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Thursday 26 November 2009

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Jeudi 26 novembre 2009

**Standing Committee on
Justice Policy**

Interprovincial Policing
Act, 2009

**Comité permanent
de la justice**

Loi de 2009
sur les services policiers
inter provinciaux

Chair: Lorenzo Berardinetti
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LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE ON
JUSTICE POLICY**

Thursday 26 November 2009

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT
DE LA JUSTICE**

Jeudi 26 novembre 2009

The committee met at 0906 in committee room 1.

INTERPROVINCIAL POLICING
ACT, 2009
LOI DE 2009
SUR LES SERVICES POLICIERS
INTERPROVINCIAUX

Consideration of Bill 203, An Act to allow for better cross-border policing co-operation with other Canadian provinces and territories and to make consequential amendments to the Police Services Act / Projet de loi 203, Loi visant à permettre une meilleure coopération avec les autres provinces et les territoires du Canada en ce qui concerne les services policiers transfrontaliers et à apporter des modifications corrélatives à la Loi sur les services policiers.

The Chair (Mr. Lorenzo Berardinetti): I call this meeting of the justice policy committee to order. Good morning, everybody.

We're dealing today with Bill 203, An Act to allow for better cross-border policing co-operation with other Canadian provinces and territories and to make consequential amendments to the Police Services Act.

Are there any comments, questions or amendments to any section of the bill, and if so, to which section? We'll start with section 1. In our package here, I believe there's a government motion. Mr. Levac?

Mr. Dave Levac: I move that clause (b) of the definition of "extra-provincial commander" in section 1 of the bill be amended by striking out "a municipal or regional police force" and substituting "a municipal, regional or other police force".

The quick rationale for that, Mr. Chairman, is that we want to be able to capture First Nations. Because of the unique circumstances behind the assignment of chiefs, we believe that this clause would be helpful for First Nations.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Is there any further discussion? None?

Then we'll take a vote on this amendment. All those in favour? Opposed? That carries.

Shall section 1, as amended, carry? All those in favour? Opposed? Carried.

There are no amendments for sections 2 to 11, so I'll put the vote together.

Shall sections 2 to 11 carry? All those in favour? Opposed? Carried.

Section 12: On page 2, there's a government motion. Mr. Levac.

Mr. Dave Levac: I move that subsection 12(4) of the bill be struck out and the following substituted:

"Content of request

"(4) The request must include the following:

"1. The information required by paragraphs 1 to 7 of subsection 4(3).

"2. Any other information that may be prescribed.

"3. An explanation of how the operation or investigation could be compromised if the extra-provincial commander were required to request the appointment under part II."

It may not be appropriate under urgent circumstances. Since there are two different circumstances, one is urgent and the other is basic, that's the reason that we wanted to put this in; it might not be appropriate, under urgent circumstances, under part III, to provide all of the information that's prescribed in the standard process under part II. So we just needed to separate those two under the special circumstances.

The Chair (Mr. Lorenzo Berardinetti): Any further debate? None?

We'll take a vote. All those in favour of the amendment? Opposed? That carries.

Shall section 12, as amended, carry? All those in favour? Opposed? Carried.

There are no amendments from sections 13 to 31—I'm sorry; there is one in section 20. I think the NDP has one regarding section 20.1. So we'll put together sections 13 to 20 because there are no amendments for those sections.

Shall those sections carry, sections 13 to 20? All in favour? Opposed? Carried.

Now, there's a new section here, and we had a motion that was photocopied this morning, I believe. I have it here, and it's an NDP motion. Mr. Hampton, did you wish to speak to it?

Mr. Howard Hampton: Yes. I move that part IV of the bill be amended by adding the following section before the heading "Local Commander's Directions":

"Instruction in applicable law

"20.1(1) Before an appointee performs any police duties in an area of Ontario, the local commander of the police force or detachment that provides police services

in that area shall ensure that the appointee receives instruction in the applicable provincial and municipal laws, unless the operation or investigation in which the appointee is participating could be compromised by the delay that would result from the instruction.

"Same

"(3) If the operation or investigation in which the appointee is participating could be compromised by the delay that would result from the instruction required by subsection (1), the local commander described in that subsection shall ensure that the appointee receives the instruction as soon as reasonably possible after he or she starts performing police duties in that area."

Now, one of the government members, I think Mr. Levac, referred to this in part earlier on. Policing on a First Nations reserve in remote northern Ontario is quite different from policing in Thunder Bay, is quite different from policing in Toronto and is quite different from OPP policing. I think one of the things we would want to do is to protect the public and to protect police officers from situations where they may have no experience, no instruction, and frankly no knowledge. This is to ensure that that actually happens.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? Mr. Levac.

Mr. Dave Levac: For some clarity, Mr. Hampton, are you aware of how often these laws are applicable in the provincial and municipal law circumstance?

Mr. Howard Hampton: Let me give you an example from my own constituency. The OPP recently took over municipal policing in the city of Kenora. The city of Kenora has a very large aboriginal population, and I think it would be an understatement to say that the Ontario Provincial Police are facing a real challenge in terms of procedures, working with the public, working with First Nations leadership, something that, I think it would be fair to say, many of the OPP officers have had no experience of before. It's a very different policing environment.

I would say bringing someone to downtown Toronto—let's use a possible example, the Pan Am games. Right?

Mr. Dave Levac: Yes.

Mr. Howard Hampton: Bringing police officers from another jurisdiction to downtown Toronto or Burlington or Hamilton in the instance of the Pan Am Games, which is a very real possibility—I think you're going to want a section like this in the bill to deal with that kind of eventuality.

Mr. Dave Levac: I'm intrigued. Let me offer you this: I believe that the appointing official, under the circumstances you described, can and has the authority to make training a prerequisite and a condition of the appointment. That's even in front of what you're talking about, because they do have the authority to do that. Those conditions can be sensitive to exactly the scenarios you're describing, and I would respectfully say, duly noted. I have some similar circumstances to that which you're describing—

Mr. Howard Hampton: Sure do.

Mr. Dave Levac: —and that was one of the questions I asked.

With regard to the precondition—because in the example I'll cite you, that was happening with the transference of OPP officers, even within the service, coming from as far away, in a cascading effect, as London, Woodstock and even further. As you know, what happens is, as they cascade some, they might take people from Thunder Bay and push them down to the Ottawa area and then push them down to the London area, and then push them down to the area that I'm referencing.

So my comment is, I believe it's captured in the appointment process, but with a duly noted observation. I don't think we can support the amendment, but I would take it under advisement that it be part of the condition and the prerequisite of the appointment before it happens.

Mr. Howard Hampton: I think what's important here is that this identifies whose duty it is. This puts a positive duty on the local commander: "The local commander ... shall ensure." There are no ifs, ands or buts, or "this should have been done at the regional level" or should have been done somewhere else. This is the legal responsibility of the local commander.

Mr. Dave Levac: Chair, can you give me two minutes?

The Chair (Mr. Lorenzo Berardinetti): Sure. Okay, fine.

Mr. Dave Levac: Are you okay? Two minutes? Give me two minutes.

Mr. Howard Hampton: Yes, sure.

The Chair (Mr. Lorenzo Berardinetti): Yes, a short recess. Okay, thank you. Recess for a few minutes.

The committee recessed from 0916 to 0917.

The Chair (Mr. Lorenzo Berardinetti): We're back in session now. Mr. Levac?

Mr. Dave Levac: Thank you for the challenge, Mr. Hampton. It is believed that we will still not support it, except to say that you've highlighted the concerns that have been raised and they will be pursued vigorously to ensure that the concerns that you've raised will be met.

Mr. Howard Hampton: I will ensure they're pursued vigorously.

The Chair (Mr. Lorenzo Berardinetti): All right. Shall we then take a vote on this motion? All those in favour of the motion in front of us? Opposed? It does not carry.

That would have created a new section. We'll move on, then, to sections 21 to 31. There are no amendments filed, so I'll put the question: Shall sections 21 to 31 carry? All those in favour? Opposed? Carried.

Under section 32, on page 3, I think it is, of our package, there is a government motion. Mr. Levac?

Mr. Dave Levac: I move that section 32 of the bill be amended by adding the following subsection:

"Subject to prescribed terms and conditions

"(2.1) An indemnification under subsection (1) or (2) is subject to any prescribed terms and conditions."

This would help ensure that the crown or the municipal police service board would only have to indemnify an extraprovincial police officer or service in appropriate circumstances. It's an indemnification clause.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion? None? So we'll take the vote. All those in favour? Opposed? Carried.

Shall section 32, as amended, carry? All those in favour? Opposed? Carried.

Shall section 33 carry? All those in favour? Opposed? Carried?

There's another motion that was handed out this morning; it's with regard to section 34. It's an NDP motion. Mr. Hampton, I'll let you comment on it.

Mr. Howard Hampton: I think it's self-explanatory in the context of the section—

The Chair (Mr. Lorenzo Berardinetti): I'm sorry. If you could please move the motion.

Mr. Howard Hampton: I move that section 34 of the bill be amended by adding "Subject to the approval of the Standing Committee on Government Agencies" at the beginning.

The Chair (Mr. Lorenzo Berardinetti): Any discussion or debate?

Mr. Dave Levac: Yes. If Mr. Hampton is using the self-explanatory note, then the self-explanatory issue here is that once an appointment has been approved, they are not subject to any further regulatory process. The police services appointments are not government agencies, and therefore it is not reasonable to assume that the Standing Committee on Government Agencies should have approval of a police appointment. We want to make sure that's separated, and we can't support the amendment as it is.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? If none, we'll take a vote. All those in favour of the motion? Opposed? That does not carry.

Shall section 34 carry? All those in favour? Opposed? Carried.

I think sections 35 to 40 have no amendments to them, so I'll put the question. Shall sections 35 to 40 carry? All those in favour? Opposed? Carried.

Section 41 on page 4: Mr. Levac.

Mr. Dave Levac: I move that clause 41(1)(a) of the bill be struck out and the following substituted:

"(a) prescribing additional information to be included in a request for an appointment under Part II or III;"

Again, this is one of those urgent circumstances versus standard circumstances, and we needed to separate those, that they be separated in terms of the permissions.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion on the motion? None? We'll vote on the motion. Shall the motion carry? All those in favour? Opposed? Carried.

On page 5, there's another motion which also deals with section 41. Mr. Levac.

Mr. Dave Levac: I move that subsection 41(1) of the bill be amended by adding the following clause:

"(c.1) prescribing terms and conditions for the purposes of section 32;"

The proposed amendment would amend the regulation-making authority to allow the minister to prescribe terms and conditions to which the indemnity obligation of the bill would be subject. This would ensure that the crown or municipal service previous to the—the previous amendment is taken care of by extraprovincial police services in appropriate circumstances.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? I'll put the question. Shall the motion carry? All those in favour? Opposed? Carried.

Shall section 41, as amended, carry? All those in favour? Opposed? Carried.

Shall section 42 carry? All those in favour? Opposed? Carried.

Section 43: On page 6, there is an amendment put forward.

Mr. Dave Levac: I move that subsection 2(2) of the Police Services Act, as set out in subsection 43(3) of the bill, be amended by striking out the portion before clause (a) and substituting the following:

"Officer appointed under the Interprovincial Policing Act, 2009 deemed to be a member of a specific police force

"(2) For the purposes of sections 49 and 132 to 134 of this act, section 25.1 of the Criminal Code (Canada) and any designation of a police force made by the Solicitor General under section 2 of the Controlled Drugs and Substances Act (Police Enforcement) Regulations (Canada), a person appointed as a police officer under the Interprovincial Policing Act, 2009 is deemed to be,"

That is the section. However, section 25—this is the rationale. Section 25.1 does not authorize the commission of offences under the Controlled Drugs and Substances Act—this authority is provided under regulation of the Controlled Drugs and Substances Act. So this is housekeeping to ensure that we're following the laws.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion or debate? None? So I'll put the question: Shall the motion carry? All those in favour? Opposed? Carried.

Shall section 43, as amended, carry? All those in favour? Opposed? Carried.

Sections 44 to 51: I don't see any amendments there, so I'll put the question: Shall sections 44 to 51 carry? All those in favour? Opposed? Carried.

Regarding section 52: Mr. Levac.

Mr. Dave Levac: This is a notice.

The government recommends voting against section 52 of this bill. There is a reason for this. If the committee wishes to remove the entire section of the bill, we can do so by parliamentary procedure instead of doing amendments. That's why we're advising voting against this section.

Since the Independent Police Review Act of 2007 was proclaimed—these sections were put into the original bill before the bill was proclaimed. Now that the bill has been proclaimed, this section is rendered useless.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? Shall section 52 carry? All those in favour?

Mr. Dave Levac: Well, no. Yes. No. We're against. Yes. No. Yes. Maybe.

Mr. Howard Hampton: Make up your mind.

Mr. Dave Levac: Whatever you want.

The Chair (Mr. Lorenzo Berardinetti): So I'll put the question again regarding section 52: Shall section 52 carry? All those in favour? Opposed? Okay, that section does not carry.

Section 53: Mr. Levac.

Mr. Dave Levac: The very same premise that we did for the previous section, we're going to do it again. So whatever we voted for, that's what we want to do.

But, again, just to confirm: Now that the other bill was proclaimed, we don't need this section, and we're advising voting against it.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? So I'll put the question: Shall section 53 carry? All those in favour? Opposed? Okay, that does not carry.

Section 54—Mr. Levac?

Mr. Dave Levac: The very same thing.

The Chair (Mr. Lorenzo Berardinetti): All right. Any further discussion or debate? So I'll put the question: Shall section 54 carry? All those in favour? Opposed? That does not carry.

I don't see any amendments between sections 55 and 60, so I'll put that together as one question. Shall sections 55 to 60 carry? All those in favour? Opposed? That carries.

Section 61—Mr. Levac?

Mr. Dave Levac: I move that subsection 90(5) of the Police Services Act, as set out in section 61 of the bill, be struck out and the following substituted:

"Exception, officers appointed under the Interprovincial Policing Act, 2009"

"(5) This section does not apply to a police officer appointed under the Interprovincial Policing Act, 2009."

This amendment clarifies that section 90 does not apply and thus the investigation continues. There's a concern that if this were to stay as is, there's a possibility of losing investigations under the fact that this person would no longer be a police officer.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion on the amendment? So I'll put it to a vote. All those in favour of the amendment? Opposed? That carries.

Shall section 61, as amended, carry?

Mr. Dave Levac: There's another amendment on 61. Or is it just 61.1? It's 61.1, sorry.

The Chair (Mr. Lorenzo Berardinetti): We'll finish 61 first. So I'll put the question again: Shall section 61, as amended, carry? All those in favour? Opposed? Carried.

The next motion is a government motion. Mr. Levac?

Mr. Dave Levac: I move that part VIII of the bill be amended by adding the following section:

"61.1 Part V of the act is amended by adding the following section before the heading 'Performance Audits':

"Termination of officers appointed under the Interprovincial Policing Act, 2009"

"90.1 This part applies to a police officer appointed under the Interprovincial Policing Act, 2009, even after his or her appointment under that act is terminated."

Again, this clarifies that part V applies even if an officer's appointment is terminated. Again, it's to ensure the continuity of investigation.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? So I'll put the question: Shall the motion carry? All those in favour? Opposed? Carried.

Shall section 61.1 carry? All those in favour? Opposed? Carried.

Between sections 62 and 64, there are no amendments, so we'll vote on those three sections together. I'll put the question: Shall sections 62 to 64 carry? All those in favour? Opposed? Carried.

Section 65: Mr. Levac.

Mr. Dave Levac: Again, the government recommends voting against section 65 of the bill. Since the Independent Police Review Act of 2007 was proclaimed, this section, again, is no longer needed, and it's the very same rationale as for the previous removals of sections.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion or debate? I'll put the question: Shall section 65 carry? All those in favour? Opposed? That does not carry.

Shall section 66 carry? All those in favour? Opposed? Carried.

Shall section 67 carry? All those in favour? Opposed? Carried.

Shall the title of the bill carry? All those in favour? Opposed? Carried.

Shall Bill 203, as amended, carry? All those in favour? Opposed? Carried.

Shall I report Bill 203, as amended, to the House? All those in favour? Opposed? Carried.

Thank you for everyone's co-operation. The meeting is adjourned.

The committee adjourned at 0930.

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