paying applicable resolution block is paid.

2.11.13 Charges heard separately under one certificate for the same client

- Block charges heard separately may not be billed under one certificate. Only one resolution block (guilty plea/withdrawal) may be billed on a certificate. Likewise, only one of each standard and authorized blocks may be billed on a certificate.
- If the withdrawal or stay of proceedings was part of a plea arrangement whereby your client was pleading guilty to one or more charges and one or more charges are withdrawn or stayed on a different day from either the Guilty Plea or Sentencing, the charges are not considered to be heard separately (see [2.11.10 Billing block fees](#))
- Charges heard separately must be grouped according to the date on which the charges were resolved
- Services relating to one group of charges can be billed under the existing certificate
- A new certificate is required and will be issued for each additional group of charges that are heard separately

2.11.14 Multiple certificates with block charges resolved together for the same client

- If separate block charges for the same client are resolved together (i.e. on the same day, at the same time, in front of the same judge), only one resolution block (guilty plea/withdrawal) for the resolution appearance may be billed.
- If a bail, JPT or other interim block is heard together, the lawyer can only bill for one of each block. If separate bail hearings, judicial pre-trials or other interim blocks are held prior to the global resolution, separate interim blocks may be billed under each certificate.
- Example: Resolved together on the same day at same time in front of same judge
 - Certificate 1: Assault + Possession Under = Guilty Resolution
 - Certificate 2: Breach Probationx2 + Theft Under = Withdrawn Resolution + JPT
 - Bill on the 2nd certificate only – Withdrawn (1 Resolution block only) + JPT

TIP

A certificate that has an Indictable block charge and a Summary II block charge that is resolved together will be paid one set of blocks under the applicable Indictable block fees.

2.11.15 Excluded certificates

All charge(s) and proceeding(s) on excluded certificates will be paid under the hourly tariff, even if the certificate includes multiple, lesser charge(s). Unrelated criminal charge(s) will be issued another certificate.

2.11.16 Excluded certificate charge(s) for same client heard separately

Where charge(s) under an excluded certificate for the same client are resolved separately (i.e. on different dates or before different judges), lawyers may bill LAO under the hourly tariff for the excluded charge(s) heard separately under the excluded certificate.

2.11.17 Excluded charge(s) certificate AND separate block charge(s) certificate for same client heard with matters proceeding separately

- Charge(s) are resolved separately when they are resolved in different courtrooms, on different days or different times
- If the withdrawal or stay of proceedings was part of a plea arrangement whereby your client was pleading guilty to one or more charges and one or more charges are withdrawn or stayed on a different day from either the Guilty Plea or Sentencing, the charges are not considered to be heard separately (see [2.11.10 Billing block fees](#))
- Where charge(s) under an excluded certificate and separate charge(s) under a block certificate for the same client are resolved separately, lawyers can bill separately under the hourly tariff for the excluded charge(s) and under the block fee program for the block charge(s) under the block certificate

- Example: Certificates authorized the following charges:
 - Certificate 1 -1st proceeding: Certificate 1 Assault x 2, Possession Prohibited Firearm Knowing Unauthorized = Block Fee
 - Certificate 2 - 2nd proceeding: Discharge firearm with intent = Hourly Tariff

2.11.18 Excluded charge(s) certificate AND separate block charge(s) certificate for same client resolved together

- Where excluded charge(s) under the hourly tariff and block fee charge(s) for the same client are resolved together (i.e. on the same day, in the same courtroom, before the same judge), lawyers must bill on the certificate issued for the excluded charges. Lawyers may bill for separately heard bail hearings, JPTs and bail reviews (if authorized) on each of the block and hourly certificates
- The resolution blocks (guilty plea/withdrawal), mental health block and the *Gladue* block may not be billed on the block certificate where the charges are resolved together with the charges authorized on an excluded certificate for the same client
- If the JPT and bail review on excluded and block fee charges are heard together, the lawyer may not bill these blocks. These pre-trial proceedings ought to be billed solely on the excluded certificate

2.11.19 Double compensation

- Where any pre-trial proceedings or vulnerable client block service is conducted for any charge on a block certificate together with any charge on an excluded certificate, you may not bill a block fee for conducting those proceedings on the block certificate. These services may only be billed under the excluded certificate.
- Where any of these proceedings are conducted for any charge on a block certificate which proceeding is held separately from any and all charges on the excluded certificate, the applicable block fee(s) should be billed on the block certificate.

2.11.20 Interim billing

Lawyers may not bill a partial resolution block fee. Lawyers must wait until the matter is completed and bill the entire resolution block fee, if applicable. Lawyers may interim bill for block fee services completed prior to resolution. For example, a lawyer can bill a completed bail or JPT block prior to a resolution block.

2.11.21 Supplementary accounts

Only the following may be submitted as a supplementary account.

- Pre-trial proceedings blocks
- Vulnerable client blocks
- Excluded disbursements

2.11.22 Not resolved, change of lawyer

In situations where a lawyer acknowledges a certificate but does not attend on the record to conduct and complete the authorized services because a client changed lawyers or abandoned the proceedings, or because the lawyer did not attend on the resolution, the hourly tariff will apply. Section 7(o) of Schedule 2 provides that the tariff payable is that which applies to a guilty plea for that offence.

The lawyer may not bill the block but must select “Not Resolved” on the online account page and indicate the reason the case was not resolved.

2.11.23 Outcome reporting

To ensure lawyers comply with applicable LAO policies and procedures, LAO has developed new audit, compliance, and roster management practices which include new quality assurance tools and more protections against the risks of inappropriate volume billing and financial overruns. These measures require that lawyers report on the outcomes of their certificates and record the date of disposition, court location and sentence outcome.

2.11.24 Private retainers

LAO's policies and procedures in respect of private retainers remain unchanged. Accounts will be examined post-payment. Lawyers who submit block fee accounts with private retainers will be required to produce their private retainer detailed dockets upon request. See section on receiving money from a client for more information on private retainers

2.12 Who can bill block fee matters

Only LAO roster members can bill on block fee matters.

LAO will not pay a block fee if the client was represented at the time of the standard or authorized block fee service by:

- Lawyers who are not LAO Roster Members
- Duty Counsel
- Non-Lawyer Agents
- Law Students/Law Clerks
- Self (Client Self Represented)

2.12.1 Articling students attending on a block fee withdrawal or stay of all charges

Section 13(2) of Schedule 2 provides an exception to the rule above, which allows roster members to bill a block fee withdrawal for an articling student's attendance at a Crown withdrawal or stay of all authorized criminal charges – providing:

- counsel has negotiated a withdrawal or stay and
- the Crown has agreed in writing beforehand to the withdrawal or stay of all the authorized criminal charges.

This applies only to court attendance by an articling student, and is limited to withdrawals and stays of all criminal charges. It does not apply to guilty pleas or sentencing hearings.

When billing for this online, allocate the block resolution to the roster member who did the work to negotiate the withdrawal/stay with the Crown and is instructing the student to attend on the withdrawal/stay. This may be the acknowledging lawyer or an agent of the acknowledging lawyer who belongs to the LAO Roster. Also attach the written confirmation of the withdrawal from the Crown with the account and record the name of the articling student and the articling student's court attendance on your docket.

2.12.2 Dockets

- Dockets are not required to be attached online when billing block fee accounts
- Dockets must be attached if the matter is set down for trial and is subject to the hourly tariff
- Lawyers are under a duty to maintain dockets necessarily required by:
 - i. The lawyer's duty to their client
 - ii. The *Legal Aid Services Act, 2020* and Rules thereto
 - iii. LAO's policies and procedures

Lawyers are required to produce these dockets upon request of LAO.

Dockets should contain at a minimum:

- Calendar Dates of Service
- Details of all client contact including
 - Telephone Calls
 - Letters and interviews
 - Court attendances including outcomes on each court attendance
- Details with respect to preparation work done on the file.

In cases where the *Gladue* block is selected, *Gladue* preparation should be specifically docketed.

2.12.3 Discretion

Discretion will not be available on matters paid by block fees as discretion has been rolled into the block fee pricing. Discretion remains available for all certificates paid under the hourly tariff, including “excluded” certificates and block fee-eligible certificates where the matter has been set down for trial. In exceptional circumstances, a Director-General may exempt a charge from proceeding by block fee and allow it to proceed hourly so as to request discretion, if the request is made as soon as counsel becomes aware of the need and if the request is made prior to billing. Once a block fee resolution has been billed on an online account (e.g. guilty plea, withdrawal, etc.), the certificate cannot be exempted.

2.12.4 Tiers

Block fees are not subject to “tiering” based on years of experience.

2.12.5 Travel and mileage

Travel and mileage are paid in addition to the block fees in accordance with the tariff.

2.12.6 Annual billing limit (hardcap)

LAO’s annual hard cap policy will apply to block fee accounts. For hard cap purposes, block fee billings will be attributed to the lawyer who appears at the final appearance of a block fee matter. For more information, please visit section on [Annual billing limits](#).

2.12.7 Daily billing limit (daily cap)

The daily cap policy does not apply on block fee certificates but still applies to the regular criminal tariff. There is no daily limit on the number of fixed fee matters that can be billed at this time.

2.12.8 Northern incentives

LAO’s guaranteed daily rate and Northern Incentive rates will continue to apply to block fee matters and are paid in addition to the block fees.

2.12.9 General

All other terms, conditions, and provisions of The *Legal Aid Services Act, 2020* and the Rules and Schedules as well as LAO’s policies and procedures (including the Tariff and Billing Handbook) continue to apply.

3. Criminal tariff

3.1 Introduction

An excluded criminal certificate or one set down for trial authorizes you:

- To represent your client only on the charges named on the certificate, and
- To take all necessary steps within the proceeding, including:
 - conduct a first instance bail hearing;
 - conduct a second bail hearing where the Crown does not bring an application under s. 524(4) CCC
 - conduct a second bail hearing under s. 524(4) CCC;
 - prepare and file a bail variation under s. 515.1 CCC;
 - bring a *Charter* motion;
 - elect trial by judge alone or judge and jury;
 - conduct a YCJA transfer hearing;
 - bring a motion for additional disclosure or disclosure of third-party records;
 - attend judicial pre-trial in the Ontario Court of Justice;
 - conduct a preliminary hearing and/or contested trial, or negotiate resolution of the charges;
 - attend on sentencing; and
 - conduct a second judicial pre-trial in the Superior Court of Justice in Indictable II proceedings.

The following matters are not included in a criminal certificate and additional authorization must be obtained from the District Office for:

- Travel;
- Bail reviews and detention reviews;
- Additional judicial pre-trials in the OCJ
- Youth bails *de novo*;
- Junior counsel, senior counsel or co-counsel;
- Mid-level case management
- Big Case Management;

- Dangerous or Long-Term Offender applications;
- Serious Violent Offence applications.

Additional authorization is also required from the District Office for the following:

- To add additional charges to the certificate or to have a new certificate issued if additional services are required by your client;
- To pursue any appellate remedy;
- To pursue any prerogative remedy, for example, an application to quash the committal for trial.

CAUTION

All requests for additional authorization must be made in a timely fashion. Delay in making your request to the district office may result in authorization being refused.

TIP

Authorization for disbursements can be obtained from the Lawyer Services and Payments Department, unless the matter is being case-managed.

Getting all necessary disbursement authorizations and certificate authorizations in advance speeds up the processing of your account.

Disbursement request forms are available in the [Forms Library](#) on the website

3.2 Tariff maximums

All services are subject to a tariff maximum which is a limit on the number of hours you are permitted to bill for a set of services. The tariff maximum depends on the type of charges authorized, the progress of the case, and how the charges are disposed of.

Section 8 of Schedule 2 to [the Rules](#) provides that for the purposes of Tables 3, 4 and 5, “contested trial” means a trial during which the Crown calls evidence to prove guilt beyond a reasonable doubt and the defence contests the Crown’s case through challenging the admissibility of evidence, cross-examination of Crown witnesses, calling defence evidence, and making submissions to the court that the Crown has failed to prove beyond a reasonable doubt that the accused is guilty of the criminal offence as charged. It includes a preliminary inquiry, a discovery, a Not Criminally Responsible (NCR) hearing and a Gardiner hearing.

The tariff maximum on a certificate is a cumulative total including the tariff for the resolution, the pre-trial proceedings and any additional authorizations. The tariff maximum is a “pool” of hours available for roster members to bill against for any services described in section 3.1.

The rule limiting preparation to 64 hours contained in 7(1)(n) will no longer be in effect for certificates issued on or after October 16, 2023.

From time to time, the tariff rates or hourly maximums are changed by LAO. The issue date of the certificate determines the tariff rates or hourly maximum that applies. If the certificate is amended, the original issue date of the certificate still determines the tariff that applies.

3.2.1 Determining the tariff maximum

Follow the instructions below to determine the tariff maximum. Check the certificate to determine which charges are authorized.

1. Check the list of offences at the end of this chapter to determine the Legal Aid tariff category of the most serious charge that was disposed of. Different tariff maximums apply to each of these four Legal Aid tariff categories:
 - Summary conviction offences;
 - Indictable Type I offences;
 - Indictable Type II offences;

- Provincial offences and federal summary conviction offences.
2. Consult the tables in the schedule, based on the category of the charge and the applicable ancillary proceedings, to determine the tariff maximum. The tariff maximum in each category can vary according to a number of factors. For example:
- Did the client plead guilty to none, some or all of the charges? For some categories, the maximum is different for a guilty plea than for a trial or withdrawal;
 - Were any charges withdrawn?
 - Was there a contested trial? Additional hours are added to the maximum if a contested trial is held;
 - How many days did the trial continue? Additional hours are available for additional trial days for most categories of offence;
 - Were there any services that generate additional tariff maximums, such as a bail hearing or a judicial pretrial?

3.3 Summary conviction offences or Crown election offences where the matter proceeds summarily (except sexual assault)

See [Schedule 2 to the Rules](#), Table 5 for the tariff for all summary conviction offences or where the Crown elects to proceed summarily, and for provincial offences and federal summary convictions. See Table 6 for ancillary criminal proceedings.

- If the Crown elects to proceed summarily, or does not elect on a hybrid offence, the charge is treated as a summary conviction offence, and the summary conviction tariff maximums apply.
- For summary conviction matters excluding contested trials, preparation time and all court attendances are included in the maximum. The maximum is a “capped hourly limit” which includes all services billable under the certificate.
- In this Table, “half-day” means an attendance either before or after the luncheon recess during which evidence is led or submissions made. Further, one full day is interpreted as two half-days for billing purposes.
 - Example: If you attend during the morning, you are entitled to one half-day. However, if you attend in the morning and continue after lunch, this counts as two half-days for billing purposes.

Contested Trials (for certificates issued prior to March 4, 2024)

The rules for billing attendance time and per diem preparation time for contested trials is different depending on the offence category the charge falls in.

- Summary conviction contested trials are payable to the tariff maximum of 15 hours for preparation and attendance at the first day of trial. Trial continuations are eligible for 4 hours preparation time for each additional day of court attendance plus actual attendance time in court after the first day.

Contested Trials (for certificates issued on or after March 4, 2024)

LAO has simplified the tariff for contested trials, treating all contested trials the same, regardless of whether the offence category is Summary, Indictable I or Indictable II

- Summary Conviction contested trials are payable to the tariff maximum of 15 hours for all preparation prior to the first day of trial. Actual attendance time in court is paid for the **first and subsequent days** in addition to the 4 hours of preparation time for each additional day of court attendance after the first.

3.3.1 Exceptions

- Extrajudicial Sanctions
 - Where youth charges are withdrawn after a successful application for extrajudicial sanctions, the maximum for a guilty plea for the same type of offence applies, and includes all preparation, correspondence and communication, adjournments and remands.
- Charges of Theft/Possession and Impaired/Over 80mg/Over 5ng
 - Where the accused pleads guilty to theft or possession and the alternate charge arising out of the same set of circumstances is withdrawn, the capped hourly limit is equivalent to a guilty plea.
 - Where the accused pleads guilty to one charge of impaired and the alternate charge arising out of the same set of circumstances is withdrawn, the capped hourly limit is equivalent to a guilty plea.

3.4 Indictable Type 1 offences, Crown Election offences where the matter proceeds by indictment, and all offences of sexual assault regardless of Crown elections.

See [Schedule 2 to Rules](#), Table 4 for the tariff for all indictable 1 offences or where the Crown elects to proceed by indictment, and all offences of sexual assault. See Table 6 for ancillary criminal proceedings.

- If the Crown elects to proceed summarily, or does not elect on a hybrid offence, the charge is treated as a summary conviction offence, and the summary conviction tariff maximums apply.
- A withdrawal without an election on a Crown elective offence is treated as a summary conviction offence and the summary conviction tariff maximums apply.
- In this Table, “half-day” means an attendance either before or after the luncheon recess during which evidence is led or submissions made. Further, one full day is interpreted as two half-days for billing purposes.

Guilty Pleas

Certificates issued prior to March 4, 2024

- For Indictable I guilty pleas where the actual hearing time occupies a half-day in court and the total time spent on preparation does not exceed five hours, the tariff maximum is 13 hours.
- For Indictable I guilty pleas where the actual hearing time occupies two half days in court or the total time spent on preparation exceeds five hours, the tariff maximum is 15 hours.
- In calculating whether there has been more than five hours of preparation, for the purposes of items in Table 4 of Schedule 2 to Rules, attendances on adjournments are not counted. Items that generate their own tariff maximum, such as bail hearings and judicial pretrials, are also excluded for the purpose of calculating whether you have performed five hours of preparation.

Certificates issued on or after March 4, 2024

- LAO has eliminated the tariff distinction between Indictable I guilty pleas based on time in court and preparation time.
- All Indictable I guilty pleas, regardless of time in court and preparation time are paid to the tariff maximum of 15 hours.
- When a roster member's services are completed before a plea is entered or before the resolution of the matter (no plea), the applicable tariff is that which applies to a guilty plea for that offence. For all Indictable I matters, the no plea tariff is 15 hours.

Contested Trials

Certificates issued prior to March 4, 2024

The rules for billing attendance time and per diem preparation time for contested trials is different depending on the offence category the charge falls in.

- Where contested trials last one full day (two half-days) or less, the tariff maximum is 15 hours, which includes preparation time, attendance time, Crown pre-trials, waiting time, correspondence, communications, document preparation, and adjournments.
 - Items found in Table 6 of the Rules that generate their own tariff maximum, such as bail hearings and judicial pretrials, are excluded from the tariff maximum for the offence.
- Where contested trials last more than one full day or two half-days, and the client does not plead guilty during the full day or two half-days, the charge retroactively becomes an Indictable Type 2 offence.
 - The change applies retroactively to the first day of trial or preliminary hearing.
 - Preparation time and court attendance are included in the maximum.

Certificates issued on or after March 4, 2024

LAO has simplified the process for billing contested trials, treating all contested trials the same, regardless of the whether the offence category is Summary, Indictable I or Indictable II.

- Indictable I contested trials are payable to the tariff maximum of 17 hours for all preparation prior to the first day of trial. Actual attendance time in court is paid for the **first and subsequent** days in addition to 4 hours of preparation time for each additional day of court attendance after the first.

3.4.1 Exceptions

- Alternative Measures
 - Where youth charges are withdrawn after a successful application for extrajudicial sanctions, the maximum for a guilty plea by an adult for the same type of offence applies, including all preparation, correspondence and communication, adjournments and remands, for withdrawal of charges.

3.5 Indictable Type 2

See [Schedule 2 to Rules](#), Table 3 for the tariff for all Indictable Type 2 offences and Table 6 for ancillary criminal proceedings.

- Actual time in court for a guilty plea, sentencing, withdrawal, preliminary inquiry and trial is paid in addition to the preparation maximums.
- Additional days after the first day on which a trial, preliminary inquiry, guilty plea or withdrawal is heard, generate an additional four hours of tariff. These tariff hours are an additional allowance of preparation time.
- Preparation time includes all time spent other than attendance at court during the guilty plea, sentencing, withdrawal, preliminary hearing or trial. Adjournments, bail hearings, pre-trials, etc. are considered preparation time when applying tariff maximums for Type II indictable offences.
- The initial block of preparation hours is available only once. If a preliminary hearing is followed by a trial, the initial tariff block of 22 hours applies to the preliminary hearing and 4 additional preparation hours per day are available for subsequent days of the preliminary hearing and for the trial. Once a contested Indictable type II trial exceeds 10 days, the tariff maximum automatically increases by an additional 5 hours.

See notes for dangerous offender applications in [section 3.8.12](#) and 15-year reviews of parole eligibility in [section 3.8.14](#).

3.6 Ancillary Criminal Proceedings

Bail Hearings

The tariff is payable for a bail hearing when it has been conducted and completed by the roster member, whether contested or on consent by the Crown.

In cases where charges proceed entirely independently of one another and are disposed of on a different day in a different court from one another, two separate criminal proceedings have occurred, and you can bill for one separately occurring bail hearing in connection with each trial.

S. 524 Bail Hearings (where an application under s.524 is made)

- The s. 524 bail hearing is billable for up to 5 hours if the Crown brings a s 524(4) hearing regardless of whether or not a first bail hearing was billed. A first bail and a s.524 bail cannot be billed for the same hearing.
- If a second certificate has been issued, the s.524 bail hearing may be billed against either the first or second certificate for which the s 524(4) applies.

NOTE

On the account page in Legal Aid Online the name of the authorization has changed from “second bail hearing” to “Bail Hearing, s.524” to accurately reflect the types of bail hearings available for authorization.

NOTE

When billing a s.524 bail hearing, roster members should ensure that they indicate clearly on their dockets that an application pursuant to s. 524 was made.

Bail Hearings where no s.524 application is made

For certificates issued prior to March 4, 2024

- For certificates that are being billed under the hourly tariff, counsel must continue to request discretion for a second bail hearing when charges proceeding separately are ultimately resolved together.

For certificates issued on or after March 4, 2024

- Where an accused is charged with new offences, it is LAO policy to add the new charges to an existing certificate where counsel expects that the charges will resolve together or is unsure whether or not the charges will resolve together.
- Where new charges are added to an existing certificate and roster members have conducted two separately occurring bail hearings (heard before a different judge) they may bill for a second bail hearing. An authorization for a “Bail Hearing, No s.524” has been added to the online account page, which allows counsel to bill up to 4 hours for the second bail hearing where the same bail hearing has not been billed on another certificate.
- Where counsel is unsure if the separately occurring offences will ultimately resolve together and they acknowledge two certificates they should bill each of the first and the second bail hearing on the certificate authorizing the most serious charge. This complies with LAO’s charges heard separately policy, which requires that charges heard together be billed on one certificate. Should, the charges later resolve separately counsel must ensure that they do not bill for either of the previously billed bail hearings on the other certificate(s).

TIP

Bail hearings conducted on the same day, in front of the same justice for separate charges does not constitute another “first bail” hearing.

Bail Variations

- For certificates issued on or after June 8, 2015, up to one (1) hour is billable for filing a bail variation in accordance with s. 515.1 of the Criminal Code.
- A bail variation is billable on the certificate for charges related to the bail variation, regardless of who conducted the original bail hearing (e.g. original bail hearing by duty counsel)

Charter Applications

- For certificates issued on or after October 16, 2023, up to 8 hours are billable when you or the Crown attorney files an application for remedy pursuant to the Charter of Rights and Freedoms. For certificates issued prior to October 16, 2023 the tariff maximum is 2 hours.
- Only one per trial is allowed, provided a Charter application is filed, unless the charges proceed entirely independent of one another and are disposed of on a different day in a different court from one another. In that case, two separate trials have occurred, and you can bill for one Charter application in connection with each trial.
- A court day spent arguing a Charter motion adds to the tariff maximums just as does a day of trial during which argument is made and/or evidence led.

Judicial Pre-trials

- Maximum of two hours, when you prepare for and attend a pre-trial hearing before a judge and make substantive representations related to disclosure, the nature and particulars of applications, the admissibility of evidence, the simplification of issues, the possibility of admissions and/or the length of trial.
- Only one per trial is allowed where the matter has not been set down for trial, unless the charges proceed entirely independent of one another and are disposed of on a different day in a different court from one another. In that case, two separate trials have occurred, and you can bill for one judicial pre-trial in connection with each trial.

Second JPTs

- A second judicial pre-trial at the OCJ will be authorized where the matter has been set for trial, preliminary inquiry, NCR hearing, Gardiner hearing, or discovery. To obtain authorization, a request must be submitted through the portal.
- A pre-trial with a crown does not generate this maximum.
- Preparation for a pre-trial that does not take place, does not generate this maximum.
- A focus or status hearing prior to the setting of a preliminary inquiry counts as a judicial pre-trial.
- Section 19 conferences under the YCJA do not count as judicial pre-trials but are considered a part of the tariff maximum on the certificate.

JPTs in the Superior Court of Justice

- One JPT before a judge of the Superior Court of Justice will be authorized where the matter has been set for trial or preliminary inquiry.

Covid JPTs

- For Covid JPTs, the matter must have been set down for either a preliminary inquiry or trial in order to be eligible. Covid JPTs will be authorized at both the Ontario Court of Justice and the Superior Court of Justice.

NOTE

Following the November 1, 2023 *Jordan*-compliant Trial Scheduling Practice Direction LAO anticipates an increased need for additional JPTs in the Ontario Court of Justice. In response, LAO will temporarily change the eligibility criteria (above) for the Covid JPT to remove the requirement that the matter be set down for trial. The Covid JPT can now be requested at any point in the proceeding instead of requiring the matter to be set down for either a preliminary inquiry or trial in order to be eligible. This temporary measure applies to both block and hourly certificates.

Gladue

Lawyers on the Gladue roster may request that LAO add the Gladue authorization only when they confirm that a publicly-funded Gladue report was used for either the bail hearing or sentencing. This enhancer is available upon the preparation and/or delivery of Gladue submissions if applicable. When billing the Gladue authorization, all Gladue preparation should be specifically docketed and should contain sufficient detail to identify the specific work done in addition to the Gladue Report for the legally- aided client. It must include sufficient details about the source of the Gladue Report, including where appropriate, the author and/or organization responsible.

Bail reviews and youth bail *de novo* applications

- Requires prior authorization by submitting an online request through *Legal Aid Online*.
- The tariff for bail reviews and youth bail *de novo* applications is payable if the roster member conducted a bail review or the Crown consented to a release after materials were prepared and filed.

- The Director-General may authorize more than one bail review.

Detention Reviews

- Detention reviews require prior authorization and must be requested by submitting an online request through Legal Aid Online.
- Payable for all services, including preparation and attendances at the hearing, for an application to the Superior Court of Justice pursuant to section 525 of the *Criminal Code* (Canada) to determine whether or not an accused should be released from custody.
- The tariff is not payable where the accused has waived their right to a hearing.

Fitness Hearings and NCR Hearings

The following attendances at court are treated as part of the trial of a matter:

- Attendance at court to arrange for a fitness hearing or NCR assessment;
- Attendance at court to adjourn a case for a fitness hearing or NCR assessment;
- Attendance at court to arrange for a remand to a psychiatric facility;
- Address the court on results of remand to a psychiatric facility;
- Conduct a fitness hearing or NCR hearing.

Billable in accordance with the tariff maximum for the type of offence to which the attendance or hearing pertains (see Chapter 2: Billing).

How to bill fitness hearings

Fitness hearings are considered pre-trial proceedings. When submitting an account counsel should not select that the matter was set down for trial based on the fitness hearing date. Having a fitness hearing does not change the matter from a block fee block to hourly as it does not fall within the definition of “contested trial.” If a date for trial has not been set, the matter proceeds as a block fee matter and the fitness hearing is covered by the mental health block.

For non-block matters/matters proceeding hourly, fitness hearings are billable in accordance with the tariff maximum for the type of offence to which the attendance or hearing pertains. (see Chapter 2: Billing). Fitness hearings generally occur prior to the resolution of a criminal proceedings and, in some cases, prior to the Crown election, therefore in order to correctly update the available tariff, lawyers should not bill for conducting a fitness hearing prior to the resolution of the criminal charges unless required to do so in order to meet billing deadlines.

In order to be eligible for the additional tariff you must have personally attended on the record to conduct the fitness hearing.

- **Where the criminal charges are ultimately resolved by conducting a Contested Trial:**
 - Contested and Uncontested (Consent) Fitness Hearings are retrospectively treated as an additional court day(s) to the contested trial
 - Bill the additional trial day in accordance with the tariff for contested trials
- **Where the criminal charges are ultimately resolved by Guilty Plea, Withdrawal or Stay**
 - Contested and Uncontested (Consent) Fitness Hearings are retrospectively treated as an additional court day(s) to the guilty plea, withdrawal or stay
 - Bill the additional day in accordance with the tariff for Guilty Pleas, Withdrawals, or Stays
- **Where the client is found Unfit to Stand Trial and jurisdiction is transferred to the ORB**
 - Contested and Uncontested (Consent) Fitness Hearings are treated as “Not Resolved” or “No Plea Entered” billable ‘Hourly’ in the Block and Tariff Systems;
 - Discretion may be requested in these circumstances

How to bill NCR Hearings

NCR hearings are not considered pre-trial proceedings, but are contested matters.

When a date is set to conduct an NCR hearing LAO considers the matter as having been set for trial and counsel will be able to bill hourly under the tariff. In order to be eligible for the additional tariff you must have personally attended on the record to conduct the application.

- **Block Fee Certificate**
 - Counsel should indicate that the matter was set for trial and enter the date when they appeared to set the date for the NCR application, this will allow counsel to bill under the hourly tariff.

- **Hourly Certificate**

- For excluded matters or those where the matter was set for trial, once a contested NCR hearing is conducted, the Plea/Outcome selection will be contested.
- Bill the hearing day as a trial day in accordance with the tariff for contested trials.
- Counsel can bill their attendance time based on the tariff applicable to contested matters in Summary, Indictable I and Indictable II matters as the case may be.
- If the NCR goes by consent, the Plea/Outcome selection will be determined by the way in which the matter was disposed of.
- Counsel can bill their attendance time based on the tariff applicable to the relevant Plea/Outcome in Summary, Indictable I and Indictable II matters as the case may be.

Mental Health

For certificates issued on or after March 4, 2024, a mental health enhancer is authorized upon the issuance of qualifying tariff/hourly certificates for accused that have an identifiable history of mental health issues. This is identified by a prior certificate issuance for Consent and Capacity (CCB) hearings, Ontario Review Board (ORB) hearings, or Appointment of counsel pursuant to Rule 47 of LASA 2020.

If the mental health enhancer was not authorized upon the issuance of the qualifying tariff/hourly certificate, lawyers may also request that the mental health enhancer be authorized if the list of indicators below applies.

- Rule 47 appointment, made under LASA 2020
- Prior s. 85 LASA 1998 or Rule 47 of LASA 2020, CCB or ORB certificate
- Client appears in Mental Health Court
- Treatment order is in place
- Court has signed Form 48
- Contested fitness hearing

TIP

Requests must be made utilizing a standard form via the portal.

3.7 Maximum billable hours for other proceedings

Review Board Hearings

Ontario Review Board hearings are paid under the criminal tariff.

TIP

If you are entitled to an experience increase in civil matters, but not in criminal matters, you can apply for a discretionary increase.

See [Schedule 2 to Rules](#), Table 7 for the tariff for all Review Board Hearings

Appellate Proceedings

A certificate for the defence of criminal charges does not include authorization to perform additional services after conviction such as writing an opinion concerning an appeal or filing a notice of appeal.

After conviction, the client can apply for coverage for an appeal. The district office issues an opinion certificate, which is usually sent to the lawyer who conducted the trial. An opinion certificate specifies how many hours are allowed for the lawyer to prepare the opinion. The number of hours varies depending on whether the charges were summary or indictable, and whether additional steps are authorized to preserve the client's rights, such as filing the notice of appeal.

If you acknowledge an opinion certificate, you should provide your opinion to the district office as soon as possible. The opinion is considered by Legal Aid Ontario in deciding whether there is sufficient merit to the appeal and whether an appeal certificate should be issued.

A review of a decision to deny a certificate for an appeal is available through the Eligibility Review Office (ERO).

If you do not wish to accept the certificate, it is essential that you return it to the District Office as soon as possible, so that it can be made available to another lawyer.

See Schedule 2 to Rules, Table 7 for the tariff for appellate proceedings, including appeals to the Superior Court of Justice, the Court of Appeal, and the Supreme Court of Canada.

- Actual time in court for the appeal hearing is paid in addition to specified preparation time.
- Additional days of hearing after the first day on which an appeal is argued, generate additional tariff maximums. The additional maximums are an additional allowance of preparation time, as well as the additional time spent in court on the subsequent hearing dates, up to a fixed amount of preparation time.

Prerogative Writs

Coverage for prerogative writs requires authorization and, if granted, will be covered under a separate certificate issued by the District Office.

Bail Pending Appeal

Applications for bail pending appeal require authorization and, if granted, will be added to the client's appeal certificate.

3.8 Additional information

3.8.1 Adjournments

No additional hours are allowed for remands and adjournments. They are treated as preparation time and are included in the capped hourly limit or preparation maximum for the offence.

Court attendances are treated as remands or adjournments unless your account indicates otherwise.

LAO encourages counsel to provide a letter to the client or use the services of duty counsel where possible rather than attend personally on set-date appearances.

3.8.2 Co-counsel

- Authorization is rarely granted for co-counsel.
- If authorization is granted, fees on behalf of both the acknowledging lawyer and the co-counsel are paid to the acknowledging lawyer.
- If co-counsel is authorized, both the acknowledging lawyer and the co-counsel are entitled to bill their applicable experience increase for both preparation time and preliminary hearing/trial attendance unless the authorization provides otherwise.

3.8.3 Contempt of court

- Criminal contempt of court prosecuted under the common law is either a Type I or summary offence, depending on the nature of the proceeding.
- If the procedure adopted is summary, requiring the client to show cause why they should not be in contempt (often done on the court's own motion), then the matter is treated like a summary conviction proceeding.
- If the prosecution is begun by a notice of motion brought in the Superior Court of Justice, then the matter is treated like an indictable Type I offence.

3.8.4 Correspondence

- Correspondence is allowed as part of preparation time, but may not be allowed if maximum preparation limits are exceeded.
- Correspondence should be billed at the rate of one-tenth of an hour for both incoming and outgoing mail.
- The correspondence fee for a letter is based upon the average amount of your time involved in dictating and approving a letter sent, and reading and acting on a letter received.
- The fee for a letter sent is not increased if a number of copies of that letter are sent, nor is the fee increased if the client or the District Office are copied.

3.8.5 Court attendance

Section 6 of the *Legal Aid Service Act* Rules provides as follows:

6. The following provisions apply to both Parts B and D:
 - a. when specifically provided for, actual time spent in attendance at a proceeding may be billed if the matter is reached, evidence is led or submissions are made other than submissions made in support of or opposing an adjournment. Attendance on adjournments, to be spoken to attendances, on trial audits or at assignment court are not attendances for the purposes of this clause;
 - b. unless otherwise provided for, attendance excludes waiting time;
 - c. all services except for actual attendance at a trial or hearing are considered preparation time

If you are billing for a full day, you must deduct at least thirty minutes for lunch.

Court hours are calculated from the time the trial/hearing begins to the time the trial ends. Do not bill from the time you enter the courthouse.

The guidelines above apply to billing for additional days in court (per diem attendance).

3.8.6 Dangerous and long-term offender applications

- Billable when you are appointed to represent a client in a dangerous offender or long-term offender proceeding and attend to make representations at the hearing.
- Adjournments are not billable.
- Bill the tariff maximum equivalent to trial for a Type II indictable offence.

TIP

A separate certificate is required.

3.8.7 Extradition

- Billable when you appear in court and make representations at an extradition hearing.
- Use the type of charge involved to determine the tariff maximum. The tariff maximum is the same as would be allowed for the defence of the substantive charge.
- Provide the hearing date and any preparation time.
- Should the matter progress beyond the initial extradition hearing, please contact the district office to learn of what additional authorizations may be required.

3.8.8 Fifteen-year reviews of parole eligibility

Coverage for a fifteen-year review of parole eligibility (under s. 745 of the *Criminal Code*) is not covered by LAO.

3.8.9 Incomplete Matters

- Billable if you have interviewed your client or appeared in court on your client's behalf to be removed from the record and the lawyer-client relationship ends because of:
 - change of lawyer before charges have been disposed of;
 - client fails to appear and is not located within a reasonable period of time;

- cancellation of the certificate;
 - breakdown of relationship;
 - change in lawyer's practice;
 - conflict of interest;
 - discharge by client;
 - ethical/professional issue;
 - suspension/prohibition by the LSO
- For incomplete matters, select the “No plea” outcome on the *Legal Aid Online* account page. The tariff maximum is the same as a guilty plea for the charges.

3.8.10 Legal advice in domestic criminal matters

Legal advice on a domestic criminal matter is paid under the civil tariff.

3.8.11 Motions

- Substantive pretrial motions and motions conducted during the course of a trial are treated as part of the trial, and paid in accordance with the tariff maximum for the offence. A court day spent arguing a substantive motion adds to the tariff maximums just as does a day of preliminary hearing or trial during which argument is made and/or evidence led.
- Applications for adjournment are not considered substantive motions, and are treated as part of the preparation time for the case.
- Attendances on application for adjournment do not generate additional tariff maximums.
- Motions to quash a committal for trial and motions for other extraordinary remedies or prerogative writs are settled separately and must be authorized separately.

3.8.12 Multiple charges

In accordance with sections 7(h) and 7(i) of Schedule 2 of the Rules, the following principles apply when the defence of multiple charges are authorized under one or more certificates.

Same or different tariff maximums?	What happens in court?	What maximum applies?
Two or more offences with the same tariff maximums	The charges are disposed of in the same court on the same date	The hourly maximum is for one offence only
Two or more offences with different tariff maximums	The charges are disposed of in the same court on the same date	One tariff maximum applies, the highest applicable
Two or more offences with the same or different tariff maximums	If for valid reasons charges are disposed of separately such that the pleas, trials or withdrawals are heard in different court on different days	A separate tariff maximum applies for each set of charges

When a lawyer represents a person charged with two or more offences, and the charges are disposed of in the same court on the same date, the hourly maximum is for one offence only. In these circumstances you may only bill on one certificate.

However, the number of charges is a factor considered in assessing a discretionary increase request.

* Plea Arrangements

If the withdrawal or stay of proceedings was part of a plea arrangement whereby your client was pleading guilty to one or more charges and one or more charges are withdrawn or stayed on a different day from either the Guilty Plea or sentencing, you may not bill for both a Guilty Plea and a Withdrawal or Stay even if the Withdrawal or Stay occurred on a different day from the entering of the Guilty Plea or Sentencing. In these circumstances you may only bill on one certificate.

3.8.13 Opinion certificates

- If the certificate does not specify the tariff maximum allowed, all fees for the opinion are at the discretion of Lawyer Services and Payments, including opinions prepared for or at the request of LAO.
- Fees for opinions are paid based on the time spent and the difficulty of the work.
- Any discretionary increase requested for opinion letters that exceed the maximum allowed must include a copy of the opinion letter.

3.8.14 Parole hearings and penitentiary discipline hearings

Parole hearings and penitentiary discipline hearings are paid under the civil tariff. For more information, see [Schedule 2 to the Rules](#), Table 9

3.8.15 Plea to lesser included offence

Provided that the more serious offence is authorized on the certificate, where the client pleads guilty to a lesser included offence you are entitled to the tariff maximum for withdrawal of the more serious offence.

3.8.16 Waiting time

- Time spent in court waiting for a matter which is not reached has no separate tariff allowance and does not generate an additional tariff maximum.
- Waiting time is included in the capped hourly limit or preparation maximum for the offence and can be billed only up to the capped hourly limit or preparation maximum for the offence.
- If the charges are Type II indictable, time spent at court waiting to be reached on the date of trial or preliminary hearing is billable as court time provided that the matter is reached and commences on that date, and provided that no other services are billed for the same period of time to any other client, whether legally aided or on private retainer. This includes breaks, other than lunch, and time spent waiting for a jury verdict.

3.8.17 Withdrawal without Crown election

A withdrawal without an election on a Crown elective offence is paid at the summary conviction rate.

3.9 Criminal Case Management

Mid-level case management is available for complex criminal cases that routinely cost \$8,000 or more in fees, disbursements and discretion, but less than the BCM threshold (\$20,000 or \$50,000 for multiple accused). **Please note that eligibility for mid-level case management is charge-specific. Please confirm that your client's charge is eligible before applying.** The objectives are to:

- Provide lawyers working on complex cases with the appropriate resources to deliver high quality legal services
- Increase predictability of case costs
- Implement pre-approved budgets for streamlined payment of accounts
- Monitor and control case costs, including discretion, in accordance with the standard of a reasonable client of modest means

Cases may be streamlined into case management under the following conditions:

- The total amount of the fees and disbursements for the proceeding is likely to be between \$8,000 and \$20,000;
- The proceeding has been set down for a preliminary hearing or trial, or both;
- The amount of the fees and disbursements for the proceeding is likely to exceed the available tariff;
- The proceeding is exceptionally complex.

The decision to accept a case into case management lies with the Provincial Case Management Office or the District Office, depending on the charges.

A budget for tariff and additional blocks of hours is set by the case manager. Accounts submitted are matched and paid up to the tariff and budget maximum. Discretion is not available in addition to an approved budget.

For certificates issued on or after March 4, 2024, the list of criminal offences eligible for mid-level criminal case management has expanded. For a list of eligible offences, please see 8.2 in the Appendix or refer to the Mid-level Criminal Case Management section of LAO's website.

4. Civil tariff

4.1 Tariff maximums

All services are subject to a tariff maximum which is a limit on the number of hours you are permitted to bill. The tariff maximum depends on the type of services authorized and/or added by amendment.

From time to time, the tariff hourly rates or the tariff maximum are changed. The issue date of the certificate determines the tariff hourly rates and the tariff maximum that applies to it. If the certificate is amended, the original issue date of the certificate still determines the tariff hourly rate and the tariff maximum that applies to it.

4.2 General notes

- Lawyers must make sure that they request all available authorizations on a certificate from the Director-General.
- An opinion letter to the Director-General must accompany all requests for authorization
- Discretionary increases are available only if a lawyer has exhausted all possible authorizations. Increases are only available in exceptional circumstances. The onus is on you to establish exceptional circumstances. Submit your discretionary increase request with your account through the lawyer portal (*Legal Aid Online*) to the Provincial Office, Attention: Lawyer Services and Payments Department.

4.2.1 Adjournments

No additional hours are allowed for adjournments, to be spoken to attendances, trial audits or assignment court. They are treated as preparation time and are included in the capped hourly limit or tariff maximum.

Court attendances are treated as adjournments unless your account indicates otherwise.

4.2.2 Correspondence

- Correspondence is allowed as part of the tariff maximum time, and may not be allowed if tariff maximum limits are exceeded.
- Correspondence should be billed at the rate of one-tenth of an hour for both incoming and outgoing mail. If more than this allotted time is spent on a particular piece of correspondence, please explain why more time was needed and how this correspondence advanced the client's case. This explanation will help in determining if a discretionary increase for additional time spent is appropriate.
- The correspondence fee for a letter is based upon the average amount of your time involved in dictating and approving a letter sent, and reading and acting on a letter received.
- The fee for a letter sent is not increased if a number of copies of that letter are sent, nor is the fee increased if the client or the district office is copied

TIP

Please note that correspondence is not limited to letters but can include emails and text messages, in cases where these electronic communications serve the same purposes as a letter.

4.2.3 Co-counsel

- Authorization is rarely granted for co-counsel.
- If authorization is granted, fees on behalf of both the acknowledging lawyer and the co-counsel are paid to the acknowledging lawyer.
- If co-counsel is authorized, both the acknowledging lawyer and the co-counsel are entitled to bill their applicable experience increase for both preparation time and preliminary hearing/trial attendance.

4.2.4 Nature of Court Attendances

It is important that you advise as to the nature of court attendances and the outcome. In civil, family and CYFSA matters, for example, advise whether the attendances are motions, adjournments, settlement or pre-trial conferences, status reviews, interim care and custody hearings, trial management conferences or trial days. For certificates issued prior to October 16, 2023, attendance for settlement conferences does not include waiting time or time spent outside of the courtroom for the purpose of negotiation.

In immigration and refugee matters, indicate, for example, as to whether the attendances are for abandonment hearings, expedited hearings, full hearings, motions to stay or attendances on appeal.

TIP

In circumstances where it is appropriate, it is helpful to attach the court order or endorsement to the account. Always attach any costs orders and always attach the final order obtained. If submitting an interim account, attach any temporary orders obtained.

4.2.5 Waiting time

- Waiting time is included in the capped hourly limit or tariff maximum and can be billed only up to the capped hourly limit or tariff maximum.
- Waiting time must be billed separately from the actual appearance time. Court time is only considered to be an actual appearance if the matter is reached, evidence is led and/or submissions are made, other than submissions in support of or opposing an adjournment.
- Waiting time once the trial/hearing has commenced is treated as part of the trial/hearing and is allowed as trial attendance. This includes breaks, other than lunch, and time spent waiting for a jury verdict.

4.3 Case Management for Child Protection and Family Law

Case management is available for extended society care matters where the legal aid certificate was issued prior to February 3, 2020. All other CYFSA and domestic family legal aid certificates issued on or after February 3, 2020 are eligible for case management.

The objectives of case management are to:

- Provide lawyers working on complex CYFSA cases with the appropriate resources to deliver high quality legal services
- Increase predictability of case costs
- Implement pre-approved budgets for streamlined payment of accounts
- Monitor and control case costs in accordance with the standard of a reasonable client of modest means

Cases are eligible for case management when all of the following criteria are met:

- the total of fees and disbursements are likely to exceed
 - \$8,000, in the case of a proceeding under the *Child, Youth and Family Services Act*, 2017, other than for a supervision order, or
 - \$12,000, in the case of a family law proceeding;
- the total of fees and disbursements for the proceeding is likely to exceed the available tariff;
- the proceeding is exceptionally complex.

The decision to accept a case into case management lies with the case manager at the District Office.

A budget for tariff and additional blocks of hours is set by the case manager. Accounts submitted are matched and paid up to the tariff and budget maximum. Discretion is not available for case management matters.

For additional information on CYFSA/CFSA case management, refer to the [Family Case Management](#) section on LAO's Website.

4.4 Family Law Tariff

The tariff for general family law uses a system of time issue allotments based on the most seriously contested issue facing the client first, with subsequent authorizations to acknowledge other substantially contested issues.

Certificates issued on or after October 16, 2023 are generally issued for the basic time issue allotment (16 hours) and for conferences held under Rule 17 of the Family Law Rules (5 hours), or for an opinion only, which is limited to 2 hours. The majority of cases receive additional time allotments to recognize other substantially contested issues if they cannot be resolved within the time authorization already granted.

A double time issue allotment is available for the most seriously contested issue in complicated cases. For example, in difficult decision making cases, the basic allotment of 16 hours plus 15 hours may be extended, so that an additional 15 hours is available for the same contested authorization.

A double authorization is also available for restraining orders in a family law case even if there has been a double authorization for other issues (e.g., decision making /parenting time, etc.).

Example of a complicated family law case and time issue allotments:

In a seriously contested decision making case involving allegations of spousal or child abuse, as the case progresses, the Director-General may authorize:

Type	Number of hours
Opinion	2 hours
Balance – basic allotment	14 hours
Decision Making/Parenting Time	15 hours
Double Allotment	15 hours
Double restraining order (2 x 4 hours)	8 hours
Total	54 hours (prior to first pretrial)

The maximums provided for family law include all services including interviews, correspondence, communications, pleadings, preparation of financial statements, discovery, production, disclosure, case management meetings with a judge, motions, opinion letters, adjournments, waiting time, reporting and billing (with billing being allowed to a maximum of 0.2 hours).

4.4.1 Authorizations for Conferences under Rule 17 and Legal Aid Settlement Conferences for CYFSA and Family Law matters, for Certificates issued on or after October 16, 2023.

How to bill Rule 17 conferences on Family Law Certificates:

- For the first case or settlement conference, do not enter anything in the “# of Extra Days” field in the Rule 17 authorization, as the five-hour tariff for preparation and attendance at the conference is added when the Rule 17 authorization is added to the certificate.
- For subsequent case conferences after the first, only enter the number of Rule 17 conferences being billed on the account, as the “# of court days” field is not a cumulative total. For each Rule 17 conference after the first, an additional five-hour authorization will be added to the certificate which covers both preparation and attendance. This includes negotiations with opposing counsel that take place outside of court (“hallway” negotiations).

How to bill Rule 17 conferences on CYFSA certificates:

- Preparation and attendance for the first case conference in CYFSA matters is included in the initial authorization.
- For the second conference in CYFSA matters, do not enter anything in the “# of Extra Days” field in the Rule 17 authorization, as the five-hour tariff for preparation and attendance at the conference is added when the Rule 17 authorization is added to the certificate.
- For the third and subsequent case conferences after the first, only enter the number of Rule 17 conferences being billed on the account, as the “# of court days” field is not a cumulative total. For each Rule 17 conference after the first, an additional five-hour authorization will be added to the certificate which covers both preparation and attendance, including negotiations with opposing counsel that take place outside of court (“hallway” negotiations).

For Both Family and CYFSA certificates:

- This authorization only applies to Rule 17 conferences and to Legal Aid Settlement Conferences. This authorization includes case conferences that are presided over by a non-judge and case conferences with a DRO, as long as they meet the requirements set out in Rule 17(9) and 17(9.1) of the Family Law Rules.
- Never enter additional days for other types of court appearances such as adjournments,

motions dates, or other types of settlement meetings (i.e.; at Society offices or OCL disclosure meetings). Ensure that docket details are provided to clarify what is being entered.

- Motions (see exceptions below) and attendances to speak to matters are not considered subsequent pre-trial conferences and do not generate additional preparation or attendance time. Neither do trial scheduling, trial audits, or assignment court attendances. Such services are included within the tariff maximum authorizations.

4.4.2 Subsequent pre-trial conferences, settlement conferences, case conferences for CYFSA and domestic violence matters for Certificates issued prior to October 16, 2023

- The first case or settlement conference is never entered because it is included with the first pre-trial conference authorization in family matters and the main tariff authorization in CYFSA matters;
- For the second court conference, only the court attendance is entered (as the preparation time is included in the 2.0 hour subsequent pre-trial authorization);
- For the third and subsequent case or settlement conferences the number of conferences and the attendance time is entered (for that account only- do not re-enter previously entered conferences).

This authorization only applies to case, settlement and trial management conferences held in court and to Legal Aid settlement conferences. Never enter any court time for other types of court appearances such as adjournments or motions dates or other types of settlement meetings, i.e. at the Society offices or OCL disclosure meetings. Ensure that docket details are provided to clarify what is being entered.

Only the time in court should be entered; wait time and time spent negotiating a settlement at court should be docketed separately.

Example:

In the following example, the first case conference had been billed on a prior account. A 1.5 hour settlement conference and two trial management conferences, (1.6 hrs and 0.7 hrs respectively) were billed here, with a total attendance time of 3.8 hrs.

Authorization			Customize Find View All		First 1-3 of 3 Last	
Select		Unit of Measure	Quantity	Hours in Court		
1 <input checked="" type="checkbox"/>	Acknowledgement Fee					
2 <input checked="" type="checkbox"/>	For representation in proceedings under the Child and Family Services Act- where society wardship is in issue. Tariff maximum of 19 hours for all services up to the end of the first pre-trial.					
3 <input checked="" type="checkbox"/>	To attend on any pre-trial conference subsequent to the first- and any subsequent settlement conference- case conference or issues hearing. Tariff maximum of 2 hours for all services other than attendance at hearing.	# of days of Court Proceedings	2.00	3.80		

Figure 1: By indicating “2.0” in the Quantity column, a further 4.0 hours preparation time is generated, being 2.0 hours for each of the trial management conferences

Preparation for the settlement conference is covered by the initial 2.0 hour authorization.

By indicating “2.0” in the Quantity column, a further additional 4.0 hours preparation time is generated, being 2.0 hours for each of the trial management conferences. The total attendance time is 3.8 hours. The total tariff time generated by the settlement conferences in this account is 7.8 hours.

Subsequent pre-trial motions include: case conferences, settlement conferences, LAO settlement conferences and trial management conferences.

Motions and attendances to speak to matters are not considered subsequent pretrial conferences and do not generate additional preparation or attendance time. Neither do trial scheduling, trial audits or assignment court attendances. Such services are included within the tariff maximum authorizations.

4.4.3 Subsequent pre-trial conferences, court based settlement conferences, and LAO settlement conferences for non-DV FLA matters, for Certificates issued prior to October 16, 2023

- For FLA matters not involving domestic violence, the number of conferences for both case conference and court-based settlement conference, are limited to two. Where a subsequent pre-trial conference is authorized, 2 hours additional preparation time is granted in addition to the actual time spent in attendance. If there are additional conferences (case conference and court-based settlement conference) after the second conference, no additional tariff is available, but counsel can bill for the preparation and attendance if within the tariff allotted. If no tariff remains, counsel may request discretion

if exceptional circumstances exist which justify payment in accordance with LAO policy. For attendances after the second, attendance time does not add additional tariff and the Hours in Court field should remain blank.

- An additional authorization is available for counsel who have booked an LAO settlement conference. If an LAO settlement conference has been booked, a request for authorization should be submitted through LAO Online. If authorized, 2 hours additional preparation time is granted in addition to the actual time spent in attendance. This authorization cannot be billed against multiple times and if necessary, counsel may request additional authorizations through *Legal Aid Online*.
- When trial authorization has been granted, a further authorization for one subsequent conference will be added to the certificate in order to provide counsel with additional tariff for attendance at a trial management conference.

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4.4.4 Authorization for Complex Motions

For certificates issued on or after October 16, 2023, an eight-hour authorization for preparation, plus attendance time, on select complex motions may be added to qualifying certificates.

Examples of motions eligible for coverage include:

- Hague Matters
- Paternity testing
- Exclusive possession of matrimonial home
- Special party
- Non dissipation or non depletion (preservation) orders
- Restraining Order
- Abduction or threat of removal of child from the jurisdiction
- Procedural motions (i.e. failure or refusal to disclose police reports and records, medical notes and records or financial records necessary for evaluating case or making offers, questioning or re-attendance for questioning etc.)
- Decision making
- Parenting time and/or contact
- Support

- Mobility/ relocation or change of residence
- Partition and sale
- Summary Judgement Motions

Examples of motions not eligible for coverage include:

- Focused Hearings
- Child tax benefit or recouping these as only issue (or in combination with other child support)
- Personal property (furniture, pictures, pots and pans etc.) only issue
- Change of name
- Enforcement of existing child support order including seizure, sale or garnishment actions
- Costs only or enforcement of costs
- Refraining motions or steps within the default proceeding
- Choosing or scheduling extra-curricular activities
- The parties only dispute is what communication software to use for parenting time
- Vesting orders/ occupation rent
- Constructive trust
- Unjust enrichment issues
- Certificate of pending litigation

Roster members may also request the authorization by submitting their written request via the portal.

TIP

This authorization is intended for contested motions that require additional preparation time or attendance. This authorization can be given independently from, or in conjunction with, a contested issues authorization.

4.5 Family Law

See [Schedule to the Rules, Table 9](#) for the tariff for all family law proceedings

4.5.1 Uncontested divorce

Legal Aid only covers uncontested (“no issue”) divorces where there are exceptional circumstances giving rise to a compelling need for a divorce. Contact your Director-General to determine whether such exceptional circumstances exist in your case.

The Legal Aid tariff for fees for an uncontested divorce is nil, meaning no hours are allocated to this service. Accordingly, the certificate is limited to coverage of disbursements only and the lawyer cannot charge a fee either to LAO or to the client.

LAO will cover the following disbursements, where necessary:

- Central Registry of Divorce Proceedings fee;
- Certified copy of marriage certificate;
- Translation of foreign marriage certificate;
- Process serving fees.

4.5.2 Contested divorce

Since the termination of the marriage itself is not a priority for legal aid coverage, a certificate can only be issued to cover corollary issues in a divorce petition in two circumstances:

- Where an applicant is served with a divorce petition claiming corollary relief; or
- Where the applicant has been served with a “no issue” divorce petition and wishes to respond raising corollary issues.

There is no additional hourly time allotment available apart from the coverage that may be authorized for the corollary issues, based on merit. The divorce can be completed and billed along with the corollary issues except where there is a motion brought to sever the divorce from other issues. For example, if the final order includes the divorce and the corollary issues, it will be covered. However, if there is a separate divorce order, then the services to obtain the divorce will not be covered under the certificate.

4.5.3 Private Retainers

Under Rule 68 (2), a roster member shall not enter into a private retainer with a legally aided client in relation to a proceeding authorized under a certificate or a related or ancillary proceeding. Therefore, you cannot bill a client privately for an uncontested divorce or a separate divorce proceeding while there is still an active certificate dealing with corollary issues. If there is an uncontested divorce or a motion to sever the divorce, the roster member should wait until the certificate services are completed before entering into a private retainer

TIP

The client, who is legally-aided, is eligible for a waiver of court fees. Counsel can apply to the Court for this waiver immediately on family, civil and small claims court matters where it is anticipated court fees will be incurred. It is recommended that clients be asked to sign the fee waivers early on as the waiver cannot be applied retroactively.

4.6 Child Protection (CYFSA)

The child protection tariff provides time allotments for representation in an application for extended society care (formerly Crown wardship), an application for interim society care (formerly society wardship), supervision order or voluntary care agreement, temporary care and custody hearing and status review hearing.

A certificate is generally issued for representation in an application for extended society care /Crown wardship (45 hours) or an application for interim society care/society wardship (45 hours). Where extended society care /Crown wardship or interim society care/society wardship is authorized, authorization should also be granted for any conference subsequent to the first pre-trial conference.

An allotment is available for a temporary care and custody hearing (6 hours plus attendance time) and status review hearing (either 10 or 25 hours). At the Director-General's discretion, authorization may also be available for any conference subsequent to the first where the matter involves temporary care and custody, status review or a supervision order.

Example of a complicated child protection case and time issue allotments:

Type	Number of hours
Extended Society Care/Crown wardship	45 hours
Temporary case/custody hearing	6 hours + actual attendance
Status review hearing contested	25 hours
Subsequent conferences	5 hours
Total	81 hours

The maximums provided for child protection matters include all services including interviews, correspondence, communications, pleadings, opinion letters, preparation for and attendance at status review hearings, adjournments, waiting time reporting and billing (with billing being allowed a maximum of 0.2 hours).

4.7 Child Protection Tariff

See [Schedule 2 to the Rules](#), Table 9 for the tariff for all child protection proceedings.

4.7.1 Authorization for Third-Party Involvement in CYFSA matters

For certificates issued on or after October 16, 2023, a four-hour authorization is available where clients are respondents in complex CYFSA matters that involve third parties (e.g., grandparents, multiple OCLs, etc.).

The authorization will apply in the following circumstances:

- When there is notice that a third party will bring a motion to be added, a motion is filed to add a third party, or when a third party is added on consent and files an Answer and Plan of care;
- If a new placement is contemplated with other family members and/or kin;
- If a second Band and/or First Nation, Inuit or Metis community becomes involved; or a Band and/or First Nation, Inuit or Metis community becomes involved that was not initially a part of the proceeding; or
- If a second OCL is appointed

LAO may also consider a scenario that is not contemplated above, based on complexity and additional parties becoming involved.

4.8 Trials, References and Hearings

See [Schedule 2 to Rules](#), Table 9 for the tariff for trials, references and hearings proceedings

In family law, child protection and civil litigation proceedings (both fees and disbursements), the Director-General may authorize trial and matters subsequent to trial. The Director-General's authorization for trial gives rise to additional tariff maximums as set out below.

4.9 Appeals

See [Schedule 2 to Rules](#), Table 9 for the tariff for appeals.

Appeal proceedings require a separate certificate from the district office. Generally an opinion certificate is issued authorizing only an opinion on the merits of an appeal. The opinion is considered by Legal Aid Ontario in deciding whether an appeal certificate should be issued.

Legal Aid Ontario may seek the advice of either an internal or external lawyer or panel of lawyers when considering the merit of an appeal certificate.

A review of a decision to deny a certificate for an appeal is available through the Eligibility Review Office (ERO)

If a motion for leave to appeal and the hearing of the appeal are heard at approximately the same time, the lawyer is entitled to fees for the appeal only.

4.10 Immigration and Refugee Law

The tariff for immigration and refugee law is based on the nature of the proceeding. Lawyers must obtain authorization by submitting a request through *Legal Aid Online*. Please remember to seek hearing authorization (after the Basis of Claim has been completed) and, if necessary, to seek further authorizations for additional hearing attendances.

Legal Aid Ontario now requires that lawyers provide reasons for the BOC uploads in the description box on the Legal Aid online portal.

- Roster members who are uploading a BOC and requesting authorization coverage, please enter the following in the Description field: “Requesting hearing authorization.”
- Roster members who have been instructed to upload their BOC and Narrative forms as part of their conditions for joining the roster, or existing roster members who have been instructed to upload their BOC and Narrative forms for compliance verification purposes, and who are not also seeking hearing authorization, please enter the following in the Description field: “Hearing coverage not required at this time.”

Below is a view of the Lawyer portal page illustrating the description field to be completed:

Portal Attachments

LEGAL AID ONTARIO
Aide juridique ONTARIO

Certificate Document Attachments August 24, 2023

Solicitor:

Client Number: CLT Client Name:

Certificate Number: CE Effective Date: 06/19/2023

Document Attachments ?

Attached File	Description	Document Code	Document Type	Add Attachment	Add Comments		
1						Add New	Delete

Submit

237 character limit (incl. spaces)

Legal Aid Ontario requires that all roster members who are seeking RPD hearing authorization coverage, submit **two** documents as follows:

- Completed signed BOC form and narrative **and** one of the following documents:
 - a Confirmation of Referral form
 - an Acknowledgment of Claim form
 - a Refugee Protection Claimant Document
 - a letter from the Immigration and Refugee Board (IRB) indicating the claim may be eligible for the Less Complex Claims Process (many lawyers provide this letter only because it is the first correspondence they may receive on a claim, and they use it only to show the claim has been made)
 - any other correspondence from the Refugee Protection Division of the IRB (e.g., an email from RPD confirming referral)

Please note that RPD hearing request submissions that do not include **both** the BOC **and** one of the above documents **will not be approved, and no further action or follow-up will be taken by Legal Aid Ontario.**

See Schedule 2 to the Rules, Table 9 for the tariff for immigration and refugee proceedings and all immigration and refugee appeals.

For certificates issued on after October 16, 2023, a certificate is generally issued for the following basic time issue allotments to complete the Basis of Claim:

- A 9-hour tariff allotment to prepare and file claims not subject to the expedited refugee process (i.e., those not selected for the file review process); or
- A 12-hour tariff allotment to prepare and file claims subject to the expedited refugee claims process (i.e., those selected for the file review process).

These tariff allotments include time for review of the online portal application.

4.10.1 Basis of Claim Authorizations (additional family members)

- For certificates issued on or after October 16, 2023, a further 3-hour allotment (in addition to the basic time issue allotment) is available for claims with multiple additional immediate family members where a member of the household requires a separate narrative and one of the following criteria are met:
 - a. There is a different country of citizenship from the principal claimant;
 - b. There is a separate risk profile from the principal claimant;
- If the authorization is not added automatically on qualifying certificates, roster members may request it via the portal.
- “Immediate family” is defined as the main client (principal claimant), the spouse or common-law partner, and/or dependent children under 22 years of age with no children of their own.

TIP

Roster members may only bill for one RPD hearing authorization. The only exception to this rule is if there are different lawyers representing different extended family members at the hearing. In this case, each roster member will be able to bill for a separate hearing authorization. If you require a separate hearing authorization, please make this request in writing via the portal.

4.10.2 Subsequent hearing days

For certificates issued on or after October 16, 2023, a two-hour authorization can be added to the certificate when there are additional sittings for any type of IRB hearing (RPD, RAD, IAD, and ID) and roster members need additional time for preparation. The authorization will be added for each additional sitting day (after the first hearing day) where evidence is heard or submissions are made. For certificates issued prior to October 16, 2023 the authorization is only available for the continuation of RPD hearings.

Never enter any time for other types of appearances (such as adjournments) and ensure that docket details are provided to clarify the nature of the attendance.

4.10.3 Enhancer for Ministerial Intervention/Exclusion

For certificates issued on or after October 16, 2023, a 3-hour tariff authorization is available to respond to Ministerial interventions and/or when a member has formally raised exclusion (in writing).

4.10.4 Enhancer - Designated Representative

For certificates issued on or after October 16, 2023, where applicants are unaccompanied minors, have serious mental health concerns, and/or cannot appreciate the nature of the proceedings, a 3-hour tariff allotment is available to account for additional preparation time required.

4.10.5 Danger Opinions

- A danger opinion process is used by Immigration, Refugees and Citizenship Canada (IRCC) to deport a refugee who has become inadmissible on criminality, security, human rights violations, and/or organized criminality grounds.
- For certificates issued on or after October 16, 2023, a 20-hour tariff allotment will be applied in these matters. The tariff for certificates issued prior to October 16, 2023 continues to be 10 hours.

4.10.6 Humanitarian and Compassionate (H&C) Grounds Applications

- A 16-hour tariff authorization is available on certificates issued to make an application and submissions on humanitarian and compassionate grounds.
- For certificates issued on or after October 16, 2023, an additional 10-hour authorization will be available for second stage processing after a humanitarian and compassion application has received approval in principle.

4.11 Administrative Board of Tribunals

The same tariff applies to most administrative boards and tribunals, with the exception of parole and prison matters and mental health matters, which each have a separate tariff.

See [Schedule 2 to the Rules](#), Table 9 for the tariff for all administrative board of tribunal proceedings.

TIP

Parole hearings and penitentiary discipline hearings are paid under the civil tariffs as shown above. If you are entitled to an experience increase in criminal matters but not in civil matters, you can apply for a discretionary increase to be paid at your criminal tariff rate.

4.12 Third party records applications

See [Schedule 2 to the Rules, Table 9](#) for the tariff for third party records applications

TIP

Applications for third party records (O'Connor/Mills applications) are paid under the civil tariff as shown above. If you are entitled to an experience increase in criminal matters but not in civil matters, you can apply for a discretionary increase to be paid at your criminal tariff rate.

4.13 Group and test case certificates

In some cases, your client may be involved in a civil or criminal proceeding that would not normally qualify for LAO funding, but has broad implications which may determine, enforce or clarify important rights or obligations of all low-income Ontarians, specific groups, or disadvantaged communities.

If you have a client with a case you feel might qualify for group or test case status, the first step is to have the client apply for a certificate. If they are financially eligible for legal aid, they will receive a certificate for an opinion. This certificate permits you to respond in writing to the questions outlined in the selection criteria. Information about how to apply for group or test case status and copies of the selection criteria are available online at [Test Case Funding](#).

5. Travel tariff

5.1 General

Lawyers working on legal aid certificates are expected to arrange for the most cost-effective means of travel and to limit the number of hours billed for travel time. Lawyer Services and Payments allows reasonable and necessary travel disbursements.

- **Prior approval required** from the Director-General who issued the certificate in order for a lawyer to be able to bill travel time and travel disbursements. Travel time should be billed as fees, while mileage and other travel expenses should be billed as disbursements.
- S. 46(2) of the rules requires that a request for travel must be made
 - no later than 30 days after the acknowledging roster lawyer acknowledges the certificate; or
 - (b) no later than 30 days after a material change in circumstances beyond the acknowledging roster lawyer's control that results in travel being required.
- **Prior approval not required** from the Director-General if the distance traveled is 50 km or more one way from the lawyer's office, and if it is not within the Greater Toronto Area for the following:
 - Appeals to the Court of Appeal or the Supreme Court of Canada;
 - Judicial review applications or appeals in the Federal Court;
 - Hearings before the Convention Refugee Determination Division of the Immigration and Refugee Board.
- Travel can only be authorized if the distance to be traveled is 50 km or more one way from the lawyer's office.
- Travel will not be authorized for travel within the Greater Toronto Area, which includes the following areas: the Regional Municipalities of Durham, Halton, Peel and York, and the former cities of Toronto, Etobicoke, North York, Scarborough, York and the Borough of East York.
- In some cases, the Director-General authorizes travel with specific limitations. Your account is paid in accordance with the Director-General's authorization.
- All accounts must include the date of travel, the purpose for the travel, and the destination.
- Supporting invoices are required for travel disbursements, except for mileage.
- The fee allowed for travelling time within southern Ontario must not exceed 30 per cent of the total fee allowed for the services rendered as settled by Lawyer Services and Payments.

5.1.1 Hourly Rates

See [Schedule 2 to the Rules](#), Table 2 for the rates for travel time, including northern rates.

5.1.2 Special northern travel incentives

Lawyers who provide services in one of five designated areas (Cochrane Area 05, Kenora Area 15, Rainy River Area 35, Temiskaming Area 39 and communities served by Nishnawbe-Aski Legal Services Corporation (NALSC Area 48)) will receive the following hourly rates for travel.

For fly-in courts and to destinations 200 km or more one way from the lawyer's offices, the tariff provides a guaranteed daily rate on both certificate and duty counsel assignments. Prior authorization from the Director-General is required. See subsection 4(3) of Schedule 2 to the Rules for the applicable rate.

The guaranteed daily rate does not apply if the destination is to the location of a district office, e.g., Sioux Lookout to Kenora. Check the LAO Web site at www.legalaid.on.ca for more details on the implementation of these northern incentives.

5.1.3 Criminal matters

If travel is authorized and the Director-General does not provide a specific limitation on travel, travel is limited to:

- An appearance in court as counsel other than for an adjournment, setting a date for a future appearance or similar procedural matter;
- Up to two visits before the preliminary inquiry with a client who is incarcerated;
- One visit before trial with a client who is incarcerated;
- One pre-trial conference with the judge before the preliminary inquiry;
- One pre-trial conference with the judge before the trial.

5.1.4 Civil matters (including Family and CYFSA)

If travel is authorized and the Director-General does not provide a specific limitation on travel, travel is limited to:

- Appearance as counsel on adjournment, contested motion, examination for discovery, settlement conference, pre-trial hearing or trial on behalf of a legally aided client;

5.2 Travel Disbursements

5.2.1 Accommodation

(Only if travel is authorized by the Director-General)

- **Prior approval not required** for the cost of moderately priced accommodation, if the lawyer is required to stay overnight to attend two or more consecutive trial dates.
- **Prior approval required** for the cost of moderately priced accommodation, if the lawyer needs to arrive the night before the trial starts, or cannot travel home directly following the conclusion of the trial.
- Accommodation expenses are not allowed in addition to the cost of airfare unless the trial proceeds on two or more consecutive days.
- LAO pays for a standard room only, at a rate of up to \$150.00 per night in large centres, like Toronto or Ottawa. In smaller centres, the cost of accommodation is expected to be less. Reasonable gratuities in accordance with normal practice in Ontario are allowed.

Some hotels offer discounted rates to CBA members.

- LAO pays for the cost of long distance and fax charges related to the particular case incurred at the hotel.
- LAO does not pay for laundry, mini-bar, movies, or other personal expenses incurred at the hotel.
- Parking at the hotel is not paid.

5.2.2 Meals

(Only if travel is authorized by the Director-General)

The actual cost of meals up to a maximum of \$50.00 per day, if the lawyer is required to stay overnight to attend trial.

5.2.3 Mileage

(Only if travel is authorized by the Director-General)

Mileage is paid at the rate of \$0.40 per kilometer (\$0.41 in northern Ontario). The dividing line between northern Ontario and southern Ontario is as follows:

- Healy Lake (Municipal) Road from Healy Lake easterly to its juncture with Highway 612;
- Highway 612 to Highway 103; Highway 103 easterly to its junction with Highway 69;
- Highway 69 easterly to its junction with Highway 118;
- Highway 118 through Bracebridge to its junction with Highway 11;
- Highway 11 northerly to its junction with Highway 60 at Huntsville;
- Highway 60 easterly to its junction with Highway 62 at Killaloe Station;
- Highway 62 to Pembroke;
- the above-named highways to be included in southern Ontario.



Figure 2: Map illustrating the divider line

Any travel that takes place on or below the line shown in the map above is paid at southern Ontario rates.

If travel encompasses travel in both the northern and the southern area, the travel rate is determined by where the majority of the distance is traveled.

5.2.4 Other modes of transportation

(Only if travel is authorized by the Director-General)

- Prior approval required, except in the following cases:
 - Travelling by a means other than by car, if the cost of the actual travel disbursements incurred and travel time is the same or less than the cost which would have been incurred if travelling by car.
- When calculating the cost of travel by bus, rail or air, you can include the following:
 - Cost of transportation to and from the station or airport, or the cost of parking at the station or airport;
 - Cost of the fare;
 - Travel time.
- When calculating the cost of travel by car, you should include the following:
 - Cost of mileage;
 - Travel time
 - Cost of overnight accommodation, if required;
 - Cost of meals, if required.
- If you are not sure if the cost of travel disbursements are covered, contact the Lawyer Services and Payments Department.
- Reasonable car rental charges are allowed up to the same amount that would have been paid if mileage had been charged. Your actual cost for the car rental is allowed up to the equivalent mileage cost. For example, for travel of 200 kilometres, the mileage cost is 40 cents x 200 kilometres = \$80.00. This amount is allowed for car rental.
- Air travel if the total cost of travel by air, including transportation to and from the airport or parking at the airport, airfare and travel time, does not exceed the cost of travel that would have been incurred for travel by car, including mileage, accommodation and travel

time. LAO pays for economy class airfare only.

5.2.5 Parking

Legal Aid does not reimburse the cost of parking.

5.2.6 Toll roads - Highway 407

Legal Aid does not reimburse the cost of tolls.

5.3 Travel for Others

Refer to the [Disbursements Handbook](#) for travel rates for Experts, Investigators and witnesses

6. Cost and contributions

6.1 Introduction

A significant source of revenue for Legal Aid Ontario (LAO) is the money collected pursuant to the Corporation's:

- Statutory entitlement to costs awarded to legally aided clients;
- Statutory charge against money or property acquired by legally aided clients as a result of legal aid services;
- Entitlement to repayment from legally aided clients or other persons who have entered into contribution agreements.

You must be aware of your responsibilities and obligations under the [Legal Aid Services Rules](#), Part 5 when your legally aided client is awarded costs, becomes entitled to money or property, and/or has entered into a contribution agreement with LAO.

You must also be aware of the policies of LAO with respect to client contributions, and be able to recognize circumstances where it is appropriate or advisable to compromise LAO's entitlement to repayment. Specific policies include:

- [Amount to be recovered by LAO \(legalaid.on.ca\)](#)
- [Responsibility for recovering recoverable amount \(legalaid.on.ca\)](#)
- [Recovering court costs \(legalaid.on.ca\)](#)
- [Recovering amounts under Section 13 of the *Legal Aid Services Act*](#)
- [Orders and settlements in respect of court costs \(legalaid.on.ca\)](#)
- [Orders for court costs in relation to support \(legalaid.on.ca\)](#)
- [Waiver of collection rights \(legalaid.on.ca\)](#)

LAO has discretion to waive or compromise its entitlement to repayment where:

- Failure to exercise the discretion would cause the applicant or person responsible hardship;
- All or part of the amount owing is uncollectible;
- The exercise of the discretion would reduce the overall amount ultimately payable by Legal Aid Ontario; or
- The exercise of discretion would promote the timely settlement of the proceeding.
- Requests for a waiver or compromise of the amount owing to LAO must be made in

writing. The request should provide an estimate of your total account for net fees and disbursements and information as to the client's current general financial circumstances and hardship factors such as age, number of dependants, disability and employment possibilities, any extraordinary expenses (provide details), current income, and a general breakdown of expenses (example, a current Family Law financial statement).

6.2 Costs

6.2.1 General principles

Pursuant to section 12 of LASA 2020, costs awarded to a legally aided client are the property of LAO. Thus, the general rule is that where appropriate you must seek costs in all civil proceedings just as you would for a reasonable private paying client. You only need to obtain the costs order and then take initial steps to advise and protect LAO's interests. Eventual collection proceedings will be conducted by LAO.

- Refer to [Legal aid service rules](#) 110 to 117
- Refer to Legal Aid Service policies: [Responsibility for recovering recoverable amount \(legalaid.on.ca\)](#) and [Recovering court costs \(legalaid.on.ca\)](#)

Costs awarded to a legally aided client are recoverable in the same manner and to the same extent as though awarded to a non-legally aided client. The fact that a client is legally aided is not relevant to the assessment of costs. When assessing costs, the private retainer rate of the legal aid lawyer should be referenced.

When seeking costs you are encouraged to attempt to have costs fixed by the court to avoid the delay and expense of an assessment.

It is recommended that the costs be made payable directly to Legal Aid Ontario as opposed to the client. Costs awarded to legally aided clients in family law matters are not to be enforced by or collected by the Family Responsibility Office.

Costs awarded to a legally aided client are the property of LAO and must be paid to the Corporation, even if the costs are greater than the amount paid by LAO in respect of the legal aid services. Lawyer Services and Payments can consider a special discretionary increase to the lawyer where costs actually recovered exceed the fees and disbursements as actually billed.

If costs have been awarded to a legally aided client, lawyers are required to take steps to secure LAO's interest in the costs.

Costs cannot be abandoned, waived or compromised except with permission from Lawyer Services and Payments. If you would recommend to a reasonable private paying client that costs be abandoned, waived or compromised you should contact Lawyer Services and Payments.

In a settlement, costs may be negotiated with the prior approval of Lawyer Services and Payments.

6.2.2 Costs against institutional parties

The general policies do not necessarily apply in cases involving institutional parties.

- Refer to Legal Aid Services policy [Orders and settlements in respect of court costs \(legalaid.on.ca\)](https://legalaid.on.ca)

When deciding whether to seek costs in cases involving institutional parties, an important consideration is whether the client is contributing to the costs of their legal aid services. Costs recovered are applied to reduce the client's contribution agreement with LAO.

Where the client has a financial interest in whether costs are recovered, counsel should discuss the issue with the client.

When costs are awarded against an institutional party, it is not necessary for the lawyer to obtain a writ of seizure and sale.

6.2.3 Costs and Family Responsibility Office (FRO)

Costs belong to LAO. Whenever possible, have the costs order specify that the costs are the property of Legal Aid Ontario. Costs awarded to legally aided clients in family law matters should not be enforced by or collected by FRO.

6.2.4 Assessment of costs

Where costs have been awarded to a legally aided client, it is best to have the quantum fixed. If the costs are not fixed, then proceed to have the costs assessed, unless directed otherwise by Lawyer Services and Payments. At an assessment, the lawyer's private retainer rate should be referenced as opposed to the legal aid rate. Lawyer Services and Payments can provide you with the current case law.

6.2.5 Costs and support orders

In family law matters where support was an issue and costs are awarded, counsel should request of the judge that the costs order be apportioned between issues of support and all other issues.

Orders for court costs that are apportioned to support will survive the bankruptcy of the judgment debtor. A significant number of judgment debtors go bankrupt within days of a final court costs award, and ensuring that a portion of a costs award survives bankruptcy is appropriate where public funds are at issue.

6.2.6 Costs recovered

Once costs are awarded, you should send a demand to the judgment debtor. If it is an interim order for costs, you can request that the costs be paid to you in trust. If costs are received, then hold the costs in trust pending your next account for fees and disbursements.

Indicate in your next account that you are holding costs in trust. LAO will provide further instructions. Usually, we will instruct you to transfer the funds from trust to general in payment of fees and disbursements.

6.2.7 Steps to take after costs are awarded

When costs are awarded and not recovered, it is your responsibility to protect Legal Aid's interest in the costs.

- The Order awarding costs should be issued and entered.
- If the costs are not payable to LAO, but are payable to your client, then you should have your client sign an Assignment of Judgment for Costs
- You must also send a letter to the judgment debtor at his or her last known address advising that the costs are the property of Legal Aid Ontario pursuant to s. 12 of the *Legal Aid Services Act, 2020*, and if applicable, enclosing a copy of the assignment of costs.
- Copies of the Order, the Assignment if required, Information about the judgement debtor form, and the letter to the judgment debtor should be forwarded to LAO's Client Account Services Department.

Please refer to the following for more information:

- [Orders and settlements in respect of court costs \(legalaid.on.ca\)](https://legalaid.on.ca/orders-and-settlements-in-respect-of-court-costs)
- [Orders for court costs in relation to support \(legalaid.on.ca\)](https://legalaid.on.ca/orders-for-court-costs-in-relation-to-support)

- [Legal Aid Services Rule 118](#)

If you fail to take steps to protect LAO's interest in the costs awarded, your account may be reduced or disallowed.

6.2.8 Writs of Execution or Notices of Garnishment

When costs are awarded and immediate payment is not expected, then counsel must consider the efficacy of obtaining a Writ of Seizure and Sale or a Notice of Garnishment.

- Refer to Rule 117 for additional information on steps required to obtain a writ of execution or garnishment.
- Also refer to [LASA 2020 rules](#) for the [Recovery of Cost policies](#)

If the judgment debtor owns real property in Ontario or there is a very real likelihood that the judgment debtor will inherit real property in Ontario then it usually cost effective to obtain a Writ of Seizure and Sale. When filing the Writ with the Sheriff in the jurisdiction where the property is located, an Assignment of Judgment for Cost must be filed along with the Writ if the costs are payable to the client and not directly payable to Legal Aid Ontario.

If the judgment debtor does NOT own real property in Ontario and there is no real likelihood that the judgment debtor will inherit real property in Ontario, then it is a matter of discretion as to whether or not it is cost effective to obtain a Writ of Seizure and Sale.

If the costs award is under \$1,000.00 and the judgment debtor does not own real property, then it usually is not cost effective to obtain a Writ. But if the costs award is over \$1,000, then it may be cost effective. If you are of the opinion that a private paying client of modest means would want a Writ of Seizure and Sale, then proceed to obtain the Writ. However, if you are of the opinion that you would not recommend to a private client of modest means that they obtain a Writ, then please contact Lawyer Services and Payments for instructions.

If the judgment debtor is known to own property in Canada, but outside of Ontario, then please advise Lawyer Services and Payments. LAO has reciprocity agreements with other Canadian legal aid societies. There is a very real chance of recovery.

If the judgment debtor does not own real property in Ontario, but is gainfully employed, then the costs award may be collectible by garnishment. Contact Lawyer Services and Payments, if you believe a garnishment would be effective. We can instruct you to prepare and issue a Notice of Garnishment.

6.2.9 Waiver of costs

Prior to the completion of the legal aid services and prior to or at the time of submission of the final account, the Lawyer Services and Payments Department has authority to waive costs.

However, costs awarded to a legally aided client that have been collected cannot be waived and must be paid to LAO.

- Refer to [Legal Aid Service Rule 119](#).
- Also refer to Legal Aid Services policy [Waiver of collection rights \(legalaid.on.ca\)](#)

6.2.10 Costs for services performed while the client was not legally aided

If costs awarded to a legally aided client relate to both legal aid and non-legal aid (private) services with respect to the same matter, a Lawyer Services and Payments staff lawyer determines the amount of costs payable to LAO and the amount payable to the client.

6.2.11 Costs awarded against a legally aided client

Costs awarded against a legally aided client are the responsibility of the client.

- In rare and limited circumstances, on application by the client or the party to whom the costs are owed, LAO, within its sole discretion, may pay some or all of the costs on behalf of the legally aided client.
- In the case of an interim order for costs, such applications are made in writing to the Lawyer Services and Payments Department.
- In the case of a final order for costs such applications are made in writing to the General Counsel's office at LAO.

6.3 Settlements and Judgments

6.3.1 General principles

Pursuant to s.13 of the *Legal Aid Services Act, 2020* LAO has a first charge against any interest in money or other property a legally aided client recovers or becomes entitled to as a result of legal aid services. This charge exists even in a case where the legal aid certificate was issued without the requirement of a contribution agreement.

- Refer to Legal Aid Services policy [Recovering amounts under Section 13 of the *Legal Aid Services Act*](#)

To avoid any allegation by the client that you did not advise him or her, you should have the client sign a written direction to Legal Aid Ontario and to yourself.

6.3.2 Amounts recovered

If a legally aided client becomes entitled to money or other property as result of the legal aid services, you must forward to the person from whom the money or property is recoverable and that person's lawyer, if any, the written direction and a notice. The notice should state that Legal Aid Ontario has a charge against the money or other property pursuant to s.13 of the *Legal Aid Services Act, 2020* and that no money or other property should be delivered directly to the client until the charge has been released.

Monies received by you further to the direction and notice are generally held in trust until submission and settlement of your final account at which time instructions are provided. You may request authorization from Lawyer Services and Payments to release funds to the client prior to submission of a final account. When making that request you should also advise Lawyer Services and Payments of your best estimate of your final account for fees and disbursements to conclude the legally aided matter. Please take care to be realistic, because if your estimate is less than your actual account, then we may not pay fees and disbursements in excess of your best estimate.

In the case of property, no title should be delivered to the client until LAO's charge is secured by a mortgage, chattel mortgage or lien agreement.

If you fail to protect LAO's charge against a legally aided client's settlement, your account may be reduced or disallowed.

- Refer to policy [Amount to be recovered by LAO \(legalaid.on.ca\)](https://legalaid.on.ca) for information on how the cost of legal aid services is determined.

6.3.3 Settlement/judgment amounts uncollected

- Refer to Legal Aid Services policy [Recovering amounts under Section 13 of the Legal Aid Services Act](#) for information on uncollected amounts.

If you would recommend to a reasonable private paying client that a Writ of Seizure and Sale not be filed, ask Lawyer Services and Payments for a waiver or compromise of LAO's charge.

6.3.4 Settlement/judgment before administrative tribunals

Where a settlement is awarded to a client in a claim before an administrative board, tribunal or expropriating authority, frequently the statute provides that the settlement/ judgment/ award shall be paid to the client directly. Prior to the settlement or award, you should obtain a signed Direction and Acknowledgment from the client that Legal Aid Ontario has first charge against the settlement proceeds. You should forward to the statutory body a notice, which states that:

- The client is the recipient of legal aid services;
- Legal Aid Ontario has a statutory claim against any award or payment to the client; and
- That any costs awarded to the client are the property of Legal Aid Ontario.

6.3.5 Waiver of LAO's charge against money or other property

In some cases it may be appropriate to waive LAO's statutory charge against a legally aided client's entitlement to money or other property because failure to do so would cause the applicant or person responsible hardship.

Whether or not the legal services are completed, the Lawyer Services and Payments Department generally handles requests for a waiver of LAO's charge against a legally aided client's entitlement to money or other property as result of the legal aid services.

Requests must be made in writing and should include information as to the client's general financial circumstances and hardship factors such as age, number of dependents, disability and employment possibilities. A copy of the minutes of settlement, judgment or orders obtained and an estimate of the lawyer's total account should also be provided.

6.4 Contribution agreements

6.4.1 General principles

As a condition of receiving legal aid services, the Corporation may require an applicant or a person responsible for the applicant, to enter into a contribution agreement. The contribution agreement requires that the applicant or person responsible for the applicant contribute toward the cost for the legal aid services. The contribution agreement is almost always for an estimated amount, but in some cases it may be for a fixed amount.

The amount that a legally aided client or person responsible has agreed to contribute shall be paid by the client or the person responsible, and is a debt owing to LAO which may be recovered in any court of competent jurisdiction.

You should ensure that both you and your client read and understand the terms of the contribution agreement. The time spent in rendering advice about the contribution agreement may be billed in your account. The obligation to contribute to a contribution agreement exists regardless of the outcome of the case.

Any costs collected by LAO or any amount collected by LAO pursuant to its statutory charge reduces your client's debt to LAO. Likewise, in most circumstances, any amounts collected by LAO pursuant to your client's contribution agreement may reduce the amount owing to LAO pursuant to a cost order in your client's favour or pursuant to LAO's statutory charge.

- Refer to the [LASA 2020 rules](#) and associated policies for information on your obligations
- Refer to policy [Amount to be recovered by LAO \(legalaid.on.ca\)](#) for information on how the cost of legal aid services is determined.

6.4.2 Estimated amounts

If the contribution agreement is an estimated amount, the obligation under the contribution agreement is to repay to Legal Aid Ontario:

- An amount equal to the amount of the lawyer's account for fees and disbursements (without HST) as settled by Lawyer Services and Payments, plus an administrative fee currently calculated at 10 per cent of the lawyer's account for net fees and disbursements; and

- Interest on any overdue contributions.

If, as a result of the legal aid services, there is a recovery of costs that exceeds your total account for net fees and disbursements and administrative fee, Legal Aid Ontario requires the full amount of the costs recovered.

Fixed amounts

In the case of a contribution agreement in a fixed amount, the obligation under the contribution agreement is to repay to LAO the lesser of:

- The amount specified in the contribution agreement; or
- The amount of the lawyer's account for fees and disbursements (without GST) as settled by Lawyer Services and Payments, plus an administrative fee currently calculated at 10 per cent of the amount of the lawyer's account for net fees and disbursements as settled by Lawyer Services and Payments.

If, as a result of the legal aid services, there is a recovery of costs, money, or other property, LAO may require a total contribution that exceeds the fixed amount set out in the contribution agreement. The total contribution may be in an amount equal to the greater of:

- The costs awarded to the legally aid client; or
- The amount of the lawyer's account for net fees and disbursements as settled by Lawyer Services and Payments, plus an administrative fee currently calculated at 10 per cent of the lawyer's account for net fees and disbursement as settled by Lawyer Services and Payments.

Monthly contribution agreement

The terms of repayment are set out in the contribution agreement executed by the applicant or person responsible for the applicant. The terms of payment may include a monthly payment. A client's failure to make payments in accordance with the terms of the contribution agreement results in cancellation of legal aid coverage.

If the legal aid services are not complete, requests for a compromise should be made in writing to the Director-General.

If the legal aid services are complete and the lawyer's final account paid, requests should be made in writing to the Client Account Services Department.

Legal aid liens and other forms of security

The amount owing on a contribution agreement may be secured by a lien against real property in which the applicant or person responsible for the applicant has an interest, or secured by other forms of security such as a chattel mortgage or assignment. Generally, the amount owing on a contribution agreement with a lien or other security is not due until the property or other security is transferred, sold or re-financed. Check the terms of the individual contribution agreement.

Before April 1, 1999, liens with respect to real property were filed in the same way as an execution and are shown on an execution certificate. However, legal aid liens are secured interests in land described on the Certificates of Lien, and have priority over normal executions.

On or after April 1, 1999, liens with respect to real property are in the form of notice of lien registered against land in the proper land registry office.

Chattel mortgages may be in the form of a financing statement as prescribed by regulation under the *Personal Property Security Act*.

Whether or not the legal aid services are complete, the Client Account Services Department handles requests for a waiver or compromise. In certain circumstances, requests are handled by the Lawyer Services and Payments Department (see Negotiating a Settlement, page 7-10).

If you are going to request a waiver or compromise, and the client has a contribution agreement with a legal aid lien or other form of security, you should be prepared to provide information as to the amount of equity in the subject property or other security, along with copies of supporting documentation.

6.4.3 Change in client's financial circumstances

Whether or not a client has entered into a contribution agreement, you are obligated to advise the Director-General when there is a change in the client's financial circumstances. The Director-General determines whether a financial reassessment is appropriate to determine whether the legal aid certificate should be cancelled, or a contribution agreement deleted or amended, or required if one does not already exist.

6.5 Negotiating a Settlement

When negotiating a settlement on behalf of a legally aided client, you must be aware of:

- Legal Aid Ontario's entitlement to costs awarded;
- Legal Aid Ontario's charge against your client's recovery of any money or property;
- Your client's obligation under any contribution agreement they may have entered into with Legal Aid Ontario.

If a settlement contemplates or requires a waiver or compromise of LAO's entitlement to costs, charge against recovery and/or a contribution agreement, Lawyer Services and Payments must approve the settlement in advance.

6.5.1 Waiver of costs to facilitate settlement

In some cases it may be advisable and appropriate to waive costs in order to facilitate a timely resolution of the litigation, or because costs, if awarded, would be uncollectible. In such cases you should make a request that costs be waived.

Requests must be made in writing and should set out the basis of the request and include information as to the proposed terms of the settlement and an opinion as to whether you would recommend to a reasonable private paying client that costs be waived in the circumstances. If the request is urgent, call the Lawyer Services and Payments Department.

6.5.2 Waiver of LAO's charge on recovery to facilitate settlement

In some cases in order to promote the timely settlement of the proceeding, a waiver may also be advisable in order to reduce the overall statutory charge LAO has against any interest in money or other property a legally aided client recovers or becomes entitled to recover. In such cases you should make a request that the statutory charge be waived.

Requests must be made in writing and should set out the basis of the request and include information as to the terms of the proposed settlement. Information as to the client's general financial circumstances and hardship factors such as age, number of dependant's, disability and employment possibilities should also be provided as this information may also

be relevant. An estimate of your total account should also be provided.

6.5.3 Settlements involving the transfer or sale of property with a lien

The amount owing by a legally aided client pursuant to a legal aid lien is not due until the sale, transfer or re-financing of the property. Check the terms of the individual contribution agreement. Contact LAO's Client Account Services Department where there is a transfer, sale or re-financing involving a property against which there is a legal aid lien.

In some cases the transfer, sale or re-financing is necessary to effect a settlement on behalf of a legally aided client, and a discharge or postponement of the legal aid lien is necessary to facilitate such a settlement. In these cases you should seek prior approval of the settlement from Lawyer Services and Payments.

A request for approval must be made in writing and should include information as to the terms of the proposed settlement, the amount of equity in the subject property, the client's general financial circumstances and an estimate of your total account, along with supporting documentation. Legal Aid Ontario must act as a reasonable creditor. Other reasonable creditors do not usually compromise or waive their secured debt so that the debtors can pay other creditors. Thus, there must be compelling reasons supporting a request to Legal Aid Ontario to waive or postpone a lien.

7. Forms

LAO Forms Library

Forms can also be found on the Legal Aid Ontario website at: <https://www.legalaid.on.ca/lawyers-legal-professionals/forms-library/>

8. Appendix

8.1 Types of Block Fee and Tariff Offences

Chart A - List of Summary I offences

Note: For certificates issued on or after March 4, 2024, the Rules were amended to create a single rate for all Summary offences.

(Listed alphabetically)

A	B	
<ul style="list-style-type: none"> • Acquire - Import or Possess Firearm with no FAC Certificate • Aggressive Panhandling • Aid and Abet a Person to Enter Canada Illegally • Alien Smuggling • Anal Intercourse • Application for Peace Bond (Section 810) • Assault • Attempt Break & Enter into Non-dwelling • Attempt Fraud Under • Attempt Fraud Under • Attempt Mischief • Attempt Obstruct Police • Attempt theft under • Attempt to Escape Custody • Attempt Use Stolen Credit Card 	<ul style="list-style-type: none"> • Bestiality • Breach of Christopher's Law • Breach of Disposition • Breach of Identification • Breach of Peace Bond • Breach of Prohibition Order • Breach of Recognizance • Breach of Section 46 <i>Family Law Act</i> Restraining Order • Breach of the Occupational <i>Health and Safety Act</i> • Breach of Undertaking • Breach of Weapons Prohibition Order • Break & Enter into Non-dwelling and Theft • Break & Enter into Non-dwelling with Intent • Break and Enter into Non-Dwelling 	<ul style="list-style-type: none"> • Break Enter & Commit into Non-dwelling • Break Out of Non-dwelling • Buggery
		C
		<ul style="list-style-type: none"> • Careless Driving • Careless Storage of Ammunition • Careless Storage of Firearm • Careless Use of Firearm • Carry Concealed Weapon • Cause a Disturbance • Charge criminal interest rate • Communicate for the Purpose of Prostitution • Conspiracy to Assist Persons to Enter USA Illegally • Conspiracy to Commit Fraud Under

- Conspiracy to Commit a Summary Conviction Offence
- Conspiracy to Commit Alien Smuggling
- Conspiracy to commit breach of probation
- Conspiracy to Commit Break and Enter into Non-Dwelling
- Conspiracy to commit mischief
- Conspiracy to Escape Custody
- Conspiracy to Evade Duty
- Conspiracy to Possess Controlled Substance
- Conspiracy to Possess Prohibited Weapon
- Conspiracy to Possess Smuggled Goods
- Conspiracy to possess spirits unlawfully imported into Canada
- Conspiracy to Possess Stolen Property under \$5,000
- Conspiracy to Promote Hatred
- Conspiracy to Sell Illegal Cigarettes
- Conspiracy to Sell Smuggled Goods
- Conspiracy to Sell Telecommunications

- Conspiracy to Smuggle Goods
- Conspiracy to Use Forged Documents
- Consume Liquor Other Than Licensed Premises
- Contempt of Court
- Contravene or fail to comply with provisions of IRPA
- Contravene provisions of Section 126 or 127 of IRPA
- Contravention of *Food and Drug Act*
- Convey Alcoholic Beverage Within or From Controlled Access Area
- *Copyright Act* Charges
- Corrupting Morals
- Counsel Public Mischief
- Counsel to Commit Assault
- Counseling to Breach Recognizance
- Counseling to Commit an Indictable Offence of Theft Under
- Criminal Charges under *Child, Youth and Family Services Act*
- Criminal Harassment

D

- Dangerous Driving
- Dangerous operation of motor vehicle while street racing
- Defacing a Firearm
- Defacing Coin
- Delivery of Restricted Weapon without a Permit
- Destroy Firearm
- Detain Child Contrary to CYFSA Order
- Disobey Court Order
- Disturb Worship
- Double Doctoring
- Drinking under age
- Drive Disqualified
- Drive Motorcycle without Helmet
- Drive No Plates (HTA)
- Drive Suspended
- Drive without Insurance
- Drive without Licence

E

- Eluding examination or Inquiry (*Immigration Act*)
- Engage Police Pursuit
- Engaging in Prize Fight
- Enter Premises - Prohibited

- Escape Custody
- Evade Duty
- Expose genitals to under 14

F

- Fail to Appear
- Fail to Apply for Owners Permit
- Fail to change name/ address on license
- Fail to Comply
- Fail to comply with order under *Sex Offender Information Registration Act*
- Fail to comply with Section 105 re: weapons business
- Fail to Drive in Marked Lane
- Fail to Give Identification
- Fail to keep records. Section 60 HTA
- Fail to Leave Premise (TPA)
- Fail to Remain
- Fail to Report
- Fail to Report (Christopher Law)
- Fail to Stop
- Fail to Stop for Police
- Fail to Surrender

Insurance Card

- Fail to Surrender Permit
- Failure to Disclose Previous Prescription
- Failure to Surrender Found Weapon
- False Fire Alarm
- False Pretences Under
- False Statement on FAC
- False Statements (Employment Insurance)
- False Statements Under
- Falsification of Documents
- Flight in Motor Vehicle
- Forcible Entry
- Forge or Falsify Credit Card
- Forgery
- Found in Common Bawdy House
- Found in Gaming House
- Fraud Accommodation
- Fraud Telecommunications Under \$5,000
- Fraud Transportation
- Fraud Under
- Fraudulent use of a credit card

H

- Harassing Phone Calls
- Holding Out (*Travel Industry Act*)
- Hunting without License (POA)
- Hunting without Permit (*Migratory Bird Act*)

I

- Illegal Entry (Immigration)
- Illegal Possession of Cigarettes
- Illegally provide/sell Liquor
- Improper Left Turn. Section 141(6) HTA
- Indecent Act
- Indecent Exposure
- Inmate Common Bawdy House
- Interfere with Transportation Facility (*Railway Safety Act*)
- Interfering with Police radio communication (*Radio Communication Act*)
- Intimidation

J

- Joyriding

K

- Keep Cockpit
- Knowingly provide false or misleading information under *Sex Offender Information Registration Act*

L

- Laundering Proceeds of Crime
- Laundering Proceeds of Drugs
- Laundering Proceeds of Narcotics
- Loitering

M

- Mailing Obscene Matters
- Make - Possess or Sell Obscene Material
- Making False Statements Under \$5,000
- Making, having or dealing in instruments for forging or falsifying credit cards
- Mischief Over
- Mischief to data
- Minor Have Liquor
- Mischief Under
- Misuse of plate

N

- No license to operate vehicle business. Section 59(1) HTA
- No Validation Permit

O

- Obscene Phone calls
- Obstruct Child Care Worker/Peace Officer
- Obstruct Justice – Indemnify Surety
- Obstruct Police
- Occupant in Motor Vehicle with Prohibited Weapon
- Offence of Truancy
- Offer for Sale and Infringing Copy. Section 42(1)(b) *Copyright Act*
- Open Liquor Readily Available
- Open Mail (*Canada Postal Act*)
- Operate Motor Vehicle no Helmet
- Operate Unsafe Vehicle

P

- Passenger of Stolen Vehicle
- Passing off other Wares or Services

- Permit Operation No Insurance
- Permit Premises to be Used as Common Bawdy House
- Permit Premises to be Used as Gaming House
- Personate Police
- Personation
- Personation at Examination
- Point Firearm
- Possess Contraband Liquor
- Possess - deal in or use documents in contravention of IRPA
- Possess Illegal License - HTA
- Possess - sell or offer for sale a device to obtain computer service
- Possess Smuggled Goods
- Possession Burglary Tools
- Possession Cocaine or Heroin
- Possession Concealed Weapon
- Possession Contrary to Order Section 117.01
- Possession Counterfeit Credit Card

<ul style="list-style-type: none"> • Possession Firearm at Unauthorized Place • Possession Forged Document • Possession Forgery Instruments • Possession Illegally Imported Spirits • Possession Imitation Firearm • Possession Licence While Prohibited • Possession Narcotic (excluding cocaine and heroin) • Possession of credit card data • Possession of firearm - ammunition or explosive while prohibited • Possession of Firearm With Serial Number Removed • Possession of More Than 1000 Unmarked Cigarettes • Possession of Unmarked Cigarettes for Purpose of Sale • Possession Offensive Weapon • Possession Prohibited Weapon • Possession Property Obtained by Crime for the Purpose of 	<ul style="list-style-type: none"> • Trafficking Under \$5,000 • Possession Property Obtained by Crime • Possession Restricted Drug • Possession Restricted Weapon • Possession Slug for Coin Device • Possession Stolen Credit Cards • Possession Substance Schedule 1 • Possession Substance Schedule 2 • Possession Substance Schedule 3 • Possession Under • Possession Unregistered Restricted Weapon • Possession Unregistered Restricted Weapon in Motor Vehicle • Possession Weapon while Prohibited • Practicing Under <i>Mortgage Brokers Act</i> • Printing, publishing, distributing of voyeuristic recordings • Promote Hatred • Prowl by night • Public Intoxication • Public Mischief 	<p>R</p> <hr/> <ul style="list-style-type: none"> • Remain in Canada by Improper Means (<i>Immigration Act</i>) • Remove Serial Number from Firearms • Resist Arrest <p>S</p> <hr/> <ul style="list-style-type: none"> • Section 810.1 Recognizance where fear of sexual offence • Section 810.2 Recognizance where fear of serious personal injury offence • Seek Substance From Practitioner • Sell an Infringing Copy. Section 42(1)(b) <i>Copyright Act</i> • Sell Smuggled Goods • Smuggle Goods • Smuggling • Smuggling Tobacco • Speeding • Stalking • Start from Stop - Not in Safety <p>T</p> <hr/> <ul style="list-style-type: none"> • Take Auto without Consent
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- | | | |
|---|--|---|
| <ul style="list-style-type: none"> • Tampering with Vehicle Identification Number • Tax Evasion • Theft by conversion Under \$5,000 • Theft of Credit Cards • Theft of Mail • Theft of Telecommunications Under \$5,000 • Theft Under • Threaten property damage • Threatening (Section 810) • Threatening to kill an animal • Throw an offensive volatile substance • Trafficking Credit Card Data • Trafficking Property Obtained by Crime Under \$5,000 • Transfer or manufacture weapon without authorization • Transport to Common Bawdy House • Trespassing at Night • Trespassing to Property | <ul style="list-style-type: none"> disclosure and use of information under <i>Sex Offender Information Registration Act</i> • Unauthorized person exercising function or performing duty under <i>Sex Offender Information Registration Act</i> • Unauthorized Use of Computer • Unfair Practice (<i>Business Practices Act</i>) • Unlawful Assembly • Unlawful use of military uniforms or certificates • Unlawfully at Large • Unlawfully in Dwelling • Use Counterfeit Credit Card • Use Plates not Authorized • Use Stolen Credit Card • Using or Operating a Waste Disposal site without Certificate of Approval or Provisional Certificate of Approval (E.P Act) • Uttering Forged Document | <ul style="list-style-type: none"> • Violation of <i>Bankruptcy and Insolvency Act</i> • Violation of Federal Statute • Violation of <i>Highway Traffic Act</i> • Violation of <i>Immigration Act</i> • Violation of <i>Mortgage Brokers Act</i> • Violation of Municipal Bylaw • Violation of Ontario Works/Ontario Disability Support Plan Act • Violation of <i>Provincial Offences Act</i> • Violation of Retail Sales Tax Act (P.O.A.) • Violation of <i>Workplace Safety Insurance Act</i> • Voyeurism |
|---|--|---|
-
- ## U

 - Unauthorized consultation, matching,

V

 - Vagrancy
 - Vehicle with Liquor Readily Available

W

 - Watch and Beset
 - Weapons at Public Meeting
 - Weapons Dangerous
 - Willful damage

Chart B - List of Summary II offences

Note: For certificates issued on or after March 4, 2024, the Rules were amended to create a single rate for all Summary offences.

(Listed alphabetically)

A

- Abduction
- Assault Bodily Harm
- Assault Police
- Assault Resist Arrest
- Assault with a Weapon
- Attempt to Disarm Peace Officer
- Attempt to Kill or Wound Animal

B

- Breach of Deportation Order
- Breach of Probation
- Bringing Proceeds of Crime into Canada

C

- Care and Control Over 80
- Conspiracy to Commit Theft Under
- Cruelty to Animals

D

- Disarm Peace Officer
- Drive Over 80

F

- Forcible Confinement

I

- Illegal Sale of Cigarettes
- Impaired Care and Control
- Impaired Driving
- Import\Export Substance Schedule 3
- Import\Export Substance Schedule 4
- Interfere with Youth Disposition
- Injuring or Endangering other Animals

K

- Kill an Animal (Cattle Excluded)

M

- Making Automatic Weapons
- Manufacturing Controlled Drug
- Manufacturing Restricted Drug

O

- Obtain substance or authorization for substance - Schedule 4

P

- Possession of Articles Stolen from the Mail
- Possession of Firearm with Ammunition
- Possession of Firearm without Licence
- Possession of stolen mail
- Possession Substance Schedule 3 for the Purpose
- Possession Substance Schedule 4 for the Purpose
- Possession Weapon

Obtained by Crime

- Production Schedule 3 & 4

R

- Refuse Blood Sample
- Refuse Breathalyzer

S

- Sell Instrument for Drug Use
- Sell Prohibited Weapon

T

- Theft of Motor Vehicle
- Threatening Death
- Threatening death/bodily harm
- Trafficking Controlled Drug Schedule 3 & 4
- Trafficking Restricted Drug Schedule 3 & 4
- Trafficking Substance Schedule 3
- Trafficking Substance Schedule 4

U

- Unlawful Confinement
- Unlawfully Causing Bodily Harm

Chart C - List of indictable offences

(Listed alphabetically)

A

- Accept or Offer Secret Commission
- Acknowledge Bail Under False Name
- Administer Stupefying Substance
- Aggravated Assault
- Alien Smuggling
- Attempt Arson
- Attempt Break and Enter into dwelling
- Attempt Fraud Over
- Attempt Robbery
- Attempt Sexual Assault
- Attempt theft over
- Attempt to Commit an Indictable Offence
- Attempt to procure a miscarriage

B

- Betting/Bookmaking
- Bigamy
- Book and documents falsification
- Breach of Duty re: possession of explosives

- Breach of Trust
- Break & Enter into Dwelling and Theft
- Break & Enter into Dwelling with intent
- Break and Enter into Dwelling
- Break Enter & Commit into Dwelling
- Break Out of Dwelling
- Bribery

C

- Carry Flammable Substance
- Causing bodily harm by criminal negligence (Street Racing)
- Cheat at Play
- Choking 246(a)
- Common Nuisance
- Compounding Indictable Offence
- Concealing Body of Child
- Conduct pyramid scheme
- Conspiracy to Commit Fraud Over
- Conspiracy to Commit Break and Enter into Dwelling

- Conspiracy to Possess Stolen Property over \$5,000
- Conspiracy to Prosecute a Person Knowing that Person did not Commit the Offence
- Control Money Related to a Device for Gambling
- Corruptly Take Reward for Recovery of Goods
- Counsel to misrepresent or withhold material facts contrary to section 126 of IRPA
- Counseling to Commit an Indictable Offence
- Counseling to Commit Bodily Harm
- Counseling to Commit Robbery
- Criminal Negligence Causing Bodily Harm
- Cultivation of Narcotic/ Controlled Substance

D

- Dangerous Driving Causing Bodily Harm
- Dangerous operation of motor vehicle while street racing - causing bodily harm

- Defamatory Libel
- Disguise with intent
- Disobey Court Order
- Disposal of Property to Defraud Creditors

E

- Endangering Life
- Extortion

F

- Fabricating Evidence
- Fail to Remain Causing Bodily Harm or Death
- False Messages
- False Pretences Over
- False Prospectus
- False Statements Over
- Flight in Motor Vehicle Causing Bodily Harm
- Fraud Over
- Fraud
Telecommunications
Over \$5,000
- Fraudulent concealment
- Fraudulent use of
certificate of citizenship

G

- Give Contradictory Evidence

H

- High-jacking
- Householder permitting sexual activity

I

- Illegal Sale of Cigarettes
- Illegal use of firearm
- Impaired Driving Causing Bodily Harm
- Import\Export Substance Schedule 2
- Import\Export Substance Schedule 1
- Import Property Obtained by Crime
- Importing Narcotics
- Indecently interfere with or offer and indignity to human remains
- Intent to Cause Explosion
- Intercept Private Communication
- Interfere with Youth Disposition
- Issue or use a misleading receipt

K

- Keeping a Device for Gambling
- Keeping Common

Bawdy House

- Keeping Gaming House
- Kill Cattle

L

- Live on Avails of Prostitution
- Lottery Scheming

M

- Make Counterfeit Money
- Make, sell or possess a counterfeit mark or stamp
- Making False Statements Over \$5,000
- Mischief and Endangering Life

N

- Neglect to perform a duty to the burial of human remains
- Neglect to Obtain Assistance in Child-Birth

O

- Obstruct Clergy
- Obstruct Justice – Bride, Threaten, or Influence Juror or Witness
- Occupant Injuring Building

- Overcoming Resistance

P

- Participate in Riot
- Perjury
- Possess Explosive Substance
- Possess or Make Instruments for Counterfeiting
- Possession Cocaine or Heroin for the purpose of trafficking
- Possession Coin Operated Break-In Instrument
- Possession Controlled Drug for the Purpose of Trafficking
- Possession Counterfeit Money
- Possession explosive substance without lawful excuse
- Possession for the Purpose of Weapon Trafficking
- Possession Incendiary Material
- Possession Narcotic for the Purpose of Trafficking (excluding cocaine and heroin)
- Possession of Articles Stolen from the Mail

- Possession of Firearm While Committing Offence
- Possession of Firearm without Licence
- Possession of Revenue Paper
- Possession of stolen mail
- Possession Over
- Possession Prohibited Firearm Knowing Unauthorized
- Possession Property Obtained by Crime Over \$5,000
- Possession Property Obtained by Crime for the Purpose of Trafficking over \$5,000
- Possession Restricted Drug for the Purpose of Trafficking
- Possession Substance Schedule 1 for the Purpose
- Possession Substance Schedule 2 for the Purpose
- Possession telecommunication device or facility
- Possession Unregistered Restricted Weapon
- Possession Weapon while Committing Offence

- Prison Breach
- Procure a Miscarriage
- Procure Feigned Marriage
- Procuring
- Produce False Evidence
- Production Schedule 1 & 2

R

- Rescue or Permitting Escape
- Robbery

S

- Sabotage
- Sell Firearm
- Sell - offer for sale - or possess automobile master key
- Sign - use or offer for use false affidavit

T

- Take/Attempt to take Reward
- Theft by conversion Over \$5,000
- Theft of Cattle
- Theft Over
- Torture
- Traffic Cocaine or Heroin

- Trafficking a Substance Held Out to be Cocaine
- Trafficking Controlled Drug Schedule 1 & 2
- Trafficking in Persons
- Trafficking in Property Obtained by Crime Over \$5,000
- Trafficking Narcotic
- Trafficking Restricted Drug Schedule 1 & 2
- Trafficking Substance Schedule 1
- Trafficking Substance Schedule 2
- Traps likely to Cause Bodily Harm

W

- Weapons Trafficking
- Willfully damage dwelling house/bldg.

U

- Use Counterfeit Money
- Use Firearm while Committing
- Use Imitation Firearm
- Use mail to Defraud
- Use Weapon while Committing Offence
- Using Explosives
- Utter Bomb Threat
- Utter Counterfeit Money
- Uttering Forged Passport

Chart D - Excluded offences

(Listed alphabetically)

A

- Abandoning child
- Abduction in contravention of custody order
- Abduction of person under 16
- Accessing child pornography
- Accessory after fact to murder, attempt murder, counselling murder, conspiracy to commit murder
- Administer noxious substance - intent to endanger life or cause bodily harm
- Aggravated sexual assault
- Aggravated sexual assault - firearm used
- Aggravated sexual assault - use of restricted or prohibited firearm, or involves organized crime
- Arson
- Attempt murder - firearm used
- Attempt murder - use of restricted or prohibited firearm, or involves organized crime and is

second or subsequent offence

- Attempt murder - use of restricted or prohibited firearm or involves organized crime and is first offence
- Attempt to procure sexual activity from minor (under 16)
- Attempt to procure sexual activity from minor (under 18)
- Attempt abduction of person under 16

B

- Buggery [historical offence]

C

- Commission of offence for criminal organization
- Commit indictable offence for terrorist group
- Conspiracy to break into dwelling
- Conspiracy to commit aggravated assault
- Conspiracy to commit arson
- Conspiracy to commit arson (danger to life)

- Conspiracy to commit robbery
- Conspiracy to commit fraud over
- Conspiracy to commit terrorism
- Conspiracy to commit theft over
- Conspiracy to import or traffic narcotics
- Conspiracy to sell prohibited weapons (firearms)
- Conspiracy to sell prohibited weapons (not firearms)
- Conspiracy to use forged documents
- Corrupting children
- Criminal negligence causing death
- Criminal negligence causing death - firearm used
- Cultivation - cannabis (large-scale grow-op) *

D

- Dangerous driving causing death
- Dangerous driving causing death - street-

racing

- Discharge firearm with intent
- Discharge firearm with intent - use of restricted or prohibited firearm, or involves organized crime

E

- Endangering safety of aircraft
- Extortion *
- Extortion - firearm used
- Extortion - use of restricted or prohibited firearm, or involves organized crime

F

- Facilitating terrorism
- Fail to provide necessities of life
- Failing to remain causing death
- Financing terrorism
- Flight in motor vehicle causing death

G

- Gross indecency

H

- Harbour or conceal person - terrorist activity

- Hoax regarding terrorist activity
- Hostage taking
- Hostage taking - firearm used
- Hostage taking - use of restricted or prohibited firearm, or involves organized crime

I

- Impaired driving/driving over 80 causing death
- Importing child pornography
- Importing narcotics - Schedule I and Schedule II *
- Incest
- Indecent assault on female [historical offence]
- Indecent assault on male [historical offence]
- Infanticide
- Instructing offence for criminal organization
- Instructing to carry out terrorist activity
- Intent to cause explosion that is likely to cause death or serious bodily harm
- Invitation to sexual touching

K

- Kidnapping
- Kidnapping - firearm used
- Kidnapping - use of restricted or prohibited firearm, or involves organized crime

L

- Living on avails of prostitution of person under 18
- Luring child by means of computer system

M

- Making available, printing, distributing, selling child pornography
- Making child pornography
- Manslaughter
- Murder - first and second degree

P

- Participate in or contribute to activity of terrorist group
- Participation in activities of criminal organization
- Possession of child pornography

- Possession of explosive substance for criminal organization
- Possession of weapons (firearms) for purpose of trafficking *
- Procure sexual activity from minor (under 18)
- Procure sexual activity from minor (under 16)
- Produce Schedule I or Schedule II drug (other than cannabis) *
- Sexual assault with a weapon - restricted or prohibited firearm used
- Sexual exploitation
- Sexual interference

T

- Trafficking in persons - causing death
- Trafficking in persons - commit aggravated assault or aggravated sexual assault

R

- Rape [historical offence]
- Robbery - firearm used
- Robbery - use of restricted or prohibited firearm, or involves organized crime

U

- Using explosives with intent to cause bodily harm
- Using or possessing property for terrorist activity

S

- Setting trap causing death
- Sexual assault
- Sexual assault causing bodily harm - firearm used
- Sexual assault causing bodily harm - use of restricted or prohibited firearm, or involves organized crime
- Sexual assault with a weapon - firearm used

W

- Weapons trafficking (firearms) *

Excluded Charges (listed by category)

- **Homicides and Other Offences Involving Loss of Life (including Attempt Murder and Counseling Offences)**
 - Murder - first and second degree
 - Accessory after fact to murder, attempt murder, counseling murder, conspiracy to commit murder
 - Attempt murder - use of restricted or prohibited firearm, or involves organized crime and is second or subsequent offence
 - Attempt murder - use of restricted or prohibited firearm or involves organized crime and is first offence
 - Attempt murder - firearm used
 - Manslaughter
 - Infanticide
 - Criminal negligence causing death
 - Dangerous driving causing death
 - Dangerous driving causing death - street-racing
 - Impaired driving/driving over 80 causing death
 - Setting trap causing death
 - Failing to remain causing death
 - Flight in motor vehicle causing death
 - Trafficking in persons - causing death
- **Offences Involving Use of Firearms – Mandatory Minimum Sentences**
 - Hostage taking - use of restricted or prohibited firearm, or involves organized crime
 - Kidnapping - use of restricted or prohibited firearm, or involves organized crime
 - Extortion - use of restricted or prohibited firearm, or involves organized crime
 - Aggravated sexual assault - use of restricted or prohibited firearm, or involves organized crime
 - Robbery - use of restricted or prohibited firearm, or involves organized crime
 - Attempt murder - firearm used
 - Hostage taking - firearm used
 - Kidnapping - firearm used
 - Extortion - firearm used
 - Criminal negligence causing death - firearm used
 - Aggravated sexual assault - firearm used
 - Robbery - firearm used
 - Sexual assault causing bodily harm - use of restricted or prohibited firearm, or involves organized crime
 - Sexual assault with a weapon - restricted or prohibited firearm used
 - Discharge firearm with intent - use of restricted or prohibited firearm,

- or involves organized crime Sexual assault causing bodily harm - firearm used
- Sexual assault with a weapon - firearm used
- Discharge firearm with intent
- **Offences with Complex Issues or Stigma Attached**
 - Hostage taking
 - Kidnapping
 - Administer noxious substance - intent to endanger life or cause bodily harm
 - Extortion *
 - Importing narcotics - Schedule I and Schedule II *
 - Produce Schedule I or Schedule II drug (other than cannabis) *
 - Cultivation - cannabis (large-scale grow-op) *
 - Endangering safety of aircraft
 - Trafficking in persons - commit aggravated assault or aggravated sexual assault
 - Sexual assault
 - Aggravated sexual assault
 - Incest
 - Using explosives with intent to cause bodily harm
 - Intent to cause explosion that is likely to cause death or serious bodily harm
 - Arson
- Weapons trafficking (firearms) *
- Possession of weapons (firearms) for purpose of trafficking *
- **Conspiracy to Commit Indictable Offences**
 - Conspiracy to import or traffic narcotics
 - Conspiracy to commit arson (danger to life)
 - Conspiracy to commit aggravated assault
 - Conspiracy to commit arson
 - Conspiracy to break into dwelling
 - Conspiracy to commit robbery
 - Conspiracy to commit fraud over
 - Conspiracy to commit theft over
 - Conspiracy to sell prohibited weapons (firearms)
 - Conspiracy to sell prohibited weapons (not firearms)
 - Conspiracy to use forged documents
- **Offences against Children**
 - Abduction in contravention of custody order
 - Abduction of person under 16
 - Living on avails of prostitution of person under 18
 - Procure sexual activity from minor (under 18)
 - Procure sexual activity from minor

(under 16)

- Attempt to procure sexual activity from minor (under 16)
- Attempt to procure sexual activity from minor (under 18)
- Attempt abduction of person under 16
- Corrupting children
- Luring child by means of computer system
- Making available, printing, distributing, selling child pornography
- Importing child pornography
- Making child pornography
- Accessing child pornography
- Possession of child pornography
- Invitation to sexual touching
- Sexual exploitation
- Sexual interference
- Abandoning child
- Fail to provide necessities of life

- **Criminal Organization Offences**

- Possession of explosive substance for criminal organization
- Commission of offence for criminal organization
- Participation in activities of criminal organization
- Instructing offence for criminal organization

- **Terrorism Offences**

- Conspiracy to commit terrorism
- Commit indictable offence for terrorist group
- Participate in or contribute to activity of terrorist group
- Facilitating terrorism
- Instructing to carry out terrorist activity
- Financing terrorism
- Harbour or conceal person - terrorist activity
- Using or possessing property for terrorist purposes
- Hoax regarding terrorist activity

- **Historical Offences**

- Rape
- Gross indecency
- Buggery/assault with intent to commit buggery
- Indecent assault on male
- Indecent assault on female

8.2 List of charges eligible for Mid-level Case Management (MLCM)

Description	Date of eligibility for mid-level case management	
	Certificates issued prior to March 4, 2024	Certificates issued on or after March 4, 2024
CRIM087 - Cause bodily harm - firearm	N/A	✓
CRIM091 - Commission of Offence for Criminal Organization	N/A	✓
CRIM114 - Conspiracy to Commit Terrorism	N/A	✓
CRIM176 - Discharge Firearm with Intent	N/A	✓
CRIM18 - Armed Robbery	N/A	✓
CRIM181 - Distribute/Import Child Pornography	N/A	✓
CRIM19 - Arson	N/A	✓
CRIM201 - Extortion	N/A	✓
CRIM254 - Hijacking	N/A	✓
CRIM256 - Hostage Taking	N/A	✓
CRIM263 - Illegal use of firearm	N/A	✓
CRIM267 - Impaired Driving Causing Bodily Harm	N/A	✓
CRIM269 - Import \ Export Substance Schedule 2	N/A	✓

Description	Date of eligibility for mid-level case management	
	Certificates issued prior to March 4, 2024	Certificates issued on or after March 4, 2024
CRIM27 - Attempt Arson	N/A	✓
CRIM270 - Import \ Export Substance Schedule 3	N/A	✓
CRIM271 - Import \ Export Substance Schedule 4	N/A	✓
CRIM272 - Import \ Export Substance Schedule 1	N/A	✓
CRIM278 - Importing Narcotics	N/A	✓
CRIM279 - Importing Narcotics (excluding cocaine and heroin)	N/A	✓
CRIM286 - Infanticide	N/A	✓
CRIM300 - Kidnapping	N/A	✓
CRIM310 - Lure a child by means of a computer system	N/A	✓
CRIM312 - Make Child Pornography	N/A	✓
CRIM315 - Making Automatic Weapons	N/A	✓
CRIM339 - Occupant in Motor Vehicle with Prohibited Weapon	N/A	✓
CRIM348 - Participate in Activities of Criminal Organization	N/A	✓
CRIM359 - Point Firearm	N/A	✓
CRIM378 - Possession for the Purpose of Weapon Trafficking	N/A	✓

Description	Date of eligibility for mid-level case management	
	Certificates issued prior to March 4, 2024	Certificates issued on or after March 4, 2024
CRIM388 - Possession of Child Pornography	N/A	✓
CRIM390 - Possession of Firearm While Committing Offence	N/A	✓
CRIM391 - Possession of Firearm with Ammunition	N/A	✓
CRIM392 - Possession of Firearm With Serial Number Removed	N/A	✓
CRIM393 - Possession of Firearm without Licence	N/A	✓
CRIM402 - Possession Prohibited Firearm Knowing Unauthorized	N/A	✓
CRIM440 - Robbery	N/A	✓
CRIM446 - Sell Firearm	N/A	✓
CRIM509 - Use Firearm while Committing	N/A	✓
CRIM510 - Use Imitation Firearm	N/A	✓
CRIM536 - Weapons Trafficking.	N/A	✓
CRIM557 - Use Weapon while Committing Offence	N/A	✓
CRIM558 - Publish, Distribute, Possess or Access Child Pornography	N/A	✓
CRIM568 - Instruction Commission of Offence for Criminal Organization	N/A	✓

Description	Date of eligibility for mid-level case management	
	Certificates issued prior to March 4, 2024	Certificates issued on or after March 4, 2024
CRIM569 - Finance a terrorist activity	N/A	✓
CRIM570 - Participate in or contribute to activity of terrorist group	N/A	✓
CRIM571 - Facilitate terrorist activity	N/A	✓
CRIM574 - Harbour or conceal a person for purpose of terrorist activity	N/A	✓
CRIM580 - Accessing child pornography	N/A	✓
CRIM602 - Trafficking in Persons	N/A	✓
CRIM640 - Trafficking in persons over the age of 18	N/A	✓
CRIM641 - Trafficking in persons under the age of 18	N/A	✓
CRIM657 - Infanticide	N/A	✓
CRIM005 – Accessory after the fact of Murder	✓	✓
CRIM013 – Aggravated sexual assault	✓	✓
CRIM017 – Anal Intercourse	✓	✓
CRIM049 - Bestiality	✓	✓
CRIM112 – Conspiracy to Commit Murder	✓	✓
CRIM159 - Counselling to Commit Murder	✓	✓

Description	Date of eligibility for mid-level case management	
	Certificates issued prior to March 4, 2024	Certificates issued on or after March 4, 2024
CRIM165 - Criminal Negligence Causing Death	✓	✓
CRIM170 - Dangerous Driving Causing Death	✓	✓
CRIM200 – Expose genitals to under 14	✓	✓
CRIM212 – Fail to Provide the Necessities of Life	✓	✓
CRIM215 – Fail to Remain Causing Bodily Harm or Death	✓	✓
CRIM236 – Flight in Motor Vehicle Causing Death	✓	✓
CRIM25 – Assault with intent to commit buggery (Offence occurred prior to 01/01/1985)	✓	✓
CRIM252 – Gross Indecency (Offence occurred prior to 01/01/1988)	✓	✓
CRIM268 – Impaired Driving Causing Death	✓	✓
CRIM281 – Incest	✓	✓
CRIM294 – Invitation to Sexual Touching	✓	✓
CRIM317 - Manslaughter	✓	✓
CRIM326 - Murder	✓	✓
CRIM34 – Attempt Murder	✓	✓
CRIM37 – Attempt Rape	✓	✓

Description	Date of eligibility for mid-level case management	
	Certificates issued prior to March 4, 2024	Certificates issued on or after March 4, 2024
CRIM39 – Attempt Sexual Assault	✓	✓
CRIM40 – Attempt Sexual Interference	✓	✓
CRIM433 – Rape (Offence Occurred Prior to 01/01/1985)	✓	✓
CRIM452 - Sexual Assault	✓	✓
CRIM453 - Sexual Assault Causing Bodily Harm	✓	✓
CRIM454 - Sexual Assault with a Weapon	✓	✓
CRIM455 - Sexual Exploitation	✓	✓
CRIM456 - Sexual Intercourse with female under 16	✓	✓
CRIM457 - Sexual Interference	✓	✓
CRIM563 - Fail to comply with order under <i>Sex Offender Information Registration Act</i>	✓	✓
CRIM564 – Knowing provide false or misleading information under <i>Sex Offence Information Registration Act</i>	✓	✓
CRIM565 – Unauthorized person exercising function or performing duty under <i>Sex Offender Information Registration Act</i>	✓	✓
CRIM566 – Unauthorized consultation, matching, disclosure and use of information under <i>Sex Offender Information Registration Act</i>	✓	✓

Description	Date of eligibility for mid-level case management	
	Certificates issued prior to March 4, 2024	Certificates issued on or after March 4, 2024
CRIM572 - Commit an indictable offence for a terrorist group	✓	✓
CRIM573 - Instruct person to carry out terrorist activity	✓	✓
CRIM584 - Criminal Negligence Causing Death (Firearm)	✓	✓
CRIM585 - Manslaughter (Firearm)	✓	✓
CRIM586 - Attempt Murder (Firearm)	✓	✓
CRIM587 - Causing Bodily Harm with Intent (Firearm)	✓	✓
CRIM588 - Sexual Assault (Firearm)	✓	✓
CRIM589 - Aggravated Sexual Assault (Firearm)	✓	✓
CRIM590 - Kidnapping (Firearm)	✓	✓
CRIM591 - Hostage-taking (Firearm)	✓	✓
CRIM592 - Robbery (Firearm)	✓	✓
CRIM593 - Extortion (Firearm)	✓	✓
CRIM609 - Agreement or arrangement - sexual offence against child	✓	✓
CRIM610 - Making sexually explicit material available to children	✓	✓
CRIM658 - Sexual Intercourse with female under 18	✓	✓

8.3 List of offences (tariff guide)

The tables referred to below are found in Part B of [Schedule 2, Legal Aid Services Rules](#).

Table 3	Indictable Type II
Table 4	Indictable Type I offences, hybrid offences proceeding by indictment, all sexual assault
Table 5	Summary conviction offences and hybrid offences proceeding summarily

Offence	Section	Governing table
Abandoning Child	218	4/5
Abduction	280, 281	3/5
Acknowledge bail, False name	405	4
Administer Noxious Thing to aggrieve or annoy	245(1)(b)	4
Administer Noxious Thing, endanger life	245(1)(a)	4
Administer Stupefying Substance/Overcome resistance by	246(b)	4
Aggravated Assault	268(2)	3
Aggravated Sexual Assault	273(2)	3
Aircraft Offences	76, 77, 78	4
Animals, Cruelty	445.1	4/5
Arson	434, 19	3
Assault	266	4/5
Assault, Peace Officer, Resisting arrest	270(2)	4/5
Assault with a Weapon or Causing Bodily Harm	267	4/5
Assault, Sexual with a Weapon, Threats to Third Party or Causing Bodily harm	272	3
Attempted Murder	239(1)(b)	3
Attempts and Accessories to summary conviction offences	463(c)	5
Attempts and Accessories to Type I indictable offences	463(b)	4
Attempts and Accessories to Type II indictable offences	463 (a)	3
Attempts and Accessories to Crown election offences	463(d)	4/5

Offence	Section	Governing table
Betting or Gaming House, Keeping	201(1)	4
Bigamy	291(1)	4
Breach of Contract, Criminal	422	4/5
Breach of Probation	733.1(a)(b)	4/5
Breach of Recognizance	811	4/5
Break and Enter with Intent, or Breaking Out (not dwelling)	348(1)(b),(e)	4/5
Break and Enter with Intent, or Breaking Out (dwelling)	348(1)(c),(d)	4
Bribery	119(1), 120	4
Burglary Tools, Possession	351(1)	4
Cannabis (Unauthorized possession – over 30 grams or illicit)	8 Cannabis Act	4/5
Cannabis (Distribution/PPT Distribution)	9 Cannabis Act	4/5
Cannabis (Selling/PPT selling)	10 Cannabis Act	4/5
Cannabis(Importing/Exporting/PPT)	11 Cannabis Act	4/5
Cannabis (Production)	12 Cannabis Act	4/5
Cannabis (Possession for Use in Production or Distribution)	13 Cannabis Act	4/5
Cannabis (Use of Young Person)	14 Cannabis Act	4/5
Careless Use of Firearm	86(3)	4/5
Cause Disturbance	175(1)	5
Cheating at Play	209	4/5
Choking - Overcoming resistance to commission offence	246(a)	4
Chocking - Assault with a weapon or causing bodily harm	267(c)	4/5
Cocaine, Possession	4(3) CDSA	4/5
Cocaine, Trafficking or Possession for the Purposes of Trafficking	5(3)(a) CDSA	3
Cocaine, Importing/Exporting	6(3)(a) CDSA	3
Cocaine, Production	7(2)(a) CDSA	3
Common Nuisance	180(1)	4/5
Computer (Unauthorized Use of)	342.1(1)	4/5
Computer Service (Possession of Device to Obtain)	342.2(1)	4/5
Conspiracy	465(1)(c)	3/5
Conspiracy to Murder	465(1)(a)	3
Counseling Murder	22	3

Offence	Section	Governing table
Counseling Offence – summary conviction offences	22	5
Counseling Offence – Type I indictable offences	22	4
Counseling Offence – Type II indictable offences	22	3
Counseling Offence – Crown election offences	22	3/4/5
Counterfeit Money (filings)	451	4
Counterfeit Money, Possession	450	3
Counterfeit Money, Uttering	452	3
Credit Cards (Possession, Theft, Forgery, Use of)	342	4/5
Credit Cards (Making, Having or Dealing with instruments for Forging or Falsifying)	342	4/5
Credit Cards (Making, Having or Dealing in Instruments for Forging or Falsifying)	342.01	4/5
Criminal Harassment	264(3)	4/5
Criminal Negligence (Causing Bodily Harm)	221	3
Criminal Negligence (Causing Death)	220(1)(2), 165	3
Dangerous Operation	320.13(1)	4/5
Dangerous Operation (Causing Death)	320.13(3), 320.21	3
Dangerous Operation (Causing Bodily Harm)	320.13(2), 320.2	4/5
Dangerous Offender Applications	753	3
Dead Body, Indignity to	182	4/5
Disobey Order of Court	127(1)(a)(b)	4/5
Double Doctoring, Seeking of Obtaining Controlled Substance	4(2) CDSA	4/5
Dwelling, Unlawfully in	349	4/5
Escape Custody	145(1)	4/5
Escape Custody, permitting or assisting	146	4
Extortion	346, 201	3
Fabricating Evidence	137	3
Fail to Comply with Disposition	137 YCJA	5
Fail/Refuse Demand	320.15, 320.19(1)	4/5
Fail/Refuse Demand (Bodily Harm)	320.15, 320.2	4
Fail/Refuse Demand (Death)	320.15, 320.21	3
Failure to Appear, to Comply	145(2-5)	4/5

Offence	Section	Governing table
Failure to Provide Necessities	215(1)	4/5
Failure to Stop	320.16	4/5
False Alarm of Fire	437	4/5
False Pretences Under \$5,000	362(2)(b)	4/5
False Pretences over \$5,000	362(2)(a)	4/5
Finance a terrorist activity	569	
Firearm (Careless Use, Pointing, Possession of, Prohibited or Restricted, Making Automatic)	86, 87, 95, 102	4/5
Firearm (Possession Unlicensed/Unregistered)	92	4
Firearm (Use During Commission of Offence)	85	4
Forcible Confinement	279(2)	4/5
Forcible Entry	73	4/5
Forgery	367	5
Fraud, Accommodation	364	5
Fraud, Transportation (re Obtaining)	393(3)	5
Fraud, Transportation (re Collections)	393 (1) & (2)	4
Fraud under \$5000	380(1)(b)	4/5
Fraud over \$5000	380(1)(a)	4
Harassing Telephone Calls	372(3)	4/5
Heroin, Possession	4(3) CDSA	4/5
Heroin, Trafficking, or Possession for the Purposes of Trafficking	5(3)(a) CDSA	3
Heroin, Importing/Exporting	6(3)(a) CDSA	3
Heroin, Production	7(2)(A) CDSA	3
Hostage Taking	279.1(1)(b), 256	3
Householder Permitting Prohibited Sexual Activity	171	3
Immoral Theatrical Performance	167	4/5
Incest	155(2), 281	3
Indecent Act	173(1)	4/5
Indecent Exposure, Exhibition	175(1)(b)	5
Infanticide	237, 286, 657	3/5
Intimidation (watch and Beset)	423(1)	4/5
Interception (Wiretapping)	184	4
Kidnapping	279, 300	3
Killing Unborn Child in act of Birth	238	3
LSD & Amphetamines, Possession	4(6) CDSA	4/5

Offence	Section	Governing table
LSD & Amphetamines, Trafficking or Possession for the Purpose of Trafficking	5(3)(b) CDSA	4/5
LSD & Amphetamines, Importing/Exporting	6(3)(b) CDSA	4/5
LSD & Amphetamines, Production	7(2)(c) CDSA	4/5
Libel	300, 301, 302	4
Long-Term Offender	753.1	3
Lotteries, Games of Chance	206(1)	4/5
Manslaughter	236(b), 317	3
Mischief, Causing Danger to Life	430(2)	4
Mischief, Property over \$5000	430(3)	4/5
Mischief, Property under \$5000	430(4)	4/5
Mischief, Data	430(5)	4/5
Mischief, Willful Act or Omission causing danger to life or mischief in relation to data	430(5.1)	4/5
Murder (1st degree) (2nd degree)	231, 235(1), 326	3
Obscene Materials	163 (1)	4/5
Obscene Materials, Mailing	168	4/5
Obstruct Justice (Indemnifying Surety, Surety Accepting Fee)	139(1)	4/5
Obstruct Justice (any other manner)	139(2)	4
Obstruct Police	129	4/5
Operation While Impaired	320.14(1)	4/5
Operation while impaired (a conveyance)	320.14(1)	4/5
Operation while impaired (causing bodily harm)	320.14(2)	4/5
Operation while impaired (causing death)	320.14(3)	3
Operation While Prohibited (a conveyance)	320.18, 320.19 (5)	4/5
Participate in or contribute to activity of terrorist group	570	
Peace Bond (Offences relating to)	811	4/5
Perjury	132	3
Permitting Escape	147	4
Personate Police	130	4/5
Personate with Intent (Identity Fraud)	403	4/5
Possession under \$5000	355(b)	4/5
Possession over \$5000	355(a)	4/5
Possession of Explosive	82(1)	4/5

Offence	Section	Governing table
Prison Breach	144	4/5
Procuring Sexual Activity of Child	170	4
Prostitution, Communications for Purpose of	213(1.1)	5
Public Mischief	140(2)	4/5
Refuse Demand	320.15	4/5
Rescue from Custody	147	4/5
Robbery	344, 440	3
Sexual Assault	271, 452	4
Sexual Assault with Threats or Weapons	272	3
Sexual Exploitation	153, 455	4/5
Sexual Interference	151, 457	4/5
Soliciting	213	5
Theft from Mail	356	4
Theft Under \$5000 (and attempt Theft)	334(b)	5
Theft over \$5000	334(a)	4/5
Threats, Uttering (person, property, animal)	264.1(1)	4/5
Trafficking in persons, over/under 18	279.01/279.011	3
Treason	47(1) or (2)	3
Trespass at Night	177	5
Unauthorized person exercising function of performing duty under <i>Sex Offender Information Registration Act</i>	565	
Unlawfully at Large	145(1)	4/5
Uttering, forged document	368	4/5
Uttering, false registers/records	378	4
Weapons Offences (Firearm/Prohibited/Restricted)	91, 93, 94, 96, 105, 106, 107, 117.01	4/5
Weapons, Carrying Concealed	90	4/5
Weapon, Dangerous	88	4/5
Weapon (Firearm/ Prohibited/ Restricted) Trafficking, Possession for the Purpose of Trafficking	99, 100	4
Wounding, Causing Bodily Harm with Intent	244	3

8.4 Hourly rates for travel time

Description	Rate per hour for travel time	Rate per hour for travel time: Northern areas
Tier 1*	\$43.00	\$47.30
Tier 2	\$48.38	\$53.21
Tier 3	\$53.75	\$59.13
Articling students	\$23.00	\$25.30
Law clerks	\$23.00	\$23.00

* Duty counsel travel times are paid at the tier 1 rate regardless of the roster member's tier rate at the time the services were provided.

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