



STANDING COMMITTEE ON INTERGOVERNMENTAL AFFAIRS AND JUSTICE

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**STANDING COMMITTEE ON INTERGOVERNMENTAL
AFFAIRS AND JUSTICE**

Ms. Laura Ross, Chair
Regina Qu'Appelle Valley

Mr. Doyle Vermette, Deputy Chair
Cumberland

Ms. Doreen Eagles
Estevan

Mr. D.F. (Yogi) Huyghebaert
Wood River

Mr. Paul Merriman
Saskatoon Sutherland

Mr. Warren Michelson
Moose Jaw North

Mr. Warren Steinley
Regina Walsh Acres

[The committee met at 18:59.]

The Chair: — Well good evening, everyone. See, I practised and it sounds so much better the second time. Welcome, everyone. My name is Laura Ross and I'm the Chair of this committee. With us this evening we have Warren Steinley, Doreen Eagles, Warren Michelson, and substituting John Nilson in for Doyle Vermette.

We have one document to be tabled today, IAJ 25/27, Ministry of Government Relations: Responses to questions raised at the December 1, 2014 meeting of the committee re map of eligible communities for provincial disaster assistance program claims and historical gaming agreements information, dated January 7, 2015.

If everyone is in agreement, we will proceed with the agenda as planned. Good.

Bill No. 153 — *The Statute Law Amendment Act, 2014*

The Chair: — First on our agenda is Bill No. 153, *The Statute Law Amendment Act, 2014*. We will now consider Clause 1, short title. Mr. Minister, if you have any opening remarks, you may proceed.

Clause 1

Hon. Mr. Wyant: — Thank you very much, Madam Chair and members of the committee. To begin with, let me just introduce the officials that are here with me today: Maria Markatos, senior Crown counsel from the legislative services branch; and to my right, Andrew Donovan, senior legislative Crown counsel from legislature drafting.

Madam Chair, I'm pleased to offer opening remarks concerning Bill 153, *The Statute Law Amendment Act, 2014*. This bill makes amendments to over 100 Acts to modernize outdated language, ensure gender-neutral language is used, and correct grammatical and reference errors. There are no changes in substance made to any of the Acts that are being amended, as these changes are corrective and editorial.

Periodically the government reviews legislation to correct grammatical, typographical, and reference errors, so this bill amends 70 Acts to update terminology that has changed as time passes. For example, the term lunatic and mental incompetence are replaced in favour of lacks capacity, electronic mail with email, and chairman with chairperson. The bill also repeals and replaces words that have a variety of spellings in favour of one standard spelling.

So, Madam Chair, with those opening remarks, I am pleased to entertain any questions that you have with respect to Bill 153.

The Chair: — Thank you very much, Mr. Minister. Are there any comments or questions on the bill?

Mr. Nilson: — Thank you very much, Madam Chair, and welcome to the minister and the officials.

This bill is obviously a catch-all. You've been able to put lots of

different things in here. And I think, you know practically, correcting spelling mistakes, correcting grammar — those are all good things and we don't have any great concern about that.

But it's quite interesting to look at the choices that have been made around some of the words that will become the standard. And perhaps you could explain some of these choices. I guess we can start off with electronic mail becomes email. I mean, is that, like how did you decide that was what was the word that we were going to use?

Hon. Mr. Wyant: — Well generally speaking, and I'll ask the officials to render a comment here as well, Mr. Nilson, but really it's an effort to modernize some of the language. We don't use the word electronic mail anymore. We use email. And so in an effort to standardize the language across these statutes, that's why it's done. So to modernize is one of the key components of the changes that have been made.

Mr. Nilson: — Okay well, if that's the standard, can you explain why you added an "e" to the word judgment when every BlackBerry, every Apple, you know, any kind of the computers that we have that talk about either Canadian or American English would not use the word judgment with an "e"?

Hon. Mr. Wyant: — Perhaps I'll ask Andrew to comment on that.

Mr. Donovan: — Certainly, Mr. Nilson. We actually use the *Oxford English Dictionary* as our sort of benchmark for spelling and language. And in the case of judgment, in the 11th edition of that dictionary, the judgment is spelled without the "e." This is just one example of spellings and norms changing over time. Certainly we last did our last statute revision in 1978, and there's certainly been some fluidity to the spelling of certain words in the interim.

Mr. Nilson: — So that means all of the spelling will have judgment without the "e"? Is that what you're saying?

Mr. Donovan: — Correct, on a go-forward basis.

Mr. Nilson: — So that's on a go-forward basis. So as we go through into hundreds of bills as they're printed, they will be done with . . .

Mr. Donovan: — That is our current standard, yes.

Mr. Nilson: — Okay. I mean it was my understanding that was actually going the other direction, but what you're saying is no, it's basically going to have the standard that we all have used our whole lives with the "e." Okay.

The other question comes around the word Chair, chairperson, chairman. Is that also the Oxford usage, or where does that come from?

Mr. Donovan: — That's the direction many provinces have been taking with the former reference to chairman, basically looking for gender neutrality.

Mr. Nilson: — Okay. And then the use of hyphens is basically being eliminated wherever possible. Would that be an accurate statement?

Mr. Donovan: — For the most part, that's correct.

Mr. Nilson: — And so that on a practical basis, you know, when you go through this legislation, I know some of my colleagues had a lot of questions which made it quite interesting to look at. But the bill itself then will continue to evolve, obviously. And so are there words that maybe should have been included that this time were left off?

Mr. Donovan: — We are basically keeping a parking lot for other words and phrases that need to be looked at down the road. Sometimes it's a matter of resourcing and staff levels as to just how far we might go with the statute revision. Certainly we've done several in the last 10 or 15 years, and this is not a one-sort-of-time deal. We will, I don't know if we'll do one in the coming session, but certainly these are things that we do from time to time, and partly a reflection of the fact that we haven't done a full-blown consolidation of revised statutes since 1978.

Mr. Nilson: — Okay. And so we'd be okay in suggesting then if anybody in the public has a concern about a particular word, they can send an email to the Minister of Justice and he will be collecting this information for you for the next go-round? Would that be accurate?

Hon. Mr. Wyant: — We'd be happy to receive that email, Mr. Nilson.

Mr. Nilson: — No, I mean we all know that there are some pretty strong arguments that happen around the spelling of words, and this legislation does make some choices.

Hon. Mr. Wyant: — I think it's fair to say that, you know, once there's a critical number of changes because, as Mr. Donovan has said, there's a bit of a resourcing issue here too. So we wouldn't be bringing legislation forward for, you know, each and every change that we found. So once there's a critical mass of them and it makes some sense for the government to bring a bill forward, that's when we'll do it.

Mr. Nilson: — Okay. So I think that . . . I'm not sure if I have any more questions about this, but I was curious as to what some of the ultimate rationale was on that. So I think I'm practically . . . I have no further questions on this one. Thank you very much for your work.

The Chair: — Thank you very much, Mr. Nilson. Are there any other questions or comments from our committee members? Seeing none, we will proceed to vote on the clauses. Clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 65 inclusive agreed to.]

[Schedules 1 to 6 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, 2014*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. Okay, I would ask a member to move that we report Bill No. 153, *The Statute Law Amendment Act, 2014* without amendment. Mr. Michelson moves. Is that agreed?

Some Hon. Members: — Agreed.

[19:15]

The Chair: — Thank you. Okay.

**Bill No. 154 — *The Statute Law Amendment Act, 2014*
(No. 2)/Loi n° 2 de 2014 modifiant le droit législatif**

The Chair: — Next on our agenda is Bill No. 154, *The Statute Law Amendment Act, 2014 (No. 2)*. Members, this is a bilingual bill. We will now consider clause 1, short title. Mr. Minister, if you have any opening remarks you may proceed.

Clause 1

Hon. Mr. Wyant: — Thank you very much, Madam Chair, and committee. Again with me, Maria Markatos and Andrew Donovan.

Madam Chair, Bill 154, *The Statute Law Amendment Act, 2014 (No. 2)* amends 12 bilingual Acts to make amendments consistent with those made to English Acts in *The Statute Law Amendment Act*. So as in the English bill, the amendments will modernize outdated language and ensure consistent spelling. So we welcome any questions that you have.

The Chair: — Thank you very much, Mr. Minister. Are there any comments or questions on the bill? Mr. Nilson.

Mr. Nilson: — Yes, thank you. This legislation is already bilingual, so we're not gaining on our recommendation from the court to have more bills that are bilingual. Would that be accurate?

Hon. Mr. Wyant: — That's correct.

Mr. Nilson: — I note in your explanatory information that you provide that there are 90 spellings of extraprovincial with a hyphen and so that really the bulk of this bill is removing the hyphen from the word "extraprovincial." Would that be accurate?

Hon. Mr. Wyant: — Yes, it would be.

Mr. Nilson: — Okay. So I have no further questions. I think we're all happy to remove 90 hyphens. Ninety less keystrokes for people.

The Chair: — Thank you very much, Mr. Nilson. Are there

any other questions or comments from any of the committee members? If not, seeing none, we will proceed to vote on the clauses.

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.]

[Schedule 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, 2014 (No. 2)*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — I would ask a member to move that we report Bill No. 154, *The Statute Law Amendment Act, 2014 (No. 2)* without amendment.

Ms. Eagles: — I so move.

The Chair: — Thank you very much, Ms. Eagles. And that's carried.

Bill No. 155 — *The Health Care Directives and Substitute Health Care Decision Makers Act, 2014/Loi de 2014 sur les directives et les subrogés en matière de soins de santé*

The Chair: — The next bill on the agenda tonight is Bill No. 155, *The Health Care Directives and Substitute Health Care Decision Makers Act, 2014*. Again this is a bilingual bill. We will now consider clause 1, short title. Mr. Minister, if you have any opening remarks, you may proceed.

Clause 1

Hon. Mr. Wyant: — Thank you very much, Madam Chair, members of the committee. Just a few comments. With me again, to my left, Maria Markatos, senior Crown counsel.

Madam Chair, the new bill will repeal and replace *The Health Care Directives and Substitute Health Care Decision Makers Act* with a new bilingual bill. There are no changes in substance made to the Act.

By way of background, since 1988 Saskatchewan has enacted over 55 bilingual Acts to meet the needs of Saskatchewan's francophone community. To date the Acts translated have been of general application or identified by French-language organizations. We received a request from a member of the public for translation of this Act and the ACF [Assemblée communautaire fransaskoise] has confirmed that the translation would be relevant to the French community.

So, Madam Chair, those are my opening remarks and I

welcome any questions with respect to Bill 155.

The Chair: — Thank you very much. Are there any questions? Mr. Nilson.

Mr. Nilson: — Thank you very much, Madam Chair. This particular legislation then is another Act that we have that's been translated into French. Once it's passed, we'll add another one to our list of our bilingual legislation in Saskatchewan. Can you give me a bit of an update on where we are in that process and whether we're completing the list or if we have quite a few more to go?

Hon. Mr. Wyant: — I'm not aware, Mr. Nilson, that there is an outstanding list of bills to be translated. Typically, as I mentioned in my opening comments, where there's a request and it seems appropriate to translate, we translate. So as I say, as far as I understand, there is no outstanding list of bills to be translated and, subject to the need to translate them, they will be done on a case-by-case basis as that comes forward.

Mr. Nilson: — Okay. Well thank you for that comment. And I'm sure if there are people that have ideas about which ones should be translated, they will get hold of you and we can proceed with this.

I have another question about the legislation. It was introduced in November, and since then we've had the Carter decision of the Supreme Court of Canada. Is there anything in this legislation that may need to be adjusted as a result of that decision?

Hon. Mr. Wyant: — Well we don't believe that there's any changes that need to be made to the Act as a result of that decision.

Mr. Nilson: — Okay. But if somebody comes up with some ideas, once again if they get hold of you, you will respond to that? I'm not aware either. When I was looking at it, it appeared to cover the situation right now.

Hon. Mr. Wyant: — Certainly there's an ongoing national dialogue about the issue and so that will help, depending how that dialogue goes and what decisions are made. It will depend on, you know, whether or not any changes need to be made but at the present time there isn't any requirement.

Mr. Nilson: — Yes. And I think the major issue relates to the medical profession and their role in this and so I think we'll all have to watch that carefully. I have no further questions, so thank you, Madam Chair.

The Chair: — Thank you very much, Mr. Nilson. Are there any other questions or comments from any of the committee members? Seeing none, we will proceed to vote on the clauses.

Clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 30 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: the health care directives and substitution Act . . . care division makers Act, 2014. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would ask a member to move that we report Bill No. 155, *The Health Care Directives and Substitute Health Care Decision Makers Act, 2014* without amendment.

Mr. Steinley: — I so move.

The Chair: — Thank you very much, Mr. Steinley. Carried.

Bill No. 156 — *The Health Care Directives and Substitute Health Care Decision Makers Consequential Amendments Act, 2014*

The Chair: — Okay. The next bill on the agenda tonight is Bill No. 156, *The Health Care Directives and Substitute Health Care Decision Makers Consequential Amendments Act, 2014*. We will now consider clause 1, short title. Mr. Minister, if you have any opening remarks, you may proceed.

Clause 1

Hon. Mr. Wyant: — Thank you very much, Madam Chair. Well again joining me, Maria Markatos from legislative services branch. I am pleased to offer an opening remark concerning Bill No. 156, *The Health Care Directives and Substitute Health Care Decision Makers Consequential Amendments Act, 2014*.

Madam Chair, this Act consequently amends four English Acts that reference *The Health Care Directives and Substitute Health Care Decision Makers Act*. In each case the Acts will be amended to reference the name of the new Act, as *The Health Care Directives and Substitute Health Care Decision Makers Act* is being repealed and replaced with the new bilingual version. There are no changes in substance to any of the Acts amended by this bill.

So with those opening remarks, Madam Chair, I welcome any questions you have with respect to Bill 156.

The Chair: — Thank you very much, Minister. Are there any comments or questions on this bill? Mr. Nilson.

Mr. Nilson: — Yes. Thank you, Madam Chair. Basically this legislation just falls right in with the previous bill and completes the work in this area. And I say thank you very much. I don't have any further comments.

The Chair: — Thank you very much, Mr. Nilson. Are there any more questions or comments from any of our committee members? Seeing none, we will proceed to vote on the clauses.

Clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 6 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Health Care Directives and Substitute Health Care Decision Makers Consequential Amendments Act, 2014*. Is that agreed?

Some Hon. Members: — Agreed.

[19:30]

The Chair: — Carried. I would ask a member to move that we report Bill No. 156, *The Health Care Directives and Substitute Health Care Decision Makers Consequential Amendments Act, 2014* without amendment.

Mr. Michelson: — I so move.

The Chair: — Thank you very much, Mr. Michelson. Carried.

Bill No. 144 — *The Victims of Domestic Violence Amendment Act, 2014*

The Chair: — Okay. The next bill on the agenda tonight is Bill No. 144, *The Victims of Domestic Violence Amendment Act, 2014*. We will now consider clause 1, short title. Mr. Minister, if you have any opening remarks, you may proceed.

Clause 1

Hon. Mr. Wyant: — Thank you very much, Madam Chair. I'll introduce my officials: to my left, Darcy McGovern Q.C., director of legislative services; to my right, Rod McKendrick, interpersonal violence specialist; and to my far right, Dwight Lawrence, acting director of victims services.

Madam Chair, I'm pleased to offer the following opening remarks with respect to Bill 144, *The Victims of Domestic Violence Amendment Act*. Saskatchewan was the first province in Canada to introduce victims of domestic violence legislation back in 1994. Since then this Act has served as a successful model throughout Canada for emergency protection order legislation.

In broad terms, the purpose of the Act is to provide an additional tool to a responding police officer to separate individuals who represent an imminent risk of injury to each other. It is critical to the functionality of the Act that police and victims are able to immediately seek an emergency intervention order by telephone.

This Act strikes a balance between the risk to an individual who fears violence and the procedural rights of the respondent. The operational success of this legislation has been in providing a tool to the police and to shelter workers that allows them to provide an immediate response to a call for assistance without permanently affecting any status or legal rights of the respondent.

Several other provinces have subsequently amended similar legislation. Additional matters have been addressed in their Acts that now merit consideration in Saskatchewan. The changes in this bill provide for an incremental increase in the scope of application of this Act, and clarification of when the Act should apply to a particular situation. It also provides for procedural changes to address concerns that have been identified by the victims services branch in their ongoing operations under the Act.

Madam Chair, these amendments include: change the name of the Act to *The Victims of Interpersonal Violence Act* which will promote that the Act should be considered by victims and the police in a variety of circumstances beyond the traditional domestic scenario in order to protect the broader range of victims of violence. It'll extend the scope of application of the Act to caregiving relationships regardless of cohabitation. It will modernize the Act to include prohibitions on electronic contact between parties. It will include harassment and deprivation of necessities within the scope of prohibited interpersonal violence.

It will broaden the scope of factors that the Justice of the Peace may take into account when granting an emergency intervention order. This includes consideration of past contacts by the respondent with other family members, as well as immediate circumstances of the respondent, such as recent release from jail or being fired from a job as examples.

It will list matters that shall not preclude an order being granted, such as the absence of a criminal charge or the victim having previously returned to a relationship. It will clarify the non-contact provisions for emergency intervention orders to include prohibiting contact at schools and workplaces of the victim and family members and will update the victims' assistance orders provisions to make corresponding changes to those being made to the emergency intervention orders.

Madam Chair, violence of any form in our province is unacceptable. Unfortunately we realize that violent incidents do occur, and that's why it's important that we continue to be leaders in offering additional support for victims of violence.

So, Madam Chair, with those comments we're happy to answer any questions that the committee has.

The Chair: — Thank you very much, Minister, for your comments. Are there any questions or comments on this bill? Mr. Nilson.

Mr. Nilson: — Thank you, Madam Chair. This legislation is obviously important for the community, for police, and also for victims and perpetrators involved in various domestic violence situations. You've changed the term from "domestic" to "interpersonal", and you've provided an explanation about that. But can you outline how the change in the term is going to provide greater protection for people within Saskatchewan?

Hon. Mr. Wyant: — Perhaps I'll just make a comment to open that up, and I'll ask Mr. McKendrick to add to it. It's really intended to send a clearer message, in terms of the application of the legislation, with regard to the kinds of situations which the legislation is intended to protect. So it does send a message

that changing it from what it was, domestic violence, to the new title will send out a different message, and that's the intention.

Mr. McKendrick: — With respect to the name change, Madam Chair, when we look across the country, back in 1994 the term was used quite broadly: domestic violence. Since that time what we found is the move to broaden that definition because it wasn't just about a relationship between a husband and a wife in a home.

The way people now view interpersonal violence is to look at cases of same-sex relationships, dating relationships, relationships where somebody is looking after somebody 24 hours a day. So the relationships have changed. So that's what they were trying to address with the name change.

What tends to happen with people who think domestic, they think house, husband-wife, or two individuals and forget about other forms of relationships. I'm not saying they always do but we do know, from 20 years of the previous legislation, this seems to be something that the things are thought of in the box. This legislation was to try and move things outside that box.

Mr. Nilson: — Thank you for that explanation. I think it's important that that's the message that comes from this change that's made to the legislation. Does that definition include relationships between parents and children or parents and their parents? I guess it would if you're talking about senior abuse. And how does that then interplay with some of the other legislation that we have on the books that relate to the protection of children?

Mr. McGovern: — Thank you for the question. It does, and part of what we're doing in terms of saying who . . . the operational definition is cohabitation. And so within that box — keep it in mind of course what our constitutional framework for the legislation is — it can in that circumstance readily pick up an extended family where you have a senior who may be subject to abuse.

And you'll note that some of the changes in the Act, for example one of the pieces that's being added is deprivation of necessities. And that's a classic example within an extended family unit where you may see a senior who's being deprived of necessities or who's in a circumstance not being provided with what's appropriate for a healthy ongoing relationship. And so by looking at the definition of cohabitation and looking at the definition of what constitutes previously domestic violence, and now into this definition of interpersonal violence, those things together is what's providing us a broader umbrella.

And I think you're right, that's exactly the message we want to get out. We want to get to the police, we want to get to the victim's community, and we want them to know that this is a tool that they can use. It doesn't displace other tools for seniors. It doesn't displace the criminal law, but what it does is provide an immediate tool for the police and for victims to try and create safety in a relationship that historically has been a difficult one to provide services for because of the close personal relationships involved.

Mr. Nilson: — Okay, I appreciate that answer. Does it cover a situation where a person has effective care and sometimes

control of an elder, but they actually live in a different spot? So you have somebody living in a senior's apartment-style residence, children are taking care of that person, and the same kind of abuse takes place.

Mr. McGovern: — What's new with respect to this definition is to pick up the ongoing care relationship, and so it's specifically referred to within the amending piece. And part of that, you know, this is a reflection of the interpersonal aspect of what's being considered here. In an ongoing care relationship, you're very much approaching a family relationship in terms of the nature of the relationship plus the nature of control that can be exercised over the individual and the opportunity for potential for abuse. So it is one of the important pieces that we're trying to pick up here.

As a result of, as Mr. McKendrick said, the consultations and the ongoing relationship, that's one where we felt that we could broaden the umbrella of protection without straying too far from what we want to do here by equating that care relationship to the family relationship.

Mr. Nilson: — Thank you for that explanation. I think that's important. And I just had a further question is, there are no definitions about how far apart people reside. So could you actually have somebody in another province who has that kind of domineering relationship with a family member that could be covered by this legislation, in that they would come regularly to effectively take care of a person, but actually not live here?

Mr. McGovern: — If we look at section 2 amended, and this is the definition of what's a cohabitant:

(iii) persons who are in an ongoing caregiving relationship, regardless of whether they have lived together at any time.

So it starts to stretch a bit in your scenario, you know, where . . . So we want to be able to establish that it is a property and civil rights issue, to use the legal term, in terms of that they're in the same domicile.

And the farther we stretch that — and the member is aware of this, of course — that we have to be . . . This isn't the criminal law. We do have criminal law. It does have general application regardless of those sorts of boundaries. But the bite that we're taking with this piece is more with respect to the definition of cohabitation, where we've expanded it to caregivers, but I'm not quite sure if it would stretch as far as the member's example.

Mr. Nilson: — Okay. No, I appreciate that answer, and that kind of fits with what I anticipated, that it's legislation that falls within the jurisdiction of the province. And we have to be careful about that.

Most, if not all, of the applications are done by telephone. Is that correct?

Mr. McGovern: — Yes that's correct.

Mr. Nilson: — So that I noticed in here you used the term electronic communication. Now is that the same as the word email that we were talking about earlier? Or does it include

Skype? Does it include emails, or what are we talking about here? Just for clarity's sake, since we've had that discussion earlier.

Mr. McGovern: — And it is broader. It is broader than email in terms of . . . And as, you know, as we're all becoming more and more aware, there's a variety of different methods of electronic communication. And what, you know, what that pickup is in large part is just to recognize how much has changed since '94 when this Act came into place. And while certainly we would argue strongly that electronic communication was already within the parameters of contact, this takes that out of the realm of debate to say no, if you're constantly ringing on Skype to one of the family members when you're not . . . you are seeking to electronically communicate with that individual in violation potentially of that order. And we think that's an appropriate modernization of those provisions.

Mr. Nilson: — Is there anything in this legislation that would be of assistance in something like the Rehtaeh Parsons case, where you ended up having obviously electronic communication of a quite vicious form?

Mr. McGovern: — I think where we would step outside the box on that one is with the cohabitation discussion. So that's sort of a harassment. You know, we would invite discussion on that and encourage anyone in that situation to treat it as a criminal offence. And as you're aware, there are new criminal provisions in that regard. But when you have what in effect are strangers . . . and I don't profess to be an expert on that relationship situation, but again our key in terms of the box that we're unlocking is with respect to the cohabitants who are experiencing interpersonal violence.

And we've broadened the definition of interpersonal violence. We've broadened the definition of cohabitants. But again, the example you give, I'm not aware that that's a cohabitant link. So it may not have had any particular application to that situation, but we do think it will pick up a lot of very useful situations.

[19:45]

Mr. Nilson: — Thank you for that explanation. I want to go back to my question about children. And I know that you have that as a factor about whether an order, an emergency intervention order is made, whether a child would be harmed. But is this a type of remedy that could be used to protect children or is that really not the intention of it?

Mr. McGovern: — I can speak to it briefly and then I'll absolutely turn it over to Mr. McKendrick. It is very much part of the focus. Now of course we have a legal issue in terms of them making application on their own behalf, but one of the things that we want to ensure is that in a classic family relationship where you have interspousal abuse or interpersonal violence and the children are part of the equation, you know, we want this to signal — the exposure of any child to interpersonal violence — that that's very much what is to be considered by the JP [Justice of the Peace]. And from a policy perspective, the message is that for a child to witness violence is a form of violence for that child and has a dramatic impact on them and

potentially, statistically I believe, has a strong impact on their future ability to deal appropriately with disputes and to deal with it without violence. Rod, is that fair?

Mr. McKendrick: — That's correct. And over the period of time that we've had *The Victims of Domestic Violence Act* since 1994, there have been circumstances where children have in fact been the victims, and orders have been obtained, again depending on the situation. We also have *The Child and Family Services Act*, so again it's a case of trying to balance which is the best process to ensure some form of safety for the child and for the remainder of the family.

Mr. Nilson: — Thank you for that answer. And I appreciate that sometimes you get an order faster under this legislation than you can under the other, so you might do it in series, if I could put it that way.

This legislative change appears to me to be a smart move. Are there any specific incidents that have arisen or, I guess, judicial decisions that have pointed out the limits of the existing wording and that's why we have this here, or is this just looking practically at dealing with a whole new group of people which we want to protect?

Hon. Mr. Wyant: — Well perhaps I'll just make an opening comment on that and Mr. McKendrick may want to add another comment to it. But certainly there is an ongoing dialogue between provinces in terms of what their legislation looks like, and I think this is just a reflection of best practices when it comes to this type of legislation. So we've looked at other provinces in terms of what they're doing, and the changes that are in this legislation I think are reflective of that. In terms of whether or not they are made as a result of any specific incidents, I'm not aware of that, but perhaps Mr. McKendrick might have a comment.

Mr. McKendrick: — With respect to any change we've made because of some circumstances, that wasn't the case. We had an opportunity where, under the regulations, there was specific designates who could apply on behalf of the victim which, over the last 20 years, has expanded. However we've not been able to use those individuals because of them not deemed in the legislation as being designates. So we were looking to the regulations to see if in fact we could enhance the designates. So that's where we started, and at the time we thought this is something . . . a good time to update the rest of the legislation.

Mr. Nilson: — Okay. Well thank you very much for that explanation. I think it helps all of us to have a little more detailed understanding of why the legislation is being brought forward now, and I know ultimately the goal is to protect victims caught in some very difficult situations. So thank you very much for your work. I have no further questions.

The Chair: — Thank you very much, Mr. Nilson. Are there any other questions or comments from the committee members? Seeing none, we will proceed to vote on the clauses. Clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 10 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Victims of Domestic Violence Amendment Act, 2014*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would ask a member to move that we report Bill No. 114, *The Victims of Domestic Violence Amendment Act, 2014* without amendment.

Ms. Eagles: — I so move, Madam Chair.

The Chair: — Thank you very much, Ms. Eagles. Carried.

Bill No. 152 — *The Victims of Domestic Violence Consequential Amendment Act, 2014/Loi de 2014 portant modification corrélative à la loi intitulée The Victims of Domestic Violence Consequential Amendment Act, 2014*

The Chair: — The next bill on the agenda tonight is Bill No. 152, *The Victims of Domestic Violence Consequential Amendment Act, 2014*, and this is a bilingual bill. We will now consider clause 1, short title. Mr. Minister, if you have any opening remarks.

Clause 1

Hon. Mr. Wyant: — Thank you very much, Mr. Chair. Again with me: Mr. McGovern, Mr. McKendrick, and Mr. Lawrence.

I'm pleased to offer opening remarks with respect to Bill 152, *The Victims of Domestic Violence Consequential Amendment Act, 2014*. Madam Chair, this is the bilingual companion legislation to *The Victims of Domestic Violence Amendment Act, 2014*. This bill simply amends the bilingual Queen's Bench Act, 1998 to update the reference in that Act from *The Victims of Domestic Violence Act* to *The Victims of Interpersonal Violence Act*. I'd be pleased to answer any questions that you have.

The Chair: — Thank you very much, Minister. Mr. Nilson, do you have some comments?

Mr. Nilson: — Thank you, Madam Chair. I just have a couple of questions. I mean the fact that we're bringing this piece of legislation forward identifies that *The Victims of Interpersonal Violence Act* is not a bilingual bill. Is there any plan to include this one in the translation process in the next few years?

Hon. Mr. Wyant: — We haven't had a request to translate this legislation, Mr. Nilson, so there's been no work done on that.

Mr. Nilson: — Okay, thank you. Thank you very much. No further questions.

The Chair: — Thank you very much. Are there any other questions or comments from our committee members? Seeing none, we will proceed to vote on the clauses. 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 Victims of Domestic Violence Consequential Amendment Act, 2014*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would ask a member to move that we report Bill No. 152, *The Victims of Domestic Violence Consequential Amendment Act, 2014* without amendment.

Mr. Steinley: — I so move, Madam Chair.

The Chair: — Thank you very much, Mr. Steinley. Carried.

Bill No. 145 — *The Fee Waiver Act*

The Chair: — The next bill on the agenda tonight is Bill No. 145, *The Fee Waiver Act*. We will now consider clause 1, short title. Minister, if you have any opening remarks, you may proceed.

Clause 1

Hon. Mr. Wyant: — Thank you very much, Madam Chair. The officials that are with me today: to my left, Darcy McGovern Q.C. [Queen's Counsel], director of legislative services branch; and to my right, Neil Karkut, Crown counsel; and to my far right, Glennis Bihun, executive director of court services.

Madam Chair, *The Fee Waiver Act* will create a uniform waiver program for Saskatchewan courts and tribunals that provides a mechanism to waive administrative fees for lower income litigants. The first important update the Act will make is expanding the fee waiver program to the small claims court and enhancing access to fee waivers at the Court of Appeal. Currently the fee waivers are only issued for the Court of Queen's Bench. Although waivers are accepted by the Court of Appeal, the waiver must have been previously issued by the Court of Queen's Bench. Litigants will now be able to apply for a fee waiver at all three levels of court.

The Act also applies to tribunals and other government bodies that adjudicate matters for the public and charge administrative fees. Following consultation, the Automobile Injury Appeal Commission and the Office of Residential Tenancies were identified as appropriate tribunals to be included within the Act at this time. Additional tribunals or government bodies may also be prescribed within the regulations in the future.

The administration of fee waivers will be transferred from the Saskatchewan Legal Aid Commission to individual courts and

tribunals. Justice officials will work with court and tribunal staff to ensure they are familiar with the application processes prior to implementation of the Act. Court and tribunal staff will also have the ability to refer applications to the court or tribunal for consideration in appropriate cases.

A simplified application process will be prescribed within the regulations. It's expected that fee waivers will be available to individuals who, among other things, are receiving social assistance or have already met the eligibility requirements for legal aid or other non-profit legal organizations.

The Act will also provide a discretionary authority to grant fee waivers in special circumstances such as serious illness or recent job loss, where individuals do not meet the regular eligibility requirements.

The Act will further expand fee waiver eligibility by allowing litigants to apply for a waiver at any stage of the proceeding, removing the proof of merit requirement, and making fee waivers available to self-represented litigants. Finally the Act will provide courts and tribunals discretionary authority to award cost to or against the holder of the fee waiver. This approach ensures a balance between maintaining access to justice and deterring frivolous litigation.

This Act has been developed with the guidance of the Law Reform Commission of Saskatchewan's report titled *Access to Justice — Needy Person Certificates and Waiver of Fees* as well as further consultation conducted by the Ministry of Justice with Saskatchewan's legal community. Many of the recommendations of the commission have been followed in the Act or will be subsequently implemented within the regulations. The Act represents the government's ongoing commitment to ensure fair access to justice for all individuals.

And with those opening remarks, Madam Chair, I welcome your questions.

The Chair: — Thank you very much, Minister Wyant. Are there any comments or questions on the bill? Mr. Nilson.

Mr. Nilson: — Thank you, Madam Chair. This legislation I think is going to be welcomed by all of the legal profession, but I think especially judges because they often get into situations where they would like to have the powers that you've created here. And so I want to say thank you for that.

I also, as you probably noticed, read the report of the Law Reform Commission, and it appears that most all of the recommendations there have been included in this legislation. So I thank you for that, although I think we'll have to see the regulations to actually get the full impact and I guess the practical impact of what the fee waiver procedures will be.

My question relates to their report. Are there any things that you specifically did not include that were recommendations of the Law Reform Commission of Saskatchewan in their report of May 2013? And could you explain why you didn't include them?

Hon. Mr. Wyant: — I'll ask Mr. Karkut to answer the question.

Mr. Karkut: — The legislation you have before you is very largely based on the recommendations of the Law Reform Commission. Where you might see some of those recommendations that have not yet come into play would be particularly for areas that are likely to go into the regulations. So I guess a primary example of that would be, they've included some discussion around what your eligibility requirements would be, so for example, if you've already met the eligibility requirements for Legal Aid Saskatchewan or if you are on social assistance or also make reference to the low-income cut-off established by Statistics Canada. So although some of those specific recommendations aren't included in the legislation itself, they are still going to be taken into serious consideration for the regulatory side of this piece.

[20:00]

Mr. Nilson: — Well we'll be watching for that because that is, in a lot of ways, the heart of the recommendation is setting that standard. Procedurally it appears to cover all the bases and gives the discretion in the right spots for fees to be waived. I think that, you know, practically it doesn't deal with the total cost issue of litigation because it doesn't deal with the legal costs in some cases, but I think many of the cases that are involved here will involve legal aid lawyers or others. So I guess on that basis, it helps out the legal aid budget a bit, which is kind of a cost shifting to the department, I would say, but obviously you've made the choice to do that.

One of the interesting questions relates to this point that you call the deterrence factor around the discretion of a court or other public body in the awarding of costs. And it appears to me, that's a bit of an addition to this process that makes it . . . Well I mean it adds a fair caution to people who might want to proceed with litigation. Could you perhaps explain why that change was made?

Hon. Mr. Wyant: — I'll just make an opening comment on this, and Mr. Karkut can fill it in. One of the big concerns of course is when you have . . . You know, fees act as a little bit of a deterrent when it comes to bringing frivolous or vexatious claims because if you have to make a payment to the court or the tribunal, you may be inclined not to pursue them if you have a cost to pay. The balancing against this of course is against bringing frivolous and vexatious claims, so that's the basis for it. You need to be able to have the flexibility to ensure that frivolous and vexatious claims aren't brought simply because of the fact that people don't have to pay the fee if there is a waiver.

Mr. Karkut: — Yes, I guess just to add further to that, this was an area that was identified a little bit more as we conducted some consultations with the legal community as well, and that having the availability of costs may add to that balance between access to justice, but also ensuring that I guess frivolous or vexatious cases aren't pursued on a regular basis.

And you will notice under section 7(3), what we've done there is provided I guess a little bit of further guidance to the courts and government bodies. So when they're making this decision we want to make it very clear that access to justice and fairness to the parties are two primary considerations that are taken into place. We don't want costs to prohibit individuals from pursuing legitimate matters, but at the same time, like I said,

that balance was viewed as kind of a important aspect to this.

Mr. Nilson: — So can you explain the interplay of this Act and *The Class Actions Act*? So if you have a class where everybody qualifies for a fee waiver, does that mean that they get a fee waiver? Or if only 50 per cent qualify or 40 per cent qualify for a fee waiver, how does that work?

Mr. McGovern: — I mean it's an interesting legal question. They both operate independent of each other in the sense that they don't anticipate each other specifically, so there would be no pre-deciding a particular case. I mean, as you know, it would be very strange for the class actions proceedings to fall within that category, given the procedural advantages that already exist for plaintiffs, outside of a representative plaintiff, in bringing a class action. That's, you know, part of the rationale for a class action.

I think what the costs issue here is, it was mentioned by the minister, and I'll . . . When we speak to our mediation people for example, even when they're dealing with indigent circumstances, they've consistently indicated that it's important that everyone have skin in the game, so to speak, that everyone's taking it seriously. They understand their part in the process, and they have some investment in the process.

When we look at this model under this legislation, having an ability for the court to govern their process by including costs as an option is an appropriate way to allow them to govern their process. We think the courts will be very, of course, judicious and judicial in their application of that discretion. And we don't think it'll create undue concerns for the access to justice that we're very much seeking to facilitate with this Act.

Mr. Nilson: — Okay, well thank you for that answer. I suspect this may be an area that eventually is litigated in some fashion because these costs often end up being sort of the remnants of some major disputes. And so to be absolutely clear in this area, I think it's important for the legislation. And you know, I appreciate the conditions set out in section 7 because that does help, but I think basically it'll just reflect what the courts are doing right now and it's spelled out. But I still think that there may be some questions that arise in this area.

Mr. McGovern: — I think our message to a degree on this one is that fees are what are neutrally required to gain access to this decision-making process, whereas costs — and of course I'm aware the member is well aware of this — costs are part of an assessment once you're in the process that can reflect how you've conducted yourself, can reflect whether your application was successful or frivolous in vexation, for example, whereas fees are very much your first step access into the decision-making process versus an assessment of whether you've conducted yourself in an appropriate fashion once you've gained access.

Mr. Nilson: — Okay well thank you for that explanation. And I think it is good legislation, and I look forward to seeing the regulations that will put the actual information that people will fight about in the public eye. But thank you very much. I have no further questions, Madam Chair.

The Chair: — Thank you very much, Mr. Nilson. Are there

any other questions or comments from any of the committee members? Seeing none, we will proceed to the vote on the clauses. Clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 14 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Fee Waiver Act*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would ask a member to move that we report Bill No. 145, *The Fee Waiver Act* without amendment.

Mr. Michelson: — Madam Chair, I so move.

The Chair: — Thank you very much, Mr. Michelson. Carried.

Bill No. 146 — *The Fee Waiver Consequential Amendments Act, 2014/Loi de 2014 portant modifications corrélatives à la loi intitulée The Fee Waiver Act*

The Chair: — The next bill on the agenda is Bill No. 146, *The Fee Waiver Consequential Amendments Act, 2014*. Again, I'd like to remind you that this is a bilingual bill. We will now consider clause 1, short title. Mr. Minister, if you have any opening remarks you may proceed.

Clause 1

Hon. Mr. Wyant: — Thank you, just a couple, Madam Chair. Again with me: Mr. McGovern, Mr. Karkut, and Ms. Bihun.

I'm pleased to offer opening remarks with respect to Bill 146. This Act will make bilingual consequential amendments to *The Court of Appeal Act, 2000*, *The Queen's Bench Act, 1998*, and *The Small Claims Act, 1997*. These amendments will clarify that any fee charged by the Court of Appeal, the Court of Queen's Bench, or small claims court is subject to the provisions of *The Fee Waiver Act*. So with that, Madam Chair, I'm pleased to answer any questions that you have with respect to Bill 146.

The Chair: — Thank you, Mr. Minister. Are there any comments or questions? Mr. Nilson.

Mr. Nilson: — Thank you, Madam Chair. I have the same question about this legislation. Obviously *The Fee Waiver Act* is not a bilingual bill, but it applies to the court proceedings, and most all of the court proceeding bills are bilingual. Are you amenable to a request to have these bills brought forward in a bilingual manner?

Hon. Mr. Wyant: — Again, we haven't had a request. Of course we haven't because the Act is just being proclaimed, but we'll certainly take that under advisement, Mr. Nilson.

Mr. Nilson: — Thank you very much. I have no further questions.

The Chair: — Thank you very much, Mr. Nilson. Are there any other questions or comments from our committee members? Seeing none, we will proceed to vote on the clauses.

Clause 1, short title, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clauses 2 to 5 inclusive agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Fee Waiver Consequential Amendments Act, 2014*. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would ask a member to move that we report Bill No. 146, *The Fee Waiver Consequential Amendments Act, 2014* without amendment.

Ms. Eagles: — Madam Chair, I so move.

The Chair: — Thank you very much, Ms. Eagles. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. Mr. Wyant, do you have any final comments for this evening?

Hon. Mr. Wyant: — Madam Chair, first let me just thank the committee for their indulgence this evening. I thank Mr. Nilson for his questions. And I especially want to thank my officials who are here today, some of whom who have left, for their attendance and their very, very hard work in getting this legislation before the committee. So thank you very much.

The Chair: — Thank you very much, Minister. Mr. Nilson, any comments?

Mr. Nilson: — Well just to say thank you very much to the minister and the officials. I know that when we get the legislation here, it's gone through many, many stages, and so we appreciate the work that you do. And thank you to the committee for listening to my questions.

The Chair: — Thank you very much, Mr. Nilson. May I ask a member to please move for adjournment.

An Hon. Member: — I so move.

The Chair: — Thank you very much. The committee's adjourned until the call of the Chair.

[The committee adjourned at 20:13.]