

Legislative  
Assembly  
of Ontario



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**Official Report  
of Debates  
(Hansard)**

SP-17

**Journal  
des débats  
(Hansard)**

SP-17

**Standing Committee on  
Social Policy**

Foundations for Promoting  
and Protecting Mental Health  
and Addictions Services Act, 2019

1<sup>st</sup> Session  
42<sup>nd</sup> Parliament

Tuesday 10 December 2019

**Comité permanent de  
la politique sociale**

Loi de 2019 sur les bases  
nécessaires à la promotion  
et à la protection des services  
de santé mentale et de lutte  
contre les dépendances

1<sup>re</sup> session  
42<sup>e</sup> législature

Mardi 10 décembre 2019

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Chair: Natalia Kusendova  
Clerk: Eric Rennie

Présidente : Natalia Kusendova  
Greffier : Eric Rennie

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
SOCIAL POLICY**

**COMITÉ PERMANENT DE  
LA POLITIQUE SOCIALE**

Tuesday 10 December 2019

Mardi 10 décembre 2019

*The committee met at 0900 in room 151.*

**FOUNDATIONS FOR PROMOTING  
AND PROTECTING MENTAL HEALTH  
AND ADDICTIONS SERVICES ACT, 2019**

**LOI DE 2019 SUR LES BASES  
NÉCESSAIRES À LA PROMOTION  
ET À LA PROTECTION DES SERVICES  
DE SANTÉ MENTALE ET DE LUTTE  
CONTRE LES DÉPENDANCES**

Consideration of the following bill:

Bill 116, An Act to enact the Mental Health and Addictions Centre of Excellence Act, 2019 and the Opioid Damages and Health Costs Recovery Act, 2019 / Projet de loi 116, Loi édictant la Loi de 2019 sur le Centre d'excellence pour la santé mentale et la lutte contre les dépendances et la Loi de 2019 sur le recouvrement des dommages-intérêts et du coût des soins de santé imputables aux opioïdes.

**The Vice-Chair (Mr. Aris Babikian):** Good morning, everyone. We are assembled here today for clause-by-clause consideration of Bill 116, An Act to enact the Mental Health and Addictions Centre of Excellence Act, 2019 and the Opioid Damages and Health Costs Recovery Act, 2019.

Tamara Kuzyk from legislative counsel is here to assist us with our work, should we have any questions for her.

A copy of the numbered amendments filed with the Clerk is on your desk. The amendments have been numbered in the order in which the sections appear in the bill.

Are there any questions before we start?

As you will notice, Bill 116 is comprised of three sections and two schedules. In order to deal with the bill in an orderly fashion, I suggest that we postpone the first three sections in order to dispose of the schedules first. This allows the committee to consider the contents of the schedules before dealing with the sections on the commencement and short title of the bill. We would return to the three sections after completing consideration of the schedules.

Is there unanimous consent to stand down the three sections and deal with the schedules first? Agreed.

Before we begin schedule 1, I will allow each party to make some brief comments on the bill as a whole. Afterwards, debate should be limited to the sections or amendments under consideration. Are there any comments? Go ahead, Madame Gélinas.

**M<sup>me</sup> France Gélinas:** Thank you so much. The bill is something that we have been waiting for for a very long time.

As you all know, the Minister of Health and I were on the Select Committee on Mental Health and Addictions. Our number one recommendation was to create Mental Health and Addictions Ontario to give mental health and addictions a home so that you would have an agency responsible—or hopefully a ministry—but you would have people responsible for identifying best practices in mental health and addictions, making sure that those best practices would be available province-wide. If there were issues of equity of access, those would be addressed, and our mental health system would become stronger and respond to the needs of the people who need it. Bill 116 takes a huge step toward this.

The NDP is on record that we will be supporting this bill. This is something that we have been asking for and this is something where there is agreement. I would say, same thing with the Liberals and the Green. This is something where we have agreement across all parties and we all agree. I think it's one of those rare occasions since this new Parliament where we all agree, and we all have the same end goal.

We've done a few amendments to the bill, mainly based on the comments that have been received, but also knowledge that we've had for some time, when it comes to First Nations, when it comes to children and youth, when it comes to others. I hope you will be open to making this bill even better.

I just want to put on the record that this is a happy day. This is something that will help the people of Ontario eventually gain access to better mental health and addictions care, treatment support, health promotion, disease prevention—the whole array. So yay, a happy day in the Legislature. They don't happen very often.

**The Vice-Chair (Mr. Aris Babikian):** Thank you. Go ahead, MPP Martin.

**Mrs. Robin Martin:** Thanks very much, Chair. And thank you to the member opposite for your comments. We agree, this is an important step to create a foundation for our mental health and addictions strategy.

The act, as you know, is a very simple act. It establishes, within Ontario Health, a Mental Health and Addictions Centre of Excellence, and secondly, supports Ontario's participation in a national class action lawsuit, which British Columbia launched last year. These are the two major components of a very simple bill, but a bill that will

give us a foundation, a centralizing, organizing place in which to have standards—clinical quality service standards—for mental health and addictions, to monitor metrics and things like that. So we think it is an important step, but it's just one step in the whole puzzle. Thank you.

**The Vice-Chair (Mr. Aris Babikian):** Thank you. Now we are on schedule 1, Mental Health and Addictions Centre of Excellence Act, 2019. Schedule 1, section 1: Is there any debate?

Shall schedule 1, section 1, carry? Carried.

Schedule 1, section 2: Is there any debate?

Shall schedule 1, section 2, carry? Carried.

Schedule 1, section 3: Is there any debate?

**M<sup>me</sup> France Gélinas:** No, I'm just making an amendment.

**The Vice-Chair (Mr. Aris Babikian):** Okay. We're going to deal with schedule 1, section 3 first, and after, then we will come to the amendments.

Schedule 1, section 3: Is there any debate?

**M<sup>me</sup> France Gélinas:** Just a small debate—that I will be coming with an amendment to make the section on the strategy a little bit more focused on areas of intense need.

**The Vice-Chair (Mr. Aris Babikian):** Okay. We will come back to those added sections or amendments.

Shall schedule 1, section 3, carry? Carried.

Now we're on schedule 1, new section 3.1. There is an amendment from the NDP.

**M<sup>me</sup> France Gélinas:** I go?

**The Vice-Chair (Mr. Aris Babikian):** Yes. Go ahead, Madame Gélinas.

**M<sup>me</sup> France Gélinas:** I move that schedule 1 to the bill be amended by adding the following section:

“Strategy for children and youth

“3.1 The mental health and addictions strategy shall include within it a comprehensive component that is specific to children and youth.”

**The Vice-Chair (Mr. Aris Babikian):** Okay. Do you want to elaborate?

**M<sup>me</sup> France Gélinas:** Yes, please. For the longest time in Ontario, children's mental health was not part of the health care system. Children's mental health was dealt with in a different ministry. So as children with mental illness, or some with addictions, aged out of being youths, they would not only have to transition to a new agency, they would also have to transition from one ministry to a different ministry. This has created big—how can I call them—chasms, big fractures within our mental health system that have a huge impact on youths, their family, their caregivers, dealing with mental health.

**0910**

We are in the part of the bill that talks about the mental health and addiction strategy. For a lot of people who will read this, for people on the ground who offer those services, for all of those stakeholders out there, it talks about adults only, because this is how we've always talked about mental health. When we talked about mental health in Ontario, for decades and decades, all we talked about were adults. So I wanted to make sure that this section that sets the strategy in the bill says clearly that there's a strategy

for children and youth. We want to make sure that this new Mental Health and Addictions Centre of Excellence will be for children, will be for people from zero to death, whether we divide them or we do whatever. But the language in Ontario is such that, right now, if you speak about a Mental Health and Addictions Centre of Excellence, for anybody who works in the system, it will mean adults.

To focus on a strategy for children and youth does two things: First of all, we make sure that we do develop a strategy for children and youth. Second, it takes away the doubt in everybody's mind that children's mental health could go back to a different ministry and not be covered by Ontario Health, because Ontario Health is under the Minister of Health, like it has been for decades before.

**The Vice-Chair (Mr. Aris Babikian):** Is there any debate? MPP Martin.

**Mrs. Robin Martin:** The Ministry of Health has a responsibility to work across the lifespan for mental health and addictions. We've taken on, as you know, children's mental health as well as part of our ministry. An across-the-lifespan approach will ensure that the mental health and addictions needs of transitional-aged youth, and children and youth, are also addressed. The problem with specifying a particular group is that it makes it look like other groups may be less important. We prefer to leave it the way it is, which is inclusive.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate?

**M<sup>me</sup> France Gélinas:** I would say that your goals are very noble and your goals are very charitable. This is what we all want. But we still have to take into account the reality of what has been.

Most Ontarians don't know what falls within the Ministry of Health—sorry. Most Ontarians could not name the Minister of Health—no offence, guys. Politics is what we do, day in and day out; the rest of Ontarians don't. But every Ontarian who has had dealings with children's mental health knows that it is not part of health. They've had those hard-knock experiences telling them. So to be more inclusive, because for decades children's mental health was not part of health, I think it would be wise, right from the top, right from the bill, going down toward those goals that we all support—a strategy for all ages.

It should have been like this. I fully agree. I never understood why children's mental health was not part of health. It's good that it now is part of health, but in this transition, because of where we come from, it's still worthwhile to have in the bill a strategy for children and youth. We will continue to get questions and we will continue to get people reluctant to participate in what comes forward because of the decades of reality for Ontarians where children's mental health was not part of health. I think it's an opportunity to show inclusiveness and show that the end goal is there and is being truthful to our paths, which is that we were never like this: Children's mental health was never part of health.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? Shall the motion carry? All those in favour—

**M<sup>me</sup> France Gélinas:** Recorded vote.

**The Vice-Chair (Mr. Aris Babikian):** Okay. Recorded vote.

#### Ayes

Gélinas, Harden, West.

#### Nays

Harris, Hogarth, Karahalios, Kusendova, Martin, Wai.

**The Vice-Chair (Mr. Aris Babikian):** Thank you. It is lost.

Madame Gélinas?

**M<sup>me</sup> France Gélinas:** Can I ask that any further vote be a recorded vote? I never know when to ask for a recorded vote, so can I ask now, for forever, amen?

**The Vice-Chair (Mr. Aris Babikian):** For every vote? Do you want it for every amendment, or for every vote?

**M<sup>me</sup> France Gélinas:** For every amendment.

**The Vice-Chair (Mr. Aris Babikian):** For every amendment, okay. All in agreement? Okay.

Schedule 1: New section 3.2, new amendment, NDP. Go ahead, Madame Gélinas.

**M<sup>me</sup> France Gélinas:** I move that schedule 1 to the bill be amended by adding the following section:

“Strategy for Indigenous peoples

“3.2 The mental health and addictions strategy shall include within it a comprehensive component that is specific to Indigenous peoples.”

**The Vice-Chair (Mr. Aris Babikian):** Would you like to elaborate?

**M<sup>me</sup> France Gélinas:** Yes. The burden of access to care for Indigenous people in Ontario is horrendous. In some First Nations communities especially, you will see a very high burden of mental illness and addiction and you will see no access to care because there are no agencies providing the care that they need. Add to this the dilemma that they often face where, when they reach out for help, what they get is, “No, this is the responsibility of the federal government.”

Access to mental health and addictions services—equitable access—is something that Indigenous people have been asking for, for a long time. Right now, the standard answers that they have received was that this is the responsibility of the federal government. I think and I know that there is a willingness within this government to make sure that Indigenous people are treated like every other Ontarian, that Indigenous people are part of the new Mental Health and Addictions Centre of Excellence, that their needs will be recognized and that they will finally gain access to some support, some services, to meet their needs. They need to be included in the bill.

Discrimination against Indigenous people is still very alive and is still there. We have to specifically include them in the bill because, as the work of the Mental Health and Addictions Centre of Excellence takes place, as it starts to roll out to the regions, to the communities, the same biases, the same racism that has led us to where we are now, will continue to happen. By mentioning them in

the strategic mandate of the centre, we’ll go a long way to reassure Indigenous people that the government is finally willing to help them, is finally willing to provide them with the care that every other Ontarian knows that they are entitled to.

It will also send a clear message to the mental health and addictions providers, some of whom, I’m not proud to say, discriminate openly against Indigenous people, that those practices cannot continue, that Indigenous people are Ontarians. They are under the mandate of the Mental Health and Addictions Centre of Excellence. They have to gain access to their services.

This is the reason behind this amendment.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? MPP Martin.

**Mrs. Robin Martin:** Thank you so much, Chair. And thank you for your comments, Madame Gélinas.

As you know, Ontario Health, where our Mental Health and Addictions Centre of Excellence would be housed, is committed to ensuring equity within the health care system as a whole and meeting the needs of all Ontario residents. I would make the same comment. It’s really a principle of legal interpretation. We’re talking about what is in the statute—the same comment that I made before, which is, by specifying a particular group, it might imply that other groups are not included or are less important. We prefer to keep the thing the way it is.

#### 0920

**The Vice-Chair (Mr. Aris Babikian):** Madame Gélinas.

**M<sup>me</sup> France Gélinas:** The Indigenous people of Ontario have asked to be specifically named; other groups have not. In the spirit of reconciliation, in the spirit of undoing the harm that governments of every stripe have done to Indigenous people—and we live in 2019. This act is an act for 2019. We have responsibility toward reconciliation. We have responsibility toward Indigenous people. We know that we have failed them. We know the catastrophic outcomes of the failings of the government over the years toward Indigenous people. To include them will be what they want. I think it will be recognized by any other groups as to why, when we pass a piece of legislation in 2019, when the spirit of reconciliation is there—people will understand why we have singled out Indigenous people.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? Okay. We’re going to a recorded vote.

#### Ayes

Gélinas, Harden, West.

#### Nays

Harris, Hogarth, Karahalios, Kusendova, Martin, Wai.

**The Vice-Chair (Mr. Aris Babikian):** The vote is lost. Now we go to schedule 1, new section 3.3, page 3.

The NDP, would you like to present your amendment?

**M<sup>me</sup> France Gélinas:** I move that schedule 1 to the bill be amended by adding the following section:

“Strategy specific to opioids

“3.3 In developing and maintaining the mental health and addictions strategy, the minister shall work with the Ontario emergency opioid task force, or any successor to the task force, to develop and include within the strategy a comprehensive component that is specific to the opioid crisis.”

**The Vice-Chair (Mr. Aris Babikian):** Would you like to elaborate?

**M<sup>me</sup> France Gélinas:** Do you want to go first?

**Mr. Joel Harden:** Sure.

**The Vice-Chair (Mr. Aris Babikian):** MPP Harden.

**Mr. Joel Harden:** I think all parties in this Legislature have acknowledged that we have a significant opioid crisis. One of the good things that we inherited from the previous Parliament is the opioid emergency task force, which includes within it people who have lived experience and lived expertise, working directly on the front lines. It does concern me that this task force hasn't met. What this section, if it's adopted, would require the government to do is to make sure that that task force plays a critical role in dealing with the opioid emergency. It's simply, I think, a very supportive amendment that will allow us to proceed with the experts in the field.

In Ottawa, we've lost 94 people in the last year from overdose with respect to opioids. On November 13, we had a community meeting with the Ottawa police, with public health in Ottawa, with affected city councillors in the downtown area, myself and a number of small business associations. What we all acknowledged is the nature of the contaminated supply, the illicit supply, the people who are poisoning neighbours by selling illegal opioids, killing people. At this point, we have 94 people who have lost their lives as a consequence of this.

On December 1, I had the occasion to be with Bereaved Families of Ontario-Ottawa. This is a bereavement organization that's peer-to-peer, grassroots, in the city. We had a full room at the Beechwood cemetery, the national cemetery of Canada. I was honoured to give a keynote, as someone who personally—I've lost loved ones through drug overdose. I was approached by a number of families afterwards who all had the same question for me: How are we going to start dealing with this as an emergency? How are we going to start dealing with this in the same way that we dealt with the Walkerton tainted water crisis, when six folks lost their lives; with the SARS crisis, when 44 people lost their lives in 2003; with the listeriosis crisis, when 22 people lost their lives in 2008? We are at 94 in my city alone at this point.

We heard testimony from the Canadian Mental Health Association, where they have documented across the province a doubling in opioid-related deaths, from 4,427 in 2016, to 9,154. I think what is impressing upon all of us—I'm not pointing a finger at any political party here. Why haven't we, as a province, dealt with this emergency—given the body count, if I can be frank, Chair—with the same degree of urgency that we have in previous public health crises?

What this amendment would do is that it would actually say to our government, and to members of the opposition

and all members of the Legislature, that the task force that we have can actually be critically involved in helping us deal with this as an emergency and use all the available skills and expertise. I think it would be a very, very important complement.

**The Vice-Chair (Mr. Aris Babikian):** Thank you. Any further debate?

**Mr. Jamie West:** Chair?

**The Vice-Chair (Mr. Aris Babikian):** Go ahead, MPP West.

**Mr. Jamie West:** I would just like to expand on my colleague MPP Harden's comments on the importance of this.

Last year, we held two town halls in Sudbury about opioid concerns in my community. I learned a lot. I'm sure my colleagues on the other side have already known this, but I learned through these town hall meetings what people who are addicted to opioids look like, and what people with addictions look like. My preconceived notion going into it was those people whom you see who have made bad choices in their lives, who have slipped through the cracks, but the reality is many people who are living with addictions look like you and I. We hide it better because we can go to our offices. We have cars. It's easier for people not to see it. Those people whom you see that typically people imagine living with addictions, those are the ones who have lost everything, lost their family.

The reality is the deaths that we're having—and it's not just northern Ontario. I'm sure in any of our ridings we're facing the same concern. This summer, we had a meeting with parliamentarians from the States who basically looked across the table at us and asked, “What are you doing?” because they have the same issues in the States. We're all facing this. This is an opportunity for the government to be the champions for the opioid crisis.

This is a real concern. What's happening is that the tainted supply is killing members of our community who need to participate and need access. None of what I learned—and I'm saying this very openly; I knew very little about this going into it, and learned a lot from the community.

Why I'm supporting the Ontario emergency opioid task force is because you need people with lived experience. You need people who understand what we're dealing with because if we think that we'll solve it from an outside perspective, without having experts, we'll miss the point.

**The Vice-Chair (Mr. Aris Babikian):** Thank you. MPP Martin?

**Mrs. Robin Martin:** As you know, we've already started to develop our opioid response and it's under way as part of our comprehensive plan. We all know that there is more work to be done there, but the ministry does have already a number of communication engagement structures in place to allow for consultation with the health sector and with people with lived experience, whom I have personally consulted with on this issues. We will continue to do that.

This legislation is about setting up a centre of excellence. We feel that the motion, therefore, is inappropriate.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? Madame Gélinas?

**M<sup>me</sup> France Gélinas:** Again, this is 2019. The statistics are about to come out, and I hope I'm wrong, but there is a good chance that we will have lost over 1,000 Ontarians during the year 2019 to the opioid crisis.

It is okay for a bill to reflect where we are in 2019, and to take the time to put into the bill the strategies specific to opioids. It just means that we have eyes, that we have ears, and that we have a heart. We all know that there is what I would call an opioid public health emergency. Some people don't like those words, but we certainly need a strategy specific to opioids, because this is 2019.

Every week in my city, we lose someone, and that pattern is being repeated in many, many cities across Ontario. To not mention it in the bill when it is such a huge issue is an opportunity lost. What we do here matters to people. The opioid epidemic and public health emergency matters to a whole lot of people out there. There are more and more of us who have lost loved ones, who know someone who has overdosed and died, and this is our opportunity as legislators to say, "We've heard you, we saw it, we care about you and we will put it in the bill."

0930

**The Vice-Chair (Mr. Aris Babikian):** Any further debate from the government side? MPP Harden.

**Mr. Joel Harden:** I would just say that for me and for those people back home who are watching this, who will watch the vote on this particular amendment we're putting forward, we are revisiting something that's happened in previous Parliaments, Chair, and that is: Do we value the lives of drug users as much as we value the lives of everybody else? A reasonable person can only draw one conclusion if, as I mentioned earlier, the government acted, justifiably, with immediate urgency in previous public health emergencies, but it has taken us years, predating this Parliament, to move on the issue of illicit supply.

I'm very happy with the elements of this bill that are moving things forward, and I think my colleague has spoken to that, but if this amendment fails, the implicit message that drug users and families—

**Mrs. Robin Martin:** Point of order.

**The Vice-Chair (Mr. Aris Babikian):** Point of order. Go ahead.

**Mrs. Robin Martin:** I believe that MPP Harden is going to impute motive. That's exactly what you're saying, that our motive is not to solve these issues. That's unfair and you're not supposed to impute motive under the standing orders, rule 23(i).

**The Vice-Chair (Mr. Aris Babikian):** That's not a point of order, so I would like to return to MPP Harden.

**Mr. Joel Harden:** That's fine. I understand MPP Martin is impacted emotionally by what I'm saying, and I'm glad she is because we are all impacted emotionally. If this amendment fails, the message that drug users and families of drug users are getting is that the lives of their loved ones don't matter. That, Chair, for me, is unacceptable.

We have within our government, to date, a task force with immediate lived experience. One of its members, Zoë

Dodd, deputed to us last Friday. She begged and pleaded when she was here—you were here, MPP Martin, to hear those pleas—that the task force be convened immediately to help us arrive at the best possible opioid strategy. This is what we're asking the government to do.

Even if you've been instructed, coming in here today, to vote this motion down, I want you to think seriously about the message that gets sent if this particular amendment is voted down, because what we have right now is a situation where we, as legislators in the province of Ontario, have a discriminatory attitude to certain public health emergencies over others. Chair, on an ethical standpoint, it makes no sense to me, particularly when we have people who have already agreed to work for us and work with us to make the best decisions and to send the message to people who have lost loved ones and to people who are struggling with addictions that their lives matter to us as much as anybody else's.

We also know that this government has received a letter from 410 care providers and researchers, begging and imploring them to consider what the province of Alberta has done and what many municipalities are piloting, with injected hydromorphone as a particular case because it has been approved by Health Canada.

There are particular messages, as legislators, that we send out in the course of our work all the time. What I'm imploring my colleagues, through you, Chair, to acknowledge is that if this amendment fails, we are carrying forward a discriminatory attitude where we are not utilizing the best, brightest and sharpest minds in this province that can help us make sure that people who are addicted to drugs—who are struggling with addictions—and families of those loved ones know that their lives matter as much as everybody else's.

**The Vice-Chair (Mr. Aris Babikian):** Thank you. Go ahead, MPP Martin.

**Mrs. Robin Martin:** We already acknowledge that their lives matter as much as anyone else's. We have a strategy, and we have consulted and will continue to consult. The ministry, as I said before, has many mechanisms through which it consults with people with lived experience, as well as other people who are informed experts in the area, about what we should do. I did mention, in the deputations, that we are considering the hydromorphone, but no decisions have been made yet.

This is a bill to set up a centre of excellence for mental health and addictions and that's all that it is intended to do. It isn't a bill that sets the strategy itself, and that's the way we think it's most appropriate to allow for the strategy to be developed around and within that centre.

**The Vice-Chair (Mr. Aris Babikian):** Thank you. All in favour of this amendment? It is a recorded vote.

**Ayes**

Gélinas, Harden, West.

**Nays**

Harris, Hogarth, Karahalios, Kusendova, Martin, Wai.

**The Vice-Chair (Mr. Aris Babikian):** The amendment is lost.

We're going to schedule 1, sections 3.4 and 3.5: Madame Gélinas of the NDP.

**M<sup>me</sup> France Gélinas:** I move that schedule 1 to the bill be amended by adding the following sections:

“Guiding principles

“3.4 In developing the mental health and addictions strategy, the minister shall consider the following principles:

“1. The planning, arrangement and delivery of support to each person should be determined by the particular needs of the person.

“2. Each person who is to be provided with services should be encouraged to participate in planning the person's treatment and service plan.

“3. The mental health services system should respond to the individual as a whole person, delivering the necessary type and degree of support without regard to age or degree of disability.

“4. Each person should be considered to be entitled to live and receive age-appropriate services in the least restrictive setting consistent with the person's needs, potential and abilities.

“5. The mental health services system should give to each person the maximum opportunity to participate in the mainstream of community life.

“6. The mental health services system should monitor and be flexible in adjusting the supports and services it provides in order to remain appropriate and responsive to each person served by the system as the person's needs change.

“7. Any treatment and service plan for each person served by the mental health services system should be reviewed at least annually.

“8. The mental health services system should have defined geographic areas and the existing and newly developed resources and supports and services should be coordinated in the manner that most effectively meets the needs of the persons served by the system in each such area.

“9. The mental health services system should be designed to encourage each person served by the system to acquire the skills necessary to live, work and function in the community.

“10. The responsibility for planning, development, coordination and delivery of the services in each geographic area should be delegated to a specific authority.

“11. The mental health services system should cooperate with advocacy bodies that are free from conflict of interest and are intended to assist persons served by the system to enforce their rights.

“Components

“3.5 Without limiting the generality of section 3, the mental health and addictions strategy may include the following components:

“1. Community housing services, including a range of supportive housing, approved homes, homes for special care and services to residents in designated boarding homes.

“2. Psychosocial services, including rehabilitation assessment, case management, social skills training, social therapeutic clubs, social network therapy, self-help groups, vocational and educational services including supportive work programs, financial services and family services.

“3. Medical and psychiatric services, including access to family physicians, psychiatrists, crisis centres, brief and partial hospitalization, home treatment and regional hospitalization.

“4. Coordination, including local offices or agencies to coordinate the planning and delivery of mental health services within each geographic area and encouragement of collaboration among service providers.

“5. Advocacy services to assist persons served by the system in enforcing their rights in psychiatric hospitals, homes for special care, general hospital psychiatric units, nursing homes and community mental health facilities.”

**The Vice-Chair (Mr. Aris Babikian):** Madame Gélinas, this amendment is out of order because the committee can only consider one section or proposed section of a bill at one time. As Bosc and Gagnon explain on pages 766 to 767 of the third edition of House of Commons Procedure and Practice, an amendment can only relate to a single section of a bill, as each section is a distinct question requiring separate consideration.

**0940**

**M<sup>me</sup> France Gélinas:** I don't want to throw the lawyer under the bus or anything, but the deadline was really short to bring those amendments forward. They are good workers who work through the weekend, and this is a minor mistake where there should have been two amendments: one for 3.4 and one for 3.5. So I would ask, with the indulgence of the committee, for unanimous consent to break this in two so that we are in respect of the parts of our standing orders that you just read.

**The Vice-Chair (Mr. Aris Babikian):** With the unanimous consent that you are seeking, it should be about the entire amendment, not to break it down—to consider it as it is.

**M<sup>me</sup> France Gélinas:** I'm open to whatever way that would allow us to move forward. So if you want, I can first try unanimous consent that we can consider it all together. If that doesn't go, then I will try that we make it into two parts. To go without guiding principles is not wise.

**The Vice-Chair (Mr. Aris Babikian):** Is there unanimous consent to consider the motion as a whole?

*Interjections.*

**M<sup>me</sup> France Gélinas:** If we cannot consider it as a whole, is there unanimous consent that we only deal with section 3.4, the guiding principles? And it ends before section 3.5 starts. This way we would be in compliance with the standing order, but we would also have guiding principles within the bill. It is really hard to create a new strategy without guiding principles. Stephen Lurie has done quite a bit of work to bring this forward. It is—

**The Vice-Chair (Mr. Aris Babikian):** Madame Gélinas, there was no unanimous consent given, so we need to move on to the next amendment.

**M<sup>me</sup> France Gélinas:** Can I ask for unanimous consent for just the guiding principles, for 3.4 to be considered?

**The Vice-Chair (Mr. Aris Babikian):** Well, it has to be to consider the entire amendment, so unfortunately not.

**M<sup>me</sup> France Gélinas:** I'll say that again. Why am I not allowed to ask for unanimous consent to only deal with 3.4? Why can I not ask for unanimous consent for that? Guiding principles is something we find in many, many bills.

**The Vice-Chair (Mr. Aris Babikian):** Madame Gélinas, because the amendments deadline was already passed, we can consider only the amendment as it is.

**M<sup>me</sup> France Gélinas:** But with unanimous consent, we can do whatever we want.

**The Vice-Chair (Mr. Aris Babikian):** Not if it's an order of the House. That's why we need to move on.

**M<sup>me</sup> France Gélinas:** Because the order of the House would make this a new amendment?

**The Vice-Chair (Mr. Aris Babikian):** We have to move on, Madame Gélinas.

We are at schedule 1, section 4, page 5. Would the NDP like to present your amendment?

**Mr. Mike Harris:** Point of order, Mr. Chair: Do we not have to carry section 3, as amended?

**Mrs. Robin Martin:** We did. It wasn't amended.

**Mr. Mike Harris:** Oh, perfect. Okay. Thank you.

**The Vice-Chair (Mr. Aris Babikian):** Go ahead, Madame Gélinas.

**M<sup>me</sup> France Gélinas:** I move that section 4 of schedule 1 to the bill be amended by adding the following subsection: "Mental health equity

"(2.1) In performing its functions through its Mental Health and Addictions Centre of Excellence, Ontario Health shall ensure that it prioritizes achieving equity in the planning and delivery of mental health and addictions services, taking into account the social determinants of health, and shall implement measures to monitor the extent to which such equity has been achieved."

**The Vice-Chair (Mr. Aris Babikian):** Any debate? Go ahead.

**M<sup>me</sup> France Gélinas:** You have heard from a number of proponents as well as some written submissions that successful mental health strategies are grounded in the social determinants of health. I remember that when we were on the Select Committee on Mental Health and Addictions, we had asked Cancer Care Ontario to come, and we said, "Why don't you take over, Cancer Care Ontario? Take this model that you have and bring it to mental health and addictions." They had been, I would say, brutally honest in telling us that the only way a model like Cancer Care Ontario's could succeed was that it needed to take into account the social determinants of health.

Fast-forward 10 or nine years later: We are still at the same dilemma. Right now, the Mental Health and Addictions Centre of Excellence will be under the Ministry of Health, but we know full well that, in order to bring mental health equity, in order for mental health to be successful, it has to be way broader than just health in the way that the Ministry of Health is defined; it has to include the social

determinants of health. You cannot provide care if you are homeless. You will all remember Maslow's hierarchy of needs: food and shelter. If you don't have shelter, if you don't have food, it doesn't matter how good the mental health treatments are; they will fail, because we are human beings that need to have food and shelter in order to be able to have successful treatment.

There is a real worry within the mental health agencies, but I would say within the broader health care system, that mental health equity has to be mentioned in the bill. It has to, within the bill, give this breath that will lead to success by including the social determinants of health. To put it under mental health equity is really to speak volumes. If you want equity, if you want the programs and services that we put in place to achieve the outcomes that we want to make people better, then you have to include that the centre of excellence will include the social determinants of health. Putting it into mental health equity, I think, make sense.

**The Vice-Chair (Mr. Aris Babikian):** MPP Martin.

**Mrs. Robin Martin:** Thank you, Chair. The centre of excellence for addictions and mental health is under Ontario Health. Ontario Health's mandate is set up under the Connecting Care Act, 2019, or CCA. The commitment of the government and Ontario Health to promote equitable health outcomes, as articulated under the CCA, would extend and apply to the development and implementation of any strategy for mental health and addictions.

The following is included in the preamble to the CCA:

"The people of Ontario and their government....

"Believe that the public health care system should be guided by a commitment to equity and to the promotion of equitable health outcomes."

So we believe it's already covered.

**The Vice-Chair (Mr. Aris Babikian):** Go ahead, Madame Gélinas.

**M<sup>me</sup> France Gélinas:** For people who work within the system, for people who depend on the system to be healthy and active citizens, we already know that, staying within the health care system—it doesn't matter if you include primary care, palliative care, long-term care, home and community care and hospital care—you will still not include the full social determinants of health.

**0950**

If you want to be helpful, Jamie—sorry, MPP West—gave examples of people who lost everything because of their addiction. This is the reality. There is systemic discrimination against people who live with mental health and addictions. They are often rejected by their family, by their peers, by the health care system. They will need the full social determinants of health to be there in order for them to get better. Nowhere in the bill do we do this. Sure, we talk about equity, but equity within the health care system is not the same thing as equity within the social determinants of health, which take into account income, housing, food security, education, social interaction. None of that is part of our health care system. They are part of the social determinants of health, and they need to be in if we want to be truly equitable to all.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? MPP Harden.

**Mr. Joel Harden:** I would just point out that in addition to what my colleague MPP Gélinas has said, we've had very clear evidence presented to us from Alliance Ontario that a social determinants of health perspective will help us arrive at better decisions.

I would invite the government to consider how a social determinants of health position, in guiding this particular strategy, might have helped them make a better choice on their decision not to go with the full 3% planned increase to the Ontario Disability Support Program in September of last year. That money, which apparently was saved as savings, was taken away from some of the poorest and most vulnerable people in our province, who will show up in our tertiary care institutions, who will show up with pronounced and detailed traumas as a consequence of taking a meagre amount of money off of their shelves.

I would encourage them to consider what the cuts to legal aid, however scaled back they were yesterday, will do—again, from a social determinants of health perspective.

**Ms. Natalia Kusendova:** Point of order.

**The Vice-Chair (Mr. Aris Babikian):** Go ahead, MPP Kusendova.

**Ms. Natalia Kusendova:** Thank you. I don't see how this is relevant to the bill that we're discussing today.

**The Vice-Chair (Mr. Aris Babikian):** I want to remind the member that you need to stick to the amendment.

**Mr. Joel Harden:** Thank you, Chair. The amendment is about having a social determinants of health perspective and actually including this in the legislation. It doesn't surprise me that MPP Kusendova doesn't understand the relevance because I think her government doesn't understand the relevance of the social determinants of health perspective. If they did, they wouldn't—

*Interjections.*

**Mr. Joel Harden:** Pardon me? I'm in the course of speaking. I'm sorry if my colleagues are offended. Poor people are offended by your lack of interest in their well-being.

The fact of the matter is, what my colleague is asking for—

*Interjections.*

**The Vice-Chair (Mr. Aris Babikian):** I will ask the committee members to direct your comments to the Chair directly, please.

**Mr. Joel Harden:** I did, sir. I was only mentioning colleagues' comments and a seeming indifference to the social determinants of health perspective—

**The Vice-Chair (Mr. Aris Babikian):** Thank you. Any further debate?

**Mr. Joel Harden:** Sir, I was in the middle of making a comment. Thank you.

I know my colleagues want to rush through debate on this, and they've been given orders to vote down everything we propose this morning. But the fact of the matter is, there are vulnerable people where I live, where my col-

leagues live and across this province who want this government to understand why a social determinants of health perspective will help them arrive at better outcomes.

It's disappointing to me personally that that, on its own, is not worthy of consideration this morning. I would invite them to consider why voting for this amendment will help make this legislation better. If they don't, it sends a message in itself.

**The Vice-Chair (Mr. Aris Babikian):** MPP Harden, my apologies. I didn't want to cut you off. I thought you just finished your comment. That's why.

**Mr. Joel Harden:** Thank you, Chair.

**The Vice-Chair (Mr. Aris Babikian):** Okay. I'm going to put the question. All in favour of the amendment to section 4 of schedule 1?

**Ayes**

Gélinas, Harden, West.

**Nays**

Harris, Hogarth, Karahalios, Kusendova, Martin, Wai.

**The Vice-Chair (Mr. Aris Babikian):** The amendment is lost.

Shall schedule 1, section 4, carry? Carried.

Section 5 of schedule 1: There are no amendments. Is there any further debate? All in favour? Carried.

We are at schedule 1, section 6. There is an amendment. Madame Gélinas.

**Mme France Gélinas:** I move that section 6 of schedule 1 to the bill be amended by adding the following subsection:

“(1.1) Section 6 of the act is amended by adding the following clause:

“(g.1) to collect race-based data as necessary to carry out its objects;”

**The Vice-Chair (Mr. Aris Babikian):** Go ahead, Madame Gélinas.

**Mme France Gélinas:** Certain parts of our health care system have started to carry race-based data. The information that we got out of this exercise was eye-opening for all who took the time to look at it. It's nothing to be proud of, but we certainly saw that part of our health care system was—there is no other way to describe it—racist. They did not provide the same level of care when people presented with the exact same condition, based on the race of the person standing in front of them. Once the race-based data started to be collected and started to be looked at, it brought in a hard conversation, but it brought a change for the better.

We have an opportunity to put it in this section of the act, the Connecting Care Act, 2019, to make sure that every part of the Mental Health and Addictions Centre of Excellence's areas of work would include the collection of race-based data where it makes sense so that we learn from the data we collect, we act upon the information we gather, and we improve the care for all Ontarians.

It would be naive to think that everybody is treated the same by our mental health and addictions system right now. They are not. The people who face barriers know that they face those barriers because of their race. This is something that has an opportunity to change things for the better for every racialized Ontarian.

I don't know if you saw a specific example of somebody who was in the media lately who was treated really badly because he is Black. Those stories don't often get covered by the media, but they happen very often.

I think to put it in the bill, "to collect race-based data," is something certainly that is supported by Alliance Ontario and all of their members throughout. This is something that needs to be done if we want to change what I would call the institutionalized racism that exists within the mental health and addictions system of Ontario.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? MPP Martin.

**Mrs. Robin Martin:** We believe that this motion would be more appropriately dealt with through another bill so as to ensure that the necessary legislative authorities for any collection, use and disclosure of personal information and personal health information are in place, and that's not in this bill. This is a bill dealing with setting up the centre of excellence.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? Madame Gélinas.

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**M<sup>me</sup> France Gélinas:** It is legally feasible, possible, and the right thing for us to do to put it in this bill. We have to start someplace. To me, to start with the centre of excellence in mental health and addictions is a very good place to start. To put it in a piece of legislation—that we will collect race-based data—sends the message that we know that the mental health and addictions system has systemic racism within it and that it discriminates against racialized people who end up with poorer outcomes because of it. It is an opportunity to put it in there.

Would I be open to putting it into many other pieces of health legislation? Yes, absolutely, you've got me on board. I would put it in the long-term care act, in the primary care, and I would put it in many others. But we're talking about the Mental Health and Addictions Centre of Excellence. I don't want to let this opportunity go by when racialized people's opportunities to get healthy lie in the balance.

**The Vice-Chair (Mr. Aris Babikian):** Thank you. Any further debate? All in favour of the amendment to section 6 of schedule 1?

#### Ayes

Gélinas, Harden, West.

#### Nays

Harris, Hogarth, Karahalios, Kusendova, Martin, Wai.

**The Vice-Chair (Mr. Aris Babikian):** Amendment lost. Shall schedule 1, section 6, carry? Carried.

Schedule 1, section 7: There are no amendments. Shall the section carry? Carried.

Schedule 1, section 8, the short title: Shall it carry? Carried.

Shall the preamble to schedule 1 carry? Carried.

Shall schedule 1 carry? Carried.

On schedule 2, Opioid Damages and Health Care Costs Recovery Act, 2019:

Schedule 2, section 1: Shall schedule 2, section 1, carry? Carried.

Schedule 2, section 2: Shall schedule 2, section 2, carry? Carried.

Schedule 2, section 3: Shall schedule 2, section 3, carry? Carried.

Schedule 2, section 4: Shall schedule 2, section 4, carry? Carried.

Schedule 2, section 5: There is an amendment from the government. MPP Wai.

**Mrs. Daisy Wai:** Yes, Mr. Chair, I move that section 5 of schedule 2 to the bill be struck out and the following substituted:

"Population-based evidence to establish causation and quantity"—

**Mrs. Robin Martin:** "Quantify."

**Mrs. Daisy Wai:**—"and quantify damages or cost

"5. Statistical information and information derived from epidemiological"—

**Mrs. Robin Martin:** "Epidemiological."

**Mrs. Daisy Wai:**—"epidemiological, sociological and other relevant studies, including information derived from sampling, is admissible"—

**Mrs. Robin Martin:** "Is admissible."

**Mrs. Daisy Wai:**—"is admissible as evidence for the purposes of establishing causation and quantifying damages or the cost of health care benefits respecting an opioid-related wrong in an action,

"(a) brought by or on behalf of a person, in the person's own name or as a member of a class of persons under the Class Proceedings Act, 1992; or

"(b) under section 2(1)."

The rationale is it will make the terminology of section 5 more consistent with the terminology used elsewhere in schedule 2.

**The Vice-Chair (Mr. Aris Babikian):** MPP Wai, I just want to remind you that under (b), you mentioned "under section 2". It should be "subsection 2(1)."

**Mrs. Daisy Wai:** "Subsection 2(1)," yes. Thank you.

**The Vice-Chair (Mr. Aris Babikian):** Is there any debate? Madame Gélinas?

**M<sup>me</sup> France Gélinas:** Can I just ask our legal counsel—because it used to say, "by the crown in right of Ontario" under subsection 2(1)—what is "the crown in right of Ontario"?

**Ms. Tamara Kuzyk:** The reference to "the crown in right of Ontario" is just to the government of Ontario. It's a way of referring to the government.

**M<sup>me</sup> France Gélinas:** Okay. So by taking out the government, or the words that say "the crown in right of Ontario," does that mean that it wouldn't be the government anymore?

**Ms. Tamara Kuzyk:** There may be some scope to argue that it would include an action or a proceeding on behalf of the government of Ontario, not just one commenced specifically by the government of Ontario.

**M<sup>me</sup> France G elinas:** Can you give me an example of that?

**Ms. Tamara Kuzyk:** I think maybe the ministry can speak to that.

**The Vice-Chair (Mr. Aris Babikian):** Would anyone like to come forward and elaborate? Please state your name for the record.

**Mr. Earl Dumitru:** Yes, Earl Dumitru. I'm with the Ministry of the Attorney General. The change to section 5 is actually just technical. If you were to go back and read section 2, subsection 2(1) is an act brought by the government so we just didn't need to repeat it in section 5 because it's already in section 2.

**M<sup>me</sup> France G elinas:** Okay. I'm not sure if you're the right person to answer this, but British Columbia has already started legal proceedings against manufacturers of opioids. Would that in any way mean that the Ontario government could not simply follow or be added as a participant to what goes on in British Columbia with the NDP government out there?

**Mr. Earl Dumitru:** You're actually touching on sort of the heart of all of the government amendments. What's interesting and unique about this lawsuit is that it's the first time different provincial governments have tried to come together in suing in one national class action and so there are a few amendments here that are designed to make that a little bit easier, a little bit more clear about how a national class action involving sovereign provinces should be organized. We see that theme through all the government motions.

**M<sup>me</sup> France G elinas:** Okay. I'm reading this correctly—I'm not a lawyer; you are—that no matter the changes that are there, everything that is in the bill will allow Ontario to take part in what the NDP government in British Columbia is doing against those manufacturers legally?

**Mr. Earl Dumitru:** Yes.

**M<sup>me</sup> France G elinas:** Good answer.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? Having seen none, shall the amendment to section 5 of schedule 2 carry? Carried.

*Interjection.*

**The Vice-Chair (Mr. Aris Babikian):** Madame G elinas, did you want a recorded vote?

**M<sup>me</sup> France G elinas:** No, I just—I never know. When I ask for a recorded vote, does that mean I only ask for a recorded vote for the NDP amendment? Or does that—I never know how those things work.

**The Vice-Chair (Mr. Aris Babikian):** It depends what you would like, but from my understanding and our understanding at the beginning of this session, you requested a recorded vote for all the amended sections. That's why I am asking that question.

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**M<sup>me</sup> France G elinas:** Okay. I'm happy with just the NDP amendments voted on and I'll let them decide if they want to record—

**The Vice-Chair (Mr. Aris Babikian):** Is the amendment to section 5 of schedule 2 carried? Carried.

Shall schedule 2, section 5, as amended, carry? Carried.

Schedule 2, section 6: There is an amendment from the government, section 6 of schedule 2 to the bill, on page 8. MPP Hogarth?

**Ms. Christine Hogarth:** It's another technical amendment. I move that section 6 of schedule 2 to the bill be struck out and the following substituted:

“Limitation periods

“6. (1) No proceeding that is commenced by the crown in right of Ontario for the recovery of the cost of health care benefits, or for damages, alleged to have been caused or contributed to by an opioid-related wrong, or proceeding described in section 11, is barred under the Limitations Act, 2002 or any other act, if the proceeding was commenced before the coming into force of this section or within 15 years after it came into force.

“Certain proceedings revived

“(2) A proceeding described in subsection (1) for damages alleged to have been caused or contributed to by an opioid-related wrong is revived if the proceeding was dismissed before the coming into force of this section merely because it was held by a court to be barred under or extinguished by the Limitations Act, 2002 or any other act.”

**The Vice-Chair (Mr. Aris Babikian):** Is there any debate? Madame G elinas?

**M<sup>me</sup> France G elinas:** I am not a lawyer. Can I ask a lawyer: What is the legal difference between “action” and “proceedings”?

**Ms. Tamara Kuzyk:** Proceeding would include an application, so it's not just specific to something that's started by a statement of claim. It would also include something that started by a notice of application, so it encompasses a broader range of types of legal actions.

**M<sup>me</sup> France G elinas:** What is a notice of application?

**Ms. Tamara Kuzyk:** It's a way of starting an application with a court. Some processes are started by way of a statement of claim and some things are started by the filing of a notice of application. Basically, there are two types of proceedings, for the most part: actions and applications. The use of “proceeding” captures something broader than just “actions.”

**M<sup>me</sup> France G elinas:** Okay. So it makes it broader. All right. Are there any other changes in between what we had and what we have now that my little brain doesn't understand?

**Ms. Tamara Kuzyk:** I can speak to those. One of the differences is that the current section 6 in the bill just talks about actions barred under the Limitations Act, whereas the version of section 6 set out in the motion refers to proceedings barred under any other act as well, not just the Limitations Act.

There's an updated reference, I believe, to a proceeding described in section 11. This is in 6(1). There is no reference currently to a proceeding described in section 11. That's just to make sure that it refers to everything that is referred to in the act.

**M<sup>me</sup> France G elinas:** And we do this by calling it “section 11”?

**Ms. Tamara Kuzyk:** If you look at the 6(1) that is set out in the motion, it talks about a proceeding commenced by the crown or a proceeding described in section 11.

Section 11, as set out in motion number 9, speaks to a proceeding in which the crown in right of Ontario is a class member.

It's just making sure that that's grabbed by this limitation period provision.

**M<sup>me</sup> France Gélinas:** And it is your understanding that that makes those provisions broader.

**Ms. Tamara Kuzyk:** It's attempting to cover any kind of proceeding, action or application, including one in which the crown didn't commence the proceeding, but is a member to a class proceeding, is covered by this limitation period provision.

**The Vice-Chair (Mr. Aris Babikian):** Okay. I have to interrupt because it's 10:15. We are in recess until 2 p.m., and we will continue the discussion of this section when we come back.

*The committee recessed from 1015 to 1400.*

**The Vice-Chair (Mr. Aris Babikian):** Good afternoon, everyone. We are assembled for clause-by-clause consideration of Bill 116, An Act to enact the Mental Health and Addictions Centre of Excellence Act, 2019 and the Opioid Damages and Health Care Costs Recovery Act, 2019.

Tamara Kuzyk from legislative counsel is here to assist us with our work, should we have any questions for her.

Just building up on our morning session, I would like to remind all members to please keep their comments respectful and to direct all comments through the Chair.

Are there any questions before we resume? No? Okay.

We will now resume debate of government motion number 8, which is a proposed amendment to section 6 of schedule 2 to the bill. Is there further debate on the amendment? Madame Gélinas.

**M<sup>me</sup> France Gélinas:** So just to wrap up—and I guess, a yes or a no—the changes really made this section broader so that the proceedings against a manufacturer of opioids or others, the possibilities are broader than what they used to be, with the changes that we see of section 6, schedule 2.

**Ms. Tamara Kuzyk:** So the wording changes do provide for a broadened scope. I think any more details than that would be some information that the ministry would have to provide.

**M<sup>me</sup> France Gélinas:** Okay. Would the ministry like to provide? Through you, Chair, could you ask the ministry to provide?

**The Vice-Chair (Mr. Aris Babikian):** Would you like to provide additional comments? Please identify yourself for the record.

**Mr. Earl Dumitru:** Yes, Earl Dumitru, from the Ministry of the Attorney General. Before the break, you talked with leg counsel about “proceeding,” how that's a broader word than “action.” You talked about how adding the “or any other act” to the Limitations Act expands the protection against a limitation claim. The other change that we talked about was “proceeding” described in section 11. I don't know that that's about broadening or narrowing.

It's just the way that this act describes the proceeding in British Columbia.

**The Vice-Chair (Mr. Aris Babikian):** Okay?

**M<sup>me</sup> France Gélinas:** Yes, thank you.

**The Vice-Chair (Mr. Aris Babikian):** Thank you. All in favour of the amendment?

**Mr. Joel Harden:** Chair?

**The Vice-Chair (Mr. Aris Babikian):** Yes, MPP Harden.

**Mr. Joel Harden:** Thank you. I just had a question for my colleagues in government. I was wondering if they—as we've mentioned before, as MPP Gélinas has said, we support this move. I think it's great to join the lawsuit launched by the government of British Columbia. I'm wondering if they are concerned, though, that the scope of this doesn't deal with the illicit market and the impacts of the illicit market on public health. I was wondering if there was a response on that matter.

**The Vice-Chair (Mr. Aris Babikian):** Any comments? No? Okay.

**Mr. Joel Harden:** So I take it, through you, that there is no reaction to that concern.

**The Vice-Chair (Mr. Aris Babikian):** If they had any reaction, they would have responded.

**Mr. Joel Harden:** Okay. Thank you—just for record, that there was no reaction.

**The Vice-Chair (Mr. Aris Babikian):** All in favour of the amendment? Just to remind you it is a recorded vote—*Interjections.*

**The Vice-Chair (Mr. Aris Babikian):** Oh. No, it was only the NDP. Okay. The motion carries.

Shall schedule 2, section 6, as amended, carry? Carried.

Schedule 2, section 7: Shall schedule 2, section 7, carry? Carried.

Schedule 2, section 8: Shall schedule 2, section 8, carry? Carried.

Schedule 2, section 9: Shall schedule 2, section 9, carry? Carried.

Schedule 2, section 10: Shall schedule 2, section 10, carry? Carried.

Schedule 2, section 11: There is an amendment from the government. MPP Martin.

**Mrs. Robin Martin:** I move that section 6 of schedule 2 to the bill be struck out and the following substituted—am I reading the right one? No, sorry; I'm reading the wrong one. That was the one before. Excuse me. Start again.

I move that section 11 of schedule 2 to the bill be struck out and the following substituted:

“Crown as class member

“11. If a proceeding that includes a claim for the recovery of the cost of health care benefits, or for damages, alleged to have been caused or contributed to by an opioid-related wrong is commenced by the crown in right of Canada, the crown in right of a province of Canada or the government of a territory of Canada on behalf of a class or proposed class of which the crown in right of Ontario is a member or proposed member and is ongoing as of the date this section comes into force, any such claim made on behalf of Ontario shall be subject to this act, other than those provisions

or portions of this act constituting procedural law, in accordance with the rules regarding conflict of laws.”

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? Madame Gélinas.

**Mme France Gélinas:** It seems like what we had before in 11 was quite different from what we have in section 11 now. Even the title has changed. It used to be “If proceeding already commenced,” and now it’s called “Crown as class member.” Again, if legislative counsel could help me understand the legal changes.

**Ms. Tamara Kuzyk:** I can speak to the motion, or to section 11 as it appears in the motion. I think the context that you’re looking for is probably a question that’s answerable by the ministry.

The section 11 in the motion does talk about an ongoing proceeding in which Ontario may be a class member or a proposed class proceeding and speaks to the application of this act in that context. To that extent, it still deals with a proceeding that has been commenced in relation to an opioid-related wrong. For further context, I think the ministry would be in the best position to speak to that.

**Mme France Gélinas:** I would like the ministry to come, but just to show you how little I know, “Crown as class member”: What’s a class member?

**Ms. Tamara Kuzyk:** This would be in the context of a class proceeding or a class action, where someone is bringing—I’m not an expert in this; I’m going to give a common-person view of this—but a proceeding is brought on behalf of a class of persons, and those persons are members of that class. So Ontario would be one of those class members.

**Mme France Gélinas:** So am I right in thinking that a proceeding might take place in the legal framework within Canada, including other provinces and territories, and we could join this as an ongoing proceeding?

**Ms. Tamara Kuzyk:** I think the context is something that the ministry really needs to speak to. I can talk about the drafting of the motion, but I think that class context and Ontario’s participation is a matter for the ministry.

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**The Vice-Chair (Mr. Aris Babikian):** Okay. Ministry representative?

**Mr. Earl Dumitru:** I think the short answer is probably yes, that we’ve talked before. That’s a proposed national class action in British Columbia. The province of British Columbia is what’s called the “representative plaintiff,” in class-action speak. All of the other provinces are “class members” or “proposed class members,” so Ontario is a proposed class member in this national class action in British Columbia. That’s, I think, the second part of what you were asking.

To the first part, we did rewrite this section fundamentally, as you pointed out. It has been redone to really focus on—jargon, again—the extra-territoriality, or the conflict of laws, that happens when you have a proceeding in British Columbia but an Ontario statute. The very general way this works is, what’s called the “substantive law” is the law of Ontario. The procedural law in this case would be the law of British Columbia. An Ontario statute can’t

say to a British Columbia court, “This is what you’re going to do,” so the procedure of the British Columbia court is decided by British Columbia.

This statute says that the substantive law that should be applied is Ontario’s law, including the statute; the procedural law that should apply is the British Columbia law, which has to be the case in a national class action.

**Mme France Gélinas:** Am I right in thinking that if another province or territory or the federal government was to also put forward a class action—I’m not sure I’m using the right terms, but you get the drift of where I’m going—will that also prepare us to do the same as joining—right now, we know that the NDP government in British Columbia is doing that, but the federal government is also talking about this. The changes—does this allow us to be part, if it’s a federal leader—I forget how you call the province that has the lead on—

**Mr. Earl Dumitru:** This provision is aimed at ongoing proceedings, so unless the federal government were to institute an action between now and if this bill is approved, it would not apply. It’s only ongoing cases.

**Mme France Gélinas:** Okay. Thank you.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? MPP Harden.

**Mr. Joel Harden:** Just, again, I’m wondering, on the record, if my colleagues in government have any reaction to the fact that this amendment to the schedule, and the schedule itself, does not deal with the illicit market, which is causing the public health crisis on opioids in the province, that we’re seeing.

**The Vice-Chair (Mr. Aris Babikian):** MPP Martin.

**Mrs. Robin Martin:** I would just say, because MPP Harden is going to keep doing this, that the government understands that there’s an illicit market. This piece of legislation does two things, which we discussed from the beginning: It creates a centre of excellence for mental health and addictions and allows us to join this lawsuit. That is what this legislation is about. We’re working on many other fronts, as well.

**The Vice-Chair (Mr. Aris Babikian):** MPP Harden.

**Mr. Joel Harden:** Thank you, MPP Martin, for the response. I guess my follow-up question would be, do my colleagues in government consider that to be adequate, given the crisis that we’re seeing?

**The Vice-Chair (Mr. Aris Babikian):** MPP Martin.

**Mrs. Robin Martin:** We’re discussing the legislation before us here at committee in clause-by-clause, and so we’re not going to discuss further elements that MPP Harden is raising.

**The Vice-Chair (Mr. Aris Babikian):** All in favour of the amendment to section 11 of schedule 2 to the bill, on page 9? Carried.

Shall schedule 2, section 11, as amended, carry? Carried.

Opioid Damages and Health Care Costs Recovery Act, 2019, schedule 2, section 12: Shall schedule 2, section 12, carry? Carried.

Schedule 2, section 13: government amendment, clause 13(1)(b) of schedule 2 to the bill, page 10. MPP Harris.

**Mr. Mike Harris:** I move that clause 13(1)(b) of schedule 2 to the bill be amended by striking out “continued as” at the beginning.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? Madame Gélinas.

**M<sup>me</sup> France Gélinas:** I would like to ask legislative counsel just to make sure: It seems to me that “continue as described” in section 11 of this act, or just “describe it” in section 11 of this act means exactly the same thing, but would a lawyer also agree that it means exactly the same thing?

**Ms. Tamara Kuzyk:** The current section 11 in the bill talks about the continuation of an ongoing proceeding. The section 11 that was voted on earlier no longer uses this verbiage. It still talks about an ongoing proceeding, but it no longer uses this verbiage of “continued as.” So this is just a consequential amendment to remove that verbiage, but the reference is still to a section 11 proceeding.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? Shall schedule 2, section 13 to the bill, carry? The motion is carried.

Now we go to clause 13.2(a) of schedule 2: amendment from the government side on page 11. MPP Kusendova.

**Ms. Natalia Kusendova:** I move that clause 13(2)(a) of schedule 2 to the bill be amended by striking out “continuing” and substituting “participating in”.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate on the amendment? Madame Gélinas.

**M<sup>me</sup> France Gélinas:** I would ask the legal counsel again: It says, “(a) the crown in right of Ontario is not barred from commencing or participating in a proceeding;” rather than “commencing or continuing a proceeding.” Is there a difference between the two, and what is it?

**Ms. Tamara Kuzyk:** So “continuing” was used in the introductory version of the bill, complementary to the previous reference in 13(1)(b), a reference thereto: the continuation of something as described in section 11. Again, we’re losing that “continuing” verbiage, so different terminology was used accordingly.

**M<sup>me</sup> France Gélinas:** Thank you.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? Shall the amendment to clause 13(2)(a) of schedule 2 to the bill carry? Carried.

Shall schedule 2, section 13, as amended, carry? Carried.

Schedule 2, new section 13.1: The NDP has an amendment to schedule 2 to the bill, on section 13.1. Madame Gélinas.

**M<sup>me</sup> France Gélinas:** I move that schedule 2 to the bill be amended by adding the following section:

“Use of funds recovered

“13.1(1) Subject to subsection (2), any money recovered by the crown in right of Ontario through an action referred to in this act shall be put towards improving front-line resources for addressing the opioid crisis and public health programs to prevent opioid addictions.

“Appropriation required

“(2) Subsection (1) only applies to the extent that the Legislature has appropriated funds for the purposes of that subsection.”

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? Madame Gélinas, yes?

**M<sup>me</sup> France Gélinas:** Basically, I think it would be wise of all of us, when we look at the damage caused by the opioid crisis, with this act, the health costs recovery act, to make it really clear to everybody involved that not only is Ontario interested in going after the manufacturers and the distributors of those drugs that caused the opioid crisis, but we will use this money to help with prevention of addiction, as well as with public health programs, to make sure that the money that is recovered is used specifically for this—and not to pay down the debt and not to carry out other important roles of the government, but really, if we are able to recover some money, that it goes back to helping the people and the families in the communities that have suffered as well as giving public health the tools to deal with this crisis, putting the focus on prevention of those addictions.

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**The Vice-Chair (Mr. Aris Babikian):** Any further debate? MPP Martin.

**Mrs. Robin Martin:** The government has already stated that it intends to invest any award from this litigation directly into front-line mental health and addictions services. Funding appropriation should occur through the existing and well-established budget-making process. We don’t feel that it is appropriate to allocate the funding in this legislation before the litigation in the ongoing proposed BC class action has run its course.

**The Vice-Chair (Mr. Aris Babikian):** Madame Gélinas.

**M<sup>me</sup> France Gélinas:** We all know that those kinds of court proceedings take a very long time. I don’t wish any harm upon the government, but there’s a good chance that you will not be there—none of us could be there—that the Conservative government that has made those commitments won’t be there. It will be another government who will be there. God knows how long this will take, but I’m guessing we’re talking years if not decades, if we look at what happened in the States.

The chances that a promise that is made by the existing government right now, which is not in a piece of legislation, will be acted upon by whoever is in power when the first penny starts to come to Ontario is pretty slim. The way for MPPs to make sure that what the government comes forward and says is carried through, no matter who is there by then, is to put it in legislation. Once you put it in legislation, it doesn’t matter who wins, who loses, what the people of Ontario decide they want for their government. It will be in the piece of legislation. It will have to be followed by no matter who is in power when the first penny ever comes out of the litigation. The chance that it is the people sitting around this room is very slim.

**The Vice-Chair (Mr. Aris Babikian):** Any further debate? Okay. All in favour of the amendment to schedule 2 of the bill, section 13.1, on page 12? Recorded vote.

**Ayes**

Gélinas, Harden.

**Nays**

Harris, Hogarth, Karahalios, Kusendova, Martin, Wai.

**The Vice-Chair (Mr. Aris Babikian):** The amendment is lost.

Schedule 2, section 14: Shall schedule 2, section 14, carry? Carried.

Schedule 2—

**Mr. Mike Harris:** Mr. Chair, can we bundle these sections, as there are no amendments in them?

**The Vice-Chair (Mr. Aris Babikian):** Okay. We're going to bundle schedule 2, sections 15, 16 and 17, and schedule 1 of schedule 2. All in favour?

*Interjection.*

**The Clerk of the Committee (Mr. Eric Rennie):** Sorry. If you take a look at page 11 of the bill, there is a schedule 1 within schedule 2 which is part of the vote.

**The Vice-Chair (Mr. Aris Babikian):** Carried? Carried.

Shall schedule 2, as amended, carry? Carried.

We're going back to sections 1, 2 and 3 of the bill.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

We're now addressing the title and the bill. Shall the title of the bill carry? Carried.

Shall Bill 116, as amended, carry? Carried.

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

Thank you very much for your co-operation and patience, it being my first clause-by-clause chairing. Now, the session is adjourned.

*The committee adjourned at 1426.*



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