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**Official Report
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Monday 30 November 2009

**Journal
des débats
(Hansard)**

Lundi 30 novembre 2009

**Standing Committee on
Social Policy**

Occupational Health
and Safety Amendment Act
(Violence and Harassment
in the Workplace), 2009

**Comité permanent de
la politique sociale**

Loi de 2009 modifiant la Loi
sur la santé et la sécurité
au travail (violence et
harcèlement au travail)

Chair: Shafiq Qadri
Clerk: Katch Koch

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Monday 30 November 2009

Lundi 30 novembre 2009

The committee met at 1439 in committee room 1.

OCCUPATIONAL HEALTH
AND SAFETY AMENDMENT ACT
(VIOLENCE AND HARASSMENT
IN THE WORKPLACE), 2009

LOI DE 2009 MODIFIANT LA LOI
SUR LA SANTÉ ET LA SÉCURITÉ
AU TRAVAIL (VIOLENCE ET
HARCÈLEMENT AU TRAVAIL)

Consideration of Bill 168, An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters / Projet de loi 168, Loi modifiant la Loi sur la santé et la sécurité au travail en ce qui concerne la violence et le harcèlement au travail et d'autres questions.

The Chair (Mr. Shafiq Qaadri): Welcome to clause-by-clause on Bill 168, An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters. I begin by inviting comments of a general nature, and then we'll proceed to the actual motions and amendments. Any general comments before proceeding? Ms. DiNovo.

Ms. Cheri DiNovo: Yes, just to let the committee know, we in the New Democratic Party, of course—and we've said this from the outset—plan on voting for this bill. Our amendments are by way of our stakeholders, from all the deputants we've heard, just to strengthen the language of the bill. All of our amendments are to that end and they are all on the advice of stakeholders. The Registered Nurses' Association of Ontario and the Ontario Federation of Labour have inspired all of our amendments, just to give you a little bit of background on where we're coming from.

The Chair (Mr. Shafiq Qaadri): Any further comments? I'll take the liberty of standing down the PC amendment. Perhaps we can come back to it should some more members materialize. I'd now invite the NDP to please present motion 1.

Ms. Cheri DiNovo: This particular amendment is from the Registered Nurses' Association of Ontario, which felt very strongly about it. They weren't alone; there were a number of others. We just felt—and again,

we heard this from a number of deputants—that workplace violence was defined poorly in the original bill.

I move that the definition of “workplace violence” in subsection 1(1) of the Occupational Health and Safety Act, as set out in section 1 of the bill, be struck out and the following substituted:

“‘workplace violence’ means any incident in which a person is threatened, abused or assaulted in circumstances related to their work, whether by a customer, co-worker or other person, and regardless of the level at which the worker is employed in an organization, and includes all forms of harassment, bullying, intimidation, physical threats, assault, robbery and other intrusive behaviours.”

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Mr. Vic Dhillon: We won't be supporting this because we believe that there should be a separate definition for workplace harassment, as it's different than workplace violence. Including harassment and bullying in the definition of workplace violence would be inconsistent with the separate approach to workplace harassment and workplace violence that is taken in the bill, and it would also make redundant the proposed bill's required provision of the employer's workplace harassment policy and program. So we won't be supporting this.

Ms. Cheri DiNovo: Excuse me, Mr. Chair. I couldn't hear some of what he was saying, so I didn't hear the explanation.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon, we would invite you to speak to be heard.

Mr. Vic Dhillon: Sure. I'll repeat what I said. We won't be supporting this because we believe that there should be a separate definition for workplace harassment, as it is different from workplace violence. Including harassment and bullying in the definition of workplace violence would be inconsistent with the separate approach to workplace harassment and workplace violence that is taken in this bill. This amendment would also make redundant the proposed bill's required provisions for the employer's workplace harassment policy and program.

The Chair (Mr. Shafiq Qaadri): Any further comments before we proceed to the vote? Seeing none, we'll proceed to the vote. Those in favour of NDP motion 1? Those opposed? I declare NDP motion 1 to have been defeated.

NDP motion 2: Ms. DiNovo.

Ms. Cheri DiNovo: Again, inspired by our stakeholders, and I have to say that every single one of the deputants wanted this. This is complementary, as we shall see, to our amendment number 3 that is coming up.

I might draw the attention of the government side back to the case of Lori Dupont and Theresa Vince, particularly Lori Dupont and others, where the person might not be a worker in that particular—

The Chair (Mr. Shafiq Qaadri): Ms. DiNovo, just for protocol purposes, I'd invite you to read the motion, and then you're welcome to make any comments after.

Ms. Cheri DiNovo: Sure. Not a problem.

I move that the definition of "workplace violence" in subsection 1(1) of the Occupational Health and Safety Act, as set out in section 1 of the bill, be struck out and the following substituted:

"workplace violence" means,

"(a) the exercise of physical force by a person against another person in a workplace that causes or could cause physical injury to the other person,

"(b) an attempt to exercise physical force against a person in a workplace that could cause physical injury to the person. ('violence au travail')"

I'd just point out that it substitutes the word "worker" as described by our stakeholders.

The Chair (Mr. Shafiq Qaadri): You have the floor for any comments.

Ms. Cheri DiNovo: That's it.

The Chair (Mr. Shafiq Qaadri): Any further comment? Mr. Dhillon?

Mr. Vic Dhillon: We won't be supporting this. The purpose of the Occupational Health and Safety Act is to protect workers' health and safety on the job. We're not in favour of removing the reference to a worker as this is not consistent with the Occupational Health and Safety Act. It is important that the committee recognize that the language in the bill would provide protection to a nurse, for example, when dealing with two patients who would be fighting.

The Chair (Mr. Shafiq Qaadri): If there are no further comments—Ms. DiNovo?

Ms. Cheri DiNovo: Yes. Again, there was some real concern with folk that exactly the situation that's described by Mr. Dhillon might result in harm to a worker, particularly a nurse. So in a sense it's exactly the situation he described that would warrant this amendment, but suffice to say.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the vote. Those in favour of NDP motion 2? Those opposed? NDP motion 2 is defeated.

NDP motion 3.

Ms. Cheri DiNovo: I move that the definition of "workplace violence" in subsection 1(1) of the Occupational Health and Safety Act, as set out in section 1 of the bill, be amended by adding the following clause:

"(c) engaging in a course of vexatious comment or conduct against a worker in a workplace that provides

reasonable grounds to believe it will cause or could cause physical injury to that worker or any other worker."

The Chair (Mr. Shafiq Qaadri): Debate, comments? 1450

Ms. Cheri DiNovo: Yes. Again, I want to point out, this was an amendment supported by the Ontario Federation of Labour, the Ontario Nurses' Association, OPSEU and many others, for the reasons I've already outlined.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Dhillon.

Mr. Vic Dhillon: We won't be supporting this because we have an upcoming motion, number 5, which will address the issues raised in this motion.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote. This in favour of NDP motion 3? Those opposed? Motion 3 is defeated.

NDP motion 4: Ms. DiNovo.

Ms. Cheri DiNovo: I move that the definition of "workplace violence" in subsection 1(1) of the Occupational Health and Safety Act, as set out in section 1 of the bill, be amended by adding the following clauses:

"(c) the endangerment of the physical or psychological health or safety of a worker,

"(d) any threatening statement or behaviour that gives a person reasonable cause to believe that he or she is at risk of physical injury."

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Cheri DiNovo: Yes. The Inquest Action Group in particular, coming out of the Lori Dupont case—her family and supporters really wanted this amendment. That's why we brought it forward on their behalf.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Again, Chair, we won't be supporting this. This bill deals with situations where there is psychological harassment with threats of physical harm. The government has an upcoming motion, number 5, that responds to the issue raised in clause (d) in this motion, which involves threatening statements that lead to physical violence.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the vote. Those in favour of NDP motion 4? Those opposed? Motion 4 is defeated.

With the committee's permission, I'll invite Ms. Jones—if you're ready—to present PC motion 0.1.

Ms. Sylvia Jones: I move that the definition of "workplace harassment" in subsection 1(1) of the Occupational Health and Safety Act, as set out in section 1 of the bill, be struck out and the following substituted:

"workplace harassment" means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, including,

"(a) repeatedly following the worker from place to place,

"(b) repeatedly communicating with the worker, either directly or indirectly,

“(c) besetting or watching the place where the worker works or happens to be, or

“(d) engaging in threatening conduct directed at the worker.”

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. DiNovo.

Ms. Cheri DiNovo: I just wanted to give the New Democratic Party’s reasons for not supporting this amendment. Again, this is a narrowing down of the definition of what we’re trying to do. In fact, our amendments broaden out what the government has already done. So we will not be supporting this amendment.

The Chair (Mr. Shafiq Qaadri): Any further comments? Mr. Dhillon.

Mr. Vic Dhillon: We won’t be supporting this, as the opposition has proposed limiting the definition for harassment by proposing subsections (a) to (c), which focus on stalking behaviours.

The definition in Bill 168 is based on the Human Rights Code and provides a broader approach. The government does not support limiting the definition of harassment.

The government has an upcoming motion, number 5, to amend the definition of workplace violence that would address the behaviour described in clause (d).

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we’ll proceed to the vote. Those in favour of PC motion 0.1? Those opposed? PC motion 0.1 is defeated.

Government motion 5: Mr. Dhillon.

Mr. Vic Dhillon: I move that the definition of “workplace violence” in subsection 1(1) of the act, as set out in section 1 of the bill, be struck out and the following substituted:

“‘workplace violence’ means,

“(a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,

“(b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,

“(c) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker. (‘violence au travail’)”

The reason for this motion is that we’ve heard the concerns of stakeholders that the definition of workplace violence needed to include threatening statements that could lead to physical injury to the worker. That’s why this amendment would clarify that “workplace violence” includes a threatening statement or behaviour that could lead to the exercise of physical force against a worker in a workplace.

The Chair (Mr. Shafiq Qaadri): Comments? Ms. DiNovo.

Ms. Cheri DiNovo: I’m wondering, Mr. Chair, if this is the appropriate time to suggest an amendment to this government motion.

The Chair (Mr. Shafiq Qaadri): The floor is yours to do so.

Ms. Cheri DiNovo: I tabled this amendment with the clerk.

I move that the definition of “workplace violence”—I’m just rereading the entire government amendment—in subsection 1(1) of the Occupational Health and Safety Act, as set out in the government motion to strike out and replace that definition, be amended by striking out clause (c) and substituting the following:

“(c) a statement or behaviour”—and here’s the change, if the government’s listening—“or a series of statements or behaviours that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.”

So instead of just “a statement or behaviour,” it’s “a series of statements or behaviours.”

The Chair (Mr. Shafiq Qaadri): I’ll ask members of the committee: Do you need a written copy of the amendment before we vote?

Ms. Cheri DiNovo: Could I speak to the amendment, too?

The Chair (Mr. Shafiq Qaadri): In a moment.

If you do, I need to recess for that process.

Mr. Vic Dhillon: Yes, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Fine. If it’s all right with you, I’d like to recess in order to copy. So the committee is recessed for a few minutes.

The committee recessed from 1452 to 1457.

The Chair (Mr. Shafiq Qaadri): Thank you. Now that all committee members have copies of the NDP motion amendment, the floor is open for any comments. Ms. DiNovo?

Ms. Cheri DiNovo: I just draw the committee’s attention and that of those who are here from the ministry back to the cases that I think actually engendered all of this, and those are Theresa Vince and Lori Dupont. One behaviour might be considered reasonable: the example, of a woman who is a TTC driver and her abusive ex is sitting in the chair next to her on one trip. Well, one trip might be considered conceivably reasonable, but where it becomes really unreasonable and where it really becomes a red flag for those who know the chain of events that led to Lori’s death, for example, or Theresa Vince’s death, is when it’s a series of behaviours, repeated. So one asking out on a date, well, is that reasonable? It’s a series of behaviours.

This is a very small step that the government is making here. As a nod to the vast majority of our deputants, we’d just like, if we have to make do with this—and as you know from my other amendments, we would have liked to see this language much stronger. But if we have to make do with this, at least this will perhaps prevent deaths like those of Lori Dupont or Theresa Vince. Without that amendment, I don’t think this bill would prevent a Lori Dupont or Theresa Vince death, because the behaviours exerted and epitomized by both of their assailants were, if you took any snapshot of one

of those behaviours, reasonable, or could be deemed reasonable. So we don't want that to happen. We want to catch this kind of behaviour before it becomes violent and ends in death.

The Chair (Mr. Shafiq Qaadri): Any further comments on the NDP amendment?

Mr. Vic Dhillon: Mr. Chair, I'd like to invite legal counsel to provide some comments.

The Chair (Mr. Shafiq Qaadri): Welcome. Please come forward and identify yourselves, and the floor is yours.

Ms. Kathleen Therriault: Hello. My name is Kathleen Therriault. I'm with the Ministry of Labour.

I would just like to clarify that subclauses (a) and (b) are written in the singular, and so subclause (c) is drafted to maintain consistency with that approach. I'd also like to add that the singular would cover off the last of a series of incidents, where it was at the point at which someone felt that they would be subject to physical harm in the workplace. So the singular would include the plural, is what I'm trying to say, on a policy basis.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Ms. Cheri DiNovo: Yes. Again, it's not my voice alone that is really bringing this forward; it's the voices of the deputants, who are very concerned about what they saw as the language being too weak to, again, prevent the tragedies that were the lives and deaths of Lori Dupont and Theresa Vince. They wanted to capture it.

I understand what you're saying, but I don't think consistency in language is enough of an argument, from our standpoint, to argue for the series of statements or behaviours. Again, I could easily see that a one-time behaviour could be seen as reasonable—and remember, this is a worker who has to defend her actions to refuse work, or whatever she's going to do, to a manager. So we're trying to aid her in protecting herself. If it's just one statement or behaviour, well, it's the last of a series, but nowhere in here does it say that there's a series.

What I'm getting at is that stalking behaviour is never a one-time incident. Stalking behaviour is a series of incidents, escalating. As you know, in the Lori Dupont case, it was 44 different times. Any one of those times might have been deemed reasonable by an employer, whereas for the employee, in that case Lori, it was not reasonable because of the series, because of the pattern effect.

Again, if it doesn't make that much difference, I don't see why the government wouldn't add this in to satisfy the families of Theresa Vince and Lori Dupont, and stakeholders like the Ontario Federation of Labour and the Registered Nurses' Association of Ontario. If it's not that big a thing, why don't we add it in just to be sure, just to be safe?

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo. Are there further comments?

Mr. Vic Dhillon: I just want to reinforce that the definition would cover more than one scenario, one behaviour or one statement, so we don't feel that this

amendment would clarify, and therefore it would not be necessary.

The Chair (Mr. Shafiq Qaadri): Thank you. Please.

Mr. David Halporn: Hi. I'm David Halporn, counsel with the Ministry of Labour. I've just been asked to add that, as a legal matter, the singular would include the plural, absent evidence to the contrary. I'm sure our esteemed legislative counsel could confirm that if necessary.

Ms. Cornelia Schuh: It's correct that the Legislation Act, the interpretation part of that, provides that the singular includes the plural and the plural includes the singular in the absence of an intention to the contrary. So you have to look at the context, but I don't think you would see here any intention to the contrary.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further comments?

Seeing none, we'll proceed to the vote on the amendment to the amendment. The amendment to the amendment is by the NDP. Those in favour of that? Those opposed? I declare the amendment to the amendment defeated.

We'll now proceed to the anterior amendment, which is government motion 5. Are there any further comments on government motion 5?

Seeing none, we'll proceed to the vote of that. Those in favour of government motion 5? Those opposed? Motion 5 is carried.

Shall section 1, as amended, carry? Carried.

We'll proceed to the vote on section 2, as we've received no amendments to date. Shall section 2 carry? Carried.

We'll proceed now to section 3. Thanks to legal counsel and the ministry folks who just testified there.

Section 3, NDP motion 6: Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 32.0.1 of the Occupational Health and Safety Act, as set out in section 3 of the bill, be amended by adding the following subsection:

“Consultation

“(1.1) The employer shall prepare and review policies under subsection (1) in consultation with, and shall consider the recommendations of, the joint health and safety committee or health and safety representative.”

The Chair (Mr. Shafiq Qaadri): Any further comments? Ms. DiNovo.

Ms. Cheri DiNovo: I want to draw the government's attention to this, because this is extremely serious and really baffled and upset our stakeholders, including the Dupont and Vince families. This, in effect, de facto, would make workplace violence the only behaviour that's exempt from the requirement to check with joint health and safety committees or health and safety representatives. It singles it out as a behaviour that they shouldn't have to consult on, whereas all other behaviours should be consulted on with the joint health and safety committee or health and safety representative. We feel it's very, very important in this amendment that they must consult, especially on issues of potential violence,

with those who are entrusted to represent the employees, of course, and the government, in a sense, and the Occupational Health and Safety Act on this.

Rather than exempt workplace violence as the one behaviour that doesn't have to be discussed, we think very much that workplace violence needs to be part of the conversations had with management and the joint health and safety committee or health and safety representative.

The Chair (Mr. Shafiq Qaadri): Any further comments on NDP motion 6?

Mr. Vic Dhillon: We will not be supporting this motion, as section 32.0.1 in the bill is consistent with the Occupational Health and Safety Act in the role that it gives the joint health and safety committee or health and safety representative. It is consistent with other health and safety issues in the workplace.

In addition, under the Occupational Health and Safety Act, the joint health and safety committee or health and safety representative has the power to make recommendations to the employer for the improvement of the health and safety of workers.

1510

The Chair (Mr. Shafiq Qaadri): Any further comments?

Ms. Cheri DiNovo: Then why does it not state that? Again, stakeholders were extremely concerned that—and I think this is, notwithstanding the government's concern, inadvertent. I don't think it's a purposeful omission here on the government's part, but it is an exemption, an omission. So that is not only our concern but stakeholders' real concern about this, that inadvertently it causes an omission, an exemption, to workplace violence under the act.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Vic Dhillon: I would request that we call up legal counsel just to clear up a policy matter.

The Chair (Mr. Shafiq Qaadri): Legal counsel, the floor is yours.

Interjection: Policy.

The Chair (Mr. Shafiq Qaadri): Policy and associated entourage. As you wish.

Mr. Vic Dhillon: A policy adviser from the ministry.

Ms. Kathleen Therriault: Hello. It's Kathleen Therriault for the Ministry of Labour.

I'd just like to indicate that the Occupational Health and Safety Act does not assign a specific role for joint health and safety committees in the development of the occupational health and safety policy and program. Likewise, the proposed amendments in Bill 168 would not assign it a specific role for the development of the workplace violence and harassment policies and programs.

The Chair (Mr. Shafiq Qaadri): Thank you. Are there further comments?

Ms. Cheri DiNovo: Well, simply, notwithstanding the fact that I think fewer than half of workplaces have a joint health and safety committee or a health and safety

representative, it's my understanding that they're still encouraged to have them.

In essence, the next few motions that we're going to bring forward really put the onus on the government to work with the employees and their committees that are struck to represent their interests rather than simply unilaterally taking action in any way, shape or form. Again, that has been the tradition of working with joint health and safety committees. We just want to make sure that that's absolutely the intent of this bill.

Again, if we're not looking for the exemptions or the problems here, others will be. Agents and employers will be looking for those exemptions and omissions. Again, we just want to make it very clear that these bodies be consulted.

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Seeing none, we'll proceed to the vote on NDP motion 6. Those in favour? Those opposed? NDP motion 6 is defeated.

NDP motion 7.

Ms. Cheri DiNovo: I move that section 32.0.1 of the Occupational Health and Safety Act, as set out in section 3 of the bill, be amended by adding the following subsection:

“Contents

“(1.2) Without limiting the generality of subsection (1), the policies prepared with respect to workplace violence and workplace harassment must include internal procedures to manage the disclosure of information.”

The Chair (Mr. Shafiq Qaadri): Further comments or debate?

Ms. Cheri DiNovo: Again, better protection for whistle-blowers; that's what this amendment brings in. We want to be very specific that whistle-blowers will be protected, and again, not targeted by management or their—frighteningly enough—potential abusers.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: We won't be supporting this. The occupational health and safety policy, as conceived under the Occupational Health and Safety Act, reflects on a high-level commitment to workplace health and safety by the highest levels of management. The policies with respect to workplace violence and workplace harassment in this bill would be analogous.

Specific procedures such as those put forward in this amendment would be more appropriate as a component of the program that implements the policy, so we will not be in favour of this motion.

The Chair (Mr. Shafiq Qaadri): Ms. DiNovo.

Ms. Cheri DiNovo: Yes. Again, I just want to really state our adamant support of this amendment and the adamant concern that Bill 168, as currently written, does not protect whistle-blowers enough and hence, again, does not satisfy those folk who came and deputed on behalf of the Vince and Dupont families and all of our stakeholders to really protect workers who have to go to management or go to the Ministry of Labour with

complaints about workplace safety. So, again, just for the record.

The Chair (Mr. Shafiq Qaadri): Further comments?

Seeing none, we'll proceed to the vote. Those in favour of NDP motion 7? Those opposed? NDP motion 7 is defeated.

NDP motion 8.

Ms. Cheri DiNovo: I move that subsection 32.0.1(2) of the Occupational Health and Safety Act, as set out in section 3 of the bill, be struck out and the following substituted:

“Written form, posting

“(2) The policies shall be posted at a conspicuous place in the workplace and shall be given to every person hired to work at the workplace within one week after beginning work.”

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Cheri DiNovo: Yes. I know that the government's going to point to their motion or amendment 26. We don't feel that that has strong enough language. It's “may” language rather than “should.” It's rooted in an inspector rather than in management. We want more direct language here for the very simple reason that an employee does not know their rights unless they are given those rights, whether it's in written form or whether it's posted. So, if it's not posted and it's never delivered to you, how do you know you have them? How does a new employee know how she is covered under this act if she's not told and told, pretty specifically and directly, pretty early on in her employment with her employer?

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: Again, we will not be supporting this. This bill already requires the employer to provide a worker with information and instruction on the contents of the policies in subsection 32.0.5(2) and section 32.0.7. The bill already requires the employer to post the policies with respect to workplace violence and workplace harassment in a conspicuous place in the workplace as required under subsection 32.0.1(2).

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. Are there any further comments?

Seeing none, we'll proceed to the vote. Those in favour of NDP motion 8? Those opposed? NDP motion 8 is defeated.

Ms. DiNovo, NDP motion 9.

Ms. Cheri DiNovo: I move that section 32.0.2 of the Occupational Health and Safety Act, as set out in section 3 of the bill, be amended by adding the following subsection:

“Consultation

“(1.1) The employer shall develop and maintain the program in consultation with, and shall consider the recommendations of, the joint health and safety committee or health and safety representative.”

This follows from our other amendment. It's a sister amendment and obligates the employer to work with those who represent both this ministry and this act and the employees, and without being very direct about this,

we don't see the necessity for employers to do that in the bill.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 9?

Mr. Vic Dhillon: Chair, we will not be supporting this. As we mentioned in proposed motion 6, section 32.0.2 in the bill is consistent with the Occupational Health and Safety Act and the role that it gives the joint health and safety committee or health and safety representative, which is consistent with other health and safety issues.

As well, under the Occupational Health and Safety Act, the joint health and safety committee or health and safety representative has the power to make recommendations to the employer for the improvement of the health and safety of workers.

The Chair (Mr. Shafiq Qaadri): Any further comments before we proceed to the vote?

Seeing none, we'll proceed to NDP motion 9. Those in favour? Those opposed? NDP motion 9 is defeated.

NDP motion 10.

Ms. Cheri DiNovo: I move that clause 32.0.2(2)(a) of the Occupational Health and Safety Act, as set out in section 3 of the bill, be amended by striking out “procedures to control the risks” and substituting “procedures to eliminate or, if that is not possible, to control the risks.”

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 10? Mr. Dhillon?

Mr. Vic Dhillon: Yes, Chair. Clause 32.0.2(2)(a), as currently drafted, is consistent with the existing employer duty in the Occupational Health and Safety Act to take every precaution reasonable in the circumstances to protect workers. We will not be in support of this.

Ms. Cheri DiNovo: Mr. Chair?

The Chair (Mr. Shafiq Qaadri): Yes, Ms. DiNovo.

Ms. Cheri DiNovo: Thank you. We feel very strongly, and so do the families, again, of Theresa Vince and Lori Dupont. This would not have saved their lives, the way this bill is written right now, with this.

1520

Surely the intent of management should be to eliminate the risks to their employees, their female employees, of violence in the workplace. It's not enough to control the risk. What would that look like, in the case of Theresa Vince or of Lori Dupont? Obviously, it's the intent of all of us in this room, and in every room, to eliminate the risk to our employees.

Really, this is not asking a great deal of the government, simply to state what should be everybody's intent, which is to eliminate the risks to our workers. Controlling the risks, allowing violent people on staff to continue to be on staff—is that controlling the risk? The language here is extremely important. Again, I would strongly urge the government to vote for this amendment.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed to the vote. Those in favour of NDP motion 10? Those opposed? I declare NDP motion 10 to have been defeated.

I now invite Mr. Dhillon to present government motion 11.

Mr. Vic Dhillon: Certainly, Chair.

I move that clauses 32.0.2(2)(b), (c) and (d) of the act, as set out in section 3 of the bill, be struck out and the following substituted:

“(b) include measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur;

“(c) include measures and procedures for workers to report incidents of workplace violence to the employer or supervisor;

“(d) set out how the employer will investigate and deal with incidents or complaints of workplace violence; and.”

The reason for this motion is that the earlier government motion, number 5, to change the definition of workplace violence to include threatening statements or behaviour makes the word “threat” in these provisions redundant. The reference to workplace violence covers the situation of when a threat of workplace violence is made.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. DiNovo.

Ms. Cheri DiNovo: I was looking forward to the government’s explanation, because we were extremely concerned, as were the stakeholders, that you’re eliminating the language in this section of threats of workplace violence. It seems to be a weakening of the language in this section.

Again, threats are a critical part of one of those steps, 44 of which led to Lori’s death. Any language that strengthens rather than weakens—this “immediate assistance when workplace violence occurs or is likely to occur” is very different, it seems to me, than threats of workplace violence occurring. The threats come before the workplace violence.

That was our concern. I am afraid I haven’t heard anything from the government side to allay that concern. If there’s further explanation, we’re happy to hear it. Otherwise, we will be voting against this.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? Mr. Dhillon.

Mr. Vic Dhillon: Yes, Chair. I just wanted to reiterate that, again, the amendment definition includes threats. So we’ll be voting in favour of this.

The Chair (Mr. Shafiq Qaadri): Thank you. Are there further comments?

Seeing none, we’ll proceed to the vote. Those in favour of government motion 11? Those opposed? I declare government motion 11 to have carried.

Government motion 12: Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 32.0.3(1) of the act, as set out in section 3 of the bill, be struck out and the following substituted:

“Assessment of risks of violence

“(1) An employer shall assess the risks of workplace violence that may arise from the nature of the workplace, the type of work or the conditions of work.”

Our reasoning is that this amendment would clarify that employers shall assess all the risks associated with the hazard of workplace violence. This amendment is to address stakeholder concerns that were raised that there may be more than one risk associated with the hazard of workplace violence.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? Ms. DiNovo.

Ms. Cheri DiNovo: We think this is a good amendment and we’re going to support it. We think the change from “risk” to “risks” is a strengthening of the language that will help victims.

The Chair (Mr. Shafiq Qaadri): If there are no further comments: Those in favour of government motion 12? Those opposed? Government motion 12 is carried.

NDP motion 13: Ms. DiNovo.

Ms. Cheri DiNovo: I move that clause 32.0.3(3)(a) of the Occupational Health and Safety Act, as set out in section 3 of the bill, be amended by striking out “provide a copy if the assessment is in writing” and substituting “provide a copy of the assessment in writing.”

Again, this refers to government motion 26. It’s a stronger and more direct way of saying what we think the bill should be saying. In fact, concern that management not have an obligation to provide a risk assessment in writing—we think management definitely should provide a risk assessment in writing.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 13? Mr. Dhillon.

Mr. Vic Dhillon: We have an upcoming motion, motion number 26, which addresses the issues raised.

The Chair (Mr. Shafiq Qaadri): We’ll proceed to the vote. Those in favour of NDP motion 13? Those opposed? NDP motion 13 is defeated.

NDP motion 14: Ms. DiNovo.

Ms. Cheri DiNovo: I move that clause 32.0.3(3)(b) of the Occupational Health and Safety Act, as set out in section 3 of the bill, be amended by striking out “advise the workers of the results of the assessment and, if the assessment is in writing, provide copies on request or advise the workers how to obtain copies” at the end and substituting “advise the workers of the results of the assessment in writing and provide written copies of the assessment on request or advise the workers how to obtain written copies.”

Again, it’s alerting workers to the policies that are in place. We think the language needs to be strong enough to encourage management to do just that, and there shouldn’t be any wiggle room here in terms of management providing this to workers.

The Chair (Mr. Shafiq Qaadri): Further comments?

Seeing none, we’ll proceed to the vote. Those in favour in NDP motion 14? Those opposed? NDP motion 14 is defeated.

Government motion 15: Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 32.0.3(4) of the act, as set out in section 3 of the bill, be amended by striking out “the risk of workplace violence” and substituting “the risks of workplace violence.”

This is a consequential amendment that would provide consistency with motion number 12 to refer to the risks of workplace violence rather than the risk of workplace violence.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. DiNovo?

Ms. Cheri DiNovo: We're in favour, for the same reasons we were in favour of the other amendment that pluralized "risk."

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote—yes, Ms. Jones?

Ms. Sylvia Jones: I have a question for the PA. Why are we adding the plurals here and yet we were not willing to do that for the NDP motion previously?

Mr. Vic Dhillon: Chair, may I, with your permission, ask the policy—

The Chair (Mr. Shafiq Qaadri): We would be delighted. Policy folks, welcome.

Mr. Vic Dhillon: Can we have a five-minute recess, Chair?

The Chair (Mr. Shafiq Qaadri): If that's suitable to the committee, a five-minute recess.

The committee recessed from 1524 to 1527.

The Chair (Mr. Shafiq Qaadri): We reconvene. The floor is yours.

Ms. Kathleen Therriault: It's Kathleen Therriault for the Ministry of Labour. I'd just like to state, in response to the question, that the pluralization proposed in the amendment to government motion 5 would not have provided any additional clarity around the intent of that section, whereas the pluralization in this proposed motion is something that would have clarified that employers will be required to assess all risks and not just one risk with respect to workplace violence.

The Chair (Mr. Shafiq Qaadri): Ms. DiNovo.

Ms. Cheri DiNovo: I found the Progressive Conservative speaking point very interesting, and she's absolutely right. Why plural in one case and not in another? But I guess this is indicative of a government that is going to be voting down, by the looks of it, 20 different NDP amendments to strengthen this bill on behalf of the families who are victims of violence and the stakeholders who actually work in the workplaces that are beset by violence. Really, it's not about policy, not about the bill and strengthening the bill; it's simply that it's the government's way or it's the highway. That's a very clear-cut indication: plural in one and not in the other because the government says so—end of story.

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Seeing none, we'll proceed to the vote. Thank you to the policy folks. Those in favour of government motion 15? Those opposed? Government motion 15 carries.

NDP motion 16.

Ms. Cheri DiNovo: Although it may be a waste of breath, as have all the other motions been at this point, I move that section 32.0.4 of the Occupational Health and Safety Act, as set out in section 3 of the bill, be amended by striking out "the employer shall take every precaution

reasonable in the circumstances" and substituting "the employer shall take a proactive approach."

It hardly needs an explanation, but I'll give one.

The Chair (Mr. Shafiq Qaadri): You're welcome to.

Ms. Cheri DiNovo: Again, in the eye of the beholder, you're leaving this in. The management has to take every precaution reasonable. What does that mean? Again, that leaves it up to the employer to define what's reasonable. What we're saying is on the side of the employee, which is that the employer shall take a proactive approach—in other words, not a reactionary approach but a proactive approach—to the possibility of workplace violence, which is so critical where you've got stalking behaviours leading to violence leading to death.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Vic Dhillon: Yes, Chair. The government opposes this motion and has covered it off in the definition where an employer knows or ought to know and would have an obligation to act in the situation.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Seeing none, we'll now proceed to the vote. Those in favour of NDP motion 16? Those opposed? I declare NDP motion 16 to be defeated.

NDP motion 17.

Ms. Cheri DiNovo: I move that subsection 32.0.5(1) of the Occupational Health and Safety Act, as set out in section 3 of the bill, be amended by striking out "workplace violence" at the end and substituting "workplace violence and workplace harassment."

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Cheri DiNovo: Yes. Clearly, we have been, from the beginning, and so have all the deputants, concerned that "workplace violence" does not describe all of the behaviours that lead to the death of employees such as Lori Dupont and Theresa Vince. That's why we need "workplace violence and workplace harassment," as the government seems to want to do in some small way themselves. So we don't understand why, in this section of the bill, harassment is not mentioned as well.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon?

Mr. Vic Dhillon: The government believes that workplace harassment needs to be dealt with separately from violence as there are unique protections for each. Adding "workplace harassment" to this section would be inconsistent with the separate approach to workplace harassment and workplace violence that is taken in this bill.

The Chair (Mr. Shafiq Qaadri): Further comments?

Seeing none, we'll proceed to the vote. NDP motion 17: Those in favour? Those opposed? NDP motion 17 is defeated.

NDP motion 18: Ms. DiNovo.

Ms. Cheri DiNovo: I move that subsection 32.0.5(2) of the Occupational Health and Safety Act, as set out in section 3 of the bill, be amended by,

(a) striking out “information and instruction” at the beginning of clause (a) and substituting “information, instruction, training and education”; and

(b) striking out “information or instruction” at the end of clause (b) and substituting “information, instruction, training or education.”

The Chair (Mr. Shafiq Qaadri): Further comments?

Ms. Cheri DiNovo: Yes. The Ontario Federation of Labour really wanted this, and so did many other stakeholders. They felt that this language strengthened the act, and they say this out of years of collective experience. We bow to their superior wisdom.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon, comments?

Mr. Vic Dhillon: Adding the term “training and education” would be inconsistent with the existing employer duty under the Occupational Health and Safety Act to provide information, instruction and supervision to a worker on health and safety issues.

The Chair (Mr. Shafiq Qaadri): Further comments? We’ll proceed to the vote—oh, Ms. DiNovo?

Ms. Cheri DiNovo: I just wanted to comment on the use of consistent language, which the government has raised as an objection to many NDP amendments here. It speaks to the deficiencies in the Occupational Health and Safety Act, quite frankly. What we’re trying to do is strengthen it. We have an opportunity here to strengthen the language in the Occupational Health and Safety Act, and this is an opportunity missed because we’re adding something to it with Bill 168. So I don’t really accept, and neither do our stakeholders, the fact that “consistency” is a good explanation. Just because it’s consistent with poor language doesn’t mean it’s a reasonable reaction to a viable amendment put forward by stakeholders. So, just for the record.

The Chair (Mr. Shafiq Qaadri): If there are no comments, we’ll proceed to the vote. Those in favour of NDP motion 18? Those opposed? NDP motion 18 is defeated.

NDP motion 19: Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 32.0.5 of the Occupational Health and Safety Act, as set out in section 3 of the bill, be amended by adding the following subsection:

“Consultation

“(1.1) The employer shall provide the information in consultation with, and shall consider the recommendations of, the joint health and safety committee or health and safety representative.”

The Chair (Mr. Shafiq Qaadri): Further comments?

Ms. Cheri DiNovo: Yes. This is consistent with our other proposed amendments that have been voted down one and all by this government, which clearly is not in favour of making this bill as strong as it can be but in favour of making this bill as weak as it can be. What we want here is to encourage management to do the right thing, and that is to consult with joint health and safety committees and health and safety representatives, i.e., the representatives of this government, this bill and em-

ployees. I’m waiting for the word “consistency.” So fire away.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon?

Mr. Vic Dhillon: Section 32.0.5 in the bill is consistent with the Occupational Health and Safety Act and the role that it gives the joint health and safety committee or health and safety representative on other health and safety matters. In addition, under the Occupational Health and Safety Act, the joint health and safety committee or health and safety representative has the power to make recommendations to the employer for the improvement of the health and safety of workers.

The Chair (Mr. Shafiq Qaadri): Comments? We’ll proceed to the vote, then. Those in favour of NDP motion 19? Those opposed? NDP motion 19 is defeated.

NDP motion 20: Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 3 of the bill be amended by adding the following section to the Occupational Health and Safety Act:

“Disclosure of information

“32.0.8(1) A worker may disclose to his or her supervisor or to the coordinator designated for the purpose by the employer any information that the worker believes could show that workplace harassment or workplace violence has occurred or is about to occur.

“Duties of employer

“(2) Every employer shall,

“(a) protect the identity of persons involved in the disclosure process, including persons making disclosures, witnesses and persons alleged to be responsible for workplace harassment or workplace violence; and

“(b) establish procedures to ensure the confidentiality of information collected in relation to disclosures of workplace harassment and workplace violence.

“Prohibition against reprisal

“(3) No person shall take any reprisal against a person or direct that any reprisal be taken against a person as a result of a disclosure under this act.”

The Chair (Mr. Shafiq Qaadri): Any further comments? Ms. DiNovo?

Ms. Cheri DiNovo: Yes. The Registered Nurses’ Association of Ontario specifically wanted this amendment, but so did many of the other stakeholders. There’s simply inadequate protection under Bill 168, as it stands, for whistle-blowers.

I look at the case of Theresa Vince, where she was working for her abuser, her manager, where the manager had no—anybody else who whistleblow could be fired or could be moved because they were in a position as an underling to this manager, who was the source of the abuse. This makes for a very dangerous work environment. You need whistle-blower protection, otherwise this law is toothless.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Dhillon?

Mr. Vic Dhillon: There’s nothing in the bill or the Occupational Health and Safety Act that would restrict workers from disclosing information to show that workplace harassment or workplace violence has occurred or

is about to occur. Section 50 of the Occupational Health and Safety Act already provides reprisal protection for workers.

The Chair (Mr. Shafiq Qaadri): Are there no further comments? Ms. Jones?

Ms. Sylvia Jones: Can the parliamentary assistant explain to me why, then, the RNAO has raised this as a concern? Clearly they do not believe that it is sufficient.

The Chair (Mr. Shafiq Qaadri): For the committee, I would invite a reply.

Mr. Vic Dhillon: Yes, Chair. Can we break for about a minute or so?

The Chair (Mr. Shafiq Qaadri): If that is suitable for the committee, we will have a break of a minute or so.

The committee recessed from 1539 to 1540.

The Chair (Mr. Shafiq Qaadri): Finally we resume. Mr. Dhillon, the floor is yours.

Mr. Vic Dhillon: I'd like to request our policy adviser to speak on this, please.

Ms. Kathleen Therriault: It's Kathleen Therriault for the Ministry of Labour.

I would just like to add that subsection (3) of this proposed amendment would, in effect, expand the existing prohibition of reprisals in the Occupational Health and Safety Act, and this kind of proposal would require separate and adequate consideration on its own.

The Chair (Mr. Shafiq Qaadri): Are there any further comments or questions before we proceed to the vote on NDP motion 20? Ms. DiNovo.

Ms. Cheri DiNovo: Yes. Suffice it to say that the Registered Nurses' Association of Ontario—I'm going to answer the question—feels that currently the bill is not strong enough to, first of all, protect whistle-blowers. I give you the case of Theresa Vince, where her abuser was her manager, but also in the case of a hospital setting, very clearly, for the RNAO. Medical advisory committees are run by doctors. They're populated by doctors; nurses don't have a place on them. There is a kind of hierarchy in place that could be extremely detrimental to a whistle-blower, not to mention the civil litigation aspects of when a victim comes forward and might want to go after the hospital for reimbursement. So we want to protect the victim here; they want to protect the victim here. We just hope the government would want to protect the victim, and we don't see that happening.

The Chair (Mr. Shafiq Qaadri): Further comments?

Seeing none, we'll proceed to the vote. Those in favour of NDP motion 20? Those opposed? I declare NDP motion 20 to have been defeated.

I'll now invite Ms. Jones to present PC motion 20.1.

Ms. Sylvia Jones: I move that part III.0.1 of the Occupational Health and Safety Act, as set out in section 3 of the bill, be amended by adding the following sections:

“Termination of employment

“32.0.8 An employer may terminate the employment of any of the employer's workers who are found guilty of an offence under part VII of the Criminal Code (Canada)

as a result of an act or an omission occurring in the workplace and resulting in the death of or bodily harm to a person.

“Restraining order

“32.0.9(1) On application, a court, including the Ontario Court of Justice, may make an interim or final restraining order against any person if the applicant is a worker who has suffered an act of workplace harassment or workplace violence or who has reasonable grounds to believe that he or she is likely to suffer such an act.

“Provisions of order

“(2) A restraining order made under subsection (1) shall be in the form specified by the rules of the court and may contain one or more of the following provisions, as the court considers appropriate:

“1. Restraining the respondent, in whole or in part, from directly or indirectly contacting or communicating with the applicant in the workplace.

“2. Restraining the respondent from coming within a specified distance of the workplace.”

The Chair (Mr. Shafiq Qaadri): And we invite you to read page 2.

Ms. Sylvia Jones: Oh, sorry.

“3. Specifying one or more exceptions to the provisions described in paragraphs 1 and 2.

“4. Any other provision that the court considers appropriate.

“Limitation on employer's liability for damages

“32.0.10 An employer of a worker is not liable for damages for any death of or bodily harm to a person resulting from an act or omission of the worker in the workplace if,

“(a) the employer has taken all reasonable steps to comply with the employer's duties under this act; or

“(b) the workplace is a public area or an area under the control of a person other than the employer.”

The Chair (Mr. Shafiq Qaadri): Are there any further comments? Monsieur Lalonde.

Mr. Jean-Marc Lalonde: We will not support this motion. The issues of termination of employment, restraining orders and the limitation on an employer's liability for damages exceed the mandate of the Occupational Health and Safety Act, whose main purpose is the protection of workers' health and safety on the job.

The decision on termination of employment is a matter that employers should discuss with employment counsel.

The Chair (Mr. Shafiq Qaadri): Ms. DiNovo.

Ms. Cheri DiNovo: Unfortunately, I won't be able to support this either. A couple of concerns: One, that the ultra vires nature of some of this seems to have to do with restraining orders under the Criminal Code and therefore is out of the area of this provincial committee. Also, we would not want to put any limitation on the employer's liability, for obvious reasons. This bill is hoping to extend, if anything, their liability and their responsibility to look after their employees.

Also, the final thing, the termination of employment: I'm not really clear on that. Maybe the Progressive Conservative member might clarify, but it sounds almost

as if someone who has served their time—again, I think this might be ultra vires—could then be dismissed just because they have a record, even though they have already paid their debt to society. So again, concerns about that.

1550

The Chair (Mr. Shafiq Qaadri): Are there any further comments on this particular motion?

Seeing none, those in favour of PC motion 20.1? Those opposed? I declare PC motion 20.1 defeated.

Shall section 3, as amended, carry? Carried.

We'll proceed to section 4.

NDP motion 21: Ms. DiNovo.

Ms. Cheri DiNovo: I move that clause 43(3)(b.1) of the Occupational Health and Safety Act, as set out in subsection 4(2) of the bill, be struck out and the following substituted:

“(b.1) workplace violence or harassment is likely to endanger himself or herself or another worker; or.”

This is essentially extending the right of refusal to workplace harassment; again, the right of an employee to get away from her harasser and the right of an employee to find safety from her harasser.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon, any further comments?

Mr. Vic Dhillon: Yes. The issue raised in this motion was addressed by motion 5, to amend the definition of workplace violence.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. DiNovo?

Ms. Cheri DiNovo: I just wanted to raise the issue of Lori Dupont again, as certainly she's very present in the room today. Because the government has voted down our other amendments that would extend the definition of violence in the workplace, this particular amendment is critical to protecting someone like Lori Dupont. Under this bill as written, without this amendment she would not be protected; under this bill as written, without this amendment she would not have been able to refuse work. I just want to make that point very clearly.

The Chair (Mr. Shafiq Qaadri): Are there any further comments on NDP motion 21?

Seeing none, we'll proceed to the vote. Those in favour of NDP motion 21? Those opposed? NDP motion 21 is defeated.

NDP motion 22: Ms. DiNovo.

Ms. Cheri DiNovo: I move that clause 43(5)(a) of the Occupational Health and Safety Act, as set out in subsection 4(3) of the bill, be struck out and the following substituted:

“(a) in a safe place; and.”

The way the act is, working not just “near” their workstation—it might be the instance where this person needs to get out of the area, far away from their workstation. It really is incumbent upon the government to make sure that this employee can get to a safe place wherever and whenever that safe place is. It can't be, of necessity, just someplace near to where they are. Again,

this came out of the inquest action group and is a particularly necessary amendment.

The Chair (Mr. Shafiq Qaadri): Any further comments? Mr. Dhillon.

Mr. Vic Dhillon: The existing provision in the Occupational Health and Safety Act requires a worker to remain in a safe place near his or her station until the required investigation is completed. Bill 168 recognizes that it may not always be appropriate for a worker to remain near his or her workstation if the hazard is workplace violence.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 22? Ms. DiNovo.

Ms. Cheri DiNovo: We're just asking the government to actually state that instead of stating that they recuse themselves to “near their workplace”; just a change of language that would strengthen it and make it clearer.

The Chair (Mr. Shafiq Qaadri): Thank you. No further comments?

Those in favour of NDP motion 22? Those opposed. Motion 22 is defeated.

NDP motion 23: Ms. DiNovo.

Ms. Cheri DiNovo: I move that subsection 43(10) of the Occupational Health and Safety Act, as set out in subsection 4(6) of the bill, be amended by striking out “a safe place that is as near as reasonably possible to his or her workstation” and substituting “a safe place.”

Needless to say, this again makes the point that the language is not nearly safe enough, that an employer should not be able to request that an employee stay somewhere near the site of the abuser or the harasser. They need to be able to get to a safe place, whether that safe place is near their workstation or not.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo. Further comments on NDP motion 23?

Mr. Vic Dhillon: Chair, this would be a consequential amendment related to the previous motion. Bill 168 recognizes that it may not always be appropriate for a worker to remain near his or her workstation if the hazard is workplace violence.

The Chair (Mr. Shafiq Qaadri): Ms. DiNovo.

Ms. Cheri DiNovo: I don't understand that explanation; I really don't. Why can't we change the language on this? Could someone from policy branch come forward and talk about why it can't be changed to “a safe place” from “a safe place that is as near as reasonably possible to his or her workstation”? What's the point of that?

Mr. Vic Dhillon: Chair, can we have about a minute or so?

The Chair (Mr. Shafiq Qaadri): Yes. You have a minute or so.

Ms. Kathleen Therriault: Hello. I'm Kathleen Therriault from the policy branch at MOL.

Currently, the Occupational Health and Safety Act says “that the worker shall remain at a safe place near his or workstation.”

In recognition of the fact that it might not always be appropriate for a worker to remain near his or her work-

station, this bill was drafted to provide that a worker remain in a safe place as near as possible to his or her workstation.

The Chair (Mr. Shafiq Qaadri): Any further comments? Ms. DiNovo.

Ms. Cheri DiNovo: I still don't get it, and I don't think anybody listening gets it either. Clearly, the language isn't going to keep Lori Dupont or Theresa Vince safe. If they have to stay reasonably close to their workstation—again, we've got that wonderful word "reasonably"—in whose eyes? Hopefully, the intent of this law is to get the person to a safe place; not close to their workstation, but to a safe place.

Basically, what I'm hearing is just the same statement reiterated, over and over again, as if that's an explanation for the wording. It certainly isn't an explanation for the wording to the families of Lori Dupont or Theresa Vince, or to any of the deputants who came here. Simply saying it over and over again does not make it valid.

Anyway, I'll leave it at that. Obviously I'm outnumbered, obviously it will be voted down and obviously this is a very sad day for their families.

The Chair (Mr. Shafiq Qaadri): Are there any further comments before proceeding to vote on NDP motion 23?

Seeing none, those in favour of NDP motion 23? Those opposed? NDP motion 23 is defeated.

NDP motion 24.

Ms. Cheri DiNovo: I move that clause 43(10.1)(a) of the Occupational Health and Safety Act, as set out in subsection 4(6) of the bill, be amended by striking out "assigns the worker" at the beginning and substituting "in consultation with the coordinator, assigns the worker."

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Cheri DiNovo: This just ensures that the union or the joint health and safety committee also be involved in being able to support employees when it comes to these kinds of incidents, and of course that the Ministry of Labour be informed as well. It makes it a consultative process and again furthers the safety of the employee.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: The bill already provides for regulation-making authority to prescribe the powers and duties of the coordinator in section 70(2), paragraph 50.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed now to the vote.

Those in favour of NDP motion 24? Those opposed? NDP motion 24 is defeated.

1600

Shall section 4 carry? Carried.

We'll proceed now to section 5. NDP motion 25: Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 5 of the bill be amended by adding the following subsection:

"(2) Section 52 of the act is amended by adding the following subsection:

"Notice of claim

"(4) If an employer is advised by or on behalf of a worker that the worker has a claim in the respect of

workplace harassment that has been filed with the Workplace Safety and Insurance Board by or on behalf of the worker, the employer shall give notice in writing within four days of being so advised to a director, to the joint health and safety committee or a health and safety representative and to the trade union, if any, containing such information and particulars as are prescribed."

This simply ensures that the union and the health and safety committee know and can follow up on behalf of the employee. It makes sense that her union or health and safety committee knows and can back her up and provide her with assistance. Again, that's a follow-up from the last amendment.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Dhillon?

Mr. Vic Dhillon: The requirement in this motion to notify a director of the Ministry of Labour of workplace harassment claims would not be consistent with the current notice requirement in the Occupational Health and Safety Act, which requires a Ministry of Labour inspector to be notified only if there's a fatality or critical injury.

Ms. Cheri DiNovo: May I say something? Again we hear the word "consistent." I guess what we were hoping, what the stakeholders were hoping and what the families of Theresa Vince and Lori Dupont were hoping with Bill 168 is that something new was brought into the Ontario Occupational Health and Safety Act. In a sense, the government constantly harkening back to consistent language mitigates the possible power of Bill 168. Again, sadly, instead of something different being added in, we're seeing the argument for something more of the same. Again, I just want to point out that more of the same isn't going to help women in the situation that Theresa and Lori found themselves in.

The Chair (Mr. Shafiq Qaadri): Any further comments for NDP motion 25?

Seeing none, we'll now proceed to the vote. Those in favour of NDP motion 25? Those opposed? Motion 25 is defeated.

Shall section 5 carry? Carried.

We'll proceed to section 6, government 26: Mr. Dhillon.

Mr. Vic Dhillon: I move that section 6 of the bill be amended by adding the following section to the act:

"Order for written assessment, etc.

"55.2 An inspector may in writing order that the following be in written form:

"1. The assessment of the risks of workplace violence required under subsection 32.0.3(1).

"2. A reassessment required under subsection 32.0.3(4)."

Our reason for this motion is that this amendment would provide the authority for inspectors to order that the assessment and reassessment of the risks of workplace violence be in writing. This is consistent with the approach taken with respect to workplace violence and workplace harassment policies in section 55.1.

The Chair (Mr. Shafiq Qaadri): Ms. DiNovo and then Ms. Jones.

Ms. Cheri DiNovo: Again, this harkens back to our original defeated amendments that dealt with the same issue of putting something in writing. Here's the weakest possible language: "An inspector may," instead of "An employer must." That's really the problem here. Possibly an inspector comes in, possibly an inspector does this; maybe they can. But really, this is and should be the requirement of an employer, that the employer let their employees know the assessments of the risks of workplace violence where they work and what their rights are. In a democracy, this should be open and transparent and should be part of the rights of an employee when they take on employment.

It's very convoluted. It's very weak. We're going to vote for it, but boy oh boy, it's a stretch. How sad that the original stronger amendments were voted down.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Jones.

Ms. Sylvia Jones: Yes, I guess to follow up with what Ms. DiNovo referenced, in NDP motion 13—the motion was to have it in writing. So you vote that down, which says it has to be in writing, and now, with motion 27, we're talking about having the inspector ask for it. If that's what you were going to do, I don't know why you didn't just support motion 13.

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Mr. Vic Dhillon: Chair, could we—that's fine. No more comments.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote. Those in favour of government motion 26? Those opposed? Motion 26 is carried.

Shall section 6, as amended, carry? Carried.

We'll proceed now to section 7, government motion 27: Mr. Dhillon.

Mr. Vic Dhillon: I move that paragraph 33 of subsection 70(2) of the act, as set out in section 7 of the bill, be amended by striking out "the risk of workplace violence" and substituting "the risks of workplace violence."

This is a consequential amendment that would provide consistency with motion number 11 to refer to "the risks of workplace violence" rather than "the risk of workplace violence."

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. Other comments? Ms. DiNovo.

Ms. Cheri DiNovo: So here we have the government saying that it's okay when it wants to pluralize a word—and then it's, I suppose, consistent with the act—but when the NDP wants to pluralize a behaviour, it's not consistent with the act and not necessary. I find that striking in its arrogance, but I guess arrogance is the hallmark of this regime.

We are going to vote for it. We just wish the government had voted for the plurality that would have strengthened the definition of workplace violence and harassment.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Those in favour of government motion 27? Those opposed? Motion 27 carries.

NDP motion 28: Ms. DiNovo.

Ms. Cheri DiNovo: I move that paragraph 50 of subsection 70(2) of the Occupational Health and Safety Act, as set out in section 7 of the bill, be amended by striking out "requiring an employer to designate" at the beginning and substituting "requiring an employer, in conjunction with the joint health and safety committee, to designate."

In other words, we're just adding in that phrase to make sure that it's consultative. That's it.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Dhillon?

Mr. Vic Dhillon: Thank you, Chair. Regulation-making authorities currently in the Occupational Health and Safety Act do not specify a role for the joint health and safety committee.

Ms. Cheri DiNovo: That's exactly the point. We're suggesting that they do. We know what it doesn't do. We're suggesting that we add this language so that it does act in consultation with the joint health and safety committee. I don't really see that as explanation, but I gather that the government is going to vote this down, as it has all other amendments.

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Those in favour of NDP motion 28? Those opposed? Motion 28 is defeated.

Shall section 7, as amended, carry? Carried.

We'll proceed directly to the vote on section 8, as we have received no amendments so far. Shall section 8 carry? Carried.

We'll proceed now to NDP motion 29.

Ms. Cheri DiNovo: I move that the bill be amended by adding the following section:

"8.1 Subsection 35(1) of the Public Hospitals Act is repealed and the following substituted:

"Interprofessional advisory committee

"(1) Every board shall establish an interprofessional advisory committee composed of members who represent regulated health professionals involved in interprofessional practice in the hospital setting."

The Chair (Mr. Shafiq Qaadri): I need to intervene, with your indulgence, Ms. DiNovo, to inform you that the admissibility of this amendment is not in order. It proposes to amend a section of a current act that is not before the committee, and therefore I officially rule this motion out of order.

Ms. Cheri DiNovo: Can I say something to it?

The Chair (Mr. Shafiq Qaadri): Please.

Ms. Cheri DiNovo: Yes. We—

The Chair (Mr. Shafiq Qaadri): I'm sorry, Ms. DiNovo. I'm being—

Ms. Cheri DiNovo: We can't?

Interjection.

The Chair (Mr. Shafiq Qaadri): The powers that be are informing me that this cannot be debated.

Ms. Cheri DiNovo: Fair enough.

The Chair (Mr. Shafiq Qaadri): So we will proceed. I will essentially annul that, and we'll now move to section 9. We have received no amendments to date. We'll do a block vote on sections 9 and 10. Shall those sections carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 168, as amended, carry? Carried.

Ms. Cheri DiNovo: Is there any discussion?

Interjection.

Ms. Cheri DiNovo: Just by way of final word, and particularly to that amendment: We recognize in that, of course, the hierarchy of some workplaces being, in and of their nature, in a sense, bullying towards their female employees.

But I just wanted to say how sad I am that this was a chance for this government to pass a bill that really would have protected the futures of future Lori Duponts

and Theresa Vincés, and they have missed that opportunity.

We're going to vote for this bill because it's an inch where we needed a mile, but quite frankly, it's a sad day. It's a sad day because the requests of Lori Dupont's family, the requests of Theresa Vince's family, and the requests of the Ontario Federation of Labour, the RNAO and many others have been ignored.

So with that, see you later.

The Chair (Mr. Shafiq Qaadri): Thank you. Just two more issues on that: Shall Bill 168, as amended, carry? That has been taken as carried.

Shall I report the bill, as amended, to the House? Carried.

Having said that, the floor is still open for any final comments. Seeing none, the committee is adjourned.

The committee adjourned at 1607.

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