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Tuesday 1 November 2016

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Mardi 1^{er} novembre 2016

Standing Committee on Social Policy

All Families Are Equal Act
(Parentage and Related
Registrations Statute Law
Amendment), 2016

Comité permanent de la politique sociale

Loi de 2016 sur l'égalité
de toutes les familles
(modifiant des lois en ce qui
concerne la filiation et les
enregistrements connexes)

Chair: Peter Tabuns
Clerk: Katch Koch

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Tuesday 1 November 2016

Mardi 1^{er} novembre 2016*The committee met at 1602 in room 151.*ALL FAMILIES ARE EQUAL ACT
(PARENTAGE AND RELATED
REGISTRATIONS STATUTE LAW
AMENDMENT), 2016LOI DE 2016 SUR L'ÉGALITÉ
DE TOUTES LES FAMILLES
(MODIFIANT DES LOIS EN CE QUI
CONCERNE LA FILIATION ET LES
ENREGISTREMENTS CONNEXES)

Consideration of the following bill:

Bill 28, An Act to amend the Children's Law Reform Act, the Vital Statistics Act and various other Acts respecting parentage and related registrations / *Projet de loi 28, Loi modifiant la Loi portant réforme du droit de l'enfance, la Loi sur les statistiques de l'état civil et diverses autres lois en ce qui concerne la filiation et les enregistrements connexes.*

The Chair (Mr. Peter Tabuns): Good afternoon, everyone. The social policy committee is now in order. We will be considering today Bill 28, An Act to amend the Children's Law Reform Act, the Vital Statistics Act and various other Acts respecting parentage and related registrations. We will be going through clause-by-clause.

Before we start, are there any comments, questions or amendments to any section of the bill, and if so, to which section? There are none. I just want to note that there are updated amendment packages in front of you with the amendments that came in earlier today that were sent out electronically by the Clerk.

With that, we will move to section 1. We have government motion 1. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: I move that the definition of "insemination by a sperm donor" in subsection 1(1) of the Children's Law Reform Act, as set out in subsection 1(1) of the of the bill, be amended by striking out "without the use of assisted reproduction" and substituting "through sexual intercourse".

The Chair (Mr. Peter Tabuns): Okay. Do you have any comment?

Mr. Lorenzo Berardinetti: The motion basically amends the definition of "insemination by a sperm donor" to refer to conception through sexual intercourse, rather than "without the use of assisted reproduction."

In the bill, the phrase "without the use of assisted reproduction" means "sexual intercourse." By referring expressly to sexual intercourse, the amendment would ensure clarity and certainty when determining parentage in these circumstances.

This motion is tied to motion 8, another government motion; number 10, a government motion; number 18 and number 19, which are both government motions which also replace references to conception "without the use of assisted reproduction" with "through sexual intercourse."

The Chair (Mr. Peter Tabuns): Is there any further comment on this amendment? There being none, you're ready to vote? All those in favour? Opposed? It's carried.

We go to amendment 2: Mr. Berardinetti?

Mr. Lorenzo Berardinetti: I move that clause 4(2)(a) of the Children's Law Reform Act, as set out in subsection 1(1) of the bill, be amended by striking out "a person determined to be a parent" at the beginning and substituting "a person who is a parent".

The Chair (Mr. Peter Tabuns): Is there any discussion? There is none. You're ready to vote? All those in favour, please indicate. All those opposed? Abstentions? Carried.

We go on to amendment 3, government motion: Mr. Berardinetti?

Mr. Lorenzo Berardinetti: I move that clause 4(2)(b) of the Children's Law Reform Act, as set out in subsection 1(1) of the bill, be amended by striking out "under the Child and Family Services Act" at the end and substituting "under section 158 or 159 of the Child and Family Services Act".

The Chair (Mr. Peter Tabuns): Is there any discussion on this amendment? There being none, you're ready to vote? All those in favour, please indicate. All those opposed? Abstentions? It is carried.

We go on to government motion 4: Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I move that subsection 4(4) of the Children's Law Reform Act, as set out in subsection 1(1) of the bill, be struck out.

The Chair (Mr. Peter Tabuns): Is there any discussion of this amendment? There being none, you're ready to vote? All those in favour, please indicate. Those opposed? Abstentions? It is carried.

We go on to government motion number 5: Mr. Berardinetti?

Mr. Lorenzo Berardinetti: I move that section 5 of the Children's Law Reform Act, as set out in subsection 1(1) of the bill, be struck out and the following substituted:

"Provision of reproductive material, embryo not determinative

"5. A person who provides reproductive material or an embryo for use in the conception of a child through assisted reproduction is not, and shall not be recognized in law to be, a parent of the child unless he or she is a parent of the child under this part."

The Chair (Mr. Peter Tabuns): Is there any discussion on this amendment? There being none, you're ready to vote? All those in favour, please indicate. Those opposed? Abstentions? It is carried.

We go on to PC motion 6: Mr. Hillier?

Mr. Randy Hillier: I move that section 5 of the Children's Law Reform Act, as set out in subsection 1(1) of the bill, be amended by adding the following subsection:

"Requirement for donors of genetic material

"(1.1) The person must,

"(a) disclose their predisposition, if any, for a hereditary disease or condition to the recipients; and

"(b) if the person becomes aware of such a predisposition after providing the reproductive material or embryo, disclose the predisposition at that time."

The Chair (Mr. Peter Tabuns): Mr. Hillier, thank you for bringing that forward. I have had comment from legislative counsel, and I'm ruling that the amendment is out of order as it is, in my opinion, beyond the scope of the bill.

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Mr. Randy Hillier: It's beyond the scope of the bill?

The Chair (Mr. Peter Tabuns): Apparently, it is. I'm sorry to say—

Mr. Randy Hillier: That was discussed during our depositions and it was discussed at length.

The Chair (Mr. Peter Tabuns): I understand that, Mr. Hillier, but still I've been advised by counsel that it is out of order, and I concur with her assessment.

Mr. Randy Hillier: Thank you.

The Chair (Mr. Peter Tabuns): So—

Mr. John Fraser: Mr. Chair?

The Chair (Mr. Peter Tabuns): Yes.

Mr. John Fraser: Could we get a recorded vote on all the sections that we're amending today, on all the motions?

The Chair (Mr. Peter Tabuns): If you want a recorded vote, I'm very happy to do that, Mr. Fraser. No problem.

Mr. John Fraser: It just saves having to ask for it each time.

The Chair (Mr. Peter Tabuns): No problem. I'm happy to do that.

Mr. John Fraser: And if I could, Mr. Chair, with your indulgence, as the Clerk has ruled it out, you know there are some issues around—we are going to be discussing a bill this week, on Thursday, with regard to

genetic discrimination. It's an area—just to let you know, even though it's out of order, I could not have supported that.

Mr. Randy Hillier: No?

Mr. John Fraser: No, I couldn't have.

The Chair (Mr. Peter Tabuns): Mr. Fraser and Mr. Hillier, thank you both. It's out of order, and we have to move on to the next amendment.

We move on now to NDP motion 7. Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 7 of the Children's Law Reform Act, as set out in subsection 1(1) of the bill, be struck out and the following substituted:

"Other parent

"Presumptive parentage

"7(1) Unless the contrary is proven on a balance of probabilities, there is a presumption that a person is, and shall be recognized in law to be, a parent of a child in any of the following circumstances:

"1. The person was the birth parent's spouse at the time of the child's birth.

"2. The person was married to the child's birth parent by a marriage that was terminated by death or judgment of nullity within 300 days before the child's birth or by divorce where the judgment of divorce was granted within 300 days before the child's birth.

"3. The person was living in a conjugal relationship with the child's birth parent before the child's birth and the child is born within 300 days after they cease to live in a conjugal relationship.

"4. The person has certified the child's birth, as a parent of the child, under the Vital Statistics Act or a similar act in another jurisdiction.

"5. The person has been found or recognized by a court of competent jurisdiction outside Ontario to be a parent of the child.

"6. The person has acknowledged parentage of the child by filing a statutory declaration under subsection (6).

"Non-application, assisted reproduction

"(2) Paragraphs 1, 2 and 3 of subsection (1) do not apply to a spouse of the birth parent if the child was conceived through assisted reproduction and if, before the child's conception, the spouse did not consent or withdrew consent to be a parent of the child.

"Conflicting presumptions

"(3) If circumstances exist that give rise to a presumption by more than one person under subsection (1), no presumption shall be made under that subsection.

"Non-application, insemination by a sperm donor

"(4) This section is deemed not to apply to a person who provides his own sperm for use in conceiving a child without the use of assisted reproduction if, before the child is conceived, the person and the intended birth parent agree in writing that the person providing the sperm does not intend to be a parent of any child conceived as a result.

"Same, sperm donor not a parent

"(5) A person to whom subsection (4) applies is not, and shall not be recognized in law to be, a parent of a

child conceived in the circumstances set out in that subsection.

“Statutory declaration

“(6) A person may file a statutory declaration with the Registrar General, in the form provided by the Attorney General, affirming that the person is a parent of the child.

“Non-application

“(7) Subsection (6) does not apply to a person who,

“(a) provided reproductive material or an embryo for use in conceiving the child through assisted reproduction; or

“(b) provided sperm for use in conceiving the child without the use of assisted reproduction, if the person and the birth parent agreed in writing that the person providing the sperm does not intend to be a parent of any child conceived as a result.”

The Chair (Mr. Peter Tabuns): Thank you, Ms. DiNovo.

Ms. Cheri DiNovo: If I may, Chair, I’ll read an explanation of said amendment.

The Chair (Mr. Peter Tabuns): Yes, if you would like to, please do.

Ms. Cheri DiNovo: By the way, I first want to just give thanks to a few people who are in the room: Jennifer and Kirsti Mathers McHenry and also Joanna Radbord for all their amazing work, and all the lawyers in the room, actually, for their assistance on this.

Section 7 of Bill 28 aims to recognize the intention to parent as the basis of parentage. Egg donors and embryo donors are not the parents of a child. Sperm donors are not the parents of a child. Even sexual intercourse and gestation of the fetus do not make a person a parent so long as there is a written agreement accordingly.

Throughout, Bill 28 recognizes intention to parent as the basis of parentage rather than biology, except section 7. As the result of the combined operation of section 7 and the current section 13, in a contest between a sperm provider through intercourse without contract versus a social parent married to the birth parent, the social parent is necessarily ousted as a parent. This is not a child-focused result.

At minimum, we ask the government to strike “and shall be recognized in law to be” from section 7(1) as it would provide a degree of flexibility to courts not to recognize sperm providers in circumstances where the child’s best interests so require. This worked in tandem with our proposal to give judges flexibility under section 13 in relation to declarations of parentage. This approach better respects Bill 28’s focus on intention rather than fixating on the source of the gametes.

The current construction of section 7 will penalize the “good dads”: the man who stands by his wife when she cheats or stands with her after she has been raped. Under the current section 7, the dads who are not sperm providers but who parent could be ousted by a biological father. Section 7 allows a man who is a spouse to be presumed to be a section 7(1) dad. We are recognizing him as a parent in his own right because of the parenting that he does. We are telling him that he can “pass” for a

bio-dad. If a bio-dad shows up, he is ousted in favour of the “real dad” who provided sperm.

Given section 13’s approach to declarations of parentage, the “good dad” can’t even get a declaration by virtue of his lack of pre-conception intention. Section 7 continues to define biology as the marker of real parentage. It sends a message that social parents are only pretending to be real parents. The message we wanted to send, and that the rest of the legislation does send, is that love makes a family, and social parents—those who intend to parent—are real parents to their children.

So long as the law falls prey to the ideology of biological supremacy, at least for the ejaculator—note that none of cisgender women’s contributions are as vital and “real”—we deny respect to the parenting of those whose parentage flows from intention and love rather than gametes, like most families in LGBTQ communities.

The Chair (Mr. Peter Tabuns): Further commentary? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I recommend voting against this motion because this would remove biology as a factor in parentage where conception occurs through sexual intercourse. This would be a significant departure from the current law and would not provide certainty in parentage for children.

This motion would leave a woman with an accidental pregnancy with no recourse or support against the biological father. This government does not want to risk making life much more difficult for these women when the government bill, together with the proposed amendments, will make sure that everyone is protected and that all families, intended or not, are equal.

This motion would also permit a person who simply declares themselves a parent to benefit from a statutory presumption of parentage for all purposes of the law without any means of rebutting that presumption. The proposed section 7 is inconsistent with the bill as a whole and could lead to significant uncertainty in the interpretation of the law. For example, if this amendment were adopted, both sections 7 and 8 will create presumptions of parentage for the spouse of the birth parent without different requirements. It would result in conflicting provisions in the same statute.

The Chair (Mr. Peter Tabuns): Are there further comments? There being none, we’re ready for the vote. This will be a recorded vote, as it was requested.

Ayes

DiNovo.

Nays

Anderson, Berardinetti, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It fails.

We go on to government motion number 8: Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I move that section 7 of the Children's Law Reform Act, as set out in subsection 1(1) of the bill, be struck out and the following substituted:

"Other biological parent, if sexual intercourse

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"7.(1) The person whose sperm resulted in the conception of a child conceived through sexual intercourse is, and shall be recognized in law to be, a parent of the child.

"Presumption

"(2) Unless the contrary is proven on a balance of probabilities, there is a presumption in respect of a child conceived through sexual intercourse that a person is, and shall be recognized in law to be, the parent referred to in subsection (1) if any of the following circumstances applies:

"1. The person was the birth parent's spouse at the time of the child's birth.

"2. The person was married to the child's birth parent by a marriage that was terminated by death or judgment of nullity within 300 days before the child's birth or by divorce where the judgment of divorce was granted within 300 days before the child's birth.

"3. The person was living in a conjugal relationship with the child's birth parent before the child's birth and the child is born within 300 days after they cease to live in a conjugal relationship.

"4. The person has certified the child's birth, as a parent of the child, under the Vital Statistics Act or a similar act in another jurisdiction in Canada.

"5. The person has been found or recognized by a court of competent jurisdiction outside Ontario to be a parent of the child.

"Conflicting presumptions

"(3) If circumstances exist that give rise to a presumption of more than one person under subsection (2), no presumption shall be made under that subsection.

"Non-application, insemination by a sperm donor

"(4) This section is deemed not to apply to a person whose sperm is used to conceive a child through sexual intercourse if, before the child is conceived, the person and the intended birth parent agree in writing that the person does not intend to be a parent of the child.

"Same, sperm donor not a parent

"(5) A person to whom subsection (4) applies is not, and shall not be recognized in law to be, a parent of a child conceived in the circumstances set out in that section."

The Chair (Mr. Peter Tabuns): "In that subsection."

Mr. Lorenzo Berardinetti: "In that subsection." My apologies.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Berardinetti, in (3), "Conflicting presumptions," you left out a word, the word "by." Would you reread that?

Mr. Lorenzo Berardinetti: Subsection (3)?

The Chair (Mr. Peter Tabuns): Yes, please.

Mr. Lorenzo Berardinetti: "(3) If circumstances exist that give rise to a presumption by more than one

person under subsection (2), no presumption shall be made under that subsection."

The Chair (Mr. Peter Tabuns): Is there any discussion? There being none, you're ready for the vote? All those in favour, please indicate. All of these votes are recorded.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It is carried.

We go on to government motion 9: Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I move that section 8 of the Children's Law Reform Act, as set out in subsection 1(1) of the bill, be struck out and the following substituted:

"Birth parent's spouse, if assisted reproduction or insemination by sperm donor

"Assisted reproduction

"8.(1) If the birth parent of a child conceived through assisted reproduction had a spouse at the time of the child's conception, the spouse is, and shall be recognized in law to be, a parent of the child.

"Insemination by a sperm donor

"(2) If the birth parent of a child conceived through insemination by a sperm donor had a spouse at the time of the child's conception, the spouse is, and shall be recognized in law to be, a parent of the child.

"Non-application, lack of consent

"(3) This section does not apply if, before the child's conception,

"(a) the spouse did not consent to be a parent of the child; or

"(b) the spouse consented to be a parent of the child but withdrew the consent.

"Non-application, surrogacy or posthumous conception

"(4) This section does not apply if the birth parent is a surrogate or if the child is conceived after the death of a person declared under section 12 to be his or her parent."

The Chair (Mr. Peter Tabuns): Thank you, Mr. Berardinetti.

Is there any comment? There being none, you're ready for the vote? All votes are recorded.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It is carried.

We go on to government motion number 10. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: I move that clause 9(2)(c) of the Children's Law Reform Act, as set out in subsection 1(1) of the bill, be struck out and the following substituted:

“(c) if the child is to be conceived through sexual intercourse but not through insemination by a sperm donor, the person whose sperm is to be used for the purpose of conception is a party to the agreement; and”

The Chair (Mr. Peter Tabuns): Any discussion? You’re ready for the vote? Recorded vote.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It is carried. We go on to government motion number 11.

Mr. Lorenzo Berardinetti: I move that subsection 9(4) of the Children’s Law Reform Act, as set out in subsection 1(1) of the bill, be amended by striking out “(biological father)” and substituting “(other biological parent)”.

The Chair (Mr. Peter Tabuns): Is there any discussion on this motion? There being none, you’re ready for the vote, a recorded vote.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It is carried.

We go on to NDP motion 12. Ms. DiNovo.

Ms. Cheri DiNovo: I move that subsection 13(2) of the Children’s Law Reform Act, as set out in subsection 1(1) of the bill, be struck out.

The Chair (Mr. Peter Tabuns): Is there any discussion? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I recommend voting against this motion because it would be inconsistent with the Child and Family Services Act and Ontario’s adoption policy. It could create uncertainty with respect to the status of adopted children in Ontario. Ontario has a separate and distinct regime for dealing with adoption.

Many instances in which families seek adoption orders involve children who have come through children’s aid. It is critically important for all children and families, particularly children and families who have been involved with children’s aid, that adoption orders be full and final.

The Chair (Mr. Peter Tabuns): Is there any further discussion? Ms. DiNovo?

Ms. Cheri DiNovo: I’ll save my discussion for after the next amendment.

The Chair (Mr. Peter Tabuns): Fine. Thank you.

With that, we’re ready to vote. This will be a recorded vote.

Ayes

DiNovo.

Nays

Anderson, Berardinetti, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): The motion is lost.

We go to NDP motion 13. Ms. DiNovo.

Ms. Cheri DiNovo: I move that subsections 13(4), (5) and (6) of the Children’s Law Reform Act, as set out in subsection 1(1) of the bill, be struck out and the following substituted:

“Child’s best interests

“(4) The paramount consideration by the court in making a declaration under subsection (3) shall be the best interests of the child.

“Non-application, sperm donor

“(5) A person may not make an application under subsection (1) if,

“(a) the person provided his own sperm for use in conceiving the child without the use of assisted reproduction and, before the child was conceived, the person and the intended birth parent agreed in writing that the person providing the sperm did not intend to be a parent of any child conceived as a result; or

“(b) the person provided his own sperm for use in conceiving the child through assisted reproduction, unless the sperm was provided for his own reproductive use.”

The Chair (Mr. Peter Tabuns): Okay. Comments?

Ms. Cheri DiNovo: Yes.

The Chair (Mr. Peter Tabuns): Ms. DiNovo.

Ms. Cheri DiNovo: Judges currently rely on their *parens patriae* jurisdiction to grant declarations of parentage in appropriate cases. The relationship of parent and child must be established and the order must be in the child’s best interests. Declarations have been granted in the post-adoption context. A judge does not undo an adoption order, which is final and binding, but the availability of declarations permits parental recognition when, for example, the intended parents post-adoption are not spouses of each other but intend to and are in fact co-parenting together.

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One example: The adoption occurs while the couple is married by one spouse alone because a country does not permit same-sex couples to adopt as a couple; post-adoption, the parties separate. No longer spouses, they cannot apply for family adoption here in Ontario together. Currently, they would obtain a declaration of parentage for the non-adoptive parent. This will no longer be possible given the absolute bar to declarations post-adoption.

The current conditions and restrictions under section 13 also mean, for example, that a four-parent family that agreed to co-parent during week four of the pregnancy cannot obtain parental recognition for all four intended parents. Because there is no legislative gap, there is arguably no room to use the court’s *parens patriae* jurisdiction. From a child-centred perspective, the precise timing of the co-parenting decision is not relevant to the

child if all the parties have been present and involved since birth. These conditions and restrictions are arbitrary, and unduly fetter judges' discretion to make orders in children's best interests. It would be better, and consistent with current law, to trust judges to wisely exercise their discretion to advance children's best interests and permit declarations of parentage in appropriate cases without restrictions and conditions being imposed which seem to target multi-parent families.

The Chair (Mr. Peter Tabuns): Thank you, Ms. DiNovo.

Mr. Berardinetti?

Mr. Lorenzo Berardinetti: I recommend voting against this motion because their proposed amendment is inconsistent with the current law and could lead to uncertainty and increased litigation when determining parentage.

By opening up the court's declaratory power as broadly as this amendment proposes, people may be able to sidestep Ontario's adoption regime. That regime has developed over time and through experience and includes a number of protections for children and families. It would be a mistake to open up the declaratory power as proposed without careful consideration of the impact on the adoption regime.

The proposed amendment to subsection 13(5) is unnecessary. The bill already provides that a person who provides sperm in the circumstances contemplated by that subsection is not and should not be recognized in law to be the parent of the child. Furthermore, the best thing for a kid is that there be no uncertainty about who their parents are. That means having parents who can make important life decisions about health care and education, as examples.

Our government has serious concerns with the proposed amendments put forward by the NDP because they would create uncertainty with respect to the status of adopted children in Ontario, which would not be in the best interests of children. Once a child is adopted, both the Children's Law Reform Act and the law that governs adoptions in Ontario, the Child and Family Services Act, recognize the adoptive parents as the legal parents. Opening up the court's declaratory power as broadly as the NDP amendment proposes could allow people to sidestep Ontario's adoption rules. Ontario's adoption rules have been developed over time and through experience and include a number of protections for children and families. It would be a mistake to open up the declaratory power, as proposed by the NDP, without careful consideration of the impact on existing adoption rules.

The proposed NDP amendment to subsection 13(5) is unnecessary because the bill already says that a person who provides sperm to help a couple conceive a child will not be recognized as the child's parent if they have no previous agreement with the intended parents to be a parent to the child. For these reasons, we will not be supporting the NDP motion.

The Chair (Mr. Peter Tabuns): Is there any further comment? There being none, you're ready to vote. This will be a recorded vote.

Ayes

DiNovo.

Nays

Anderson, Berardinetti, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): Abstentions? Lost. Government motion 14.

Mr. Lorenzo Berardinetti: I move that subsection 13(4) of the Children's Law Reform Act, as set out in subsection 1(1) of the bill, be struck out.

The Chair (Mr. Peter Tabuns): If you'd like to have a few words, please.

Mr. Lorenzo Berardinetti: Yes, thank you, Mr. Chair. I recommend voting for this because the motion is a technical amendment that would remove an unnecessary subsection from the Children's Law Reform Act, as set out in the bill.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Hillier.

Mr. Randy Hillier: Yes, I'd like to get a little more clarification on this one, and the rationale. My understanding of this motion is that it strikes out the requirement under 13(4) that if a court determines if a person is or is not a parent—under the present bill, if a court determines someone is or is not a parent, it has an obligation to define or give effect to the presumptions that the court took into consideration to determine if that person is or is not a parent. The amendment strikes out that requirement. The court would not have to provide any presumptions that were made.

My understanding and my concern here, and maybe the government can explain this, is if there is a case where someone was either deemed to be a parent or deemed not to be a parent—if that person wanted to appeal the decision, knowing what presumptions were made is fundamental to making an argument during appeal. If the presumptions are not permitted to be known, the individual is certainly working from a position that is prejudicial at best. Maybe the government can explain why the individual who is deemed to be or not to be a parent is prevented from knowing the presumptions that the court used to base their decision on.

The Chair (Mr. Peter Tabuns): Mr. Berardinetti, if you want to respond.

Mr. Lorenzo Berardinetti: Basically, this is a technical amendment. All we are doing is proposing to remove an unnecessary subsection from the Children's Law Reform Act. Removing this subsection does not change the intent of the bill. The intent of this bill is to ensure that all kids are treated equally and to recognize the legal status of their parents no matter if their parents are LGBTQ2+ or straight, and no matter if they were conceived with the help of a doctor.

The Chair (Mr. Peter Tabuns): Mr. Hillier?

Mr. Randy Hillier: I beg your pardon. This is not a technical amendment. This is a substantive amendment.

It alters the way things happen in a courtroom. I'm going to ask you to put away the talking point for a minute and listen to what I asked: Why would you want to prevent somebody who is in a court of law and trying to determine if they are or not a parent from knowing what presumptions were made by the judge in coming to that determination?

As I said, it appears that it would be very prejudicial. If there was a desire or an interest to appeal that decision, the person would be disadvantaged in not knowing what presumptions were made. So put away the talking point for a minute. This is not a technical amendment. Please explain why you don't want that individual to know what presumptions were made.

The Chair (Mr. Peter Tabuns): Do you wish to speak, Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Yes. My comment stands. It's a technical amendment. This bill covers what needs to be covered with regard to the issue Mr. Hillier is raising. That's all.

The Chair (Mr. Peter Tabuns): Okay. Mr. Fraser, you'd like to comment?

Mr. John Fraser: If I could; thank you very much, Mr. Chair. Simply put, you're telling the court, when it's making a law, to follow the law. That's essentially what you're saying in that section of the bill. That's why it's changing.

The Chair (Mr. Peter Tabuns): Mr. Hillier?

Mr. Randy Hillier: Maybe we'll try this again.

Mr. John Fraser: It's redundant—

Mr. Randy Hillier: It's not redundant.

The Chair (Mr. Peter Tabuns): Just a second. Mr. Hillier has the floor. Mr. Hillier?

Mr. Randy Hillier: Well, please explain to me how providing information to a party to a decision is redundant. Please explain why. In any court case, we get a decision and we understand, and part of that decision is the rationale of how that determination came to effect. That is a requirement, so that if an individual wants to appeal the decision, they have a basis on how to formulate their argument of appeal. I don't understand how you're saying that this is a technical amendment.

1640

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hillier. Mr. Fraser?

Mr. John Fraser: I don't believe that what you're suggesting would prevent the disclosure of such stuff in a decision—that the decision would be adequate for people to be able to make their appeal on that basis. I don't think it prevents that. I don't agree with you, is what I guess I'm saying. I don't agree with your interpretation of removing that.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Fraser. Mr. Hillier?

Mr. Randy Hillier: You're striking out the requirement that's already in the bill. You're striking out that requirement for the presumptions to be identified. You might not believe me, but that's what the wording is. Or you may not think that it's important or whatever. Any-

way, that's my comment. I do believe that the government may want to reconsider that amendment at third reading.

The Chair (Mr. Peter Tabuns): Further commentary? Ms. DiNovo.

Ms. Cheri DiNovo: Can we have the vote, Chair?

The Chair (Mr. Peter Tabuns): If there's no further commentary, I'm happy to proceed to the vote.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It is carried.

We go to government motion 15. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Subsection 1(1) of the bill (Subsection 16 of the Children's Law Reform Act).

I move that the definition of "extra-provincial declaratory order" in subsection 16(1) of the Children's Law Reform Act, as set out in subsection 1(1) of the bill, be amended by striking out "this part" and substituting "section 13".

The Chair (Mr. Peter Tabuns): Any discussion?

Mr. Lorenzo Berardinetti: I just have a brief comment to make. This would clarify that an extra-provincial declaratory order is similar to a declaration of parentage under the new section 13 of the Children's Law Reform Act.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Berardinetti. There being no further discussion—Ms. Kiwala?

Ms. Sophie Kiwala: I think that there was a bracket that was missed in that reading. It should be "Subsection 1(1) of the bill (Subsection 16(1))—"bracket one" was missed—"of the Children's Law Reform Act)."

The Chair (Mr. Peter Tabuns): Mr. Berardinetti, do you want to—

Mr. Lorenzo Berardinetti: I'm happy to make that amendment or to have Ms. Kiwala make that amendment. I just have a question of the Clerk. When I'm doing a subsection, do you want to hear both "open bracket" and "close bracket," or does it make a difference?

The Clerk of the Committee (Mr. Katch Koch): You can simply say, for example, "Subsection 16 bracket 1."

Mr. Lorenzo Berardinetti: Okay, without saying "close bracket"—okay.

The Chair (Mr. Peter Tabuns): Just to be clear, then, do we need to have that repeated? Fine. We don't need any repetition. The clarity is there now.

Mr. Randy Hillier: Dispense.

The Chair (Mr. Peter Tabuns): Dispense. Thank you, Mr. Hillier. I appreciate that.

Any further commentary? There being none, you're ready for the vote.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It is carried.

We go to government motion 16.

Mr. Lorenzo Berardinetti: I move that subsection 16(6) of the Children's Law Reform Act, as set out in subsection 1(1) of the bill, be amended by striking out "has the same effect as if it had been made by the court under this part" at the end and substituting "shall be deemed to be an order of the court under section 13, and shall be treated for all purposes as if it were an order made under that section".

The Chair (Mr. Peter Tabuns): Okay. Is there any discussion? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I recommend voting for this motion because this is a technical amendment. It would provide an extra-provincial declaratory order that is deemed to be a declaration of parentage made under the new section 13 of the Children's Law Reform Act and will be treated, for all purposes of the law, as a declaration of parentage under this section.

The Chair (Mr. Peter Tabuns): Okay. Thank you, Mr. Berardinetti.

Is there further discussion? There being none, you're ready for the vote? It will be a recorded vote.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It is carried.

Members of the committee, we've gone through all of the amendments. Unless there is any discussion on the section as a whole?

Mr. Randy Hillier: Excuse me—this section, no.

The Chair (Mr. Peter Tabuns): There's none? Fine. Shall section 1, as amended, carry? Recorded vote.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It is carried.

Colleagues, we have no amendments in sections 2 to 16. If you're agreeable, I would like to bundle them.

Shall sections 2 to 16, inclusive, carry? We have a recorded vote.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): They are carried.

We go now to section 17 and PC motion 17. Mr. Harris.

Mr. Michael Harris: I move that subsection 7(1) of the bill, which amends section 9 of the Vital Statistics Act, be amended by adding the following subsection:

"Choice of 'mother,' 'father' or 'parent'

"(1.1) A parent of a child may elect to be indicated in the registration of birth as 'mother', as 'father' or as 'parent', by stating their election in the certification."

The Chair (Mr. Peter Tabuns): Thank you, Mr. Harris. Did you wish to speak to that?

Mr. Michael Harris: Yes. I recommend, obviously, that you all support this amendment. We understand and support the need to ensure that all couples with children or who use surrogates or other non-traditional means of reproduction are recognized as the parents of those children by law.

To be clear, there is no issue with adapting our laws to ensure that non-traditional parents are being recognized as just that: parents, in all that the term entails. What this motion speaks to is the need to ensure that, in the process of legislating all parents to be recognized as such, Bill 28 also ensures that we retain the right to use the terms "mother" and "father" on forms or in laws like the Vital Statistics Act or the Change of Name Act.

While we've heard assurances indicating that Bill 28 has no intention to remove terms like "mother" and "father," by supporting today's motion, we make it clear today and for the future that, as Bill 28 aims to strengthen and be inclusive of all kinds of families, we are taking the step to further ensure that inclusivity by legislatively allowing for the option of registering as "mother," as "father" or as "parent," depending on what the respective parent elects. We put it right here in the bill itself.

Of course, I have to mention that recently, in the Waterloo Record, Luisa D'Amato wrote on this subject: "But removing the 'mother' and 'father' option from a school form, and forcing everyone to say 'parent' instead," if that were to occur down the road, would, as she puts it, "erase a description of the most powerful relationships we experience."

Chair, as the proud father of my children, Murphy, Rosy and Lincoln, let's ensure that we are providing the equality that Bill 28 speaks to, both today and for future generations, and guarantee that parents will have the option to be identified by government how they themselves choose by supporting this amendment.

The Chair (Mr. Peter Tabuns): Thank you very much, Mr. Harris.

I have Ms. DiNovo and then I have Mr. Berardinetti. Ms. DiNovo, you first.

Ms. Cheri DiNovo: I'm going to vote against this, but I just wanted to point out to Hansard: I think you said, Mr. Harris, section 7 and not 17.

Mr. Michael Harris: Subsection 17.

Ms. Cheri DiNovo: Yes, subsection 17, but I think that you said subsection 7. I think he's going to need to reread that, just for Hansard.

The Chair (Mr. Peter Tabuns): Okay. Thank you. Mr. Berardinetti.

1650

Mr. Lorenzo Berardinetti: Mr. Chair, I'm going to say this proposed amendment makes it clear that Patrick Brown and the PC Party are choosing to align themselves with right-wing, socially conservative groups that do not want LGBTQ2+ families, and families who use assisted reproduction, to be treated equally. The amendment that Patrick Brown and the PC Party are proposing reflects the views of Charles McVety, who presented at this committee two weeks ago.

I think it's important to remind this committee that Patrick Brown and the PCs are aligning themselves with an individual who represents a group that opposes a woman's right to choose; gay marriage; and an up-to-date sex ed and health curriculum for our kids. It's clear from this amendment that Patrick Brown continues to hold on to his right-wing, socially conservative beliefs that helped him become the leader of the PC Party.

I'd like to remind the PC members who are here today that Ontario is a province that values diversity and equality.

Despite the fearmongering and misinformation being spread by Mr. McVety and the right-wing, socially conservative groups, if passed, this bill will continue to allow parents to identify as mother and father at home, or on their child's birth certificate. Our government is not getting rid of "mom" or "dad" in this bill, or otherwise. To suggest otherwise is false. The Vital Statistics Act already allows a parent or parents to choose the title that best reflects who they identify with: mother, father, parent. It's already there.

The PC Party should know that these forms, with those titles, are available today at the ServiceOntario website.

The Chair (Mr. Peter Tabuns): I have Mr. Fraser and then I have Mr. Hillier. Mr. Fraser?

Mr. John Fraser: To my colleague across the way: You said "just to make something clear." I don't think it was ever unclear, other than there were people trying to make it unclear, that this was about taking somebody's rights away as opposed to recognizing people's identities.

At the core of this bill, it is about children, their right to know their parentage, and the right for two loving parents, who have a genuine interest in that child, to have a relationship that's recognized by the government, and to uncomplicate things.

Right now, it's terribly complicated for a lot of families. That's what this bill is about. There has been a characterization of this bill in the media, online, all over, which is a total mischaracterization.

We know that as of this day, by regulation, on those forms, people can identify as a mother or a father or as a parent—

Interjection.

Mr. John Fraser: Let me finish. But what's most important is that no one is taking anything away from anybody.

Mr. Michael Harris: Then agree with the motion.

Mr. John Fraser: I think you're being a bit petulant. What I'm trying to say is I don't think that it was ever

unclear, so I have a hard time supporting this motion because the premise for it is based on a lot of misinformation and, actually, something that I believe is very destructive and very disruptive to families in this province. So I will not be supporting this motion.

The Chair (Mr. Peter Tabuns): Mr. Hillier?

Mr. Randy Hillier: It's disappointing to see such a level of partisanship get displayed by the member from Ottawa South and the parliamentary secretary, especially the parliamentary secretary's comments about Patrick Brown and the right wing.

Just for the committee's understanding, the bill as it stands at the present time—and I think the member from Ottawa South may want to listen to this. The bill as it stands at the present time—maybe I'll take a step back.

We know that all government forms—in all legislation, the minister or the bureaucracy is already empowered and enabled through legislation to draft and create forms as required. If there were to be any changes on a form, the ministry does not have to come back to the Legislature to seek approval. The ministry already has that authority vested in it to alter the forms, however they determine appropriate, as long as it's consistent with the legislation.

As we heard through all the deputations, this bill is about inclusion. Everybody who came and made representations here wanted to ensure that people are recognized as parents. Using various reproductive technologies, various arrangements—this bill is necessary. This bill is necessary to put our laws in step with the changes in society that we've agreed to make over the last number of decades.

This amendment, because it's included in the legislation, would ensure that if there were any alteration to the forms down the road, the alteration would still put an obligation that the terms "father" or "mother" or "parent" are on the form. It's very consistent with all of the discussion that we had. This is not something raised by Charles McVety. As much as I dislike the attack—some members in this committee went after some of those deputants, such as Mr. McVety. I think it is important that we hear from people and that we include legitimate—without attacking people.

I just want to make sure that every member of this committee is aware that this is consistent with what we heard from all deputants, not just one or two. It was consistent across the whole spectrum of deputants. Nobody wanted to take away or prevent somebody identifying as a mother or a father or a parent.

This just ensures that down the road—maybe a year from now, or maybe 10 years from now or whatever period of time—if the forms need updating or need reconfiguration because of technology or anything else, they will continue to include the terms "mother" and "father" along with "parent."

The Chair (Mr. Peter Tabuns): Ms. DiNovo.

Ms. Cheri DiNovo: I just wanted to assure my colleagues to the right, as the author of Cy and Ruby's law, upon which this bill is based, and to assure Mr.

McVety and his followers, too, that certainly, Mr. Hillier, you're incorrect. We did not hear from across all those who testified that they wanted to see "mother" and "father." In fact, there were just a couple who came forward and asked for that out of all of those who came to testify.

What most people who came to testify were concerned about was parent equality, which is what the bill is titled, and to make that equality real. It's not to make that equality real just by changing forms. If it were, we would not be discussing a bill here today. Parents would not have worked all those hours to make it so.

It certainly wasn't upon Mr. McVety's invitation that we looked at amendments either. I just wanted to correct the article in the Sun today: Mr. McVety had nothing to do with the amendments that we've put forward. Of course, he had something to do with this amendment, but again, it is not representative of the vast majority of those we heard.

Also, just a friendly amendment to what Mr. Fraser said: It's up to four parents, not just two. That's also a change that this bill makes.

It's not as perfect as we in the NDP would have liked to have seen it, but with this bill, what will happen for the first time in Ontario is that we'll catch up to other provinces. For the first time in Ontario, LGBTQ2S parents will become equal. That's what this bill is about. More importantly, perhaps, their children will be equal with other children.

There is absolutely no truth to your assertion that you cannot call yourself "mother" and "father" anymore. Of course you can. It depends how you use the term "mother," but you can call yourself "mother" and "father," whomever you are. Whatever gender you are, you can use those terms. I think that's important as well.

1700

Just to clarify: There was never, ever any intention, either on the government's part or on the New Democratic Party's part, to take away the ability of parents to call themselves "mother" and "father," and this bill does not do that, categorically so.

The Chair (Mr. Peter Tabuns): Thank you, Ms. DiNovo. Mr. Hillier.

Mr. Randy Hillier: It's unfortunate that the member from the third party is conflating issues. Not once did I suggest that people were not permitted to call themselves "mother" or "father." That's not up for discussion.

Ms. Cheri DiNovo: And legally so.

The Chair (Mr. Peter Tabuns): Mr. Hillier has the floor.

Mr. Randy Hillier: It's not up for discussion. We know individuals can refer to themselves however they may choose. What we're talking about is legislation and what this bill does or does not do.

Further to the member of the third party, I was here through all the deputations. Everybody I heard here said they wanted to add to the legislation. They wanted this legislation to broaden its scope. Nobody talked about limiting the scope. As it was discussed, we wanted to ensure, as I stated earlier, for people using assisted repro-

ductive technologies and different lifestyle arrangements or different arrangements, that our legislation would accommodate those various and different arrangements. I think it's done a good job in doing so. I think it's done a good job.

However, as I stated earlier, we know that forms in the vast machinery of government are done not within the Legislative Assembly but outside of our purview. It's done through the administration at the ministry level, through regulations. When they do things through regulation, those items do not come back to the House for scrutiny or examination or for blessing or consent. The only time a regulation comes back to the House for our examination is at the request of the regulations and private bills committee, which finds something out of order with a regulation.

Because this bill is absent in identifying the various terms, without this amendment, it would allow those forms to be altered. And let's bear in mind, this amendment is very specific. It's section 9 of the Vital Statistics Act. It states, in the very last line, their election in the certification. So a parent may elect to choose to tick the box "mother," may choose to tick the box "father," may choose to tick the box "parent."

I think it is absolutely consistent with what we heard during the committee. It's also absolutely consistent with the technical briefing provided to me by the ministry on this bill. They said there is nothing in this bill that would remove or eliminate the terms "mother" or "father," and they're absolutely correct. There's nothing in this bill that would do that.

That could be done by way of regulation outside of our—listen, John, the member from Ottawa South, this is not the grin-and-bear-it show. This is not puzzlement time. These are legitimate concerns. They're real concerns for a lot of people. We do have an obligation to make our laws consistent with the expectations of society—not one individual or not two individuals, but the broad spectrum of society—and it must also incorporate protections for minorities. That's what the rule of law is all about.

Earlier, the member—I believe it was the member from Ottawa South; it may have been the parliamentary assistant—said, "We're not getting rid of these terms in the legislation." I just agreed; you're not. All this amendment does is ensure that they won't be gotten rid of by regulation down the road. If the government wanted to change those forms and delete the terms "mother" or "father" on a form, then the bill would have to come back for scrutiny by the Legislature.

I think it's very fair and reasonable. There is no evil lurking here in the background, John. This is pretty straight-up. Anybody who understands the administrative and legislative process understands that what I'm saying is factual and it's just a safeguard.

The Chair (Mr. Peter Tabuns): I have Mr. Fraser and then Ms. DiNovo.

Mr. John Fraser: Thank you very much, Mr. Hillier. I don't think that my remarks to you were in any way partisan. I was just simply stating the fact that there has

been a perception created among a great amount of people that has caused a lot of consternation, and this amendment that you're putting forward is based on that. I can't support it for that reason.

But what I did want to say, and I'll repeat it again, is that this bill does not eliminate anybody's rights. It recognizes people's identities and actually uncomplicates things for a great number of people.

I respect the legislative process. I think I do understand it and understand what you're saying. I guess what I'm saying to you is: I don't agree with you. It's that simple.

The Chair (Mr. Peter Tabuns): I now have Ms. DiNovo.

Ms. Cheri DiNovo: Just very quickly, the point I wanted to make about the term "parent" versus the gendered terms of "mother" and "father"—which are gendered. One of the things that we've looked at in this bill is trying to make this legislation trans-inclusive, in light of the Ontario Human Rights Code, for which there was an all-party-agreed-upon bill, as well, Toby's Act, to add gender identity and gender expression to that.

I understand you're after vital statistics, but here's the thing: What you're proposing here is an actual amendment to the law, not to a regulation, and, you're quite right, only the government controls that regulation. So let it be "parent." It's a legal term and it's non-gendered. Instead of fighting for the right of folks to be called "mother" or "father," perhaps we should also be fighting for the right of people to be called neither mother, nor father. I think that's equally important.

I just wanted to put that on the record. Hopefully, we can get on and pass this bill so that this all happens.

The Chair (Mr. Peter Tabuns): I have Mr. McMeekin and then I have Mr. Hillier. Mr. McMeekin.

Mr. Ted McMeekin: I call the question.

Interjection.

The Chair (Mr. Peter Tabuns): I have been advised that as long as we have debate and people are not being repetitive, we will continue to hear debate.

Mr. Ted McMeekin: I thought we were well beyond that point, Mr. Chairman, but that's your—

The Chair (Mr. Peter Tabuns): I appreciate your sentiment, Mr. McMeekin.

I'll go to Mr. Hillier, and hopefully we will be able to move forward.

Mr. Randy Hillier: I find it disappointing that while there are thoughtful deliberations going on, the member from the government side would want to stifle those deliberations.

Going back to the member from Ottawa South, it appears that he is going to vote against this amendment due to a perception of our motivation. I think I was very clear about the motivation—

Interjection.

1710

Mr. Randy Hillier: Well, that's exactly what you said, John, that it was due to our motivation that you are opposed to this bill. I'd like to know: If you thought my

motives were pure and sincere, would you then alter your determination and your decision and be supportive of this amendment, if you thought more highly of my motivations?

I can say to you and all members of this committee that I understand the legislative process, and I have no doubt that the member for Ottawa South does as well; he's been in the business for a while, long before he got here. I would ask him to identify to the committee where I was factually in error or inconsistent in my summary of how the regulatory process works. If I am in error, if I'm factually incorrect, please let me know where. I feel I'm on pretty solid ground; the ministry is already empowered to make forms. There's no mention in this bill about the ministry making forms; that's already enabled.

I want to make sure the record is clear: When I spoke about the partisan attack, I was not referring to the member from Ottawa South, but the parliamentary assistant got his talking points very clearly. Every 10th word that came out of his mouth in opposition to our amendment was the term "Patrick Brown." Patrick Brown is not sitting at this table. The member from Lanark and the member from Kitchener are. We are advancing this amendment on behalf of the PC caucus, but also because it is reasonable and responsible in our view, and with sincerity, we find this reasonable.

I find the position that both the third party and the government have taken with respect to this amendment to be unreasonable. It is not inclusive, the position that you're taking. It's preventing or possibly preventing—let me massage that word a while. The bill does not prevent, but nor does it safeguard. This is a safeguard. We're putting in a safeguard, and I think safeguards are not unreasonable.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hillier. With that, I am assuming that everyone has made the arguments they want to make and we can proceed to the vote. It's a recorded vote, as we've discussed before.

Ayes

Harris, Hillier.

Nays

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): The motion is lost.

We now go to the motion on section 17, as a whole. I'm assuming there is no discussion on section 17, as a whole. Shall section 17 carry?

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): Section 17 is carried.

Members of the committee, with your permission, I'd like to bundle sections 18 to 23. There are no amendments there. The next amendment is in section 24. Good?

Shall sections 18 to 23, inclusive, carry? Please indicate.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): Opposed? Abstentions? Those sections are carried.

We go to section 24, and we have government motion 17.1. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I move that the English version of clause 31(1)(b) of the Vital Statistics Act, as set out in subsection 24(1) of the bill, be amended by adding "General" after "Registrar" in the portion before subclause (i).

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I recommend voting for this motion because it's a technical amendment to clause 31(1)(b) of the Vital Statistics Act to change the reference to "Registrar General" in that portion of the bill, to correct a drafting error.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, are you ready to vote? All those in favour of the amendment, please indicate.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): Opposed? Abstentions? It is carried. Thus, section 24 is amended.

Before we go to the vote, any commentary on this section? There being none, shall section 24, as amended, carry?

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): Carried. Thank you, colleagues.

We now have sections 25 to 37 with no amendments. With your permission, I'd like to bundle them for one vote. Good. Sections 25 to 37, inclusive: Shall they carry?

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): Opposed? Abstentions? Carried.

We go now to section 38 and government motion 18. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I hope the committee bears with me. It's quite a long motion.

I move that subsection 35(5) of the bill be struck out and the following substituted:—

The Chair (Mr. Peter Tabuns): Subsection 38(5)?

Mr. Lorenzo Berardinetti: Subsection 38(5). Yes.

"(5) The definition of 'parent' in subsection 37(1) of the act is repealed and the following substituted:

"'parent', when used in reference to a child, means each of the following persons, but does not include a foster parent:

"1. A parent of the child under section 6, 8, 9, 10, 11 or 13 of the Children's Law Reform Act.

"2. In the case of a child conceived through sexual intercourse, an individual described in one of paragraphs 1 to 5 of subsection 7(2) of the Children's Law Reform Act, unless it is proved on a balance of probabilities that the sperm used to conceive the child did not come from the individual.

"3. An individual who has been found or recognized by a court of competent jurisdiction outside Ontario to be a parent of the child.

"4. In the case of an adopted child, a parent of the child as provided for under section 158 or 159.

"5. An individual who has lawful custody of the child.

"6. An individual who, during the 12 months before intervention under this part, has demonstrated a settled intention to treat the child as a child of his or her family, or has acknowledged parentage of the child and provides for the child's support.

"7. An individual who, under a written agreement or a court order, is required to provide for the child, has custody of the child or has a right of access to the child.

"8. An individual who acknowledges parentage of the child by filing a statutory declaration under section 12 of the Children's Law Reform Act as it read before the day subsection 1(1) of the All Families Are Equal Act (Parentage and Related Registrations Statute Law Amendment), 2016 came into force; ("père ou mère")"

1720

The Chair (Mr. Peter Tabuns): Actually, Mr. Berardinetti, going back to number 6, you had said "provides" rather than "provided." Would you just reread that section?

Mr. Lorenzo Berardinetti: Section 6?

The Chair (Mr. Peter Tabuns): Yes, please.

Mr. Lorenzo Berardinetti: "An individual who, during the 12 months before intervention under this part, has demonstrated a settled intention to treat the child as a child of his or her family, or has acknowledged parentage of the child and provided for the child's support."

The Chair (Mr. Peter Tabuns): Thank you very much, Mr. Berardinetti. Are there any comments on this amendment? Ms. Kiwala.

Ms. Sophie Kiwala: There's one more little error. I'm not sure if it's relevant or not.

The Chair (Mr. Peter Tabuns): Please.

Ms. Sophie Kiwala: Number 8, “An individual who acknowledged...” I think “acknowledges” was read.

The Chair (Mr. Peter Tabuns): Mr. Berardinetti, would you just reread that?

Mr. Lorenzo Berardinetti: Sure. “8. An individual who acknowledged parentage of the child by filing a statutory declaration under section 12 of the Children’s Law Reform Act as it read before the day subsection 1(1) of the All Families Are Equal Act (Parentage and Related Registrations Statute Law Amendment), 2016 came into force; (‘père ou mère’)”

The Chair (Mr. Peter Tabuns): Thank you very much. Is there any discussion? Thank you, Ms. Kiwala. Mr. Berardinetti?

Mr. Lorenzo Berardinetti: I recommend voting for this motion because it would make a technical amendment to the Child and Family Services Act to ensure consistency with the current law that focuses on the immediate needs of the child that is the subject of child protection proceedings. It would ensure that the consent of a biological father, whose identity or whereabouts are unknown, would not be required in a child protection proceeding.

There was some speculation in the media that this bill would somehow give rapists standing in respect of adoption decisions. That was obviously an unintended consequence of the drafting. This motion, together with motion 19 by the government, will fix that issue. Rapists do not have any standing with respect to adoption decisions.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Berardinetti. Further discussion? There being none, you’re ready to vote? It will be a recorded vote.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It is carried.

We go to motion 19. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I will not move this motion. Withdraw.

The Chair (Mr. Peter Tabuns): You’re withdrawing, fine. Thank you.

We go, then, to motion 20.

Mr. Lorenzo Berardinetti: I move that subsection 38(11) of the bill be struck out and the following substituted:

“(5) The definition of ‘parent’ in subsection 137(1) of the act is repealed and the following substituted:

“‘parent’, when used in reference to a child, means each of the following persons, but does not include a foster parent:

“1. A parent of the child under section 6, 8, 9, 10 or 11 of the Children’s Law Reform Act” —

The Chair (Mr. Peter Tabuns): No, “11 or 13.” If you would reread the—

Mr. Lorenzo Berardinetti: I’m sorry. All right.

“1. A parent of the child under section 6, 8, 9, 10, 11 or 13 of the Children’s Law Reform Act.”

I’m going to go a bit slower, then.

“2. In the case of a child conceived through sexual intercourse, an individual described in one of paragraphs 1 to 5 of subsection 7(2) of the Children’s Law Reform Act, unless it is proved on a balance of probabilities that the sperm used to conceive the child did not come from the individual.

“3. An individual who has been found or recognized by a court of competent jurisdiction outside Ontario to be a parent of the child.

“4. In the case of an adopted child, a parent of the child as provided for under section 158 or 159.

“5. An individual who has lawful custody of the child.

“6. An individual who, during the 12 months before the child is placed for adoption under this part, has demonstrated a settled intention to treat the child as a child of his or her family, or has acknowledged parentage of the child and provided for the child’s support.

“7. An individual who, under a written agreement or a court order, is required to provide for the child, has custody of the child or has a right of access to the child.

“8. An individual who acknowledged parentage of the child by filing a statutory declaration under section 12 of the Children’s Law Reform Act as it is read before the day subsection 1(1) of the All Families Are Equal Act (Parentage and Related Registrations Statute Law Amendment), 2016 came into force.”

Mr. John Fraser: I think you may have missed that there. You may have to reread the—

Mr. Lorenzo Berardinetti: Where is that?

Mr. John Fraser: You may just want to tell him you need to correct it.

The Chair (Mr. Peter Tabuns): Right. Okay. Mr. Berardinetti, just two corrections: At the very beginning, when you were moving that subsection 38(11) of the bill be struck out, you said (5) rather than (11). Will you just note that it is (11)? In bold.

Mr. Lorenzo Berardinetti: It’s 11, yes. Thank you.

The Chair (Mr. Peter Tabuns): Okay, and in paragraph 8, after the words “Children’s Law Reform Act” in italics, the text here is “as it read before” and you had said “as it is read before.” Will you clarify that it is “as it read”?

Mr. Lorenzo Berardinetti: Yes, thank you. That’s correct.

The Chair (Mr. Peter Tabuns): Okay. Thank you very much. Is there discussion? Mr. Fraser.

Mr. John Fraser: Just at the beginning of that section, he may have missed the word “licensee” in that sentence beginning with “‘parent’, when used in reference to a child, means each of the following persons, but does not include a licensee or a foster parent.” I think “licensee” was—

The Chair (Mr. Peter Tabuns): Sorry? Ah, okay. Mr. Berardinetti, you will confirm “does not include a licensee or a foster parent”?

Mr. Lorenzo Berardinetti: That’s correct, yes.

The Chair (Mr. Peter Tabuns): Thank you. With that, any discussion? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I recommend voting for this motion because it would make a technical amendment to the Child and Family Services Act to ensure consistency with the current law that focuses on the immediate needs of the child who is the subject of adoption proceedings. It would also ensure that the consent of a biological father whose identity or whereabouts are unknown would not be required in an adoption proceeding.

The Chair (Mr. Peter Tabuns): Thank you. Is there further discussion? There being none, you're ready for the vote? A recorded vote.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It is carried.

Colleagues, we'll now vote on section 38, as amended. Any discussion on section 38? None? The vote: Shall section 38, as amended, carry?

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It is carried.

Colleagues, we have no further amendments. I'm going to suggest we bundle sections 39 to 77. Any objections? There being none, we'll call for the vote. Shall sections 39 to 77, inclusive, carry?

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It is carried.

The last three motions: Shall the title of the bill carry?

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): It is carried.

Shall Bill 28, as amended, carry? All those in favour, please indicate.

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): Those opposed? Absentions? It is carried.

Shall I report Bill 28, as amended, to the House?

Ayes

Anderson, Berardinetti, DiNovo, Fraser, Kiwala, McMeekin.

The Chair (Mr. Peter Tabuns): Opposed? Absentions? It is carried.

Thank you all. With that, the committee stands adjourned.

The committee adjourned at 1730.

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