



# **STANDING COMMITTEE ON INTERGOVERNMENTAL AFFAIRS AND JUSTICE**

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**STANDING COMMITTEE ON INTERGOVERNMENTAL  
AFFAIRS AND JUSTICE**

Mr. Greg Lawrence, Chair  
Moose Jaw Wakamow

Mr. Buckley Belanger, Deputy Chair  
Athabasca

Mr. Dan D'Autremont  
Cannington

Mr. Ken Francis  
Kindersley

Mr. Delbert Kirsch  
Batoche

Ms. Laura Ross  
Regina Rochdale

Ms. Nicole Sarauer  
Regina Douglas Park

[The committee met at 19:01.]

**The Chair:** — Good evening, everybody. I want to welcome members of the committee. We have Ms. Sproule substituting for Mr. Belanger. We have Mr. D'Autremont, Mr. Francis, Mr. Kirsch. We have Mr. Cox substituting for Ms. Ross, and we have Ms. Sarauer.

This evening we will be considering seven bills: Bill No. 178, *The Miscellaneous Statutes Repeal Act, 2019*; Bill No. 190, *The Expropriation Procedure Amendment Act, 2019*; Bill No. 192, *The Legal Profession (Law Foundation) Amendment Act, 2019*; Bill No. 193, *The Statute Law Amendment Act, 2019 (No. 2)*; Bill No. 205, *The Children's Law Act, 2019*; and Bill No. 206, *The Children's Law Consequential Amendments Act, 2019*.

**Bill No. 178 — *The Miscellaneous Statutes Repeal Act, 2019***

**Clause 1**

**The Chair:** — We will be considering Bill No. 178, *The Miscellaneous Statutes Repeal Act, 2019*, clause 1, short title. Minister Morgan, if you'd please introduce your officials and make any opening comments.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined tonight by Kara Moen, Crown counsel, legislative services branch, Ministry of Justice. Kara Moen is Doug Moen's daughter and Shawn Moen's cousin. Because it's her first time here and given the family relationship, I think we should all withhold our judgment till we see whether she's appropriately competent or not. We're also joined by Grant Zalinko, executive director, livestock branch, Ministry of Agriculture. And I've got staff from my office here as well, my chief of staff, Clint Fox and Molly Waldman.

I'd like to now offer opening remarks concerning Bill No. 178, the miscellaneous statutes repeal and amendment Act, 2019. Mr. Chair, this bill will repeal outdated and obsolete legislation including older Acts that are no longer relevant, Acts that have been replaced by new legislation, and private Acts where non-profit organizations have been continued under incorporation. Repealing this legislation will eliminate confusion and help maintain provincial laws that are up-to-date. Due to the housekeeping nature of this bill, the proposed changes will have no other substantive impacts.

Mr. Chair, with those opening remarks, I would welcome questions respecting Bill 178, the miscellaneous statutes repeal and amendment Act, 2019.

**The Chair:** — Are there any questions for the minister? Ms. Sarauer.

**Ms. Sarauer:** — Thank you, Mr. Chair, and thank you, Minister, for your opening remarks. I will open by welcoming Ms. Moen to her first committee as well. And having known her before this evening, I will say that she is more than competent in this role and to be here tonight, and I'm sure the minister would agree with me as well that the ministry is very lucky to have her.

I am curious to know a bit about private Acts in general because this legislation does repeal a few private Acts that I understand are now no longer relevant. For the committee's purposes and for *Hansard's* purposes, because I don't think it's well known that there are these types of legislations . . . And if you could explain a bit as to why we have these and what their purpose and function are.

**Hon. Mr. Morgan:** — Prior to the passage of *The Business Corporations Act* in 1977, the companies legislation that existed in our province was complex and required articles of association, objects clause, and a lot of . . . [inaudible]. A lot of entities prior to that time found it easier to ask the government to create a piece of legislation bringing them into existence.

Universities are of course creatures of status, but so were a number of private colleges and a number of other private entities that existed. Over time those entities have chosen to cease to . . . They've chosen to continue themselves under either the non-profit legislation or under *The Business Corporations Act* for-profit entity. I would leave it to the officials to correct me or add anything if there's anything further.

**Mr. McGovern:** — Darcy McGovern. That's exactly right. The history on private Acts is also a technical one, as the member will of course know, within the rules of the Assembly. A private Act will only apply where it is singular to that organization and is not taken to have a broader public purpose. So unlike *The Business Corporations Act*, which is a law of general application and which would be introduced in the Assembly by the government of the day, as the member will recall in private Acts, private Acts are brought by a member of the Assembly for amendment or initial introduction.

When it comes to repeal, though, when the organizations have made it clear that they're either defunct or exactly as the minister just described, that commonly that they'll decide that they would prefer to be under *The Non-profit Corporations Act*, for example, with the modern process that are built into those legislation. Then they can make that change. So we still do see private Acts, but as you'll note from the notations on the headers, we've got a 1907 Act, a 1953 Act, a 1919 Act, and a 1948 Act, so these are historic — in two of the cases religious — institutions that are no longer operational.

**Ms. Sarauer:** — Thank you. Now that *The Business Corporations Act* and *The Non-profit Corporations Act* have been in effect for quite some time, and like you said a lot of the legislation that's being repealed today is quite dated. A lot of the legislation that still use the private Act sphere is quite dated. Has there been any thought by the ministry into looking into perhaps scrapping private Acts altogether and forcing those organizations that still wish to use that structure to move into for example, *The Business Corporations Act* structure instead?

**Mr. McGovern:** — No, not as such. And you used the term "forcing," so of course the private Acts are a prerogative of the Assembly as opposed to an invention of the ministry, so I don't think it would be in our purview to begin with, to get rid of those per se. But I think what we can do and what we do do with things like the . . . There's a process under the non-profit corporations legislation that allows for an order in council process when an

organization has indicated they no longer want to have a private Act, to simplify them coming over to that non-profit process.

But you know, there's still some relatively large organizations that are sophisticated organizations that prefer to maintain private status. So I can't say that there's been an initiative within the ministry to remove that as one of the options, though there's certainly fewer new ones than back in the day.

**Ms. Sarauer:** — And what would be the reason why organizations would want to continue under that structure?

**Mr. McGovern:** — Well, it's difficult to speculate but it's specific to the organization. They're not public corporations. And it used to be with some of the religious societies particularly that they didn't really have a corporate structure. And as the minister mentioned, you know, in previous days before a non-profit corporation simplified process, that was their existing option. And so there's, you know, there's a little inertia that also happens there.

**Ms. Sarauer:** — Thank you. No further questions.

**The Chair:** — Are there any other questions? Seeing no other questions, clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 9 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Miscellaneous Statutes Repeal Act, 2019*.

I would ask a member to move that we report Bill No. 178, *The Miscellaneous Statutes Repeal Act, 2019* without amendment.

**Mr. D'Autremont:** — I so move.

**The Chair:** — Mr. D'Autremont moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

**Bill No. 190 — *The Expropriation Procedure Amendment Act, 2019***

**Clause 1**

**The Chair:** — We will now be considering Bill No. 190, *The Expropriation Procedure Amendment Act, 2019*. We'll begin our consideration of clause 1, short title. Minister Morgan, if you have any opening comments, I welcome you to have them.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined by Neil Karkut, senior Crown counsel, legislative services branch, Ministry of Justice and Attorney General.

I will now offer opening remarks regarding Bill 190, *The Expropriation Procedure Amendment Act, 2019*. Mr. Chair, this bill will reset the interest rate that may be awarded to landowners by the court in an action for compensation respecting expropriation. Currently a judge may allow interest at a rate of 6 per cent per year on all or a portion of the compensation awarded by the court.

The proposed changes will require interest to be calculated in accordance with *The Pre-judgment Interest Act* in the same manner as in other civil law cases. The current 6 per cent interest rate has been in place since the Act was originally passed in 1968. Today 6 per cent is significantly higher than standard interest rates. For example, the published rates under *The Pre-judgment Interest Act* for 2019 averaged around 1.6 per cent. The proposed changes will ensure that pre-judgment interest rates do not act as a deterrent for parties to resolve claims. The changes will also ensure that public funds are not used to pay an interest rate to landowners that is well above standard rates.

Mr. Chair, with those opening remarks I welcome any further questions respecting Bill No. 190, *The Expropriation Procedure Amendment Act, 2019*.

**The Chair:** — Are there any questions? Ms. Sarauer.

**Ms. Sarauer:** — Thank you, Mr. Chair, and thank you, Minister, for your opening remarks. Could you explain to the committee why it was originally set at 6 per cent?

**Hon. Mr. Morgan:** — In 1968?

**Ms. Sarauer:** — Yes.

**Hon. Mr. Morgan:** — I wasn't old enough to drink then, but I was old enough to drive. I'm guessing that that would have been typical of what interest rates might have been around that time. I went to law school during the 1970s and I remember interest rates going from 12 to 17 per cent during my articling year. So 6 per cent would have been, I'm guessing, a market rate at that time. Sorry for the long answer.

**Ms. Sarauer:** — No, thank you for that answer. I'm surprised that it hadn't been looked at to be changed until now considering how dated it is. Is there a reason why there has been a delay in updating this legislation?

**Hon. Mr. Morgan:** — Good question, and I don't have an answer. I know maybe Neil's got a better indication than I do. But I think it was one of those things that nobody had looked at and there was not a lot of activity in the area.

**Mr. Karkut:** — Neil Karkut, the Ministry of Justice. Yes, that's correct. It was raised recently or in recent years, so it's been looked at now and that's why it's being implemented at this time.

**Ms. Sarauer:** — What are other jurisdictions doing in this area?

**Mr. Karkut:** — So expropriation legislation across the country, there's quite a mixture of different models, but the approach we're taking here would be similar to what they're doing now in British Columbia and Manitoba for example. So Manitoba cross-references their Court of Queen's Bench Act which has

prejudgment interest provisions in it so it's similar to what we're doing here. Similarly British Columbia has moved towards, I think they use the prime lending rate. So that would be similar along these lines. Quebec does something similar where they cross-reference their tax legislation, and the rate from that in 2019 was around the 2 per cent mark. Yukon also uses the bank rate which is similar to the prime rate, a lower rate. Some of the other jurisdictions still have the higher 5 to 6 per cent rates.

[19:15]

**Ms. Sarauer:** — Thank you. And how will this change affect any matter that's currently going through this process?

**Mr. Karkut:** — That's specifically addressed in new 40(3). It clarifies that this change will apply to all proceedings that are ongoing. And part of the reason we've done that is under *The Legislation Act*, which replaces *The Interpretation Act*, the rule is that a proceeding that was commenced under an enactment that's repealed and replaced continues under the new procedure. So in our view those rules already would've indicated that this change would apply in that manner. So what this does is it provides some clarity that that is how it will apply. It eliminates the risk of further litigation in that matter. It just makes it clear that for ongoing matters the prejudgment interest will be calculated in accordance with the new rule.

**Ms. Sarauer:** — Thank you.

**The Chair:** — Are there any further questions? Seeing no further questions, clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 and 3 agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Expropriation Procedure Amendment Act, 2019*.

I would ask a member to move that we report Bill No. 190, *The Expropriation Procedure Amendment Act, 2019* without amendment. Mr. Francis. Thank you. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

### **Bill No. 191 — *The Business Corporations Amendment Act, 2019***

#### **Clause 1**

**The Chair:** — We will now be considering Bill No. 191, *The Business Corporations Amendment Act, 2019*. We will begin our consideration of clause 1, short title. Minister Morgan, if any, please make your opening comments and introduce your officials.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I am once again joined by Neil Karkut, senior Crown counsel, legislative services branch, Ministry of Justice and Attorney General, as well as Catherine Benning, director, office of public registry administration, Ministry of Justice and Attorney General.

I will now offer opening remarks regarding Bill No. 191, *The Business Corporations Amendment Act, 2019*. Mr. Chair, this bill will require corporations to hold accurate and up-to-date information on beneficial owners. Beneficial owners are natural persons or non-corporate bodies who hold a significant interest in or ultimately exercise control of a corporation, trust, or other legal entity.

These amendments follow Saskatchewan's commitment to strengthen beneficial ownership transparency as agreed to at the December 2017 Finance ministers meeting. The proposed changes are based on amendments to the *Canada Business Corporations Act* that came into force in June of last year, and it is anticipated that other jurisdictions will adopt similar changes within their own legislation.

Members may be aware that on February 13th, Canada released a public consultation paper that examines options for the creation of a public registry of beneficial owners. The results of that consultation will inform any further national steps respecting beneficial ownership.

Mr. Chair, with those opening remarks I welcome any further questions regarding Bill 191, *The Business Corporations Amendment Act, 2019*.

**The Chair:** — Are there any questions? Ms. Sarauer.

**Ms. Sarauer:** — Thank you, Mr. Chair, and thank you, Minister, for your opening remarks. You spoke a bit about the changes that this legislation has around providing more transparency around beneficial owners. Could you provide some further information as to why it was determined that this was needed?

**Hon. Mr. Morgan:** — I'll let the officials add some information. Part of it was trying to avoid things like money laundering, organized crime, or . . . just general transparency. I felt there was a need so that people would know who a director was or what the nature of their interest was in the business.

The Financial Action Task Force, FATF, is a global anti-money laundering and anti-terrorist financing, standard-setting body. Canada is a founding member of that organization and is committed to aligning itself with those global goals or global standards.

**Ms. Benning:** — In advance of the Finance ministers meeting, there was established a working group, federal-provincial-territorial working group where we'd been looking at these issues for some time. And it was agreed that this would be step number one, was to establish the amendments to *The Business Corporations Act* to put some obligations on corporations to track their persons of significant interest that have controlling interests in their corporations.

**Ms. Sarauer:** — So just to boil it down into laymen's terms essentially, as a result of these changes what further information

will be publicly available?

**Mr. Karkut:** — It doesn't provide directly for publicly available information at this time. What this does is, you can see in new 21.1 of the Act, it requires that a corporation prepare and maintain a register of persons of significant control. So the corporation would be required to take steps at least once a year to identify these individuals and record them in their register.

And then in 21.3 it provides for disclosure of that information in set instances. So that could be at the request of the director of corporations. And then also it does allow shareholders and creditors to request that information for limited purposes. And that's modelled off of what's already in the Act for access to shareholder information for shareholders and creditors.

**Ms. Sarauer:** — Thank you. As you had mentioned, Minister, these changes or at least some of these changes mirror some changes that were made to the *Canada Business Corporations Act*. Were there any changes in the CBCA [*Canada Business Corporations Act*] that were not followed in this bill, and if so, why?

**Mr. Karkut:** — The federal Act has had two stages of changes and this is based off the first stage of changes, which is the requirement to create the registry itself. This is very closely modelled off the federal Act. There's a couple housekeeping or style changes to fit within our own drafting standards. And then the federal Act has a significantly higher offence penalty, in some instances of \$200,000, whereas our Act has maintained the \$5,000 offence penalty because that's standard throughout our legislation.

The second stage that the federal Act has had is providing for disclosure of this information to law enforcement agencies and tax enforcement agencies, and those changes are still being considered here. It's just that because we're modelling it off the federal provisions, theirs were introduced at a later time and it is basically a timing issue. So that second stage is still being considered here.

**Ms. Sarauer:** — And where are other jurisdictions at in terms of making these changes as well to their respective provincial legislation?

**Mr. Karkut:** — Manitoba and BC [British Columbia] are the only jurisdictions that have passed legislation in this area at this time. So we're the third jurisdiction to have this introduced.

**Ms. Sarauer:** — Thank you so much.

**The Chair:** — Are there any other questions? Seeing no other questions, clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 7 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent

of the Legislative Assembly of Saskatchewan, enacts as follows: *The Business Corporations Amendment Act, 2019*.

I would ask a member to move that we report Bill No. 191, *The Business Corporations Amendment Act, 2019* without amendment. Mr. Cox moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

**Bill No. 192 — *The Legal Profession (Law Foundation) Amendment Act, 2019***

**Clause 1**

**The Chair:** — We will now be considering Bill No. 192, *The Legal Profession (Law Foundation) Amendment Act, 2019*. We will begin our consideration of clause 1, short title. Minister Morgan, please make your opening comments and introduce your new . . .

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined tonight by Jane Chapco, senior Crown counsel, legislative services.

I'm pleased to be able to offer opening remarks concerning Bill 192, *The Legal Profession (Law Foundation) Amendment Act, 2019*. This legislation amends *The Legal Profession Act, 1990* to improve the governance and administrative provisions of the Law Foundation of Saskatchewan. The changes will remove the minister as an automatic member of the Law Foundation's board and will also remove the requirement for board members to be lawyers, which will support a more diverse membership. Board member terms will be extended from two to three years to provide increased continuity and effective governance. The board will also be given the authority to appoint their own chairperson and auditor, rather than having the benchers make those appointments.

Mr. Chair, the Law Foundation supports and promotes innovative programs and initiatives promoting accessible justice in Saskatchewan. Under the Act, interest that is earned on the mixed trust accounts of lawyers in the province must be paid to the Law Foundation to establish and maintain a fund for legal education, legal research, legal aid, law libraries, and law reform. Since 1973 the foundation has distributed over \$70 million for these purposes.

Mr. Chair, with those opening remarks, I welcome your questions regarding Bill 192, *The Legal Profession (Law Foundation) Amendment Act, 2019*.

**The Chair:** — Are there any questions? Ms. Sarauer.

**Ms. Sarauer:** — Thank you, Mr. Chair. And thank you, Minister, for your opening remarks. These changes, were they requested by the Law Foundation?

**Hon. Mr. Morgan:** — They were. They weren't something that the ministry or the ministers sought out. We understand there was discussions between the Law Foundation and the benchers and there was a desire to make the changes. We stepped back from whatever the issues were and this was the resolution that they

came with. And I can certainly live with no longer being a member, which I don't think that was ever part of the issues. But I think they wanted to create changes that allowed the foundation to have better autonomy and who they picked for auditors and control over the things that they've done. And we're certainly supportive of that.

**Ms. Sarauer:** — I was worried for your sake that this was a reflection on the minister being asked to be removed as an automatic delegate, but I'm happy to hear that it wasn't.

**Hon. Mr. Morgan:** — If they'd chosen to ask for my resignation, they could have had it.

**Ms. Sarauer:** — There are a few fairly minor governmental structure changes in here in terms of term length, like you had mentioned the automatic delegation of the minister. The bulk of this legislation is also fairly housekeeping in terms of its changes. Are there any other changes in here, other than what I've mentioned and you've mentioned, Minister, that you wouldn't describe as housekeeping in nature?

**Hon. Mr. Morgan:** — The things that I mentioned, you know, are certainly a change in reporting and autonomy of the Law Foundation. But other than those things, the changes are only housekeeping and I know of nothing else that would be of any consequences.

**Ms. Sarauer:** — Thank you. Were there any requests by the Law Foundation for legislative changes that are not included in this bill?

**Ms. Chapco:** — Jane Chapco, legislative services, and I thank the member for the question. The amendments are in exact alignment with what the Law Foundation requested.

**Ms. Sarauer:** — Thank you.

**The Chair:** — Are there any other questions? Seeing no other questions, clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 12 inclusive agreed to.]

[19:30]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Legal Profession (Law Foundation) Amendment Act, 2019*.

I would ask a member to move that we report Bill No. 192, *The Legal Profession (Law Foundation) Amendment Act, 2019* without amendment.

**Mr. Kirsch:** — I so move.

**The Chair:** — Mr. Kirsch moves. Is that agreed?

**Some Hon. Members:** Agreed.

**The Chair:** — Carried.

**Bill No. 193 — *The Statute Law Amendment Act, 2019 (No. 2)***

**Clause 1**

**The Chair:** — We will now be considering Bill No. 193, *The Statute Law Amendment Act, 2019 (No. 2)*. We will begin our consideration of clause 1, short title. Minister Morgan, please make your opening comments.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm rejoined by Kara Moen, Crown counsel, legislative services branch. I'm pleased to be able to offer brief opening remarks concerning Bill No. 193, *The Statute Law Amendment Act, 2019 (No. 2)*.

This bill will make housekeeping updates to various Acts for the purpose of modernizing their provisions. In particular the bill will replace references to "department" with "ministry," update references to the Federation of Saskatchewan Indian Nations with Sovereign Indigenous Nations, replace gendered language such as "workmen" and "foremen" with gender-neutral terms like "workers" and "forepersons," and make other housekeeping updates to individual Acts.

Mr. Chair, this bill fits with the government's policy of bringing forward statute revision pieces annually to ensure that statutory language is updated and modernized on an ongoing basis. Mr. Chair, with those opening remarks I welcome your questions regarding Bill No. 193, *The Statute Law Amendment Act, 2019 (No. 2)*.

**The Chair:** — Are there any questions? Ms. Sarauer.

**Ms. Sarauer:** — Thank you, Mr. Chair. Thank you, Minister, for your opening remarks. Could you provide some information as to why the language "ministry" is now favoured over the language "department"?

**Hon. Mr. Morgan:** — Good question. I think it goes back to 2007. When we formed government, we started referring to departments as ministries. And I don't know whether . . .

**Mr. McGovern:** — If you actually track the history in Saskatchewan going back, it is one of those things where, with the changes of government on a particular stripe, there is a difference between departments and ministries. There's an argument that it reflects the British model versus the Americanization of the model with department being a more American approach, ministry being a more classical parliamentary approach. But it has been just the reality in Saskatchewan that there's a preference for one versus the other with the changes of administration.

**Ms. Sarauer:** — Thank you.

**The Chair:** — Are there any other questions? Seeing no other questions, clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 17 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Statute Law Amendment Act, 2019 (No. 2)*.

I would ask a member to move that we report Bill No. 193, *The Statute Law Amendment Act, 2019 (No. 2)*, without amendment.

**Mr. D'Autremont:** — I so move.

**The Chair:** — Mr. D'Autremont moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

### Bill No. 205 — *The Children's Law Act, 2019*

#### Clause 1

**The Chair:** — We will now be considering Bill No. 205, *The Children's Law Act, 2019*. We will begin our consideration of clause 1, short title. Minister Morgan, if you'd please make your opening remarks and introduce your officials.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined by Maria Markatos, senior Crown counsel, legislative services branch, Ministry of Justice; and Kara Moen, Crown counsel, legislative services branch, Ministry of Justice.

I'm pleased to be able to offer opening remarks concerning Bill 205, *The Children's Law Act, 2019*. Mr. Chair, this bill repeals and replaces *The Children's Law Act, 1997* to update the parentage provisions to address situations of assisted reproduction, surrogacy, and more than two parents, and to make changes to mirror amendments to the *Divorce Act*.

In its report on assisted reproduction and parentage, the Law Reform Commission of Saskatchewan made recommendations respecting amendments to the parentage provisions in the Act. The report made 11 recommendations, which included replacing the terms "mother" and "father" with "parent," allowing intended parents to enter into a parentage agreement or surrogacy agreement with independent legal advice, allowing up to four individuals to be acknowledged as parents without requiring a court application, and allowing a parent to apply for a declaration that a deceased spouse is a parent of the child if the child is conceived after the death of the spouse.

Mr. Chair, this bill creates additional protections for children and recognizes the impact of new technology on parental autonomy. This bill will increase certainty and remove obstacles for families when they are making important decisions about reproduction and their children. This bill also updates the Act to ensure consistency with the *Divorce Act*. The *Divorce Act* was amended to modernize the language relating to custody and access, highlight the best-interest criteria with a focus on negative effects of family violence, introduce new measures to assist the court in

addressing family violence, and establish a framework for the relocation of a child.

Mr. Chair, the new Act incorporates similar provisions to ensure families are treated the same by the courts regardless of marital status. Mr. Chair, with those opening remarks, I welcome your questions regarding Bill No. 205, *The Children's Law Act, 2019*.

**The Chair:** — Are there any questions? Ms. Sarauer has the floor.

**Ms. Sarauer:** — Thank you, Mr. Chair. And thank you, Minister, for your opening remarks. There's several pieces to this legislation. I want to make sure that I do justice to as many of them as possible. The first bit is of course, as you had mentioned, the changes around parentage and the ability to reflect the more modern families that we're seeing today. You spoke a bit about the Law Reform Commission report. Were there any recommendations made by that report that aren't included in this legislation?

**Ms. Markatos:** — Thank you for the question. Maria Markatos, legislative services. The Law Reform Commission made 11 recommendations in their report. All were followed entirely except one, which was followed partially. That was with respect to what we're calling parentage agreements in the Act, so where there are up to four parents and the birth parent intends to parent the future child. The Law Reform Commission recommended that everybody who is a party to that written agreement receive independent legal advice. That's not in the Act, but there will be prescribed requirements in the regulations and we're likely to add it there.

**Ms. Sarauer:** — Why was it determined that independent legal advice was not needed for all of those individuals?

**Ms. Markatos:** — Well as the member knows in the normal course, an agreement isn't required, an independent legal advice isn't required. So in this case where the birth mother, or the birth parent as we're calling it in this Act, intends to parent, we weren't sure that we would include that at the outset, but we wanted to consult on it a little further with members of the bar.

**Ms. Sarauer:** — So is that consultation work still ongoing?

**Ms. Markatos:** — That consultation work will happen when we get to work on the regulations.

**Ms. Sarauer:** — How do other jurisdictions handle this area of law?

**Ms. Markatos:** — Currently in Canada two other jurisdictions have provisions around parentage and assisted reproduction: BC and Ontario. You'll see that our provisions are closer aligned to Ontario, and that was partly because they're newer. They're from 2016, where the BC provisions date back to 2011.

**Ms. Sarauer:** — Thank you. As has been discussed by my colleague, Mr. Forbes, the member for Saskatoon Centre — who knows the history of the work leading up to this legislation better than I and he's been a strong advocate for it — in his remarks when he allowed this bill to move to committee, passionately calls this Alice's law based on the individuals who advocated for



it first through him or for him.

I would just encourage anyone who is looking into this legislation, and as a result looking at the discussion we're having this evening, to also look at Mr. Forbes' remarks when he was allowing this legislation to move to committee because he did the history, I think, the history of the work leading up to tonight a lot of justice, and more justice than I can do this evening. So I wanted to make sure to get that on the record so that anyone looking into this discussion would also look at that discussion as well.

**Hon. Mr. Morgan:** — I think that's a fair comment to make. I wasn't able to hear Mr. Forbes' remarks in the House, but I did speak to him afterwards. And he did mention that he had spoken to it and that he was a passionate believer in this. I also met with Mr. Forbes and some of his constituents who will be direct benefits of the piece of legislation, so I certainly want to thank him and his constituents for their support.

**Ms. Sarauer:** — My colleague has a question about this particular area of the legislation. So it might make sense to allow her to ask the question now, and then I'll continue to ask my questions.

**The Chair:** — Ms. Sproule, you have the floor.

**Ms. Sproule:** — Thank you, Mr. Chair. Minister, today I was listening to the radio and there was an interview about surrogates and surrogate mothers and some of the gaps in law as it relates to surrogacy. Is there any work going on within the ministry right now looking into the rights of surrogate mothers and the three parties there, which would be the child and the surrogate mother and then the future parents?

**Hon. Mr. Morgan:** — The matter initially was sent to the Law Reform Commission, who completed their work. So their work is largely finished at the Law Reform Commission. But I think given that we are one of the earlier provinces to adopt this, we would be well served to continue to monitor within the ministry as to ongoing cases that come out of other provinces, as well as other issues that might arise. I think we're in the earlier stages of litigation that will come out of assisted reproduction and I think your point's well taken that we should continue to watch it.

**Ms. Sproule:** — Thank you.

**The Chair:** — Ms. Sarauer.

**Ms. Sarauer:** — Thank you. Minister, as you had mentioned, also in this legislation there is now a definition for family violence and some work around having that be a consideration around family matters as it relates to children. Can you speak a little bit more about those provisions and what this will mean in terms of changes to the law as it currently stands in Saskatchewan?

**Hon. Mr. Morgan:** — Initially it makes this a factor definitely to be considered by the courts and I think reflects the position that the province wants to take, that violence within a family unit is something that's unacceptable and needs to be deterred in every possible manner. But I'll let Maria speak for it.

[19:45]

**Ms. Markatos:** — Thank you, Minister. These changes to the best interest provisions are modelled on those in the *Divorce Act* that are going to come into force July 1st of this year, and they make the best interest provisions paramount. So in addition to including a list that's not exhaustive, it includes family violence explicitly and then in 10(4) sets out the considerations around family violence that the court will consider, so the nature and seriousness and frequency of family violence and when it occurred. So that's a really important one around type, severity, and frequency, and also whether it was recent or a long time ago and whether the violence was direct violence or exposure to violence.

But there are a number of clauses that are set out in subsection (4), and it was important to include those so that people who use *The Children's Law Act* instead of the *Divorce Act* if they weren't married, the same kinds of criteria are being considered.

**Ms. Sarauer:** — So is this directly mirroring, exactly mirroring what will be in the *Divorce Act*?

**Ms. Markatos:** — These provisions mirror the *Divorce Act* exactly.

**Ms. Sarauer:** — And how does the ministry anticipate this will look, practically speaking, in the courts? For example, will this mean perhaps that criminal records will be more frequently sought after and requested in chambers applications? Has there been any thought to what this might look like moving forward in family law proceedings?

**Ms. Markatos:** — I think the answer is, we don't know yet because the *Divorce Act* provisions haven't been implemented either. But section 43 expands the access-to-information provision to also talk about protection orders, which means an order made pursuant to the Criminal Code that restricts a person from contacting or communicating or any other prescribed order. So maybe.

**Ms. Sarauer:** — Could you provide for the record how family violence is dealt with currently in terms of custody and access applications?

**Ms. Moen:** — So as it currently stands, there is a consideration given to violence in the home as it plays into the best interest in the child. However this further highlights what kinds of violence that may be and how much weight that really plays into the best interests of the child. So while it is currently a consideration by the court, this emphasizes how much that should be considered.

**Ms. Sarauer:** — Thank you. Another change in the legislation is around habitual residence and how that is dealt with. Could you provide some further information about that specific change?

**Ms. Markatos:** — One of the changes that's being made to the *Divorce Act* will allow for the implementation of the Hague Convention on Jurisdiction. And some of the work that they did in the *Divorce Act* was to set that up. The convention has been signed by Canada but not ratified yet. So some of the changes that are being made to this Act update the language so that if at some point that convention is ratified, this Act won't be contrary

to the convention.

So some of the provisions that you mentioned, like in section 6(1)(b):

For the purposes of making a parenting order . . . the court has jurisdiction if . . . the child's habitual residence cannot be determined and the child is physically present in Saskatchewan.

That language is compliant with the Hague Convention. So there was an update there. The previous provision was a little wordier at section 15. Although the child is not habitually resident, the court is satisfied that the child is physically present. There's a substantial connection and generally the two options are now moving further away from either the child's habitually resident in Saskatchewan or their residence just can't be determined, whatever the court determines that to be.

**Ms. Sarauer:** — Thank you. Correct me if I'm wrong, but the change in section 11 — the statement that there is no presumption of a preferred parent — is new for this legislation. But I believe it's not necessarily new in practice in common law. Can you provide some further information about that section?

**Ms. Markatos:** — It's not new. The provision's just been updated slightly, so the existing provision is 8(c). So:

In making, varying, or rescinding an order for custody, the court shall:

. . . make no presumption and draw no inference between parents that one parent should be preferred over the other or the basis of the person's status as a father or mother.

So it was updated because we've removed the language around "father" and "mother."

**Ms. Sarauer:** — Gotcha. One of the challenges that parents often find after separation is determining or being able to make decisions for their children when the other parent is not necessarily in agreement with that decision.

One particular one that comes to mind is around counselling for that child. Is there anything in the amendments in this legislation that would affect that challenge that many parents face?

**Ms. Markatos:** — The definition of "custody" is replaced with an expanded definition of "decision-making responsibility," so there's more of a focus on important decisions with respect to the child. And it lists the types of decisions that can be made, though it's not exhaustive. So decisions respecting health, education, culture, language, religion and spirituality, and significant extracurricular activities. So if one parent has exclusive decision-making responsibility, then it's likely to fall within that definition. But there isn't anything in this Act specific to counselling.

**Ms. Sarauer:** — Right. And correct me if this has changed but the de facto is . . . unless otherwise, for a few different reasons. But generally speaking, de facto if two individuals separate, it would be a joint parentage situation. So the challenge would still be in place in terms of making those sorts of decisions like health

care decisions, counselling decisions. So there's nothing in this legislation that would necessarily affect that.

Has the ministry considered looking into how other jurisdictions handle, in particular, mental health decisions in terms of counselling for children of separated parents?

**Hon. Mr. Morgan:** — I don't think it was the purpose of this piece of legislation to focus on the longer term requirements. So it's maybe something . . . What this was primarily intended to deal with was the parentage issue, birth certificates, custody. And I think the issues that you're raising are ones that probably should be looked at but were not contemplated as part of this Act.

**Ms. Sarauer:** — Okay, thank you. Are there any next steps in terms of the issues that were contemplated in this legislation, parentage issues as an example, that the ministry is planning on looking into further?

**Ms. Markatos:** — Well the existing regulations will need to be repealed and replaced with new regulations to complement the Act. And we'll need to work on those.

**Hon. Mr. Morgan:** — I think further to your earlier comments that any time there's a piece of legislation such as this, or in a general sense, we should regard the needs of family law as such that there should be ongoing eyes looked at it to see whether there's other changes or other needs. And we should try and look at and adopt best practices wherever we can and to provide the courts with the supports that they need to be able to make appropriate decisions.

**Ms. Sarauer:** — Thank you. And largely speaking, with respect to the entirety of this legislation, what sort of consultation was done prior to these changes?

**Ms. Markatos:** — So the Law Reform Commission consulted extensively on their report, including public consultations, an online survey, and in-person working groups. And then the ministry consulted with the Canadian Bar Association, the Saskatchewan Trial Lawyers Association, Legal Aid, Pro Bono Law Saskatchewan, individual lawyers, the Public Guardian and Trustee, the Court of Queen's Bench, and the registrar of vital statistics. And then we also had direct consultations with the Canadian Bar Association Saskatchewan Branch family law sections.

**Ms. Sarauer:** — Thank you.

**Hon. Mr. Morgan:** — I think the bar association did a seminar or webinar on it as well. So certainly within the profession, there was a large amount of consultation and I think, generally speaking, favourable discussion.

**Ms. Sarauer:** — That was going to be my question, actually. What sort of reaction did you receive to these changes? They obviously didn't see the legislation as we're seeing it now, but largely speaking, what sort of reaction did you receive from the bar about these general changes?

**Hon. Mr. Morgan:** — The comments that I received, and I'll certainly let the officials indicate . . . [inaudible] . . . were more in the nature of when would the timeline be to prepare and

introduce the legislation? Was the government generally supportive of it? And my indication at the time was that there was strong support for it, that the cabinet had urged to go forward. When it went to the Law Foundation initially, there'd been some discussion in a general sense and everybody said yes, and then when the report came back there was internal discussions here, and there was strong support everywhere. So I'm not aware that there was anybody that was not supportive, and I don't think I received any correspondence from people that were not supportive, at least none that I recall.

It could be that those that like it sent letters to me and those that didn't sent letters to Maria Markatos. I don't know.

**Ms. Markatos:** — We weren't made aware of any concerns with the legislation. All of the responses that we've received were positive, and members of the bar were supportive of the changes to mirror the *Divorce Act*, but also particularly supportive of the changes around parentage and including provisions around assisted reproduction. Many of the lawyers that we heard from have clients who are involved in assisted reproduction and have become very frustrated with the existing process, and hopefully this will help to streamline it a little bit.

**Ms. Sarauer:** — Thank you.

**The Chair:** — Are there any other questions for the minister and his officials? Seeing no other questions. This bill has almost 100 clauses. I will be asking leave of the committee to review the bill by parts and divisions. Is leave granted?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. Part 1, preliminary matters, clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[20:00]

[Clause 1 agreed to.]

[Clauses 2 to 93 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Children's Law Act, 2019*. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. I would ask a member to move that we report Bill No. 205, *The Children's Law Act, 2019* without amendment.

**Mr. Francis:** — I so move, Mr. Chair.

**The Chair:** — Mr. Francis moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

## Bill No. 206 — *The Children's Law Consequential Amendments Act, 2019*

### Clause 1

**The Chair:** — We will now be considering Bill No. 206, *The Children's Law Consequential Amendments Act, 2019*. We will begin our consideration of clause 1, short title. Minister Morgan, if you have any opening comments, please go ahead and make them.

**Hon. Mr. Morgan:** — Thank you, Mr. Chair. I'm joined by Maria Markatos, senior Crown counsel, legislative services branch and Kara Moen, Crown counsel, legislative services branch, Ministry of Justice.

I am pleased to offer opening remarks concerning Bill 206, *The Children's Law Consequential Amendments Act*. This bill accompanies Bill 205, *The Children's Law Act, 2019* to make consequential amendments to the following 11 Acts: *The Arbitration Act, 1992*; *The Child and Family Services Act*; *The Human Tissue Gift Act, 2015*; *The Liquor Board Superannuation Act*; *The Mental Health Services Act*; *The Municipal Employees' Pension Act*; *The Power Corporation Superannuation Act*; *The Public Guardian and Trustee Act*; *The Public Service Superannuation Act*; *The Teachers Superannuation and Disability Benefits Act*; and *The Trustee Act, 2009*.

In each Act, reference to *The Children's Law Act, 1997* will be repealed and replaced with reference to the new Act. There is no change in substance. Mr. Chair, with those opening remarks, I welcome your questions respecting Bill 206, *The Children's Law Consequential Amendments Act, 2019*.

**The Chair:** — Are there any questions? Seeing no questions, clause 1, short title, is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried.

[Clause 1 agreed to]

[Clauses 2 to 13 inclusive agreed to.]

**The Chair:** — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Children's Law Consequential Amendments Act, 2019*.

I would ask a member to move that we report Bill No. 206, *The Children's Law Consequential Amendments Act, 2019* without amendment.

**Mr. Cox:** — I so move.

**The Chair:** — Mr. Cox moves. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. This concludes our business for this evening. Minister, do you have any closing comments?

**Hon. Mr. Morgan:** — Briefly yes, Mr. Chair. With regard to the

last two bills, I would like to thank the Law Reform Commission for the work that they did in consultation in preparing this piece of legislation and the background work that was provided. I know it took a lot of time and a lot of effort on their part. I attended some of the seminars and can't thank them enough for the good work that they did.

I would like to thank as well, Mr. Chair, the board members that are here tonight, the members working at Hansard, security people, broadcast services, building services, the members that are sitting here tonight, as well as the staff from the various ministries that were here tonight for the work that they did in preparation for being here tonight, as well as the great work that they do all year round.

Our province is well served by our public service, and I don't think we thank them often enough. So thanks to everyone, Mr. Chair.

**The Chair:** — Ms. Sarauer.

**Ms. Sarauer:** — Thank you. I'd like to join with the minister in thanking those in broadcast services as well as Hansard, the staff that assist us through our committee work, as well as the members of the committee who are here this evening, the individuals who work for various ministries, as well as the officials for all of their work, not just this evening but in the preparatory work in creating this legislation and many, many other pieces of legislation that we deal with, as well as the minister for his thoughtful comments this evening.

**The Chair:** — I would also like to join in thanking the officials and the members that are here and the minister and everybody for keeping it cordial, and especially those behind the scenes and those that keep me on track.

So with that, seeing that we have no other further business this evening, I will ask a member to move a motion of adjournment.

**Mr. Kirsch:** — I so move.

**The Chair:** — Mr. Kirsch has moved a motion to adjourn. Is that agreed?

**Some Hon. Members:** — Agreed.

**The Chair:** — Carried. The committee stands adjourned to the call of the Chair. Thank you all.

[The committee adjourned at 20:06.]