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Monday 30 May 2011

Journal des débats (Hansard)

Lundi 30 mai 2011

**Standing Committee on
Social Policy**

Building Families and Supporting
Youth to be Successful Act, 2011

**Comité permanent de
la politique sociale**

Loi de 2011 favorisant
la fondation de familles
et la réussite chez les jeunes

Chair: Shafiq Qadri
Clerk: Trevor Day

Président : Shafiq Qadri
Greffier : Trevor Day

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Monday 30 May 2011

Lundi 30 mai 2011

The committee met at 1401 in committee room 1.

**BUILDING FAMILIES AND SUPPORTING
YOUTH TO BE SUCCESSFUL ACT, 2011**

**LOI DE 2011 FAVORISANT
LA FONDATION DE FAMILLES
ET LA RÉUSSITE CHEZ LES JEUNES**

Consideration of Bill 179, An Act to amend the Child and Family Services Act respecting adoption and the provision of care and maintenance / Projet de loi 179, Loi modifiant la Loi sur les services à l'enfance et à la famille en ce qui concerne l'adoption et les soins et l'entretien.

The Chair (Mr. Shafiq Qaadri): Colleagues, welcome. As you know, we're here to do clause-by-clause consideration of Bill 179, An Act to amend the Child and Family Services Act respecting adoption and the provision of care and maintenance.

Are there any further amendments to be brought forward for consideration? If not, we'll proceed to amendment 1 by the NDP. Mr. Prue.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

“(0.1) The Child and Family Services Act is amended by adding the following section:

“Residential placement over age 18

“27.1 A child who is in a residential placement immediately before his or her 18th birthday may remain in a residential placement after his or her 18th birthday in accordance with the regulations.””

If I could, this is pretty simple and straightforward: It's to allow a child who is in foster care prior to their 18th birthday to stay in care after their 18th birthday. We think that there's nothing magical about that date. If the child wants to stay in care, if the care is beneficial to him or her, they should be allowed to stay there.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Further comments? Mr. Colle.

Mr. Mike Colle: This motion is outside the scope of the bill, as it requires amendments to sections of the Child and Family Services Act that are not currently being amended by the bill. So we cannot support this amendment.

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

Ms. Sylvia Jones: While in specifics it may be outside the scope of it, I am quite happy to support asking for unanimous consent to include it, because it clearly is part of what we're trying to improve with making amendments to the Child and Family Services Act.

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

Mr. Michael Prue: This issue was raised repeatedly by speaker after speaker who came before this committee, and it fits into the general theme of what we are attempting to do—certainly what the NDP hopes happens as a result of this bill: to increase support for children and youth in care. I'm a little taken aback that the parliamentary assistant does not want to include this. I do understand, perhaps, the legalities, but I think my colleague Ms. Jones is making a good point: that we could do the right thing by this bill by simply allowing children who are in care to remain in care on their 18th birthday.

The Chair (Mr. Shafiq Qaadri): Thank you. Are we ready to proceed to the vote?

Mr. Michael Prue: A recorded vote, please.

Ayes

Jones, Prue.

Nays

Colle, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): That's defeated.

We'll proceed now to PC motion 2: Ms. Jones.

Ms. Sylvia Jones: I move that the bill be amended by adding the following section:

“0.1 The definition of ‘child’ in subsection 37(1) of the Child and Family Services Act is amended by striking out ‘sixteen’ and substituting ‘eighteen’.”

The Chair (Mr. Shafiq Qaadri): With regret, Ms. Jones, I inform you, as I am informed, that this particular section is out of order and will therefore not be considered.

Ms. Sylvia Jones: May I then call for all-party support to have it included?

The Chair (Mr. Shafiq Qaadri): You may certainly do so. Does Ms. Jones have all-party support to include—Mr. Prue?

Mr. Michael Prue: I'm going to support it. Changing the definition of “child” was requested by the Provincial—

The Chair (Mr. Shafiq Qaadri): Mr. Prue, if you'll pardon me—

Interjection.

The Chair (Mr. Shafiq Qaadri): We're now speaking to the idea of asking for unanimous consent to consider it. Do I have unanimous consent? I sense that I do not have unanimous consent and therefore I will have to continue to rule PC motion 2 out of order. You are welcome to make some comments, though, Mr. Prue, should you wish.

Mr. Michael Prue: Okay. Perhaps I should save that for number 3, but I anticipate that you're going to rule that out of order because it's identical. The comments I want to make are that the Provincial Advocate for Children and Youth, among other stakeholders, suggested that this was a necessary thing that we do. It would ensure that older children requiring care are eligible for services between the ages of 16 and 18 and that they will be eligible for extended care and maintenance. As Mr. Elman said, the current age of 16 is inconsistent with other provincial legislation. Just to note some of them: the Education Act, the age of majority and the Children's Law Reform Act all state 18. We think that changing it to 18 will make this bill and what is happening to crown wards consistent with every other piece of legislation that defines the age of majority in Ontario.

The Chair (Mr. Shafiq Qaadri): Ms. Jones?

Ms. Sylvia Jones: The reality is, we don't open up and amend these pieces of legislation every year. We have an opportunity here today to actually make some improvements that will basically extend from 16 to 18. It's not a huge leap, and yet it is a change that would make a substantive difference in the lives of children who are currently in care. I'm disappointed that the Liberal members of the committee have chosen not to allow us to even discuss the idea of the motion.

The Chair (Mr. Shafiq Qaadri): Thank you. NDP motion 3, Mr. Prue.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"0.2 The definition of 'child' in subsection 37(1) of the act is amended by striking out 'sixteen' and substituting 'eighteen'."

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue, and as you have anticipated, with equal regret, I rule that out of order.

If there are comments from any side, they are welcome. If not, we'll proceed now to NDP motion 4, with reference to section 1. Mr. Prue.

Mr. Michael Prue: I move that section 1 of the bill be struck out and the following substituted:

"1. Section 71.1 of the act is repealed and the following substituted:

"Extended care

"71.1(1) A society may provide care and maintenance to a person who is 18 years of age or more in accordance with the regulations if,

"(a) a custody order under subsection 65.2(1) or an order for crown wardship was made in relation to that person as a child; and

"(b) the order is in effect at least until immediately before the child's 16th birthday.

"Same, Indian and native person

"(2) A society or agency may provide care and maintenance in accordance with the regulations to a person who is an Indian or native person who is 18 years of age or more if,

"(a) immediately before the person's 16th birthday, he or she was being cared for under customary care as defined in section 208; and

"(b) the person who was caring for the child was receiving a subsidy from the society or agency under section 212."

1410

By way of background, we believe that these changes will ensure that extended care and maintenance can be provided to any youth who had been receiving care prior to their 16th birthday, regardless of whether the care continued until the age of 18. This was requested by the Provincial Advocate for Children and Youth; it seems a very good idea to me.

The Chair (Mr. Shafiq Qaadri): Ms. Jones?

Ms. Sylvia Jones: I support this amendment. It's very similar to one I intend to bring forward.

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

Mr. Mike Colle: The sentiments are commendable. The problem is that the drafting and the wording are very unclear. Government motion number 7 will address this issue and enable youth who have left care, including formal customary care, at ages 16 or 17 to return to their CAS at any time until the age of 21 to receive financial and other supports. I can't support it, but we are going to address this in government motion number 7.

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

Mr. Michael Prue: I would submit that number 7 talks in general terms but does not deal specifically with persons subject to the Indian Act or a native person. This is what causes me some concern with the government's reluctance. Your own motion number 7 makes no such reference. Perhaps if you could tell me why it makes no reference and then ask me to support yours, I might consider it, but I'm not sure that it's going to help First Nations people.

Mr. Mike Colle: Just briefly, as you know, there's a broader discussion taking place with our First Nations residents. That's ongoing, and that is going to be a subject of these ongoing discussions that are taking place with the minister. The minister started that with her visit to Thunder Bay, so that will be addressed with those future discussions.

Mr. Michael Prue: If I could, I had phone calls over the weekend from many groups from the north, but one woman in particular, saying that there had been no discussions. She asked me to ensure that First Nations people were looked after within the body of this bill because, without something happening with this bill, they are unsure, and I too am unsure, when these discussions that have just begun will bear fruit. In the meantime, First

Nations children will be left out in terms of the customary care provisions unless motion 4 carries.

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

Mr. Michael Prue: Recorded vote.

Ayes

Jones, Prue, Witmer.

Nays

Colle, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 4 is defeated.

NDP motion 5.

Mr. Michael Prue: Because number 4 has been defeated, I have provided the clerk a motion 5.1. Motion 5 is not correct because it's relying on 4 having passed. If I could withdraw 5 and introduce 5.1, I would prefer that.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Just procedurally, 5.1 is added; 5 is withdrawn. Please proceed.

Mr. Michael Prue: I move that section 1 of the bill be amended by adding the following subsection to section 71.1 of the act:

“Same

“(4) A society or agency may provide care and maintenance under subsection (1), (2) or (3) to a person in accordance with the regulations until immediately before the person's 26th birthday.”

I think the rationale here is quite clear. This was requested, again, by Mr. Irwin Elman as well as numerous other stakeholders. This brings support for youth who were previously in care to a more realistic age cut-off by expanding extended care and maintenance until the age of 25. We think that this is in keeping with what most families do with their children. It is not uncommon today to have children living at home until the age of 25. I dare say some of the members opposite may, indeed, have children living at home in that age range. What we are saying is that people who are crown wards are in fact children of the state, and they ought to be accorded the same considerations as we would accord our own children.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Further comments? Mr. Colle.

Mr. Mike Colle: Yes. There are most significant cost implications for government in extending the age of extended care and maintenance from 21 to 26. Young people over the age of 21 also have access to a range of other government and community supports. So given the cost implications of this extension to 26, we cannot support this amendment.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments before we proceed to the vote?

Mr. Michael Prue: Recorded vote, please.

Ayes

Prue.

Nays

Colle, Dhillon, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 5.1 is defeated.

PC motion 6: Ms. Jones.

Ms. Sylvia Jones: I move that subsection 71.1(3) of the Child and Family Services Act, as set out in section 1 of the bill, be struck out and the following substituted:

“16 years of age or more

“71.1(3) Despite subsection (1), a society may provide care and maintenance in accordance with the regulations to a person who is 16 years of age or more if,

“(a) immediately before the person's 16th birthday, a custody order under subsection 65.2(1) or an order for crown wardship in relation to the person was in effect; and

“(b) the person leaves care under the custody order or crown wardship order when he or she is 16 or 17 years of age.

“Same, Indian or native person

“(4) Despite subsection (2), a society may provide care and maintenance in accordance with the regulations to a person who is an Indian or native person who is 16 years of age or more if,

“(a) immediately before the person's 16th birthday, he or she was being cared for under customary care as defined in section 208;

“(b) the person who was caring for the child was receiving a subsidy from the society or agency under section 212; and

“(c) the person leaves customary care when he or she is 16 or 17 years of age.”

I'm bringing forward this amendment because it was recommended by the Ontario Association of Children's Aid Societies. Youth in care at age 16 or 17 should be provided with care and maintenance until 21 years of age, whether they leave care at 16 or 17 or not.

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

Mr. Mike Colle: Government motion 7 addresses this issue and enables youth who have left care at ages 16 or 17, including formal customary care, to return to their CAS at any time until age 21 to receive financial and other supports. Explicitly including 16- and 17-year-olds in the legislation could have the unintended consequence of promoting youth to leave care prematurely.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Further comments? Mr. Prue.

Mr. Michael Prue: I still have the same question: How does number 7 relate to First Nations communities?

Mr. Mike Colle: Again, in terms of—the change in this legislation is focused on a number of specific areas. In terms of the First Nations community, there is an

extraordinary effort going on with the minister and with her adviser, Beaucage, who has already undertaken a significant attempt to try to include many other very unique factors dealing with the First Nations community that they are very sensitive to. Those discussions have to take place in a thorough, wide-ranging manner before those other changes take place.

Mr. Michael Prue: So am I correct in assuming, then, that First Nations people will not be included or will not have their concerns included until, at the earliest, the next Parliament?

Mr. Mike Colle: Again, the discussions and the dialogues are taking place as we speak, and that's already started last month. They're much more wide-ranging than just this specific piece of legislation.

Mr. Michael Prue: It's not possible to have them included today or tomorrow, so therefore it's not possible to have them included in the bill. And since we're not coming back after next week, it's safe to assume that they will be left out until the next Parliament.

1420

Mr. Mike Colle: Again, as I said, there are some very specific issues that Bill 179 deals with that include First Nations and all children in the province. But then there's a wider-ranging evaluation taking place that goes beyond the scope of this bill.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed to the vote. Those in favour of PC motion 6? Those opposed? PC motion 6 is defeated.

Government motion 7.

Mr. Mike Colle: Okay, I should read it. I move that subsection 71.1(3) of the Child and Family Services Act, as set out in section 1 of the bill, be struck out and the following substituted:

"Same, prescribed support services

"(3) A society or agency may provide care and maintenance in accordance with the regulations to a person who is 18 years of age or more if, when the person was 16 or 17 years of age, he or she was eligible for support services prescribed by the regulations, whether or not he or she was receiving such support services."

This amendment would provide a greater safety net for this vulnerable youth population, as more youth would be eligible to re-engage with their CAS to receive supports until the age of 21. This will enable CASs to enter into an ECM agreement with youth who may have faced extenuating circumstances, such as serving a secure-custody sentence or who did not wish to receive supports at age 16 or 17.

The Chair (Mr. Shafiq Qaadri): Comments on government motion 7? We'll proceed to the vote, then. Those in favour of government motion 7? Those opposed? None opposed. Carried.

PC motion 7.0.1.

Ms. Sylvia Jones: I'd like to pull that one, Chair.

The Chair (Mr. Shafiq Qaadri): Pardon me? Oh, it's withdrawn.

Ms. Sylvia Jones: Yes, withdrawn. Sorry.

The Chair (Mr. Shafiq Qaadri): Okay, fair enough.

NDP motion 7.1.

Mr. Mike Colle: Excuse me, I just missed that. I'm sorry.

Interjection: Withdraw.

Mr. Mike Colle: Okay, so one second, then. PC motion 7.1 is—

Ms. Sylvia Jones: No, 7.0.1.

Mr. Mike Colle: Motion 7.0.1 is withdrawn. Okay, thank you.

The Chair (Mr. Shafiq Qaadri): And I presume we are now on NDP motion 7.1. Mr. Prue.

Mr. Michael Prue: I move that section 1 of the bill be amended by adding the following subsections to section 71.1 of the act:

"Resuming receipt

"(4) Subject to the terms and conditions in this section, a person who chooses to stop receiving care and maintenance under this section may choose to resume receiving it.

"Same

"(5) Subsection (4) applies where the person has chosen to stop receiving care and maintenance on one occasion or, at the discretion of the society or agency providing the care and maintenance, on more than one occasion."

The rationale for this is that this was requested by numerous stakeholders and gives youth a second chance. This would allow youth who were previously receiving extended care and maintenance, and then stopped receiving it, to re-enter into the program a minimum of once, and more than once with the discretion of the agency.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Colle or Ms. Jones?

Mr. Mike Colle: Okay. The current provisions in the CFSA and in the ECM, the extended care and maintenance policy, permit youth between the ages of 18 and 21 to return to their CAS to resume receipt of ECM supports. This makes it explicit that they can come back. Stakeholders may ask why this has been listed explicitly, and it could be redundant to the sector as it is embedded in practice. So we cannot support it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Further comments? Seeing none, we'll proceed to the vote. Those in favour of NDP motion 7.1? Those opposed—

Mr. Mike Colle: Just one second.

The Chair (Mr. Shafiq Qaadri): Yes.

Mr. Mike Colle: I just want to clarify this. Just the extenuating note here: There is a redundancy here but it is essentially in line with what we're doing, so it's not something we would oppose. Therefore, we're not opposed to it. There's a redundancy to it but it is in concert with the bill itself, so we're in support of it. Sorry for the mix-up.

The Chair (Mr. Shafiq Qaadri): We will now re-vote. Those in favour of NDP motion 7.1? Those opposed? NDP motion 7.1 is carried.

PC motion 8.

Ms. Sylvia Jones: I move that section 1 of the bill be amended by adding the following subsection to section 71.1 of the act:

“Full-time education program

“(5) A society may provide care and maintenance under subsection (1), (2), (3) or (4) to a person in accordance with the regulations until immediately before the person’s 26th birthday if he or she is enrolled in a prescribed full-time education program.”

This was recommended by a number of stakeholders, including the Children in Limbo Task Force, and it would allow for extended care and maintenance.

The Chair (Mr. Shafiq Qadri): Leg. counsel.

Ms. Vanessa Yolles: I believe, just to be in line with the earlier motions and motion 6 not carrying, this motion should be reworded slightly to say, “A society may provide care and maintenance under subsection (1), (2) or (3)” without the (4).

Ms. Sylvia Jones: Okay. I’m happy to bring forward that change.

The Chair (Mr. Shafiq Qadri): Are we clear on that change to PC motion 8?

Mr. Mike Colle: Can you repeat that, please?

Ms. Sylvia Jones: I can do that.

I move that section 1 of the bill be amended by adding the following subsection to section 71.1 of the act:

“Full-time education program

“(5) A society may provide care and maintenance under subsection (1), (2) or (3) to a person in accordance with the regulations until immediately before the person’s 26th birthday if he or she is enrolled in a prescribed full-time education program.”

The Chair (Mr. Shafiq Qadri): Are all the parties agreed? We’ll proceed, then. Are there further comments on PC motion 8? Mr. Colle.

Mr. Mike Colle: There are very significant cost implications to extending the age of ECM to age 26. Further, it may be considered to be discriminatory if such an extension were offered only to youth in full-time educational programs. Young people over the age of 21 have access to a range of other government and community supports. We cannot support this motion.

The Chair (Mr. Shafiq Qadri): Ms. Jones.

Ms. Sylvia Jones: The reality is, part of what the government was purporting to do with changing the Child and Family Services Act was to encourage more children in care to continue with their education. I think this amendment very clearly does that. Where we are differentiating between full-time and part-time, it’s simply because there is more assistance needed when someone is going to school full-time as opposed to an occasional student who may be taking a night-time course or one course.

The Chair (Mr. Shafiq Qadri): Any further comments on PC motion 8? We’ll proceed to the vote. Those in favour of PC motion 8? Those opposed? PC motion 8 is defeated.

We’ll proceed to consider this section. Shall section 1, as amended, carry? Carried.

Shall sections 2 to 5, inclusive, carry? Carried.

Section 6, PC motion 9.

Ms. Sylvia Jones: I move that subsection 145.1.1(2) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by adding the following paragraph:

“3. If the child is an Indian or native person, a representative of the child’s band or native community.”

Again, this is a recommendation coming out of our public consultation, and I’m hoping that we can continue to encourage involvement in First Nations communities.

1430

The Chair (Mr. Shafiq Qadri): Further comments? Mr. Prue.

Mr. Michael Prue: As I understand it, currently an aboriginal child in care whose CAS intends to place them for adoption has no obligation to inform the child’s band or native community. We are in agreement—we have an identically worded motion that follows—that this motion would obligate the CAS to provide 60 days’ written notice to the band or to the native community so that the child would be protected and so that their status and rights as a First Nations person would be respected. I will be voting in favour of this.

The Chair (Mr. Shafiq Qadri): Comments? Mr. Colle.

Mr. Mike Colle: This amendment requires consultations with First Nations stakeholders. There’s a great deal of sensitivity to this. The CFSA currently has a strong notice provision, i.e., section 141.2, that requires CASs to give written notice to a relevant band that is intending to begin planning for adoption of an Indian or native child. The band then has 60 days to prepare and submit its own plan for the child to the CAS. The CAS may not place the child during that time and must consider any plan submitted. For example, the First Nation may submit a plan that demonstrates the willingness of the band, the child’s parents and the CAS to enter into a formal customary care agreement.

Recently, Minister Broten hosted the first-ever aboriginal child welfare summit. She’s working to find solutions that allow our aboriginal children to have a good life, good health and successful future through this extended consultation that is taking place under the advice of John Beaucage.

The Chair (Mr. Shafiq Qadri): Ms. Jones.

Ms. Sylvia Jones: It’s lovely that the minister has had one meeting in her two-years-plus term as the minister. This amendment would make a substantive suggestion that is in legislation that I think is a little more important, quite frankly, than one meeting.

The Chair (Mr. Shafiq Qadri): Mr. Prue.

Mr. Michael Prue: I’ve listened to the parliamentary assistant, but this specific wording and request came from the Ontario Association of Children’s Aid Societies. Obviously, they don’t think that the protection that the parliamentary assistant is talking about is there. I trust their expertise. I honestly believe that if we put this in and the minister’s discussions are fruitful and if something else

will take its place, I would gladly yield what is here, but in the meantime, this may be the only protection that there is, at least as far as the Ontario Association of Children's Aid Societies is concerned.

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

Mr. Mike Colle: Certainly, the CASs have a perspective, but again, let me repeat: The amendment requires consultations with our First Nations. There is a great deal of sensitivity on their behalf to making changes in this area without full consultation with the First Nations.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote. Those in favour of PC motion 9? Those opposed? PC motion 9 is defeated.

NDP motion 10.

Mr. Michael Prue: I will withdraw it. It has no chance of success; it's identical to the one that was just voted down.

The Chair (Mr. Shafiq Qaadri): NDP motion 10 is withdrawn.

PC motion 11.

Ms. Sylvia Jones: I move that paragraphs 3 and 4 of subsection 145.1.1(3) of the Child and Family Services Act, as set out in section 6 of the bill, be struck out and the following substituted:

"3. In the case of notice to a person described in paragraph 1 or 3 of subsection (2), the fact that the person has a right to apply for an openness order within 30 days after notice is received.

"4. In the case of notice to a person described in paragraph 2 of subsection (2), the fact that the persons described in paragraphs 1 and 3 of subsection (2) have the right to apply for an openness order within 30 days after notice is received."

The Chair (Mr. Shafiq Qaadri): Ms. Jones, I understand that this amendment that you've just proposed, PC motion 11, was dependent on PC motion 9, which, as you know, was defeated.

Ms. Sylvia Jones: Unfortunately true.

The Chair (Mr. Shafiq Qaadri): Truth always emanates from the Chair, so I will consider that withdrawn.

NDP motion 12.

Mr. Michael Prue: I believe that this is pretty much the same as what just happened, so there's no sense in reading it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. It is the same truth operating continuously.

We'll now move to PC motion 13.

Ms. Sylvia Jones: I move that paragraphs 3 and 4 of subsection 145.1.1(3) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by striking out "30 days" wherever it appears and substituting in each case "60 days".

This was a recommendation by the Foster Care Council of Ontario. I think it's really just an acknowledgement that we need to give children's aid societies and individuals who are affected in any possible placements the appropriate time to be contacted and think about the

decision that they're making, which, obviously, is very important.

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

Mr. Michael Prue: I'm going to support this motion. It is identical to motion 14, which we have put in ourselves.

Many of the people who came forward talked about the speed at which this operation may take place: giving a parent only 30 days' notice in which to try to get their lives in order and to try to get information, a lawyer and everything else they need before a very important and sometimes tragic decision is made in their lives.

It would seem to me that we should act to support all of those parents, all of those children, all of those people who may be affected by adoption in this way by giving them the time necessary to do that which they need to do in order to protect their rights and the rights of their children. It seems that 60 days is far better, in terms of a time frame, than 30 days. Speaker after speaker talked about it being rushed, and I tend to agree and would ask the government to support 60 days instead.

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

Mr. Mike Colle: In response: The 30-day notice period to make an application for an openness order is intended to balance the need to minimize the length of time before a child can be placed for adoption and to provide sufficient time to the person whose access will be terminated to apply to the court for an openness order.

The 30-day notice period to bring an application for an openness order is also consistent with other notice periods in the family law rules.

The Chair (Mr. Shafiq Qaadri): Ms. Jones?

Ms. Sylvia Jones: Could you provide us with some examples of 30-day notices?

Mr. Mike Colle: It's my information that it's normal practice to have a 30-day notice period within the family law—

Ms. Sylvia Jones: But I was looking for specific examples.

Mr. Mike Colle: I can't give you that.

Ms. Sylvia Jones: If I may, Chair: This is a pretty important decision, to put it mildly. I in no way am trying to bring forward this amendment to discourage or delay, but I don't think that 60 days is an unreasonable request for what ultimately is a life-changing relationship between a birth parent and a child who has the opportunity to be adopted.

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

Mr. Michael Prue: Many children are taken into care because their parents are unable to care for them. It sometimes takes a while to get your head around things. If the problem is alcohol or drugs or mental depression or any other number of things, 30 days goes pretty fast. It seems that we have to err on the side of allowing people an opportunity to get themselves in order. Getting their thought processes working well, getting the necessary supports and legal requirements, and meeting them all within 30 days is very, very difficult and will be very difficult for a number of people whose children may be

removed from them. This seems sane and sensible, in extending that to 60 days. It is, after all, just two months.

1440

I think you're going to see some of the same feelings that were expressed in this committee expressed over and over again, with the consequences that the children were taken away from them before they even had a chance to defend themselves or their position.

I'm asking for you to think this through. Do you want Ontarians, good and decent people, to come in here with the kinds of stories that you heard in two days of hearings? Do you want that to continue, or do you want to give them every opportunity to come forward to protect their interests? I think we should do that.

The Chair (Mr. Shafiq Qaadri): Fair enough. Any further comments? We'll proceed then to the vote—

Mr. Michael Prue: On a recorded vote, please.

Ayes

Jones, Prue, Witmer.

Nays

Colle, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 13 is defeated.

NDP motion 14?

Mr. Michael Prue: I withdraw.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Government motion 15?

Mr. Mike Colle: I move that paragraph 2 of subsection 145.1.1(4) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by striking out "with the person's lawyer of record or".

If I could just explain: At the time of giving notice, there is no lawyer of record. The lawyer who was a party's lawyer in a child protection proceeding is no longer that person's lawyer of record. The concern is that notice could be given improperly under subsection 145.1.1(4). A society thinking that a lawyer is still a person's lawyer of record may give the notice to that lawyer, and the person him- or herself may never become aware of the notice. That could, for example, lead to a parent not receiving notice that his or her child will be placed for adoption and that his or her access rights will terminate. So it is an important clarification to make in changing the language here.

The Chair (Mr. Shafiq Qaadri): Further comments on government motion 15? Seeing none, we'll proceed to the vote.

Those in favour of government motion 15? Those opposed? Government motion 15 is carried.

PC motion 16?

Ms. Sylvia Jones: I move that section 145.1.1 of the Child and Family Services Act be amended by adding the following subsection:

"Children's Lawyer

"(7) The Children's Lawyer may provide legal representation to a child who receives notice under subsection (2) if, in the opinion of the Children's Lawyer, such legal representation is appropriate."

I think this was something that we heard from a number of deputations that just wanted to ensure that minors had the opportunity for independent legal advice, so that they knew what they were entering into in terms of future possibilities for their selves.

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

Mr. Michael Prue: We have put forward a similar motion, number 17, and I will support this motion.

It was the Ontario Association of Children's Aid Societies that asked for this amendment, and it seems to me that children who have access orders to another child, who will receive notice of intent to place for adoption—this motion ensures that children can have access to legal representation.

It would seem it's one of the hallmarks of our society to make sure that children can act in their own best interest. Particularly, we have noted in the legislation that there are various ages, but some of them can be as young as seven years of age—knowing what that child wants and acting in the best interests of the child, even if those interests may not be the same as the society's, and/or their parents'.

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

Mr. Mike Colle: We cannot support the motion, but the ministry has discussed this issue with representatives from the Ministry of the Attorney General and plans to convene a meeting with representatives from the Ministry of the Attorney General and the Office of the Children's Lawyer to explore non-legislative options regarding legal representation of children in openness proceedings as would be the norm. So they are going to undertake discussions in a non-legislative way to see if they can deal with this.

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

Ms. Sylvia Jones: Okay. So once again, we're going to have a meeting. My amendment would ensure that it's not "In some time, maybe in the future world, perhaps, if you're so inclined." This would actually put it in legislation.

Obviously, I think that individuals who are trying to adopt and children who are going through the process need to have some consistency in terms of knowing that they can ask and they can expect and they can receive independent legal advice. I think it's incumbent on the provincial government to provide that.

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

Mr. Michael Prue: It is a hallmark of our society that people are entitled to legal representation when they go before any court or quasi-judicial body. This merely states that the child would have that same right.

I find it passing strange that we would separate children out from adults. We would say, "Once you turn 18 years of age, you have every legal right to have a lawyer,

but before that, you don't have that right." If the child is of an age that it is difficult for the child to discern what is best for them, surely having a lawyer from the Children's Lawyer department, someone who is versed in what is best for the child, who would sit down and discuss this, in many cases, with the child to find out what the child wants and frame it in legal terms, is a good thing.

I do not understand the reluctance. I know that we're going to have some discussions maybe, sometime, perhaps, but to give somebody an unfettered right which every other person enjoys—to be informed of their right to obtain and instruct legal counsel—should not be tied to one's age.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Mr. Colle?

Mr. Mike Colle: Again, there's already a discussion taking place with the Ministry of Children and Youth Services and the Attorney General. They are going to proceed to further discuss this in a comprehensive way with the Children's Lawyer to see how they can remedy this. That is under way.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote. Those in favour of PC motion 16? Those opposed? PC motion 16 is defeated.

NDP motion 17.

Mr. Michael Prue: It is identical to 16. I withdraw it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue.

PC motion 18?

Ms. Sylvia Jones: Yes, Chair, if I could have clarification, I believe this is a consequential amendment and therefore would have to be withdrawn because the previous—you get it. I withdraw—because I have to, not because I want to.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. PC motion 18 is withdrawn.

NDP motion 19?

Mr. Michael Prue: Motion 19, for the same reasons—it's the same motion—withdrawn.

The Chair (Mr. Shafiq Qaadri): NDP motion 19 is withdrawn.

PC motion 20?

Ms. Sylvia Jones: Again, a consequential amendment, so I have to withdraw.

The Chair (Mr. Shafiq Qaadri): Ms. Jones, thank you. PC motion 20 is withdrawn.

NDP motion 21?

Mr. Michael Prue: It's again the same, so withdrawn.

The Chair (Mr. Shafiq Qaadri): NDP motion 21 is withdrawn.

NDP motion 22: Mr. Prue.

Mr. Michael Prue: I move that subsection 145.1.2(6) of the Child and Family Services Act, as set out in section 6 of the bill, be struck out and the following substituted:

"Openness order

"(6) The court may make an openness order under this section in respect of a child if it is satisfied that,

"(a) the openness order is in the best interests of the child;

"(b) the child has consented to the order, if he or she is seven years of age or older; and

"(c) the child's consent is given after the child has had an opportunity to obtain counselling and independent legal advice with respect to the consent."

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This was requested by the Provincial Advocate for Children and Youth, and it is to ensure that children aged seven or more consent to an openness order. There's a notation as well that a child of seven or more must give consent for adoption, and they must have access to legal representation or counselling in order to make what would be the hugest decision by a seven-year-old child that could possibly be made.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 22? Mr. Colle.

Mr. Mike Colle: The age of consent, 12 years, is consistent with other sections of the Child and Family Services Act and supports what experts have advised. Consent being contingent on receipt of counselling and independent legal advice is not consistent with other sections of the Child and Family Services Act. We cannot support it.

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

Mr. Michael Prue: Just a recorded vote.

Ayes

Prue.

Nays

Colle, Johnson, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 22 is defeated.

PC motion 23: Ms. Jones.

Ms. Sylvia Jones: I move that subsection 145.1.2(6) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by adding the following clause:

"(c) the child's consent is given after the child has had an opportunity to obtain counselling and independent legal advice with respect to the consent."

Again, it was recommended by the Provincial Advocate for Children and Youth. I think it's incumbent on us to ensure that children have an opportunity to actually ask, in an unbiased, open environment, the questions that they need or want answered prior to proceeding with adoption.

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

Mr. Mike Colle: We cannot support it. Consent being contingent on receipt of counselling and independent legal advice is not consistent with other sections of the Child and Family Services Act.

The Chair (Mr. Shafiq Qaadri): Any further comments? We'll proceed, then, to the vote on PC motion 23.

Those in favour? Those opposed? PC motion 23 is defeated.

PC motion 24?

Ms. Sylvia Jones: I move that subsection 145.1.2(6)(c) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by adding the following clause:

“(c) the ability of the person to whom the openness order would be granted to understand and accept the termination of parenting rights or other access rights, to understand the nature of the adoption and to foster the permanence of the adoption placement.”

This was a recommended—

The Chair (Mr. Shafiq Qaadri): Pardon?

The Clerk of the Committee (Mr. Trevor Day): That was 24.1 that you were doing?

Ms. Sylvia Jones: Oh. No, I'm sorry.

Interjections.

The Chair (Mr. Shafiq Qaadri): So I will once again invite you, Ms. Jones, to present PC motion 24.

Ms. Sylvia Jones: Motion 24.1 or—

The Clerk of the Committee (Mr. Trevor Day): Motion 24.

Ms. Sylvia Jones: Sorry. Too many pieces of paper.

The Chair (Mr. Shafiq Qaadri): PC motion 24, Ms. Jones.

Ms. Sylvia Jones: I move that subsection 145.1.2(6) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by adding the following clause:

“(c) the person with whom the society has placed or plans to place the child for adoption or, after the adoption order is made, the adoptive parent, has the ability to comply with the arrangement under the openness order and has consented to the order.”

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

Mr. Mike Colle: It makes the prospective parents move into potentially contentious court proceedings, if this were to take place. This amendment would give the prospective adoptive parents the power to veto the proposed openness order, despite any other evidence before the court. Continuing to add conditions as to what the court may think is appropriate under an openness order is prohibitive.

Ms. Sylvia Jones: I respectfully disagree. I think, in fact, this encouragement, or allowing adoptive parents to be integral to the process, is actually what we're seeing open adoptions move towards. We're just trying to ensure that the legislation is keeping up with what is happening in many adoptions across Ontario and, in fact, Canada.

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

Mr. Michael Prue: I want it noted that this amendment was requested by the Ontario Association of Children's Aid Societies, and they feel that it was necessary, in order to have adoptive parents—they'd have to be able to and have consented to comply with the order. It does

not seem to be prohibitive to me; it is merely one aspect that has to be looked at before you proceed with the adoption: Are the adoptive parents able to fulfill what they've said they're doing, and do they consent to comply with the order that is before them? If they're going to say they won't comply, what are we doing?

The Chair (Mr. Shafiq Qaadri): Fair enough. PC motion 24: Those in favour? Those opposed? PC motion 24 is defeated.

We'll proceed now to PC motion 24.1.

Ms. Sylvia Jones: I move that subsection—

Mr. Michael Prue: On a point of privilege, Mr. Chair: I do not believe I have one.

The Chair (Mr. Shafiq Qaadri): We will endeavour to provide you, Mr. Prue, with PC motion 24.1.

Mr. Michael Prue: As I knew you would.

The Chair (Mr. Shafiq Qaadri): May I confirm, Mr. Prue, receipt of PC motion 24.1? Mr. Prue, do you have it?

Mr. Michael Prue: I do now have it, yes. Thank you very much.

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

Ms. Sylvia Jones: I move that subsection 145.1.2(6)(c) of the Child and Family Services Act, as set out in section 6 of the bill, be amended by adding the following clause:

“(c) the ability of the person to whom the openness order would be granted to understand and accept the termination of parenting rights or other access rights, to understand the nature of the adoption and to foster the permanence of the adoption placement.”

This was an amendment suggested to us by the Ontario Bar Association. Again, it talks about the change that is, quite frankly, happening with more openness in adoptions. This would encourage that.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on PC motion 24.1?

Mr. Mike Colle: I'm not in support of this amendment, as this is already covered when the court determines what is in the best interests of the child.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote on PC motion 24.1. Those in favour? Those opposed? PC motion 24.1 is defeated.

PC motion 25.

Ms. Sylvia Jones: I move that subsection 145.1.2(7) of the Child and Family Services Act, as set out in section 6 of the bill, be struck out and the following substituted:

“Same

“(7) In deciding whether to make an openness order under this section, the court shall consider whether the openness order would permit the continuation of a relationship with a person that is beneficial and meaningful to the child.”

I trust it's self-explanatory.

The Chair (Mr. Shafiq Qaadri): It is certainly self-explanatory and it's also out of order, Ms. Jones, as it's dependent on PC motion 24. So I'll just consider that officially withdrawn.

I'll now invite the government to propose government motion 26.

Mr. Mike Colle: I move that subsections 145.1.2(6) and (7) of the Child and Family Services Act, as set out in section 6 of the bill, be struck out and the following substituted:

“Openness order

“(6) The court may make an openness order under this section in respect of a child if it is satisfied that,

“(a) the openness order is in the best interests of the child;

“(b) the openness order will permit the continuation of a relationship with a person that is beneficial and meaningful to the child; and

“(c) the child has consented to the order, if he or she is 12 years of age or older.

“Same

“(7) In deciding whether to make an openness order under this section, the court shall consider the ability of the person with whom the society has placed or plans to place the child for adoption or, after the adoption order is made, the adoptive parent to comply with the arrangement under the openness order.”

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Just to explain this as best I can, as the bill is currently written, the issue of whether the relationship is beneficial and meaningful to the child is a condition when a court is making an order to vary or terminate an openness order, but is a consideration when the court is making the original openness order under section 145.1.2. Under section 145.1, where openness orders are made on the consent of all parties, it is a condition of making the order, and that order would permit the continuation of a relationship that is beneficial and meaningful to the child.

With the proposed amendment, the conditions would be consistent for making, varying and terminating openness orders under the Child and Family Services Act.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. Further comments on government motion 26? Mr. Prue.

Mr. Michael Prue: It seems to me that what is being proposed here by the government is not exactly what the OACAS wanted. It does go partway—I would admit that—but it seems to be a little bit of a wishy-washy amendment, doing partially what was requested.

Could the government indicate why you decided not to go along with what was suggested by the Progressive Conservatives and do exactly what the OACAS said would be in the best interests of the adoption process?

Mr. Mike Colle: Again, this is an attempt to try to consider all the complexities in doing essentially what is most reasonable and practical within this legal framework. It was thought that this would be the best way of addressing that.

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

Shall section 6, as amended, carry? Carried.

Shall section 7 carry? Carried.

NDP motion 27.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

“7.1 The act is amended by adding the following section:

“Financial assistance

“147.1 The government of Ontario shall, in accordance with the regulations, provide financial assistance to an adoptive parent of the following:

“1. A child with a special need.

“2. A child who is two years of age or more.”

The Chair (Mr. Shafiq Qaadri): Mr. Prue, I'll need to intervene at this moment and inform you that this is a money bill and, therefore, out of order. Do you need any further explanation?

Mr. Michael Prue: I understand it's a money bill, but I also understand that this was recommended by the expert panel and by almost every single stakeholder who came before us.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. NDP motion 27 is out of order.

We'll then proceed to consider the next sections, for which I understand we have not received any amendments, including 8 to 11. If that's favourable, shall sections 8 to 11, inclusive, carry? Carried.

We'll proceed now to PC motion 28.

Ms. Sylvia Jones: I move that the bill be amended by adding the following section:

“11.1 The act is amended by adding the following section:

“Supports and services

“159.1 An adoptive parent shall have access in the same manner as a biological parent to the supports and services for his or her child that are prescribed by the regulations.”

If I may—

The Chair (Mr. Shafiq Qaadri): Ms. Jones, I'll need to intervene to politely inform you that it is beyond the scope of this bill—and you're welcome to have a deeper explanation, should you like it.

Ms. Sylvia Jones: I don't want a deeper explanation, thank you.

I would like to share with the committee an email of a family that is dealing with this problem. Basically, they have one level of government telling them that because their child is adopted, they cannot apply, or they're getting some of their assistance pulled. The children that they have adopted are all with special needs, and I just think it's a shameful situation, where if they were biological children, they would be able to apply, and they haven't been able to as a result of some benign rules that are in place right now.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. To repeat, PC motion 28 is out of order and thus withdrawn.

NDP motion 29.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

“11.1 Section 215 of the act is amended by adding the following clause:

“(a.1) respecting residential placements for the purposes of section 27.1;”

The Chair (Mr. Shafiq Qaadri): Again, we’ll need to rule NDP motion 29 out of order, and the arcana justifying this is that section 215 is not open. Are you content, Mr. Prue, with that explanation?

Mr. Michael Prue: I don’t have any option but to be content. But I do want to state that this is a regulation-making authority for extending foster care above age 18, which every single person who came before us was trying to do.

The Chair (Mr. Shafiq Qaadri): I agree with you, Mr. Prue; it is enforced contentment, but I thank you for accepting it nevertheless. NDP motion 29 is withdrawn.

We now move to the next section. PC motion 30.

Ms. Sylvia Jones: I move that subsection 216(2) of the act, as set out in subsection 12(2) of the bill, be struck out and the following substituted:

“Same

“(2) The minister may make regulations,

“(a) prescribing the care and maintenance that may be provided to persons under section 71.1, and the terms and conditions on which the care and maintenance may be provided;

“(b) prescribing full-time education programs for the purposes of subsection 71.1(5).”

The Chair (Mr. Shafiq Qaadri): Ms. Jones, with accumulating regret I will need to inform you that PC motion 30 is out of order, having depended on the passage and acceptance of PC motion 8 earlier.

Ms. Sylvia Jones: I will begrudgingly withdraw.

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

Government motion 31.

Mr. Mike Colle: I move that subsection 216(2) of the act, as set out in subsection 12(2) of the bill, be struck out and the following substituted:

“Same

“(2) The minister may make regulations,

“(a) prescribing the care and maintenance that may be provided to persons under section 71.1, and the terms and conditions on which the care and maintenance may be provided;

“(b) prescribing support services for the purposes of subsection 71.1(3).”

The bill would amend section 71.1 of the Child and Family Services Act to refer to support services prescribed by regulations. This amendment will allow the

minister to make the necessary regulations describing the support services needed.

The Chair (Mr. Shafiq Qaadri): Further comments on government motion 31? We’ll proceed to the vote. Those in favour of government motion 31? Those opposed? Government motion 31 is carried.

Shall section 12, as amended, carry? Carried.

NDP motion 32.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

“12.1 Section 220 of the act is amended by adding the following clause:

“(c.0.1) respecting financial assistance for the purposes of section 147.1;”

The Chair (Mr. Shafiq Qaadri): Mr. Prue, I need to intervene and inform you that section 220 is not open and thus out of order.

I will take that silence as an implicit agreement to withdraw.

NDP motion 32.

Mr. Michael Prue: I’m not going to mutter those words myself.

The Chair (Mr. Shafiq Qaadri): I’d now invite PC motion 33.

Ms. Sylvia Jones: Chair, this is a consequential amendment. I will regrettably withdraw.

The Chair (Mr. Shafiq Qaadri): Your begrudgement is accepted.

Shall section 13 carry? Carried.

Shall section 14’s short title carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 179, as amended, carry? Carried.

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

Are there any further questions or comments that committee members would like to make at this time? Ms. Jones?

Ms. Sylvia Jones: Just very briefly: As we talked about when this bill was brought forward for time allocation, at that point both the Progressive Conservatives and the NDP said that they would not hold up this bill, and I think today’s committee has proven that in fact that bullying technique of moving forward on the changes with the House leader was unnecessary.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, I’d like to thank all members of the social policy committee for what is no doubt the last meeting of this particular mandate.

The committee is adjourned.

The committee adjourned at 1510.

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