



June 18, 2020

The Honourable Doug Downey
Ministry of the Attorney General
720 Bay Street McMurtry-Scott Building
11th Floor
Toronto ON M7A 2S9

Re: Class Proceedings Amendments, Bill 161, the Smarter and Stronger Justice Act

Dear Attorney General Downey:

Please find attached CARP's e-petition, which has been signed by more than 6,500 Ontarians opposed to Bill 161's proposed amendments to Section 5.1 of Ontario's *Class Proceedings Act*. Bill 161 adopts mandatory "superiority" and "predominance" requirements that would fundamentally alter the test for certification of class proceedings in favour of defendants.

On behalf of the Canadian Association of Retired Persons (CARP), and Ontario's 3 million seniors, I urge you to abandon these amendments, which threaten the health, well-being, and legal rights of Ontarians.

CARP also stands in alignment with the concerns expressed by the Law Commission of Ontario, the Consumer Council of Canada, as well as several legal experts, regarding these two specific amendments.

When Bill 161 was first introduced on December 9, 2019, COVID-19 was not known to the world. Much has changed since then. Recent events in our long-term care homes across the province provide a glaring example of how this legislation could impact Ontarians negatively, by tipping the balance even more in favour of defendants.

Should the Ontario government choose to move forward with these changes, it would send a clear signal to seniors, family members, and caregivers that the government is willing to sacrifice access to justice in favour of corporate interests. Abuse in Ontario's long-term care homes is now at the forefront of public discussion. At a time when some of the most egregious forms of neglect have been extensively reported, the government has an obligation to provide an accessible avenue for people to pursue their chosen course of justice.

We therefore ask that these two amendments be removed from Bill 161, as they will unfairly compromise seniors' access to justice by raising the threshold for class action certification and making it far more difficult to certify these proceedings in Ontario. At minimum, these amendments as written should be withheld from Bill 161, and tabled for future consultation and review.

Yours sincerely,

A handwritten signature in black ink, appearing to read "M. Lennox", written in a cursive style.

Marissa Lennox,
Chief Policy Officer
CARP

CC Hon. Doug Ford, Premier of Ontario
Hon. Raymond Cho, Minister of Seniors and Accessibility