

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

---

**Official Report  
of Debates  
(Hansard)**

JP-20

**Journal  
des débats  
(Hansard)**

JP-20

**Standing Committee on  
Justice Policy**

Smarter and Stronger  
Justice Act, 2020

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

Wednesday 17 June 2020

**Comité permanent  
de la justice**

Loi de 2020 pour un système  
judiciaire plus efficace  
et plus solide

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

Mercredi 17 juin 2020

---

Chair: Roman Baber  
Clerk: Christopher Tyrell

Président : Roman Baber  
Greffier : Christopher Tyrell

### **Hansard on the Internet**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<https://www.ola.org/>

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7400.

### **Le Journal des débats sur Internet**

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

### **Renseignements sur l'index**

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7400.

---

Hansard Reporting and Interpretation Services  
Room 500, West Wing, Legislative Building  
111 Wellesley Street West, Queen's Park  
Toronto ON M7A 1A2  
Telephone 416-325-7400; fax 416-325-7430  
Published by the Legislative Assembly of Ontario



Service du Journal des débats et de l'interprétation  
Salle 500, aile ouest, Édifice du Parlement  
111, rue Wellesley ouest, Queen's Park  
Toronto ON M7A 1A2  
Téléphone, 416-325-7400; télécopieur, 416-325-7430  
Publié par l'Assemblée législative de l'Ontario

ISSN 1710-9442

## CONTENTS

Wednesday 17 June 2020

Smarter and Stronger Justice Act, 2020, Bill 161, Mr. Downey / Loi de 2020 pour un système judiciaire plus efficace et plus solide, projet de loi 161, M. Downey ..... JP-511



LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
JUSTICE POLICY**

**COMITÉ PERMANENT  
DE LA JUSTICE**

Wednesday 17 June 2020

Mercredi 17 juin 2020

*The committee met at 0916 in committee room 1 and by video conference.*

**SMARTER AND STRONGER  
JUSTICE ACT, 2020  
LOI DE 2020 POUR UN SYSTÈME  
JUDICIAIRE PLUS EFFICACE  
ET PLUS SOLIDE**

Consideration of the following bill:

Bill 161, An Act to enact the Legal Aid Services Act, 2020 and to make various amendments to other Acts dealing with the courts and other justice matters / Projet de loi 161, Loi visant à édicter la Loi de 2020 sur les services d'aide juridique et apportant diverses modifications à des lois traitant des tribunaux et d'autres questions relatives à la justice.

**The Chair (Mr. Roman Baber):** Good morning, members. I call the Standing Committee on Justice Policy to order. We're here to consider Bill 161, An Act to enact the Legal Aid Services Act, 2020 and to make various amendments to other Acts dealing with the courts and other justice matters.

We have MPP Lindsey Park with us in the room. We have MPPs Gurratan Singh, Tom Rakocevic and Lucille Collard. Joining us via Zoom are MPP Gill, MPP Pang, MPP Triantafilopoulos, MPP Morrison and MPP Bouma.

To begin with, I'd like to propose that we skip consideration of sections 1, 2 and 3 of the bill and leave them for the end and instead move immediately to schedule 1 of the bill. Is that acceptable? Okay.

We'll first consider schedule 1 of the bill as a whole. Schedule 1 has no proposed amendments, so I propose to consider it as a whole. Is there any debate on schedule 1?

*Interjection.*

**The Chair (Mr. Roman Baber):** I apologize. Schedule 1 has no proposed amendments, and so I would propose that we bundle section 1 through section 7 of schedule 1 together. Is it the will of the committee that I bundle them together for consideration? Thank you.

Any debate on schedule 1? Seeing no debate, are members ready to vote on schedule 1 as a whole? All those in favour? All those opposed? Carried.

We'll now proceed to schedule 2 of the bill. Schedule 2 has no proposed—

*Interjection.*

**The Chair (Mr. Roman Baber):** Having passed all the sections contained in schedule 1, we will now vote on schedule 1 as a whole. Are members ready to vote? All those in favour? All those opposed? I declare schedule 1 carried.

We will now proceed to schedule 2. Sections 1 to 3 have no proposed amendments. Is it the will of the committee that I bundle them together for consideration?

MPP Triantafilopoulos.

**Ms. Effie J. Triantafilopoulos:** I support bundling them together, Chair.

**The Chair (Mr. Roman Baber):** Thanks.

*Interjection.*

**The Chair (Mr. Roman Baber):** Ms. Wold from the Ministry of the Attorney General, would you be so kind as to turn off your audio? Now she's muted? Okay.

Any debate on sections 1 through 3 of schedule 2? Are members ready to vote on sections 1 through 3, inclusive? All those in favour? All those opposed? Carried.

We'll now vote on schedule 2 as a whole. Any debate? Are members ready to vote on schedule 2 as a whole? All those in favour? All those opposed? I declare schedule 2 carried.

We'll now proceed to schedule 3. We'll consider schedule 3, section 1. I understand that there's a government motion pending. I recognize MPP Park.

**Ms. Lindsey Park:** I move that subsection 1(1) of schedule 3 to the bill be amended by striking out subsection 1.8(1) of the Civil Remedies Act, 2001 and substituting the following:

"Forfeiture if no notice of dispute

"(1) If the Attorney General does not receive a notice of dispute on or before the deadline date, the property specified in the notice of administrative forfeiture proceeding published under subsection 1.3(7) is forfeited to the crown in right of Ontario on the day after the deadline date."

**The Chair (Mr. Roman Baber):** Thank you. Any debate on government motion number 1? Are members ready to vote on the proposed amendment? All those in favour? All those opposed? I declare the motion carried.

We will now consider section 1 to schedule 3—

**Ms. Lindsey Park:** Pardon me, Chair. There's another motion—two more motions—on that section.

**The Chair (Mr. Roman Baber):** Yes. I apologize. MPP Park.

**Ms. Lindsey Park:** Thank you, Chair. I move that subsection 1(1) of schedule 3 to the bill be amended by striking out “before the deadline date” in subsection 1.10(1) of the Civil Remedies Act, 2001 and substituting “on or before the deadline date”.

**The Chair (Mr. Roman Baber):** Thank you. Any debate on the proposed amendment in motion number 2? Are members ready to vote on the government’s motion?

**Ms. Lindsey Park:** Yes.

**The Chair (Mr. Roman Baber):** All those in favour? All those opposed? Carried.

I understand that there’s yet a further motion. Ms. Park.

**Ms. Lindsey Park:** I move that subsection 1(1) of schedule 3 to the bill be amended by striking out clause 1.10(2)(b) of the Civil Remedies Act, 2001 and substituting the following:

“(b) he or she had a reasonable excuse for the failure to submit a notice of dispute to the Attorney General on or before the deadline date.”

**The Chair (Mr. Roman Baber):** Thank you. Any debate on government motion number 3? Are members ready to vote on the amendment?

All those in favour? All those opposed? Carried.

We will now proceed to consider section 1 to schedule 3, as amended. Any debate?

Are members ready to vote on section 1 to schedule 3, as amended?

All those in favour? All those opposed? Carried.

Section 2 through section 14 of schedule 3 have no proposed amendments. Is it the will of the committee that I bundle them together for consideration?

**Ms. Lindsey Park:** Yes.

**The Chair (Mr. Roman Baber):** Any debate on section 2 through section 14 of schedule 3? Are members ready to vote on section 2 through section 14 of schedule 3?

**Ms. Lindsey Park:** Yes.

**The Chair (Mr. Roman Baber):** All those in favour? All those opposed? I declare section 2 through section 14 of schedule 3 carried.

We’ll now proceed to consider section 15 of schedule 3. I understand there’s a government motion pending. Ms. Park?

**Ms. Lindsey Park:** Thank you, Chair, and this is the first of two motions on this section.

I move that subsection 15(1) of schedule 3 to the bill be amended by striking out “for a reasonable period of time” in subsection 18.2(1) of the Civil Remedies Act, 2001.

**The Chair (Mr. Roman Baber):** Thank you. Any debate on government motion number 4? Are members ready to vote on the proposed amendment?

**Ms. Lindsey Park:** Yes.

**The Chair (Mr. Roman Baber):** All those in favour? All those opposed? I declare the proposed amendment carried.

I understand that there’s a further motion by the government with respect to section 15, schedule 3. Ms. Park?

**Ms. Lindsey Park:** I move that subsection 15(1) of schedule 3 to the bill be amended by adding the following

subsection to section 18.2 of the Civil Remedies Act, 2001:

“Same

“(1.1) Subsection (1) does not authorize the possession of property by a public body after the earlier of the following:

**0930**

“1. The day that is 75 days after the day the public body receives a written request or demand for the return of the property.

“2. The day that is 75 days after the day the public body commences or receives notice of a legal proceeding seeking the return of the property.”

**0930**

**The Chair (Mr. Roman Baber):** Any debate on government motion number 5? Are members ready to vote on the proposed amendment? All those in favour? All those opposed? I declare motion 5 carried.

We’ll now proceed to consider section 15 to schedule 3, as amended. Any debate? Are members ready to vote on section 15 to schedule 3, as amended? All those in favour? All those opposed? I declare the section carried, as amended.

Sections 16 through 20 to schedule 3 have no proposed amendments. Is it the will of the committee that I bundle them together for consideration? Any debate on sections 16 through 20 to schedule 3? Are members ready to vote on sections 16 through 20 to schedule 3? All those in favour? All those opposed? Carried.

We’ll now consider schedule 3 as a whole, as amended. Any debate on schedule 3 as a whole, as amended? Are members ready to vote on schedule 3 as a whole, as amended? All those in favour? All those opposed? I declare schedule 3 as a whole, as amended, carried.

We’ll now proceed to schedule 4. Sections 1 and 2 to schedule 4 have no proposed amendments. Is it the will of the committee that I bundle them together? Any debate on sections 1 and 2 to schedule 4? Are members ready to vote on sections 1 and 2 to schedule 4? All those in favour? All those opposed? I declare sections 1 and 2 to schedule 4 carried.

I understand that section 3 to schedule 4 is subject to government motion number 6. Ms. Park.

**Ms. Lindsey Park:** I move that subsection 3(1) of schedule 4 to the bill be amended by striking out “shall, on the same day, register” in subsection 2(1.1) of the Class Proceedings Act, 1992 and substituting “shall register”.

**The Chair (Mr. Roman Baber):** Any debate on government motion number 6, being an amendment to section 3 to schedule 4? Seeing no debate, are members ready to vote on government motion number 6? All those in favour? All those opposed? I declare the motion carried.

We will now consider section 3 to schedule 4, as amended. Any debate on section 3 to schedule 4, as amended? Seeing no debate, are members ready to vote? Shall section 3, as amended, carry? All those in favour? All those opposed? I declare section 3 to schedule 4, as amended, carried.

Section 4 through section 6 to schedule 4 have no proposed amendments. Is it the will of the committee that I bundle them together for consideration?

**Interjection:** Yes.

**The Chair (Mr. Roman Baber):** Thank you. Any debate with respect to section 4 through section 6 of schedule 4? Seeing no debate, are members ready to vote on section 4 through section 6, bundled? All those in favour? All those opposed? I declare section 4 through section 6 to schedule 4 carried.

We'll now proceed to consider section 7 to schedule 4. I understand that there is an independent member's motion, motion number 7. Madame Collard.

**M<sup>me</sup> Lucille Collard:** I move that subsection 7(2) of schedule 4 to the bill be amended by striking out subsection 5(1.1) of the Class Proceedings Act, 1992.

**The Chair (Mr. Roman Baber):** Any debate on independent motion number 7?

**M<sup>me</sup> Lucille Collard:** Can I speak to it?

**The Chair (Mr. Roman Baber):** Yes, Madame Collard.

**M<sup>me</sup> Lucille Collard:** Thank you. I would like to speak to amendment 7 briefly. I'm requesting that we strike the predominancy and superiority clauses from the judicial test for certification of a class action proceeding. These clauses are being implemented against the recommendations of the comprehensive independent report conducted by the Law Commission of Ontario, which found no reason to modify the existing judicial test for certifying a class action. To enact these clauses would be to ignore the nearly unanimous consensus that these clauses reduce access to justice for everyday Ontarians in favour of the interests of the Canadian Bankers Association and the Canadian Life and Health Insurance Association. This is not government for the people.

The proposed changes will not affect all class actions equally, and it is likely that the proposed changes will disproportionately impact seniors. For example, in the United States, class actions against medical devices and pharmaceutical manufacturers very rarely pass the standard of predominancy because individual issues are found to predominate. The same outcome can be expected in Ontario if we pass this amendment.

Cases against long-term-care homes will undoubtedly face similar difficulty, as there will be countless individual issues relating to the determination of whether the harm suffered by each resident was the result of alleged systemic negligence by their care home, and we've heard that argument from several witnesses.

As the Law Commission noted in its letter criticizing the proposed changes, if these changes had been applied retroactively, many historic class actions would not have been certified, including cases involving residential schools, the Walkerton water crisis and the tainted blood cases.

If enacted as is, the predominancy and superiority clause will leave Ontarians with fewer rights than other Canadians to access courts and seek justice, even for the same wrongs.

#### 0940

These clauses will further undermine the ability of courts to use class actions to efficiently deal with legal issues which have affected many individuals at once. In some cases, lawyers may be forced to file thousands of individual actions where they currently only file one. Our court system is not ready to manage mass tort litigation and will require a significant injection of resources simply to keep up with the consequences of these clauses.

Finally, I ask the committee to strike these clauses from schedule 4 because they favour corporate interests over the public. Reducing the only realistic accountability measure for those harmed by bad practices among big corporations and government for the very sake that it's an inconvenience for big corporations and government is to invite unaccountability from these jurisdictions and to signal to the world that Ontario cares less about its residents than other jurisdictions. For these reasons, I'm asking the committee to strike the predominancy and superiority clauses from schedule 4.

**The Chair (Mr. Roman Baber):** Further debate on independent motion number 7?

**Mr. Gurratan Singh:** During the committee, we heard, time and time again, from the Law Commission of Ontario and we heard from stakeholders across the board, that this kind of approach to class actions, the superiority and predominance approach, will result in less access to justice. It will result in adopting a more restrictive American approach to class actions and, overall, will inhibit everyday folks from being able to come together and use a very important and vital means to justice, which is the mechanism of class actions. It would also put Ontario in a very incompatible situation with other jurisdictions, as we will be the only province that will have this kind of American-style legislation coming in. We heard from the Law Commission of Ontario, we heard from lawyers across the board—it was resoundingly heard that this will reduce access to justice and hurt our province.

I think this is something we should definitely remove from this legislation. We should not take any steps that will reduce access to justice, especially with respect to class actions and their impact, historically, on Ontario. When looking at situations like Walkerton, when looking at situations like the Indian residential schools, these are historic wins through class actions. We must not become a more restrictive legal system, but one which still allows for folks to continue accessing justice in an open and free manner.

**The Chair (Mr. Roman Baber):** Further debate? MPP Park.

**Ms. Lindsey Park:** The current amendment is to schedule 4. Schedule 4 contains a provision that would amend the Class Proceedings Act, 1992, to establish new requirements related to the motion for certification. The outcome of the certification motion determines whether a proceeding will be certified as a class proceeding.

Schedule 4 would add a new subsection, 5(1.1), which would set out new minimum requirements for the preferable procedure component of the test for certification in

order to make the test more rigorous. Under the revised test, the class proceeding would be the preferable procedure for the resolution of common issues only if it is superior to all reasonably available means of determining the entitlement of class members to relief or addressing the impugned conduct of the defendant, including any remedial scheme or program—for example, a product recall. The questions of fact or law common to the class members predominate over any questions affecting only individual class members.

This motion would amend schedule 4 to remove these proposed requirements. If this amendment were made, the preferable procedure component of the certification test would remain unchanged from its pre-Bill 161 form. We're proposing, through these changes, the first comprehensive update to Ontario's Class Proceedings Act in 25 years. These improvements will address issues that clog the system and slow down justice for everyone, by promoting fair and transparent settlements for people who are part of class action lawsuits.

**The Chair (Mr. Roman Baber):** Further debate on the independent amendment? Seeing no debate, are members ready to vote on motion number 7, being an amendment to section 7, schedule 4?

All those in favour of the amendment?

All those opposed?

I declare the motion lost.

I understand that there is a further independent motion, motion number 8, dealing with section 7, schedule 4. Madame Collard.

**M<sup>me</sup> Lucille Collard:** Alternatively, I move that subsection 7(2) of schedule 4 to the bill be amended by striking out subsection 5(1.1) of the Class Proceedings Act, 1992, and substituting the following:

"Same

"(1.1) In determining whether a class proceeding would be the preferable procedure for the resolution of the common issues under clause (1)(d), the court shall consider all relevant matters, including the following:

"1. Whether questions of fact or law common to the members of the class predominate over any questions affecting only individual members.

"2. Whether a significant number of the members of the class have a valid interest in individually controlling the prosecution of separate actions.

"3. Whether the class proceeding would involve claims that are or have been the subject of any other proceedings.

"4. Whether other means of resolving the claims are less practical or less efficient.

"5. Whether the administration of the class proceeding would create greater difficulties than those likely to be experienced if relief were sought by other means."

**The Chair (Mr. Roman Baber):** Any debate?

**M<sup>me</sup> Lucille Collard:** I would like to speak briefly.

**The Chair (Mr. Roman Baber):** Madame Collard.

**M<sup>me</sup> Lucille Collard:** While I'm disappointed, of course, that the government rejected my call to remove the predominance and superiority clauses from the proposed amendments to the Class Proceedings Act, I do urge the

committee to at least adopt the class action certification test recommended by the Uniform Law Conference of Canada. Under the ULCC test, which is being used in British Columbia, Alberta and Saskatchewan, judges are required to consider the issues of predominance and superiority but are not obligated to deny certification if these issues exist. This gives the court more discretion to make the right decision on the merits of a particular case.

This test would make the bar to certification higher while avoiding many of the current harms in the current bill. It would also allow us to encourage legal harmonization between the provinces by adopting a standard widely used in western Canada.

**The Chair (Mr. Roman Baber):** Further debate? Mr. Singh.

**Mr. Gurratan Singh:** Once again, as we've seen, as a result of committee and the vast amount of deputants who provided their evidence, there is a substantial opposition towards any changes to the class action provisions which reduce access to justice, make it harder for folks to come together and do class actions, and adopt any kind of restrictive, American-style class action approach. We've seen the limitations that has had. We've seen how it's in favour of, generally, large businesses and government and not everyday folks who need to hold them to account. Holding these large institutions to account is a positive factor for our democracy; it's a positive factor for our province, for Canada. This is a means of recourse that we need to maintain and strengthen. So it's important that we don't take on any sort of restrictive approach to our class actions. As said by the Law Commission of Ontario, we must take approaches that allow us to have access to justice—and that is, I think, a more just and equitable Ontario for us all.

**The Chair (Mr. Roman Baber):** Further debate? MPP Park.

**0950**

**Ms. Lindsey Park:** We're proposing changes that will allow for cases to be resolved more quickly and help ensure that people in a class-action lawsuit have meaningful and faster access to justice. These improvements would address issues that clog the system and slow down justice for everyone, as I mentioned in debate on the previous motion. By streamlining Ontario's class proceedings laws and helping to ensure that proceedings are certified only when actually preferable, Ontario businesses would experience fewer risks and costs in defending against class actions in Ontario, and people would receive meaningful access to justice sooner.

We consulted with the Law Commission of Ontario, the bar and other stakeholders extensively, and our changes are largely informed by the Law Commission of Ontario's report and recommendations. As the Law Commission of Ontario identified, there are many changes that needed to be made in order to protect the interests of class members who have to navigate an overly complex legal system. The proposed changes would not preclude individuals from seeking redress from other remedial avenues, but rather

these changes would ensure that a class action is the most appropriate procedure to obtain that redress.

**The Chair (Mr. Roman Baber):** Thank you.

Mr. Singh.

**Mr. Gurratan Singh:** I just want to clarify the government's record on this. The Law Commission of Ontario explicitly stated—I'm reading from their letter dated January 22—"The LCO does not believe these issues" in respect to the issues around class actions "are cured or balanced by the many positive elements of the legislation," meaning that the negatives outweigh the positives. "Rather, the effect of Bill 161's superiority and predominance requirements will be to increase costs, lengthen delays, and undermine the access to justice and judicial efficiency goals of the CPA and class actions generally.

"In light of this analysis, the LCO is unable to support Bill 161 as currently drafted."

Unless the government is taking a step to address superiority and predominance issues in Bill 161, to quote the Law Commission as saying that you are taking on their recommendations is inaccurate, as per the Law Commission's explicit writing in their letter. The government should correct their record and say, "Yes, we are not listening to the Law Commission of Ontario, as per their letter, and we are choosing instead to go forward in a manner which is restrictive and is going to limit access to justice." That record is definitely incorrect, what the member opposite has just articulated, and we need clarity on that kind of language.

**The Chair (Mr. Roman Baber):** Further debate? Ms. Park.

**Ms. Lindsey Park:** I don't appreciate the decorum of the member opposite, implying that somehow I'm lying to my fellow colleagues. The fact is that we took—first of all, we thank the Law Commission of Ontario for the report on class actions and for the work they do in many policy areas, and we have in fact taken the large majority of their recommendations.

**The Chair (Mr. Roman Baber):** Further debate? Mr. Singh.

**Mr. Gurratan Singh:** Civility is a very important approach in any sort of communication, especially in these kinds of committees. My record—and I'll ask the member opposite to clarify her record once again—there's no assertion of the word "lying" at all in this comment. Instead, I'm speaking to the facts.

The fact is that the government cannot rely on saying that they are adopting the recommendations from the LCO when the LCO explicitly states that they are unable to support this piece of legislation unless superiority and predominance are no longer being approached from the American model and restricting access to justice. This is record. This is fact. This is evidence that is put forward. I am arguing based on that evidence.

That is, I would argue—I would put forth to the member opposite, speak to my words. If I am articulating a legitimate issue I have with the government's approach and how they are framing their support from the Law Commission of Ontario, that is in line with decorum and

civility and is, justly so, speaking out to the government's approach to this bill.

**The Chair (Mr. Roman Baber):** I do not believe that there was an allegation of dishonesty. I invite members to continue with their cordial debate on the issues.

Further debate? Seeing no further debate, I'll ask the members if they are now prepared to vote on independent motion number 8. All those in favour of motion number 8? All those opposed? I declare the motion lost.

We will now consider section 7 to schedule 4. Any debate? Seeing no debate, are members prepared to vote on section 7 to schedule 4? All those in favour? All those opposed? I declare section 7 to schedule 4 carried.

We'll now proceed onwards with schedule 4. I understand that section 8 through section 15 have no proposed amendments. Is it the will of the committee that I bundle them together for consideration?

Any debate on sections 8 through 15 to schedule 4? Seeing no debate, are members ready to vote on sections 8 to 15? All those in favour? All those opposed? Carried.

We'll now consider section 16 to schedule 4. I understand that there's a government motion pending.

**Ms. Lindsey Park:** Yes, Chair. I'd like to speak to it.

**The Chair (Mr. Roman Baber):** Ms. Park will begin by reading the motion.

**Ms. Lindsey Park:** I move that section 16 of schedule 4 to the bill be amended by striking out "staying a proceeding" in subsection 13.1(6) of the Class Proceedings Act, 1992.

**The Chair (Mr. Roman Baber):** Thank you. Any debate on government motion number 9? Are members ready to vote on motion 9, being an amendment to section 16? All those in favour? All those opposed? Carried.

We'll now consider section 16 to schedule 4, as amended. Any debate on section 16, as amended? Seeing no debate, are members ready to vote on section 16, as amended? All those in favour? All those opposed? I declare section 16, as amended, carried.

I understand that section 17 to section 21, inclusive, to schedule 4 have no proposed amendments. Is it the will of the committee that I bundle them together for consideration?

Any debate on section 17 through section 21, inclusive, to schedule 4? Seeing no debate, are members ready to vote on section 17 through section 21? All those in favour? All those opposed? I declare sections 17 through 21 to schedule 4 carried.

We'll now proceed to consider section 22. I understand that there is a government motion pending, being motion number 10. Ms. Park?

1000

**Ms. Lindsey Park:** I move that section 22 of schedule 4 to the bill be amended by striking out subsection 22(1.1) of the Class Proceedings Act, 1992 and substituting the following:

"Exception, costs of notice of certification

"(1.1) Despite subsection (1), the costs of any notice under section 17 may be awarded to the representative

plaintiff only in the event of success in the class proceeding, except to the extent the defendant consents to their payment in whole or in part at an earlier time, and, for greater certainty, shall not be ordered to be paid by the defendant at any earlier time in the proceeding absent the defendant's consent."

**The Chair (Mr. Roman Baber):** Any debate on government motion number 10? Madame Collard.

**M<sup>me</sup> Lucille Collard:** I actually do have a question. I don't know if I'm allowed to ask somebody to explain. I find the added language redundant. It's sort of saying the same thing as before "greater certainty," that unless the defendant consents, he couldn't be obliged to pay beforehand. I'm just wondering what this adds to the provision or what the distinction is.

**The Chair (Mr. Roman Baber):** Further debate?

**Ms. Lindsey Park:** I'm happy to provide some clarification on that.

**The Chair (Mr. Roman Baber):** Sure. Yes, Ms. Park?

**Ms. Lindsey Park:** I'm happy to provide some clarification on the intent of this motion. Schedule 4 would amend the act to provide that the costs of the notice of certification may be awarded to a representative plaintiff only in the event of success in the class proceeding, and may not be ordered to be paid by the defendant at an earlier time in the proceeding.

This motion would make a minor amendment to the proposed costs rule by clarifying that while a defendant cannot be ordered to pay the costs of the notice of certification unless and until the plaintiff achieves success in the class proceeding, the defendant can consent to cover the cost of the notice in whole or in part at an earlier stage in the proceeding. This may occur, for example, if the defendant agrees to pay the cost of the notice as part of a settlement.

**The Chair (Mr. Roman Baber):** It has been asked that I clarify that members always have an opportunity to avail themselves of Ministry of the Attorney General counsel. That option is always available to help you.

Any further debate on government motion number 10, with respect to section 22 of schedule 4? Seeing no further debate, are members ready to vote on the proposed amendment? All those in favour? All those opposed? I declare motion 10 carried.

We'll now consider section 22 to schedule 4, as amended. Any debate on section 22, as amended? Seeing no debate, are members ready to vote on section 22, as amended? All those in favour? All those opposed? I declare section 22, as amended, carried.

We'll now consider section 23 to schedule 4. Any debate? Are members ready to vote on section 23 to schedule 4? All those in favour? All those opposed? I declare section 23 carried.

We'll now consider section 24 to schedule 4. Any debate? Seeing no debate, are members ready to vote? All those in favour? All those opposed? I declare section 24 to schedule 4 carried.

We'll now proceed to consider section 25. I understand that there's a government motion pending with respect to section 25, being motion number 11. Ms. Park.

**Ms. Lindsey Park:** This is my first of two motions regarding this section.

I move that section 25 of schedule 4 to the bill be amended by striking out "shall serve the statement of claim or notice of application" in subsection 27.3(2) of the Class Proceedings Act, 1992 and substituting "shall serve the originating process".

**The Chair (Mr. Roman Baber):** Any debate on government motion number 11? Are members ready to vote on motion 11, being an amendment to section 25 of schedule 4? All those in favour? All those opposed? I declare motion 11 carried.

I understand there is a further motion with respect to section 25 in government motion number 12. Ms. Park.

**Ms. Lindsey Park:** I move that section 25 of schedule 4 to the bill be amended by striking out subsection 27.3(3) of the Class Proceedings Act, 1992 and substituting the following:

"Requirement for settlement approval

"(3) The court shall not approve the settlement of a proceeding under this act that includes the settlement or release of a subrogated claim unless the person or entity specified by the regulations in respect of the subrogated claim for the purposes of this subsection has, before the hearing of the motion to approve the settlement of the proceeding,

"(a) had a reasonable opportunity to consider the proposed amendment or release of the subrogated claim; and

"(b) given approval in writing of the proposed settlement or release of the subrogated claim."

**The Chair (Mr. Roman Baber):** If you would be so kind as to reread proposed subsections (a) and (b). Could you read them again, please?

**Ms. Lindsey Park:** Yes, Chair, I would be pleased to:

"(a) had a reasonable opportunity to consider the proposed settlement or release of the subrogated claim; and

"(b) given approval in writing of the proposed settlement or release of the subrogated claim."

**The Chair (Mr. Roman Baber):** Thank you very much. Any debate on government motion number 12? Seeing none, are members ready to vote on government motion number 12, being a further amendment to section 25 to schedule 4? All those in favour? All those opposed? I declare motion 12 carried.

We'll now consider section 25 to schedule 4, as amended. Any debate on section 25, as amended? Seeing no debate, are members ready to vote on section 25 to schedule 4, as amended? All those in favour? All those opposed? I declare section 25 to schedule 4, as amended, carried.

**1010**

I understand that there are no proposed amendments to sections 26 through 34 to schedule 4. Is it the will of the committee that I bundle them together for consideration?

**Ms. Lindsey Park:** Yes.

**The Chair (Mr. Roman Baber):** Any debate on sections 26 through 34? Seeing no debate, are members ready to vote on sections 26 through 34, inclusive? Are members ready to vote? All those in favour? All those opposed? I declare sections 26 through 34 to schedule 4, inclusive, carried.

We'll now consider section 35. I understand that there is a government motion pending with respect to section 35, being motion number 13. Ms. Park.

**Ms. Lindsey Park:** This is the first of two motions regarding schedule 4, section 35.

I move that section 35 of schedule 4 to the bill be amended by striking out clause 38(1)(b) of the Class Proceedings Act, 1992 and substituting the following:

“(b) governing the registration of proceedings under this act, including,

“(i) requiring that documents relating to registered proceedings be provided to a registry specified by the regulations, and governing the provision of those documents,

“(ii) requiring and governing proof of the provision of a document as required by regulation under subclause (i);”

**The Chair (Mr. Roman Baber):** Any debate on government motion number 13? Seeing no debate, are members ready to vote on the proposed government amendment in motion 13?

**Ms. Lindsey Park:** Yes.

**The Chair (Mr. Roman Baber):** All those in favour? All those opposed? I declare motion 13 carried.

I understand there is a further motion with respect to section 35 to schedule 4, being government motion number 14. Ms. Park.

**Ms. Lindsey Park:** I move that section 35 of schedule 4 to the bill be amended by adding the following clause to subsection 38(1) of the Class Proceedings Act, 1992:

“(f) specifying, for the purposes of any provision of this act or of the regulations made by the minister, when a proceeding or class of proceeding shall be considered to have been commenced under section 2.”

**The Chair (Mr. Roman Baber):** Any debate on the proposed amendment in government motion number 14? Seeing none, are members ready to vote on motion 14, being the amendment to section 35?

**Ms. Lindsey Park:** Yes.

**The Chair (Mr. Roman Baber):** All those in favour? All those opposed? I declare motion number 14 carried.

We will now proceed to consider section 35, as amended, to schedule 4. Any debate on section 35, as amended? Seeing none, are members ready to vote on section 35 to schedule 4, as amended? All those in favour? All those opposed? I declare section 35, as amended, carried.

Quickly, I'll move on to section 36 to schedule 4. Any debate with respect to section 36? Seeing none, are members ready to vote on section 36 to schedule 4? All those in favour? All those opposed? I declare section 36 carried.

We'll finally consider schedule 4 as a whole, as amended. Any debate on schedule 4 as a whole, as amended? Are members ready to vote on schedule 4 as a

whole, as amended? All those in favour? All those opposed? I declare schedule 4 as a whole, as amended, carried.

Members, seeing that it's 10:15, by order of the House, we'll have to recess. We'll resume at 1 o'clock. Thank you very much.

*The committee recessed from 1015 to 1303.*

**The Chair (Mr. Roman Baber):** Good afternoon, everyone. I call the resumption of the Standing Committee on Justice Policy. We're going to continue clause-by-clause of Bill 161, the Smarter and Stronger Justice Act, 2020.

Just very quickly, to confirm with the Clerk, is attendance still the same?

**The Clerk of the Committee (Mr. Christopher Tyrell):** Yes.

**The Chair (Mr. Roman Baber):** Okay. We still have MPPs Park, Gurratan Singh, Tom Rakocovic and Madame Collard in the room with us. Did we lose anyone or did we add anyone?

**The Clerk of the Committee (Mr. Christopher Tyrell):** We haven't added anyone.

**The Chair (Mr. Roman Baber):** We haven't added anyone.

**Interjection:** Will Bouma was on this morning.

**The Chair (Mr. Roman Baber):** Will Bouma is on.

**The Clerk of the Committee (Mr. Christopher Tyrell):** Mr. Gill is still there, and Ms. Tangri. Yes, it's the same.

**The Chair (Mr. Roman Baber):** Okay.

We'll now proceed to schedule 5. I see there is a notice from the government. If the committee wishes to remove an entire schedule from the bill, the rules of parliamentary procedure require the committee to vote against the schedule rather than pass a motion to delete it. However, I understand from the Clerk that we still need to consider the sections first, and there's no way around that.

I understand the intent by government, but nonetheless, first we have to consider the sections. I see that there are no proposed amendments to sections 1 through 18 of schedule 5. I therefore propose that we bundle them together for consideration. Is that the will of the committee? Thank you. Any debate? Are members ready to vote on section 1 through section 18 of schedule 5, inclusive? All those in favour? All those opposed?

*Interjection.*

**The Chair (Mr. Roman Baber):** I just want to offer some clarification, just one more time. It appears that the government wishes to withdraw schedule 5. My understanding is that schedule 5, the contents thereof, have already been passed by another piece of legislation, so there's no need for it. I was informed by the Clerk that we needed to consider the sections as they are and then subsequently vote on the adoption of the schedule as a whole. So effectively, if, in the next vote, the government votes against adopting schedule 5 as a whole, then the vote that just took place on sections 1 through 18 inclusive are of no consequence. Okay? Does anyone wish for further clarification?

We will now consider schedule 5 as a whole.

*Interjection.*

**The Chair (Mr. Roman Baber):** The Clerk asked me to clarify that sections 1 through 18 did not carry.

We shall now vote on the adoption of schedule 5 as a whole. Are members ready to vote? All those in favour? All those opposed? I declare the motion lost.

*Interjection.*

**The Chair (Mr. Roman Baber):** So schedule 5 is now withdrawn.

We'll proceed to schedule 6. I understand that sections 1 through 16 of schedule 6 are not subject to any amendments. Is it the will of the committee that I bundle them together for consideration? Any debate on sections 1 through 16 of schedule 6? Are members ready to vote? All those in favour? All those opposed? I declare sections 1 through 16 of schedule 6 carried.

We'll now proceed to consider section 17 of schedule 6. I understand that there is a government motion pending, being motion number 15 in your materials. Ms. Park.

**Ms. Lindsey Park:** I move that section 17 of schedule 6 to the bill be amended by adding "and substituting 'as a full-time justice of the peace of the Ontario Court of Justice'" at the end.

**The Chair (Mr. Roman Baber):** Any debate on the proposed amendment? Are members ready to vote on government motion number 15? All those in favour? All those opposed? I declare the motion carried.

1310

We'll now proceed to consider section 17, as amended. Any debate on section 17 to schedule 6, as amended? Are members ready to vote on section 17, as amended? All those in favour? All those opposed? I declare the section, as amended, carried.

Next, we'll consider section 18. I understand that there is a government motion pending to amend subsection 18(1), being number 16 in your package. Ms. Park?

**Ms. Lindsey Park:** I move that subsection 18(1) of schedule 6 to the bill be amended by striking out "'by a case management master'" at the end and substituting "'on a reference'".

**The Chair (Mr. Roman Baber):** Any debate on government motion 16? Are members ready to vote? All those in favour of the proposed amendment? All those opposed? I declare the motion carried.

We'll now proceed to consider section 18 to schedule 6, as amended. Any debate? Are members ready to vote on section 18 to schedule 6, as amended? All those in favour? All those opposed? I declare section 18, as amended, carried.

We'll proceed to consider section 19 to schedule 6. Any debate on section 19? Are members prepared to vote on section 19? All those in favour? All those opposed? I declare section 19 carried.

We shall now proceed to vote on schedule 6, as amended, as a whole. Any debate on schedule 6, as amended, as a whole? Are members ready to vote? Shall schedule 6, as amended, as a whole, carry? All those in favour? All those

opposed? I declare schedule 6, as a whole, as amended, carried.

We'll now proceed to schedule 7. I understand that both sections, section 1 and section 2, do not have any proposed amendments. Is it the will of the committee that I bundle them together for consideration?

Any debate on section 1 and section 2 to schedule 7? Seeing no debate, are members ready to vote on section 1 and section 2? All those in favour? All those opposed? I declare section 1 and section 2 carried.

We'll now proceed to vote on schedule 7 as a whole. Any debate on schedule 7 as a whole? Seeing no debate, are members ready to vote on schedule 7 as a whole? All those in favour? All those opposed? I declare schedule 7 carried.

Members, remember, I'm content to indulge a quick recess if you wish, but I'm in your hands.

We'll now move on to schedule 8. First we have a number of amendments. We'll proceed to consider section 1 to schedule 8. We anticipate government motion number 17. Ms. Park.

**Ms. Lindsey Park:** Thank you, Chair. Bear with me; this is a long one.

I move that section 1 of schedule 8 to the bill be amended by striking out section 17 of the Crown Liability and Proceedings Act, 2019 and substituting the following: "Proceedings re misfeasance, bad faith

"17(1) This section applies to proceedings brought against the crown or an officer or employee of the crown that include a claim in respect of a tort of misfeasance in public office or a tort based on bad faith respecting anything done in the exercise or intended exercise of the officer or employee's powers or the performance or intended performance of the officer or employee's duties or functions.

"Leave to proceed required, automatic stay

"(2) A proceeding to which this section applies that is brought on or after the day section 1 of schedule 8 to the Smarter and Stronger Justice Act, 2019 comes into force may proceed only with leave of the court and, unless and until leave is granted, is deemed to have been stayed in respect of all claims in that proceeding from the time that it is brought.

"Documents on motion for leave

"(3) On a motion for leave under subsection (2), the claimant shall, in accordance with section 15 if applicable, serve on the defendant and file with the court,

"(a) an affidavit, or such other document as may be prescribed, setting out a concise statement of the material facts on which the claimant intends to rely; and

"(b) an affidavit of documents, or such other document as may be prescribed, disclosing, to the full extent of the claimant's knowledge, information and belief, all documents relevant to any matter in issue in the proceeding that are or have been in the claimant's possession, control or power.

"Response by defendant

"(4) On a motion for leave under subsection (2), the defendant may serve on the claimant and file an affidavit,

or such other document as may be prescribed, setting out a concise statement of the material facts on which the defendant intends to rely for the defence, but is not required to do so.

“Limit on examinations

“(5) No person may be examined or summoned for examination on the contents of an affidavit or prescribed document referred to in subsection (3) or (4) or in relation to the motion for leave, other than the maker of the affidavit or prescribed document.

“No discovery of defendant

“(6) The defendant shall not be subject to discovery or the inspection of documents, or to examination for discovery, in relation to the motion for leave.

“Requirements for leave

“(7) The court shall not grant leave unless it is satisfied that,

“(a) the proceeding is being brought in good faith; and

“(b) there is a reasonable possibility that the claim described in subsection (1) would be resolved in the claimant’s favour.

“Costs

“(8) Each party to the motion for leave shall bear its own costs of the motion.

“Effect of granting leave

“(9) The granting of leave under subsection (2) lifts the stay of the proceeding.

### 1320

“Effect of refusing leave

“(10) If leave is not granted under subsection (2),

“(a) the proceeding is rendered a nullity; or

“(b) if the proceeding contains any claims other than the claim described in subsection (1), the proceeding is rendered a nullity in respect of the claim described in that subsection and the stay is lifted with respect to the remainder of the proceeding.

“Waiver of leave requirement

“(11) Despite subsections (2) and (10), the crown may waive the application of subsection (2) in relation to a proceeding by giving notice of the waiver in writing to the claimant.

“Same

“(12) The crown may exercise its discretion under subsection (11) at any time before the hearing of a motion for leave under subsection (2), including before an intended proceeding is brought.

“Same

“(13) If the crown exercises its discretion under subsection (11) after a proceeding has been brought,

“(a) the stay of the proceeding is lifted once notice of the waiver is given to the claimant; and

“(b) the crown shall give notice of the waiver in writing to the court.

“Non-application to crown claimant

“(14) This section does not apply if the claimant is the crown.

“Transition

“(15) This section, as it read immediately before the day section 1 of schedule 8 to the Smarter and Stronger Justice

Act, 2019 came into force, continues to apply with respect to a proceeding for which a motion for leave was made under this section before that day, except that the crown may, at any time before the hearing of the motion, waive the requirement for leave by giving notice of the waiver in writing to the claimant and to the court.

“Same

“(16) For greater certainty, if a proceeding for which leave was required under this section was brought without leave before the day section 1 of schedule 8 to the Smarter and Stronger Justice Act ... came into force, the proceeding was a nullity in respect of the claim described in subsection (1) from the time the proceeding was brought.

“Same

“(17) For the purposes of any applicable limitation period,

“(a) a proceeding to which subsection (15) applies shall be considered to have been commenced in respect of the claim described in subsection (1) when the motion for leave was made, despite any waiver of the leave requirement by the crown; and

“(b) a proceeding to which subsection (16) applies shall, despite being a nullity in respect of the claim described in subsection (1), be considered to have been commenced when the proceeding was brought.”

**The Chair (Mr. Roman Baber):** Thank you, Ms. Park. Would you be so kind to just reread proposed subsection 16 for us?

**Ms. Lindsey Park:** I would be happy to, Chair.

“Same

“(16) For greater certainty, if a proceeding for which leave was required under this section was brought without leave before the day section 1 of schedule 8 to the Smarter and Stronger Justice Act, 2019 came into force, the proceeding was a nullity in respect of the claim described in subsection (1) from the time the proceeding was brought.”

**The Chair (Mr. Roman Baber):** Thank you. Any debate on government motion number 17, seeking to amend section 1 to schedule 8, as currently drafted? Madame Collard.

**M<sup>me</sup> Lucille Collard:** I know you were offering, maybe, an occasion to agree with the government on this amendment. I just want to say that I am proposing some amendments to subsections 5, 6 and 7 because I find that these provisions, even as presented by the government, still put the plaintiffs at a clear disadvantage, vis-à-vis the crown. That’s why I can’t vote for this amendment, even though there are some improvements that have been brought into the language. But because of that, I will be presenting my amendments as well.

**The Chair (Mr. Roman Baber):** Thank you for your position. Rest assured that there is every intention to afford procedural recourse to all members. Subsequent to the discussion and vote on this motion, we’re going to have different legislation before us, so I’m going to inquire with respect to the nature of the effect, and I will advise accordingly. But your point is taken with respect to the substance.

Any further debate? Ms. Park.

**Ms. Lindsey Park:** Maybe I can just offer some clarity on the intention of this section, because I recognize that was a long section to read out. This is section 17 of the CLPA, as currently drafted. That section, as currently drafted, provides that a plaintiff may not bring a proceeding against the crown claiming misfeasance in public office or another tort based in bad faith without leave of the court.

This amendment has two purposes. The first is to grant the crown the power to waive this leave requirement in any particular case, and the second is to clarify the legal effect of the leave requirement. Where a proceeding against the crown includes a claim that's subject to the leave requirement, the proceeding is automatically stayed until the plaintiff obtains leave from the court.

**The Chair (Mr. Roman Baber):** Further debate? Seeing no further debate, are members ready to vote on motion 17? All those in favour? All those opposed? I declare motion 17 carried.

Madame Collard, this is where, with the Chair's indulgence, I will try to explain the process as it currently stands.

I have to offer you the option of moving your amendments.

We have a further amendment proposed. This would be independent member motion number 18. Is there a motion pending?

**M<sup>me</sup> Lucille Collard:** There is.

**The Chair (Mr. Roman Baber):** Madame Collard.

**M<sup>me</sup> Lucille Collard:** I move that section 1 of schedule 8 to the bill be amended by striking out subsection 17(5) of the Crown Liability and Proceedings Act, 2019.

**The Chair (Mr. Roman Baber):** Unfortunately, I must rule this amendment out of order, as the committee has already made a decision regarding subsection 17(5) of the Crown Liability and Proceedings Act, 2019. The section that you're trying to amend no longer exists due to passage of amendment 17.

**M<sup>me</sup> Lucille Collard:** I'll withdraw the motion, if it's not too late to do so.

**The Chair (Mr. Roman Baber):** It was ruled out of order, so we'll just move to the next one.

I understand that there's motion number 19, proposed by the independent member.

**M<sup>me</sup> Lucille Collard:** Withdrawn.

**The Chair (Mr. Roman Baber):** And motion number 20, by the independent member?

**M<sup>me</sup> Lucille Collard:** Withdrawn.

**The Chair (Mr. Roman Baber):** Thank you. We will now proceed to consider section 1 of schedule 8, as amended. Any debate? Are members ready to vote on section 1, as amended?

All those in favour? All those opposed? I declare the section carried, as amended.

Section 2: I understand that there's a motion by the independent member, being motion number 21 in your materials.

**1330**

**Ms. Lindsey Park:** I believe it's a government motion, Mr. Chair.

**The Chair (Mr. Roman Baber):** Okay. I just have my colours mixed up. Ms. Park.

**Ms. Lindsey Park:** I move that section 2 of schedule 8 to the bill be struck out and the following substituted:

"2. Section 18 of the act is amended by adding the following subsections:

"Failure to give notice

"(6) For greater certainty, failure to give notice of a claim as required by this section renders a proceeding brought without such notice a nullity in respect of the claim, from the time the proceeding is brought.

"Same

"(7) Subsection (6) applies with respect to a proceeding brought before, on or after the day section 2 of schedule 8 to the Smarter and Stronger Justice Act," 2018 "comes into force."

**The Chair (Mr. Roman Baber):** Ms. Park, would you be so kind as to reread subsection (7)? Thank you.

**Ms. Lindsey Park:** "Same

"(7) Subsection (6) applies with respect to a proceeding brought before, on or after the day section 2 of schedule 8 to the Smarter and Stronger Justice Act, 2019 comes into force."

**The Chair (Mr. Roman Baber):** Thank you very much. Any debate on government motion number 21? Mr. Singh.

**Mr. Gurratan Singh:** Our issues with respect to motion 21 are that it brings in this concept of retroactively nullifying claims against the government with respect to the Crown Liability and Proceedings Act. In an age where governments around the world are making themselves more open and more susceptible to criticism and court challenges, we see the current government taking a regressive approach and closing themselves off from these kinds of cases, so much so that we are now seeing that claims that are currently being put forward against the government could be retroactively nullified and cancelled. That means, potentially, claims, class actions that arise from the crisis we have right now in long-term-care homes could be nullified once this piece of legislation comes forward.

This is against the principles of an open and accountable government; and further, it is against the direction that governments across the world are going in by being more open and more susceptible to court cases. It is the wrong direction. It puts up barriers towards access to justice, and it's something that will set our province back with respect towards people being able to challenge the government when they take actions that negatively impact the citizens.

**The Chair (Mr. Roman Baber):** Further debate? Ms. Park.

**Ms. Lindsey Park:** Perhaps I'll just clarify the intention of this particular motion. It's very narrow and specific, but I appreciate the opportunity that everyone has to provide their broader perspectives on legislation.

Section 18 of the CLPA requires a plaintiff to provide the crown with 60 days' advance notice of an intended proceeding before the proceeding is brought. This notice requirement was also contained in the Proceedings Against the Crown Act, which was repealed and replaced by the CLPA. So it was already in the legislation previous to the current one. The purpose of this amendment is to clarify the legal effect of this notice requirement. Failure to give the required notice of a claim renders a proceeding brought without such notice a nullity or void in respect of the claim. So it's just clarifying the legal effect of the leave requirement and it's actually codifying case law that already exists on this point, on the legal effect of the notice requirement that was contained in the predecessor to the CLPA, the Proceedings Against the Crown Act.

**The Chair (Mr. Roman Baber):** Further debate?

**Mr. Gurratan Singh:** Our criticisms stand that, given that it's providing a new provision in which there are specific requirements that are required to be filled, previous claims that came forward that did not meet that standard could be nullified. That hurts access to justice. That hurts people who have already gone through the process of carrying out a court challenge against the government. It could result in further delays, and further clog up our already overburdened system.

Our objection and our criticism to this stands.

**The Chair (Mr. Roman Baber):** Thank you. Further debate? Seeing none, are members ready to vote on—

*Interjection.*

**The Chair (Mr. Roman Baber):** Sorry? One minute.

Are members ready to vote on government motion 21? A recorded vote being sought, all those in favour?

### Ayes

Bouma, Gill, Pang, Park, Tangri, Triantafilopoulos.

### Nays

Collard, Gurratan Singh, Morrison, Rakocevic.

**The Chair (Mr. Roman Baber):** I declare the motion carried.

We will now proceed to consider section 2 to schedule 8, as amended. Any debate? Are members ready to vote on section 2 to schedule 8, as amended? All those in favour? All those opposed? I declare section 2, as amended, carried.

Sections 3 and 4 to schedule 8 do not have any proposed amendments. Is it the will of the committee that I bundle them together for consideration?

Any debate on sections 3 and 4 to schedule 8? Are members ready to vote?

*Interjection.*

**The Chair (Mr. Roman Baber):** Mr. Gill on a point of order.

**Mr. Parm Gill:** Sorry, Mr. Chair. I think I was getting ahead. I was just trying to vote in favour of these sections.

**The Chair (Mr. Roman Baber):** Thank you, Mr. Gill. You may, nonetheless, have to vote again when we call the vote.

Are members ready to vote on sections 3 and 4 to schedule 8? All those in favour? All those opposed? I declare sections 3 and 4 to schedule 8 carried.

We will now proceed to consider schedule 8, as amended, as a whole. Any debate on schedule 8, as amended? Are members ready to vote on schedule 8, as amended, as a whole? All those in favour? All those opposed? I declare schedule 8, as amended, as a whole, carried.

Schedule 9 has no proposed amendments. I therefore propose, and is it the will of the committee, that I bundle section 1 through section 9 to schedule 9, as amended—

*Interjection.*

**The Chair (Mr. Roman Baber):** Sorry, not as amended: schedule 9, as is. Is it the will of the committee that we consider sections 1 through 9 as a bundle? Thank you.

Any debate on sections 1 through 9 to schedule 9? Seeing none, are members ready to vote? Shall section 1 through section 9, inclusive, carry? All those in favour? All those opposed? I declare sections 1 through 9 to schedule 9 carried.

**1340**

We'll now consider schedule 9 as a whole. Any debate on schedule 9 as a whole? Seeing none, are members ready to vote on schedule 9 as a whole? All those in favour? All those opposed? I declare schedule 9 as a whole carried.

Schedule 10: I see no proposed amendments. Is it the will of the committee that I bundle sections 1 through 3 together for consideration? Any debate on sections 1 through 3 to schedule 10? Seeing none, are members ready to vote? Shall sections 1 through 3 of schedule 10 carry? All those in favour? All those opposed? I declare sections 1 through 3 to schedule 10 carried.

We shall now consider schedule 10 as a whole. Any debate on schedule 10 as a whole? Seeing none, are members ready to vote? Should schedule 10 as a whole carry? All those in favour? All those opposed? I declare schedule 10 as a whole carried.

Moving on to schedule 11: I see no proposed amendments. I therefore propose, and is it the will of the committee, that I bundle section 1 through section 4 together for consideration? Is it the will of the committee that I bundle them? Thank you. Any debate on sections 1 through 4 to schedule 11? Seeing no debate, are members ready to vote? Shall section 1 through section 4 to schedule 11 carry? All those in favour? All those opposed? I declare section 1 through section 4 to schedule 11 carried.

We'll now consider schedule 11 as a whole. Any debate on schedule 11? Seeing no debate, are members ready to vote? Shall schedule 11 as a whole carry? All those in favour? All those opposed? I declare schedule 11 as a whole carried.

Schedule 12: Seeing no amendments, is it the will of the committee that I bundle sections 1 through 4 together for consideration? Any debate on sections 1 through 4 to schedule 12? Seeing no debate, are members ready to vote? Shall sections 1 through 4 of schedule 12 carry? All

those in favour? All those opposed? I declare section 1 through section 4 of schedule 12 carried.

We will now proceed to consider schedule 12 as a whole. Any debate? Are members ready to vote on schedule 12 as a whole? Shall schedule 12, as a whole, carry? All those in favour? All those opposed? I declare schedule 12, as a whole, carried.

Schedule 13 has no proposed amendments. I, therefore, propose, and is it the will of the committee, that I bundle section 1 through section 3 of schedule 13 together for consideration? Any debate on sections 1 through 3 to schedule 13? Seeing none, are members ready to vote? Shall sections 1 through 3 to schedule 13 carry? All those in favour? All those opposed? I declare sections 1 through 3 to schedule 13 carried.

We will now consider schedule 13 as a whole. Any debate on schedule 13? Are members ready to vote? Shall schedule 13, as a whole, carry? All those in favour? All those opposed? I declare schedule 13, as a whole, carried.

Moving on to schedule 14: I see that sections 1 through 17 have no proposed amendments. Is it the will of the committee that I bundle them together for consideration? Any debate on sections 1 through 17 to schedule 14? Seeing none, are members ready to vote? Shall sections 1 through 17 to schedule 14 carry? All those in favour? All those opposed? I declare sections 1 through 17 to schedule 14 carried.

We will now consider schedule 14 as a whole. Any debate on schedule 14? Seeing no debate, are members ready to vote on schedule 14 as a whole? Shall schedule 14, as a whole, carry? All those in favour? All those opposed? I declare schedule 14, as a whole, carried.

Next, we're moving on to schedule 15. We begin with a proposed amendment by the independent member, being amendment number 22.

**M<sup>me</sup> Lucille Collard:** I move that section 0.1 be added to schedule 15 to the bill:

"0.1 The Legal Aid Services Act, 1998 is amended by adding the following section:

""Uninterrupted provision of legal aid services

""1.1 This act shall be administered so as to ensure that the provision of legal aid services to Ontarians is not interrupted by the repeal of this act and the coming into force of the Legal Aid Services Act, 2019.""

1350

**The Chair (Mr. Roman Baber):** Any debate?

**M<sup>me</sup> Lucille Collard:** May I speak to it?

**The Chair (Mr. Roman Baber):** Of course.

**M<sup>me</sup> Lucille Collard:** Thank you. I would like to speak to this amendment 22. It goes alongside amendment 31, so I won't speak again on amendment 31, which seeks to ensure that Ontarians' access to legal aid services remains uninterrupted during the transition between the present Legal Aid Services Act and the proposed Legal Aid Services Act. I'm concerned that, as currently structured, in the transition between the acts, the clinics will be discouraged from taking on new clients and are obligated to simply end proceedings in progress when they sign new MOIs with the corporation of Legal Aid Ontario. This

would harm access to justice for Ontarians, and it is a frustration for both those providing and receiving legal aid services under the present act.

Confirmation that proceedings initiated under certificates under the old act will be seen through to completion would help address this. I therefore ask that the committee support this and other clauses meant to ensure that the provision of legal aid services remains uninterrupted to Ontarians over the coming months. Thank you.

**The Chair (Mr. Roman Baber):** Any further debate on independent amendment number 22? Ms. Park.

**Ms. Lindsey Park:** First off, I just want to say I certainly appreciate the intention of the motion to ensure continuity of service with the repeal of the Legal Aid Services Act, 1998, and the proposed new Legal Aid Services Act, 2019, in the transition period.

We've reviewed this carefully and, just from the government's perspective, it's not necessary. The proposed Legal Aid Services Act, 2019, would give the government the authority to address any transitional issues that may arise from the repeal of the Legal Aid Services Act, 1998, through regulation, including by providing for the continued application for any provision in that act. This would help ensure that the provision of legal aid services is not interrupted by the repeal and replacement of the Legal Aid Services Act, 1998, with the proposed new legislation.

**The Chair (Mr. Roman Baber):** Any further debate on independent amendment number 22? Madame Collard.

**M<sup>me</sup> Lucille Collard:** If I can just add, I do appreciate the comments and the explanation, but I think the government having this power to decide whether a procedure will be terminated or not doesn't address my concern.

**The Chair (Mr. Roman Baber):** Further debate on independent amendment number 22? Are members ready to vote? All those in favour of independent amendment number 22? All those opposed? I declare the motion lost.

We will now consider section 1 to schedule 15. I understand that there is a government motion pending, number 23. MPP Park.

**Ms. Lindsey Park:** I move that section 1 of schedule 15 to the bill be amended by striking out subsections 5(2) and (3) of the Legal Aid Services Act, 1998 and substituting the following:

"Composition

"(2) The board shall be composed of 11 persons appointed for a specified term by the Lieutenant Governor in Council on the recommendation of the Attorney General.

"Same

"(3) Five of the persons appointed under subsection (2) shall be selected by the Attorney General from a list of persons recommended by the Law Society of Ontario."

**The Chair (Mr. Roman Baber):** Any debate on motion number 23? Madame Collard.

**M<sup>me</sup> Lucille Collard:** I would like to address again some of the concerns I have with the effect of this new provision that gives the majority of members to the government. I'll give you the following comments.

Legal Aid Ontario has been an equal partnership between the Ministry of the Attorney General and the Law Society of Ontario for decades. This equal partnership has been symbolized in the equal representation of appointees by the two bodies on the board of directors. This partnership, along with balanced representation on the board, has been key to affirming Legal Aid Ontario as non-partisan and impartial, as an institution which exists not to further the agenda of the government of the day but as an institution which provides impartial legal aid services for all Ontarians.

Bill 161 will change this and bring the board of Legal Aid Ontario directly under the control of the Ministry of the Attorney General. This will allow the present government and every successive government to make profound decisions about the nature and scope of legal aid services provided across Ontario. This will make legal aid services less stable and more subject to change on the basis of partisan considerations. It is also a rejection of the historic partnership between the ministry and the Law Society of Ontario.

This change is also insensitive to the needs and concerns of many of the communities who rely on legal aid services but who feel disenfranchised and skeptical of government service providers.

Legal aid's impartial reputation is crucial to ensuring that all Ontarians feel comfortable using the courts to resolve their legal issues. Allowing the government to take control of the legal aid board will diminish this, and this is why I can't agree with this amendment.

**The Chair (Mr. Roman Baber):** Further debate? Mr. Singh.

**Mr. Gurratan Singh:** We heard time and time again during committee that legal experts, legal clinics, people across the board, were very concerned with any sort of action that would impact the impartiality and the lack of—and the potential undue government influence on the board of Legal Aid Ontario.

This is the wrong direction. We've had a process in place where, by having legal aid independent and free of a majority-controlled—government—allows the legal aid process to continue to be independent, which is important given the current context of any sort of legal aid defence support or any kind of legal aid support.

It's important that we continue this impartiality and the objective nature of Legal Aid Ontario. We are against any decision that potentially impacts this. This is something that we should definitely not bring into Ontario.

**The Chair (Mr. Roman Baber):** Any further debate on government motion number 23? Ms. Park.

**Ms. Lindsey Park:** This amendment is in response to some of the things that we heard at committee—different interpretations of the section—so it's really to provide clarity.

Bill 161 currently proposes to amend the Legal Aid Services Act to provide that Legal Aid Ontario's board of directors shall be composed of up to 11 members, three to five of whom shall be selected by the Attorney General from a list of persons recommended by the law society.

This motion would provide that the board of directors shall be composed of 11 persons, five of whom shall be selected from a list of persons recommended by the law society—really clarifying that representation from law society recommendations, which are, of course, non-partisan.

**The Chair (Mr. Roman Baber):** Further debate on government motion number 23? Mr. Singh.

**Mr. Gurratan Singh:** That would result in the government being able to still put in place a majority board, would it not—five out of 11?

**The Chair (Mr. Roman Baber):** Further debate? Ms. Park.

**Ms. Lindsey Park:** My understanding is, this is continuing the way it's done currently. We can perhaps ask legal counsel, who is on the line, if you'd like further clarification on that point.

**The Chair (Mr. Roman Baber):** Before we go to counsel, Madame Collard.

**M<sup>me</sup> Lucille Collard:** I do have the same concern because the new language clearly says that it will be composed of 11 persons, not “up to 11”—and that five persons being selected by the Attorney General then gives the majority. [*Inaudible*] will be from the recommendation from the Law Society of Ontario, giving therefore six members to the government. But if you have somebody who can give some clarification, that would be appreciated.

1400

**The Chair (Mr. Roman Baber):** Ms. Park, would you like to avail yourself of Ms. Wold's assistance?

**Ms. Lindsey Park:** That's up to the committee members, if they'd like that clarification.

**The Chair (Mr. Roman Baber):** Any committee member who is seeking clarification could do so, from the Ministry of the Attorney General.

**M<sup>me</sup> Lucille Collard:** Yes, please.

**The Chair (Mr. Roman Baber):** Okay. Further to Madame Collard's request, Ms. Wold, are you with us?

**The Clerk of the Committee (Mr. Christopher Tyrell):** For this schedule, it's actually Sara Khajavi and Earl Dumitru.

**The Chair (Mr. Roman Baber):** Okay. We have Earl Dumitru with us. Thank you, Mr. Dumitru. Could you please unmute him?

*Interjection.*

**The Chair (Mr. Roman Baber):** You have to unmute yourself, Earl.

**Mr. Earl Dumitru:** Yes, I think it's done.

The current Legal Aid Services Act, in section 5, has five members appointed on recommendation of the law society and five appointed by the Attorney General. As Ms. Park was saying before, it's meant to continue the current system in section 5(2) of the current act.

**Mr. Gurratan Singh:** And the proposed recommendation is that the government is proposing up to 11, or—

*Interjection.*

**Mr. Earl Dumitru:** The motion proposal is to fix it at 11, and then five would be selected from a list recommended by the law society.

**Mr. Gurratan Singh:** Sorry, I missed that. If you could repeat yourself—

**The Chair (Mr. Roman Baber):** Please repeat yourself.

**Mr. Earl Dumitru:** This essentially takes us back to what the current Legal Aid Services Act, 1998, says. If you look at section 5(2), it talks about five persons selected by the Attorney General from a list recommended by the law society. That's the same as the motion.

**The Chair (Mr. Roman Baber):** Madame Collard?

**M<sup>me</sup> Lucille Collard:** I have to disagree, just from the straight reading of this new amendment, which says clearly that the board "shall be composed of 11" members, five of which will come from the Law Society of Ontario's recommendation. It clearly says, then, that six members that shall be appointed will be from the government, so it's not the status quo to what was said before. It's a change of language, but the result is different.

**Mr. Earl Dumitru:** I think the difference is that the chair is the 11th person. Again, in the current system, there's a chair, then five, we'll call them, "regular" board members appointed by the AG on the recommendation of the law society, and then five selected by the Attorney General. That's how you get to 11. The chair is the 11th person.

**M<sup>me</sup> Lucille Collard:** And—sorry.

**The Chair (Mr. Roman Baber):** Yes, Madame Collard.

**M<sup>me</sup> Lucille Collard:** And who, then, is the chair? Where does the chair come from? Is that a government appointee or is that among the members who are appointed on the recommendation of the law society?

**Mr. Earl Dumitru:** Um—I'm sorry. I'm just reading it here.

**The Chair (Mr. Roman Baber):** I see Ms. Khajavi joining us by video. Ms. Khajavi, would you like to address the committee?

**Ms. Sara Khajavi:** Yes. Subsection 5(4) would provide that the chair would be appointed by the Lieutenant Governor in Council on the recommendation of the Attorney General, in consultation with the Law Society of Ontario, which is similar to the current process for appointing the chair. The chair would be the 11th member of the board of directors.

**The Chair (Mr. Roman Baber):** Mr. Singh?

**Mr. Gurratan Singh:** And this is different, or the same as it was before?

**Ms. Sara Khajavi:** It is very similar. The current legislation sets out a committee process. It's more prescriptive in how the chair is selected. The proposed amendments would set out a more general requirement for the chair to be selected in consultation with the Law Society of Ontario.

**The Chair (Mr. Roman Baber):** Madame Collard?

**M<sup>me</sup> Lucille Collard:** Yes, I understand that rationale. However, it is still a government, in-council appointment, so it is a government appointee which makes the sixth member of the board, the chair of the board, a government appointee.

**Ms. Sara Khajavi:** Yes. Just to clarify, currently all of the appointees are government appointees. They're all recommended by the Attorney General. The difference is whether or not they're also recommended by the Law Society of Ontario.

**M<sup>me</sup> Lucille Collard:** Right. It's okay. We understand.

**Ms. Sara Khajavi:** Thank you.

**The Chair (Mr. Roman Baber):** Further debate on government motion number 23? Seeing none, I'll thank staff from the Ministry of the Attorney General. Thank you so much for your contribution.

Are members ready to vote on motion number 23? All those in favour? All those opposed? I declare the motion carried.

We'll now proceed to motion 24. That is an independent member motion—

**M<sup>me</sup> Lucille Collard:** A motion I will withdraw.

**The Chair (Mr. Roman Baber):** Motion 24 is withdrawn.

Government motion number 25, still with respect to section 1 to schedule 15: Is there a mover? Ms. Park?

**Ms. Lindsey Park:** I move that section 1 of schedule 15 to the bill be amended by adding the following subsection to section 5 of the Legal Aid Services Act, 1998:

"Vacancies

"(6.1) If there are one or more vacancies on the board, the remaining members may exercise all the powers of the board if they would constitute a quorum of the fully constituted board."

**The Chair (Mr. Roman Baber):** Any debate with respect to government motion number 25? Seeing no debate, are members ready to vote on the proposed amendment to section 1 in motion 25? All those in favour? All those opposed? I declare the motion carried.

We will now vote on section 1 to schedule 15, as amended. Any debate? Seeing none, are members ready to vote on section 1 to schedule 15, as amended? All those in favour? All those opposed? I declare section 1 to schedule 15, as amended, carried.

I'm a bit concerned because it appears that there's now some delay and it may create a little bit of confusion in the vote. Did the speed of our transmission become significantly reduced?

*Interjection.*

**The Chair (Mr. Roman Baber):** On the Clerk's suggestion, after we say, "All those in favour?", we'll say thank you to indicate that votes have been counted.

I see that sections 2 through 5 to schedule 15 have no proposed amendments. Is it the will of the committee that I bundle them together for consideration?

**Interjection:** Yes.

**The Chair (Mr. Roman Baber):** Thank you. Any debate on sections 2 through 5 to schedule 15? Seeing no debate, are members ready to vote? All those in favour of sections 2 through 5 to schedule 15? Thank you. All those opposed? I declare sections 2 through 5 to schedule 15 carried.

1410

We will now consider section 6 to schedule 15. I understand that there is a government motion, number 26.

**Ms. Lindsey Park:** Thank you, Chair. Bear with me; this is another long one.

I move that section 6 of schedule 15 to the bill be amended by striking out section 72.3 of the Legal Aid Services Act, 1998 and substituting the following:

“Agreements and other instruments to which the corporation is a party

“Discussions re new agreements with clinics

“72.3(1) The corporation may, at any time before April 1, 2021, attempt to enter into discussions with each clinic that is a party to a memorandum of understanding with the corporation respecting the provision of legal aid services, for the purpose of entering into a new agreement with the clinic respecting the provision of legal aid services.

“Discussions re new agreements with deans

“(2) The corporation may, at any time before April 1, 2021, attempt to enter into discussions with each dean of an Ontario law school who is a party to an agreement under subsection 21(3), for the purpose of entering into a new agreement with the dean under that subsection.

“Effect of new agreement

“(3) If the corporation enters into a new agreement with a clinic that takes effect before April 1, 2021, the memorandum of understanding referred to in subsection (1) with the clinic is cancelled on the day on which the new agreement takes effect.

“Same

“(4) If the corporation enters into a new agreement with a dean that takes effect before April 1, 2021, the prior agreement referred to in subsection (2) with the dean is cancelled on the day on which the new agreement takes effect.

“Cancellation of existing instruments

“(5) Every memorandum of understanding between the corporation and a clinic respecting the provision of legal aid services, and every agreement entered into under subsection 21(3), that was in effect immediately before the day section 6 of schedule 15 to the Smarter and Stronger Justice Act, 2019 came into force and that for any reason whatsoever is not cancelled under subsection (3) or (4) before April 1, 2021, is cancelled on April 1, 2021.

“Same

“(6) Any other instrument to which the corporation is a party that may be prescribed for the purposes of this subsection is cancelled on April 1, 2021.

“Reference to memorandum of understanding

“(7) A reference in this section to a memorandum of understanding between the corporation and a clinic includes reference to each of its appendices, being,

“(a) a funding agreement (appendix A), including any schedules to the funding agreement regardless of when they come into effect;

“(b) a consultation policy (appendix B); and

“(c) a dispute resolution policy (appendix C).

“Reference to s. 21(3) agreements

“(8) A reference in this section to an agreement entered into under subsection 21(3) includes reference to any schedules to the agreement regardless of when they come into effect.”

**The Chair (Mr. Roman Baber):** Any debate on government motion number 26? Seeing none, are members ready to vote? All those in favour?

*Interjection.*

**The Chair (Mr. Roman Baber):** Sorry. Members, you should reactivate your video, please. Thank you. I'm going to go back and pose a question with respect to government motion number 26, being a proposed amendment to section 6 to schedule 15. All those in favour? All those opposed? I declare the motion carried.

**Mr. Gurratan Singh:** Chair?

**The Chair (Mr. Roman Baber):** On a point of order, Mr. Singh.

**Mr. Gurratan Singh:** Would it be possible to have a quick five-minute recess and then continue afterwards?

**The Chair (Mr. Roman Baber):** May I suggest that we finish schedule 15 and then take a break?

**Mr. Gurratan Singh:** For sure.

**The Chair (Mr. Roman Baber):** Okay. I understand that there are two independent motions pending, being motion 27 and motion 28.

**M<sup>me</sup> Lucille Collard:** Chair, I request to withdraw these motions.

**The Chair (Mr. Roman Baber):** Motions 27 and 28 by the independent member have been withdrawn.

We will now proceed to consider section 6 to schedule 15, as amended. Any debate? Are members prepared to vote on section 6, as amended? All those in favour? All those opposed? I declare section 6 to schedule 15, as amended, carried.

Sections 7 and 8 do not have any proposed amendments. I therefore ask if it's the will of the committee that I bundle them together for consideration? Any debate on sections 7 and 8 to schedule 15? Seeing none, are members ready to vote? Shall sections 7 and 8 to schedule 15 carry? All those in favour? All those opposed? I declare sections 7 and 8 to schedule 15 carried.

We will now consider schedule 15 as a whole, as amended. Any debate on schedule 15 as a whole, as amended? Seeing none, are members ready to vote? Shall schedule 15 as a whole, as amended, carry? All those in favour? All those opposed? I declare schedule 15, as amended, carried.

I am inclined to entertain a request by MPP Singh for a short break. This committee is in recess until 2:30.

*The committee recessed from 1419 to 1434.*

**The Chair (Mr. Roman Baber):** Okay. We now call resumption of the Standing Committee on Justice Policy. To alert everyone, MPP Will Bouma is now present with us in the room, properly physically distancing from his neighbours.

We now move on to consider schedule 16 of the bill. We first have independent amendment number 29 being proposed. Madame Collard, would you like to move the amendment?

**M<sup>me</sup> Lucille Collard:** Excuse me. Where are we at? Number 29?

**The Chair (Mr. Roman Baber):** Yes.

**M<sup>me</sup> Lucille Collard:** Yes, please. I move that section 1 of schedule 16 to the bill be struck out and the following substituted:

“Purpose

“1. The purpose of this act is to promote access to justice throughout Ontario for low-income individuals and disadvantaged communities,

“(a) by facilitating the establishment of a flexible and sustainable legal aid system that provides effective and high-quality legal aid services throughout Ontario in a client-focused and accountable manner while ensuring value for money; and

“(b) by providing that the diverse legal needs of low-income individuals and disadvantaged communities are taken into account in making determinations about legal aid services.”

**The Chair (Mr. Roman Baber):** Any debate on independent amendment number 29? Madame Collard.

**M<sup>me</sup> Lucille Collard:** Yes, please. Thank you. I'd like to speak to amendment 29. This amendment, along with amendment 30, tabled by the NDP, address substantially similar concerns. Purposes sections matter in acts. They can help colour how other sections are interpreted, as well as express the government's priorities to the public. They're also an important accountability measure and can help us identify when legislation fails to live up to our expectations.

The purposes section included in the proposed Legal Aid Services Act, 2019, represents a landmark shift from the current act. It substitutes access to justice for value for money. It removes any reference to the diverse legal needs of low-income and disadvantaged communities in Ontario. Legal aid services exist for the very purpose of enhancing Ontarians' access to justice and assisting them with addressing their diverse legal needs. The fact that any reference to these two purposes has been omitted from the purposes section of the Legal Aid Services Act, 2019, is a cause for serious concern.

I am calling for the implementation of a purposes section which recognizes both the importance of achieving value for money and enhancing access to justice within our justice system. I am also calling for the recognition that Legal Aid Ontario shall take into account the diverse legal needs of low-income individuals and disadvantaged communities when making determinations about legal aid services.

**The Chair (Mr. Roman Baber):** Further debate on amendment 29? Ms. Park.

**Ms. Lindsey Park:** This motion would amend the proposed Legal Aid Services Act, 2019, to expand its purpose clause in a manner that's more similar to the purpose clause in the Legal Aid Services Act, 1998. The motion is similar to motion number 49, which the government will be putting forward, which would amend the proposed Legal Aid Services Act, 2019 to require Legal Aid Ontario to carry out its objects in a manner that

promotes access to justice and is responsive to the needs of low-income individuals and disadvantaged communities in Ontario. So from our perspective, I'm recommending that everyone vote against this motion, because it's not necessary in light of the government's motion that's coming up. The government has put forward motion 49, which I just described.

**The Chair (Mr. Roman Baber):** Further debate? Madame Collard.

**M<sup>me</sup> Lucille Collard:** I just wish to thank Madame Park for the explanation and position. I do understand the intent of the government, however putting the access to justice in a purpose is not the same. It's much more forceful. It speaks to why the act exists, as opposed to the object, which brings matters or elements of consideration. So thank you, but I believe we need a stronger statement regarding access to justice.

**The Chair (Mr. Roman Baber):** Further debate? Seeing none, are members prepared to vote on independent motion number 29? All those in favour of the motion to amend number 29? All those opposed? I declare the motion lost.

**1440**

We have a further motion to amend section 1 of schedule 16 by the NDP. Is there a mover? I recognize Mr. Singh.

**Mr. Gurratan Singh:** I move that section 1 of schedule 16 to the bill be struck out and the following substituted:

“Purpose

“1. The purpose of this act is to promote access to justice throughout Ontario for low-income individuals and disadvantaged communities by,

“(a) establishing a flexible and sustainable legal aid system that provides effective and high-quality legal aid services throughout Ontario in a client-focused and accountable manner while ensuring value for money; and

“(b) identifying, assessing and recognizing the diverse legal needs of low-income individuals and of disadvantaged communities in Ontario.”

**The Chair (Mr. Roman Baber):** Before I entertain debate, I would like to clarify that there may be a suggestion that amendment number 30 looks awfully similar to amendment number 29, which has been defeated. Therefore, there are potentially grounds to rule it out of order. However, I do see a distinction in paragraph (b) of section 1 between amendment 29 and amendment 30, and therefore I'll allow it to proceed.

Debate?

**Mr. Gurratan Singh:** That's actually precisely—you pointed out one aspect of the difference between amendment 30 and 29, but I'll first speak to it as a whole and then address your specific points that you've already brought forward.

The “purpose” section is incredibly important. This is something that we heard time and time again from folks in committee, that in order to ensure that legal aid maintains its focus on supporting low-income and disadvantaged communities, it needs to be explicitly outlined in the “purpose” section. That is why we're putting forward this

amendment. The removal of “low-income,” “disadvantaged” and “access to justice” is something that was decried by stakeholders across the board.

Now, specifically with respect to the differences, the differences lie primarily in paragraph (b), which clearly states, “identifying, assessing and recognizing the diverse legal needs of low-income individuals and of disadvantaged communities in Ontario.” That is written in a way which is clearer and more focused to ensure that those communities are recognized. That’s the reason we brought forward this amendment. Our hope is that by accepting this amendment, it will allow for greater access to justice with respect to legal aid.

**The Chair (Mr. Roman Baber):** Any further debate? Ms. Park.

**Ms. Lindsey Park:** I won’t repeat what I said regarding the previous motion, but it’s a similar rationale. We heard, of course, what every committee member heard in the public hearings, which was the importance of including language like, specifically, “access to justice,” “low-income individuals” and “disadvantaged communities” in the legislation, and we are achieving that purpose with motion 49, should it be successful, by specifically mentioning those objectives in the objects of the corporation of Legal Aid Ontario in that section.

**The Chair (Mr. Roman Baber):** Further debate? Mr. Singh.

**Mr. Gurratan Singh:** Just very quickly, our main point of contention is that it needs to be included in the “purpose” section, as outlined in committee and by stakeholders across the board. Often, courts, individuals, bodies, government will turn to the “purpose” section to understand the spirit of the legislation, so by removing it from the “purpose” section, it could impact its interpretation. That’s why the amendment is being put forward, to ensure that those words are enshrined within the spirit of legal aid.

**The Chair (Mr. Roman Baber):** Further debate on opposition motion 30? Seeing none, are members ready to vote on NDP motion number 30?

**Mr. Gurratan Singh:** Recorded vote.

### Ayes

Collard, Morrison, Rakocevic, Gurratan Singh.

### Nays

Bouma, Gill, Pang, Park, Tangri, Triantafilopoulos.

**The Chair (Mr. Roman Baber):** I declare the motion lost.

We will now consider section 1 to schedule 16. Any debate? Seeing none, are members ready to vote on section 1 to schedule 16? Shall section 1 to schedule 16 carry? All those in favour? All those opposed? I declare the section carried.

We will now consider a motion by the independent member, being motion number 31. Madame Collard, would you like to move the motion?

**M<sup>me</sup> Lucille Collard:** I’d like to withdraw the motion, Chair.

**The Chair (Mr. Roman Baber):** Motion number 31 is withdrawn.

We will now proceed to consider section 2 to schedule 16, and I understand that we have an opposition motion pending. Mr. Singh?

**Mr. Gurratan Singh:** I move that section 2 of schedule 16 to the bill be amended by adding the following definition:

“‘poverty law’ means those areas of law that particularly affect low-income individuals or disadvantaged communities, including,

“(a) housing and shelter, income maintenance, social assistance and other similar government programs, and

“(b) human rights, employment, education and health, including mental health;” (i.e.—“le droit relatif à la pauvreté”)

**The Chair (Mr. Roman Baber):** Mr. Singh, would you be so kind as to repeat subsection (b)?

**Mr. Gurratan Singh:** “(b) human rights, employment, education and health, including mental health; (‘le droit relatif à la pauvreté’)”

**The Chair (Mr. Roman Baber):** Thank you very much. Debate?

**Mr. Gurratan Singh:** Chair, we heard this, once again, very often in committee, that there was significant concern around the narrowed definition of areas of practice within legal aid that’s being proposed in Bill 161. That was a big point of concern because it could narrow the area in which legal aid clinics can service communities that are disadvantaged and specifically areas with respect to poverty law and the unique issues that folks in those precarious situations face.

We’re putting this forward because we want to ensure that the types of law that clinics could practise would not be unduly limited by this new piece of legislation. This is something that we heard from a variety of clinics who spoke to this and said that we need to ensure that legal aid allows for a broader area of practice, and that when we’re defining this area of law, it’s important that poverty law not merely be a subset of different areas of legal practice but rather poverty law address the legal issues that arise simply because a person of low income lacks means.

That’s why we’re asking for this amendment to be put forward to ensure that legal aid in general is not unduly restricted within the area of poverty law.

**The Chair (Mr. Roman Baber):** Further debate? Ms. Park.

**Ms. Lindsey Park:** First, I just want to clarify that there’s nothing in this bill that’s intended to restrict the areas of practice that clinics provide service in. Although it may not specify every single word in this proposed amendment, there’s language that includes a list of services they may provide but is not extensive. So it’s an inclusive list and could include further areas.

1450

The proposed Legal Aid Services Act, 2019, already provides human rights law, employment law, education law and health law, including mental health law, as areas of law in which legal aid may provide services. We've also put forward a motion, which we haven't voted on yet, that would amend the description of poverty law in the proposed Legal Aid Services Act, 2019, to include law in relation to matters that particularly affect low-income individuals.

**The Chair (Mr. Roman Baber):** Further debate?

**Mr. Gurratan Singh:** We heard it from committee, we heard it from legal aid clinics across the province that there is a real concern that Bill 161 does narrow the area of scope for clinics and specifically around poverty law. We heard the negative impact that can put upon legal aid clinics from carrying out a really essential, important role within our province. For that reason, we are putting forward this amendment to ensure that poverty law and the areas of law that affect low-income individuals are explicitly noted in the legislation so legal aid clinics have the ability to practise and service their communities without being restricted.

**The Chair (Mr. Roman Baber):** Further debate? Seeing none, are members ready to vote on NDP motion number 32?

*Interjection.*

**The Chair (Mr. Roman Baber):** A recorded vote is being sought.

#### Ayes

Collard, Morrison, Rakocevic, Gurratan Singh.

#### Nays

Bouma, Gill, Pang, Park, Tangri, Triantafilopoulos.

**The Chair (Mr. Roman Baber):** I declare the motion lost.

We'll now consider section 2 to schedule 16. Any debate? Seeing none, are members ready to vote on section 2 to schedule 16? All those in favour? All those opposed? I declare section 2 to schedule 16 carried.

We will now proceed to consider section 3 to schedule 16. I understand that there is an independent motion sought, number 33. Madame Collard.

**M<sup>me</sup> Lucille Collard:** I move that section 3 of schedule 16 to the bill be amended by striking out "The corporation may" and substituting "The corporation shall" at the beginning of the portion before clause (a).

**The Chair (Mr. Roman Baber):** Any debate? Madame Collard.

**M<sup>me</sup> Lucille Collard:** I wanted to say that section 3 will sow uncertainty among legal aid providers and clients alike by making many public legal services mandated under the current act discretionary under the proposed act, and we've heard that concern through the submissions of the witnesses.

This will hand the board of Legal Aid Ontario immense discretion to shape the very nature of legal aid services and will occur at the very same time that you grant to the government of the day the ability to appoint a majority of the board members. This will result in the government of the day being able to profoundly change the nature of legal aid services on a whim. This is not a good development for vulnerable Ontarians, and it's not a good development for the stability and impartiality of Legal Aid Ontario.

I'm asking that we restore certainty into the legal aid system by ensuring that we clearly define and mandate the scope of services to be provided by Legal Aid Ontario. This requires that we mandate in statute that Legal Aid Ontario shall provide the services enumerated under section 3 of the proposed act. There should be no room for the discretion of a partisan board in determining whether these services are provided. That's all. Thank you.

**The Chair (Mr. Roman Baber):** Further debate? Ms. Park.

**Ms. Lindsey Park:** I think I'll stay away from the topic of the board, because we already went through that extensively. I think it's a misrepresentation to say that it's a partisan board. We already went through that.

But specifically, I recommend voting against this motion, because section 3 of the proposed Legal Aid Services Act, 2019, is designed to provide legal aid with flexibility in providing legal aid services. That's for a number of reasons. It's because the way that legal aid services are provided changes over time and depending on the needs of different communities in the province. This specific section, as drafted, includes some examples of those types of legal aid services that legal aid may provide, but it is not intended to be a complete list. The term "may" better reflects that intention of flexibility in service delivery.

**The Chair (Mr. Roman Baber):** Further debate? Seeing none, are members ready to vote on independent motion number 33? All those in favour? All those opposed? I declare the motion lost.

We have a further motion, number 34, proposed by the independent member. Madame Collard.

**M<sup>me</sup> Lucille Collard:** I move that section 3 of schedule 16 to the bill be amended by striking out "and" at the end of clause (d), adding "and" at the end of clause (e) and adding the following clause:

"(f) litigation of test cases and advocacy for law reform in the public interest."

**The Chair (Mr. Roman Baber):** Any debate?

**M<sup>me</sup> Lucille Collard:** One of the most important and celebrated elements of our clinic system is that it has trained, specialized lawyers capable of identifying systemic injustices in the lives of their clients and launching test cases and strategic litigation to address these injustices.

Clinic lawyers have the necessary expertise to help us fix systemic issues through the courts. This saves us and the corporation of Legal Aid Ontario money in the long run, because it allows clinics to proactively address the root causes of the legal issues their clients bring forward. This, in turn, means less demand for services.

We should recognize that test-case litigation expert advocacy for law reform in the public interest is a wonderful resource available uniquely through our clinic system. We've already invested the money to train this expertise in our clinic system. It would be irresponsible not to use it. That's all. Thank you.

**The Chair (Mr. Roman Baber):** Further debate? Ms. Park.

**Ms. Lindsey Park:** My recommendation to vote against this motion is similar in rationale to motion number 33, which we just voted on, which is that this section is not intended to be a complete list of services that Legal Aid may provide, so there's no need to add this. It wouldn't prohibit these kinds of services from being provided. The list is not intended to be extensive and we're not here to try to achieve that today.

**The Chair (Mr. Roman Baber):** Further debate? Seeing none, are members prepared to vote on independent motion number 34? All those in favour? All those opposed? I declare the motion lost.

We will now consider section 3 to schedule 16. Any debate? Seeing none, are members ready to vote on section 3 to schedule 16? Shall section 3 to schedule 16 carry? All those in favour? All those opposed? I declare the section carried.

1500

We'll now proceed to section 4, schedule 16. I understand we, first, have an amendment proposed by the independent member, being amendment number 35. Madame Collard?

**M<sup>me</sup> Lucille Collard:** And I'll withdraw the motion. Thank you.

**The Chair (Mr. Roman Baber):** Thank you. We have a further motion brought by the official opposition on section 4 to schedule 16, being NDP motion number 36. Mr. Singh?

**Mr. Gurratan Singh:** I move that section 4 of schedule 16 to the bill be struck out and the following substituted:

"Areas of law in which legal aid services provided

"4. The corporation shall, subject to the regulations, provide legal aid services in the following areas of law:

"1. criminal law.

"2. family law.

"3. poverty law.

"4. mental health law.

"5. child protection law."

**The Chair (Mr. Roman Baber):** Any debate? Mr. Singh.

**Mr. Gurratan Singh:** Once again, this is something that came up quite often in committee, and it was an area of great concern for many legal aid clinics. The point here is that what's being proposed in Bill 161 does not require legal aid services within these areas—the whole discussion around "shall" versus "may"—and our hope is that putting forward this amendment and clearly identifying these areas of law will ensure that the section ensures that legal aid services, and that these sections, are mandatory, and the corporation shall provide services pertaining to these five areas of law that we have articulated. This is

something that many, many legal aid clinics brought up as an issue and as a concern, and it's to ensure that these subjects which are often perceived as the fundamentals and the core of legal aid stay, to ensure their protection as practice areas.

**The Chair (Mr. Roman Baber):** Further debate? Ms. Park.

**Ms. Lindsey Park:** I will just say, I'm a little bit unclear about why this amendment would be beneficial, because the way I read it is, it reduces the areas of law in which legal aid would be able to provide services. It reduces the areas of law to five and renames two of the areas.

If you have the bill, section 4 currently lists nine areas. The areas removed would be: "human rights law, employment law, education law, immigration and refugee law;" and the renamed area would be mental health law instead of "health law, including mental health law" and poverty law instead of "poverty law, being law in relation to housing and shelter, income maintenance or social assistance." The nine areas listed in section 4 reflect the services that LAO is currently providing, so it's just not clear why the amendment would reduce the list of services.

**The Chair (Mr. Roman Baber):** Further debate?

**Mr. Gurratan Singh:** The areas outlined have enough breadth and have enough coverage to ensure that all areas that are impacted that folks need help on can get the help and specifically ensures that the corporation—that legal aid—is mandated to carry out these areas of service. That's why we are putting forward this amendment to ensure that they are protected and that these are areas that legal aid must support and are mandatory services.

**The Chair (Mr. Roman Baber):** Further debate? Seeing none, are members prepared to vote on NDP motion number 36?

*Interjection.*

**The Chair (Mr. Roman Baber):** A recorded vote is being sought.

### Ayes

Collard, Morrison, Rakocevic, Gurratan Singh.

### Nays

Bouma, Gill, Pang, Park, Tangri, Triantafilopoulos.

**The Chair (Mr. Roman Baber):** I declare the motion lost.

We have a further motion, this time by the government, being motion number 37, also with respect to section 4, schedule 16. Ms. Park?

**Ms. Lindsey Park:** I move that paragraph 3 of section 4 of schedule 16 to the bill be struck out and the following substituted:

"3. Poverty law, being law in relation to matters that particularly affect low-income individuals, including housing and shelter, income maintenance and social assistance."

**The Chair (Mr. Roman Baber):** Any debate?

**Mr. Gurratan Singh:** Yes.

**The Chair (Mr. Roman Baber):** Mr. Singh.

**Mr. Gurratan Singh:** So what was the government's reasoning with this specific—what was the intention? What was the thought process behind this specific decision?

**The Chair (Mr. Roman Baber):** Ms. Park.

**Ms. Lindsey Park:** I think, actually, this amendment addresses some of the concerns that other committee members and a number of witnesses at our public hearings last week have raised that poverty law, the way it is referenced in the legislation as proposed, or the bill as proposed, would be restrictive in some way or would be missing certain areas of law that are very important to low-income individuals. This is meant to broaden the definition and clarify by providing a list of things that are included in poverty law, but it is not intended to be a complete list. That's the reason for adding the word "including," meaning this is the start of a list, but not the end of a list of services that can be included within poverty law.

**The Chair (Mr. Roman Baber):** Further debate? Seeing none, are members prepared to vote on government motion number 37? All those in favour? All those opposed? I declare the motion carried.

We have a further motion by the independent member, being motion number 38. Madame Collard.

**M<sup>me</sup> Lucille Collard:** Thank you. I move—

*Interjection.*

**The Chair (Mr. Roman Baber):** Would you mind—

**M<sup>me</sup> Lucille Collard:** Yes?

**The Chair (Mr. Roman Baber):** Just a moment, Madame Collard.

**M<sup>me</sup> Lucille Collard:** Sure.

*Interjections.*

**The Chair (Mr. Roman Baber):** If I may have the attention of the members of the committee, the pending independent motion, motion number 38, seeks to address a definition that would be created by independent motion number 41.

1510

I would propose that since amendment 38 appears to be contingent on the passage of a later amendment, we stand down consideration on section 4 of schedule 16 and move ahead to the next section in order to first consider amendment 41. Following consideration of amendment 41, we would return to section 4 and resume its consideration.

Do I have unanimous consent? I'm seeking unanimous consent to stand down consideration of section 4 of schedule 16, in order to consider amendment 41 first.

**Interjection:** Yes.

**The Chair (Mr. Roman Baber):** It needs to be unanimous consent.

**Mr. Gurratan Singh:** Chair, just to clarify: You're just going through a different order right now?

**The Chair (Mr. Roman Baber):** Yes, we're just reworking the order, to facilitate what the member is looking to do.

Having received unanimous consent—thank you, members—we will stand down consideration of section 4 to schedule 16. We'll now proceed to section 5, schedule 16. Specifically, we will reorder it to accommodate to now deal with amendment 41.

Amendment 41 is from the independent member. Would you like to move the amendment?

**M<sup>me</sup> Lucille Collard:** Sure. Thank you, Mr. Chair. I move that subsection 5(1) of schedule 16 to the bill be amended by adding the following definition:

"Indigenous legal services organization" means an organization that satisfies the following criteria:

"1. Most of the members of the board of directors or other governing body of the organization are Indigenous people.

"2. The organization provides legal services to Indigenous people and communities.

"3. Most of the staff of the organization are Indigenous people."

*Interjections.*

**The Chair (Mr. Roman Baber):** Members, in my capacity as Chair of this committee, I have to afford fairness to all members, and that includes government members, as well.

From time to time, the Clerk and the Chair may disagree on the interpretation of certain votes. The unanimous consent, as I saw it in the form drafted, proposed that amendment 41 will be dealt with before amendment 38. I have received such unanimous consent. However, I do not believe that unanimous consent was granted to skip over NDP motion number 39 and government motion number 40. If 39 and 40 are to be properly considered, then that may affect the nature of number 41, and then subsequently affect the nature of number 38. So I have to, in my view, be fair to everyone and re-pose the question.

Having received unanimous consent to deal with amendment 41 in advance of amendment 38, I'm now going back to the committee and I seek unanimous consent to reprioritize to deal with independent motion number 41 ahead of motion number 39 and motion number 40. The consent needs to be unanimous. Do I have unanimous consent?

**Ms. Lindsey Park:** Chair, I have a question.

**The Chair (Mr. Roman Baber):** Sure.

**Ms. Lindsey Park:** Would that be also in advance of 38? Can you clarify the order? So we'll go 41 to 38 to 39 to 40?

**The Chair (Mr. Roman Baber):** Yes. It will be 41, 38, 39, 40, assuming I get unanimous consent. Mr. Bouma?

**Mr. Will Bouma:** If I may, Mr. Chair, if 41 was passed, would that rule any of the other motions out of order?

**The Chair (Mr. Roman Baber):** Potentially, because 41 would change the nature of the section, and that would render government motion number 40 absolutely out of order.

**Mr. Will Bouma:** Thank you.

**The Chair (Mr. Roman Baber):** Which is why I decided to give you an option. As always, I'm of the view that we have the best Clerks in the business. Sometimes

we're not exactly sure, but we're going to get there. So I—yes?

**Ms. Lindsey Park:** Chair, I'm prepared to proceed the way you suggest.

**The Chair (Mr. Roman Baber):** Okay. So in other words, I just want to clarify, do I have unanimous consent to proceed to the moving of—in addition to standing down section 4 and amendment 38, do I have unanimous consent to proceed with independent motion number 41 ahead of motions 39 and 40? Mr. Singh.

**Mr. Gurratan Singh:** I think we're all in your hands, Chair, in this. I understand that what you're doing, putting this forward, is to accommodate the independent member. I have full faith in your direction with respect to this motion you're putting forward. My only concern is—as long as it doesn't prevent any motions, be it government or opposition, then I give my full unanimous consent on this.

**The Chair (Mr. Roman Baber):** The point here is not to accommodate. There was an initial accommodation with the initial independent motion 38, but, in fairness, I cannot tell you that motion number 39 would not be prejudiced. It could be prejudiced in the event that number 41 passes, because then that would render a different section that we would be considering, in which case your motion number 39 would be obsolete.

*Interjections.*

**The Chair (Mr. Roman Baber):** I think I'm prepared to explain this again, but if there's clarity—yes, Mr. Gill. Mr. Gill, you've got to unmute yourself.

1520

**Mr. Parm Gill:** Yes, thank you, Mr. Chair. I think maybe to avoid all of this confusion, why not—obviously, we granted the unanimous consent to just deal with number 38 once we've dealt with 41. Why not just continue down the line and move to 39 next instead of jumping into 41? Then when we get to 41, we can deal with 41 and come back to 38.

**The Chair (Mr. Roman Baber):** Mr. Gill, that is one of the possibilities that is before this committee, in which case I would suggest that you would withhold unanimous consent and then effect what you're looking to do, which is that we will immediately proceed to 39.

**Mr. Parm Gill:** That's what I'm going to suggest. If we can do that, I think that would probably be best, to avoid all the confusion.

**The Chair (Mr. Roman Baber):** Thank you, Mr. Gill, for your assistance to the Chair.

We'll now move on with opposition motion number 39.

**Mr. Gurratan Singh:** I move that subsection 5(1) of schedule 16 to the bill be amended by striking out the definition of “community legal clinic” and substituting the following:

“community legal clinic” means a community legal organization that is structured as an independent corporation without share capital,

“(a) whose members of its board of directors,

“(i) are members of the community or communities it serves, or

“(ii) have a substantial association or interest in the community or communities it serves,

“(b) that provides legal aid services for the community or communities it serves on a basis other than fee for service, and

“(c) that determines the legal needs of the individuals and the community or communities it serves; (‘clinique juridique communautaire’)”

**The Chair (Mr. Roman Baber):** Debate?

**Mr. Gurratan Singh:** During committee, we often heard this from a variety of clinics, which fear that the new legislation strips them of their ability to practise the type of law that their community requires. There is a legitimate fear that the current board, which may have an undue influence from the government, may dislike certain clinics or may not like the direction they're going in and decide that that clinic must suddenly stop practising an area of law or stop practising in an area of advocacy that they're involved in.

It's a real concern, and it could be used to essentially silence clinics that are doing work that is critical of the government or work that is bringing forth injustices or systemic problems. This is something we heard consistently throughout committee, so we're putting this amendment forward to address this.

**The Chair (Mr. Roman Baber):** Further debate on opposition motion number 39? Ms. Park.

**Ms. Lindsey Park:** I will recommend that the committee vote against this motion because the next motion, government motion number 40, would address permitting board members who have a substantial association or interest in the community being served by the community legal clinic.

This proposed definition, from our perspective, would actually narrow the definition of “community legal clinic” in the proposed Legal Aid Services Act, 2019 to organizations that provide services to clients on a basis other than fee for service.

**The Chair (Mr. Roman Baber):** Further debate?

**Mr. Gurratan Singh:** Bill 161 makes express provision for only Legal Aid Ontario to determine the legal needs of individuals and communities in Ontario for legal aid services. In contrast, LASA, 1998 provides that “the board of directors of a clinic funded by” Legal Aid Ontario “shall determine the legal needs of the individuals and communities served or to be served by the clinic and shall ensure that the clinic provides legal aid services in the area of clinic law in accordance with those needs.” That's the distinction.

Bill 161 provides that clinics can determine the needs of communities in the area of poverty law only and not in other areas of law. Coupled with the narrow definition of “poverty law” in Bill 161, this provision curtails the current mandate of clinic boards of directors to determine the legal needs of individuals and communities to be served by the clinic and to ensure that the clinic provides legal aid services in accordance with those needs.

We propose an amendment to section 5 which provides that clinic boards continue to determine the needs of their

communities and the provision of services. This is something we heard time and time again during committee, and we are bringing this issue forward to ensure that local communities are empowered to provide these kinds of services.

**The Chair (Mr. Roman Baber):** Thank you, Mr. Singh. Further debate? Seeing none, are members ready to vote on NDP motion number 39? All those in favour? All those opposed? I declare the motion lost.

We will now proceed to deal with government motion number 40, dealing with subsection 5(1). Ms. Park, would you like to move the motion?

**Ms. Lindsey Park:** Thank you, Chair. I move that the definition of “community legal clinic” in subsection 5(1) of schedule 16 to the bill be amended by adding “or are persons who have a substantial association with or interest in the community or communities it serves” at the end.

**The Chair (Mr. Roman Baber):** Thank you. Debate? Ms. Park.

**Ms. Lindsey Park:** I will just say briefly that it’s kind of a technical motion, but it’s intended to address a number of things we heard at the public hearings, which are specifically—I think I remember hearing this particularly from some of the Indigenous stakeholders who appeared before our committee, that they wanted this sort of reference added in to ensure the makeup of the board is representative of the community they’re serving. This is an expansion of the definition of “community legal clinic” in the proposed Legal Aid Services Act, 2019, which we think will reflect that.

**The Chair (Mr. Roman Baber):** Further debate? Are members ready to vote on government motion number 40? All those in favour of government motion number 40? All those opposed? I declare the motion carried.

Madame Collard, we now arrive at motion number 41. As a point of parliamentary clarification, I think it’s worthwhile noting that whereas previously, you’ve experienced an inability to bring such motions when this section was amended, now such a motion would not be called out of order because your proposed motion only seeks to add to what is in existing language. So the entire exercise did not prejudice anyone’s rights. I think it’s remarkable.

Okay, Madame Collard, motion 41.

**M<sup>me</sup> Lucille Collard:** Should I move this again, even though I did it previously? Yes?

**The Chair (Mr. Roman Baber):** You should move it again.

**M<sup>me</sup> Lucille Collard:** Okay. I move that subsection 5(1) of schedule 16 to the bill be amended by adding the following definition:

“‘Indigenous legal services organization’ means an organization that satisfies the following criteria:

“1. Most of the members of the board of directors or other governing body of the organization are Indigenous people.

“2. The organization provides legal services to Indigenous people and communities.

“3. Most of the staff of the organization are Indigenous people.”

**The Chair (Mr. Roman Baber):** Thank you. Any debate?

**M<sup>me</sup> Lucille Collard:** Can I address the—

**The Chair (Mr. Roman Baber):** Yes.

**M<sup>me</sup> Lucille Collard:** Thank you. I have remarks that will address the other motions on the same topic, so these comments will address amendments 38, 44 and 46, as they relate to Indigenous legal services organizations.

Schedule 16 specifically references Indigenous legal services organizations as organizations capable of providing legal aid services. However, while it defines community legal clinics and community legal organizations, it leaves Indigenous legal services organizations undefined and ambiguous—and that’s despite the change that was moved by the government.

**1530**

No one benefits from the ambiguity created by the oversight, least of all the Indigenous legal services organizations currently using their expertise to provide legal aid services addressing the distinct legal aid needs of Indigenous communities across Ontario. ILSOs are asking to be comprehensively defined to ensure greater certainty in the provisions of legal services to Indigenous Ontarians. This is a no-cost amendment which will increase certainty and address an important oversight in the present language of the proposed Legal Aid Services Act. Again, that’s despite the change that was just brought forward by the government.

Presently, ILSOs, such as the Aboriginal Legal Services, offer a comprehensive model of service provision which blends legal aid services with diversionary programming, social work and mediation work. This holistic model has been incredibly successful at ensuring that Indigenous Ontarians are capable of receiving specialized legal aid services, which help address their substantial gaps in accessing justice. This model works, it is appreciated by experts and clients alike, and is a pillar of our legal aid system as it currently stands. It should be recognized and affirmed in the proposed Legal Aid Services Act.

**The Chair (Mr. Roman Baber):** Any further debate on independent motion number 41? Ms. Park.

**Ms. Lindsey Park:** I think everyone on the committee shares the objective of making sure Indigenous legal services organizations are able to provide services in the province of Ontario and not be unduly restricted or hindered by the definitions set out in this legislation.

Similar to the Legal Aid Services Act, 1998, this bill does not define an aboriginal legal services corporation. The proposed Legal Aid Services Act, 2019, would not define an Indigenous legal services organization. This motion, from the government’s perspective, would limit the types of organizations that may be considered Indigenous legal services organizations under the proposed Legal Aid Services Act, 2019.

I think I referenced when speaking to the previous motion, number 40, that in fact I remember one of the witnesses coming before committee who was connected to the Indigenous community, and they were specifically asking for the type of amendment we put in in motion

number 40, which was that persons who have a substantial association with or interest in the community or communities it serves would be included on the board. I read this amendment as more restrictive than that. For that reason, I'm going to recommend voting against this particular amendment.

**The Chair (Mr. Roman Baber):** Further debate?

**M<sup>me</sup> Lucille Collard:** Thank you for your comments and for your views on this. I still think that not directly addressing Indigenous legal services in the act is not taking into account the real nature, the specific nature they have with their specific needs. I get your point that this could be englobed in what the government has proposed, but I still believe that recognizing specifically, with words, the Indigenous needs would be more appropriate. I thank you for that.

**The Chair (Mr. Roman Baber):** Mr. Bouma.

**Mr. Will Bouma:** If I may, through you, Mr. Chair, just to speak to this: I've been part of an agency review. We have many agencies in the government of Ontario that don't have full memberships and can barely meet quorum. What I worry about with an amendment like this is, quite simply, what would happen to a legal services organization that couldn't have quorum because they didn't have the right numbers? So you have someone local who is very—but is not Indigenous and therefore can't serve. Or for that matter, someone from a territory far away has to come in order to fill that position in order to meet certain—and then you still lose that local flavour. I would just have concerns that this is too restrictive, and it would take away the freedom of boards to serve their communities in the way that we envision in the bill.

**The Chair (Mr. Roman Baber):** Any further debate? Madame Collard.

**M<sup>me</sup> Lucille Collard:** Just one last comment: Because this is an added definition, it doesn't mean to replace any of the other ones, for which a community legal organization could still exist in parallel. I don't think that's restrictive; that's just providing another option. Where there is a very strong concentration of Indigenous people, they could have their own legal aid services organization.

I won't say any more. Thank you.

**The Chair (Mr. Roman Baber):** No further debate? Are members ready to vote on independent motion number 41? All those in favour of independent motion number 41? All those opposed? I declare the motion lost.

We will now go back to consider independent motion number 38, relating to section 4. I would now propose that we consider section 4 to schedule 16, as amended. Any debate on section 4 to schedule 16, as amended? Seeing none, are members ready to vote on section 4 to schedule 16, as amended? All those in favour? All those opposed? I declare the section, as amended, carried.

We will now go back to consider independent motion number 42, section 5 to schedule 16. Madame Collard, would you like to move the motion?

**M<sup>me</sup> Lucille Collard:** Yes, thank you, Mr. Chair. I move that subsection 5(5) of schedule 16 to the bill be struck out and the following substituted:

“Same

“(5) In determining how to provide legal aid services in the area of poverty law as described in section 4, the corporation shall,

“(a) ensure that community legal clinics are the primary provider of services, funded by the corporation, in that area of law; and

“(b) have regard to determinations by community legal clinics of the legal needs of the communities they serve in that area of law.”

**The Chair (Mr. Roman Baber):** Any debate?

**M<sup>me</sup> Lucille Collard:** Can I speak to it?

**The Chair (Mr. Roman Baber):** Yes.

**M<sup>me</sup> Lucille Collard:** Ontario's community legal clinic system is the jewel of Legal Aid Ontario, no doubt about that. We have invested incredible amounts of time, effort and money to ensure that it is providing community-specific services to improve access to justice for all Ontarians. Our clinic system has built up substantial expertise in doing this, and Legal Aid Ontario benefits tremendously from having this knowledge within their corporation. Our clinic lawyers also understand the impacts and repercussions of legal aid service delivery changes on their communities far better than a central legal aid board ever will. They are embedded in their communities and are on the front lines of providing legal aid.

There should be no room for doubt or ambiguity in the proposed Legal Aid Services Act that the clinic system will continue to be well funded and will be the principal way that Legal Aid Ontario provides poverty law legal services to Ontarians. These amendments will help ensure that the future of our clinics remains protected and that service delivery for poverty law legal aid services continues to occur through the clinic model.

We should be ensuring that Legal Aid Ontario is actively incorporating the advice and expertise of the clinic system into its decision-making surrounding the provision of poverty law services. This will ensure that the Legal Aid Ontario board makes service decisions which are in line with reality and will serve as a check against the political motivations of a board of partisan appointees.

**The Chair (Mr. Roman Baber):** Further debate? Ms. Park.

**Ms. Lindsey Park:** This motion would propose an amendment to subsection 5(5) to provide that, rather than having regard to the foundational role of clinics in providing poverty law services, Legal Aid Ontario must ensure that clinics are the primary service provider in the area of poverty law. That language, when I say “the foundational role of community legal clinics in providing services in that area of law” and referencing poverty law earlier in the section, is right out of subsection 5(5) in the current bill.

**1540**

The proposed Legal Aid Services Act, 2020, would already continue to recognize the foundational role of clinics in providing legal aid services in the area of poverty law, is my point in reading that, while also providing the flexibility to Legal Aid Ontario to enter into agreements with a broad array of service providers to ensure that legal

aid services are available to low-income individuals throughout the province.

**The Chair (Mr. Roman Baber):** Further debate? Seeing none, we'll now proceed to vote on independent motion number 42. Are members ready to vote? All those in favour of the motion? All those opposed? I declare the motion lost.

Next, I understand that there is a government motion pending, motion number 43, with respect to section 5, schedule 16. Ms. Park, would you like to move the motion?

**Ms. Lindsey Park:** Yes, thank you, Chair. I move that subsection 5(5) of schedule 16 to the bill be struck out and the following substituted:

“Same

“(5) In determining how to provide legal aid services in the area of poverty law within the meaning of paragraph 3 of section 4, the corporation shall have regard to,

“(a) the foundational role of community legal clinics in providing services in that area of law;

“(b) determinations by community legal clinics of the legal needs of the communities they serve in that area of law; and

“(c) any other information on the legal needs of communities served by community legal clinics in that area of law that is provided or made available to the corporation.”

**The Chair (Mr. Roman Baber):** Debate? Any debate on government motion number 43? Seeing none, are members prepared to vote? All those in favour? All those opposed? I declare the motion carried.

We'll now proceed with independent motion number 44, also with respect to section 5 to schedule 16. Madame Collard?

**M<sup>me</sup> Lucille Collard:** I move to withdraw the motion.

**The Chair (Mr. Roman Baber):** Motion number 45, independent.

**M<sup>me</sup> Lucille Collard:** Same. I withdraw this motion as well.

**The Chair (Mr. Roman Baber):** Thank you. Motion number 46, independent.

**M<sup>me</sup> Lucille Collard:** Withdraw as well.

**The Chair (Mr. Roman Baber):** Thank you. Motion number 47, independent.

**M<sup>me</sup> Lucille Collard:** I move that subsection 5(5.4) be added to schedule 16 to the bill:

“Same

“(5.4) The corporation shall ensure that the provision of legal aid services in Ontario is substantially equivalent in both French and English.”

**The Chair (Mr. Roman Baber):** Debate?

**M<sup>me</sup> Lucille Collard:** I'd like to address the amendment.

**The Chair (Mr. Roman Baber):** Please.

**M<sup>me</sup> Lucille Collard:** Amendment 47 is really close to my heart, as you will know. If enacted, this would amend the Legal Aid Services Act to ensure that the availability of legal aid services in both French and English will be substantially equivalent throughout Ontario.

“Substantial equivalence” does not mean that we will need to fund unutilized French-language resources; it means that every Ontarian will have the right to access substantially similar-quality legal aid services in either official language anywhere in Ontario. If there are a few francophones in a particular area, then the francophone services can be scaled to address the smaller need; however, they must still be there, and be of the same quality as their anglophone equivalents.

Last Friday, the Supreme Court of Canada reached a constitutionally significant decision in finding that francophones across Canada have a right to educational services that are of substantially equivalent quality and as available as those available to their anglophone neighbours. “Substantially equivalent” should be the status quo in government services in the two official languages across Ontario.

This no-cost amendment to the Legal Aid Services Act would impose landmark protections for all Franco-Ontarians to access the same quality of justice as their anglophone neighbours, and would be a wonderful statement of the provincial government's commitment to ensure equivalent-quality services in both official languages. Speaking French should never be a barrier to accessing justice in our courts, and I hope that we can join together in affirming this principle by amending the Legal Aid Services Act to include this section. Merci.

**The Chair (Mr. Roman Baber):** Thank you very much. Further debate? Ms. Park.

**Ms. Lindsey Park:** I will say that I agree with the member that speaking French should not be a barrier to accessing legal services in our province.

Our concern with the motion is certainly not that intent. But we're going to recommend voting against this motion because the government's concern is that the intent and effect of this motion are unclear. It's unclear how it would be interpreted and what the requirement actually is.

Section 6 of the proposed Legal Aid Services Act, 2020, already requires legal aid to consider the needs of individuals and communities in Ontario for legal aid services, including francophone individuals and communities, when determining the types of legal aid services to provide—the areas of law in which to provide the services—and how they should be provided. From our perspective, that ensures legal aid is going to consider the legal needs of francophones in the province of Ontario.

**The Chair (Mr. Roman Baber):** Further debate? We'll now proceed to vote on independent motion number 47. Are members ready to vote on independent motion number 47? All those in favour? All those opposed? I declare the motion lost.

We'll now proceed to consider section 5 to schedule 16, as amended. Any debate? Seeing none, are members ready to vote? Shall section 5 to schedule 16, as amended, carry? All those in favour? All those opposed? I declare section 5 to schedule 16, as amended, carried.

We'll proceed to consider section 6 to schedule 16. Any debate? Seeing none, are members prepared to vote on section 6 to schedule 16? All those in favour? All those opposed? I declare section 6 to schedule 16 carried.

We'll now proceed to section 7 to schedule 16. I understand we have government motion number 48. Ms. Park, would you like to move the motion?

**Ms. Lindsey Park:** I move that subsection 7(1) of schedule 16 to the bill be amended by striking out “if the individual demonstrates, in accordance with the rules, that he or she meets” and substituting “if the individual applies in accordance with the rules and meets”.

1550

**The Chair (Mr. Roman Baber):** Thank you. Any debate? Seeing none, are members—oh, sorry. Ms. Park.

**Ms. Lindsey Park:** I will just make a personal interjection. I have a strong preference for legislation to be drafted in a way that doesn't reference any gender, and this motion happens to achieve that. I think it would be great if we saw more legislation drafted this way. Thank you, Chair.

**The Chair (Mr. Roman Baber):** Thank you very much. Further debate? Are members prepared to vote on government motion number 48? Are members ready to vote? All those in favour of government motion number 48? All those opposed? I declare the motion carried.

Members, I'm observing the room and I'm observing video, and I believe that perhaps a short break may be in order. I'm still confident and optimistic that we will conclude clause-by-clause today, and that is my intention, but I think everyone deserves a short break. I recommend that we recess until 4 o'clock. Thank you.

*The committee recessed from 1552 to 1603.*

**The Chair (Mr. Roman Baber):** The Standing Committee on Justice Policy will come to order. We'll resume clause-by-clause of Bill 161, An Act to enact the Legal Aid Services Act, 2019.

We left off on section 7 to schedule 16, as amended. Any debate? Seeing none—

**Ms. Lindsey Park:** Will's not there yet.

**Mr. Gurratan Singh:** He's coming in now.

**Ms. Lindsey Park:** I propose we wait until Will arrives.

**The Chair (Mr. Roman Baber):** So members are not ready to vote. Any debate on section 38?

We're just going to vet MPP Bouma, who is joining us. Mr. Bouma, we're having difficulty understanding where you are now. You will have to identify that for us.

**Mr. Will Bouma:** I'm back in my office at the Whitney Block. Thank you, Mr. Chair.

**The Chair (Mr. Roman Baber):** Thank you. Are members ready to vote on section 7 to schedule 16, as amended? All those in favour? All those opposed? I declare this section, as amended, carried.

Section 8 to section 16 to schedule 16 do not have any proposed amendments. I therefore propose that I bundle them together for consideration. Is it the will of the committee that I bundle them together? Any debate on sections 8 to 16 to schedule 16? Seeing none, are members ready to vote? Shall section 8 through section 16 to schedule 16 carry? All those in favour? All those opposed? I declare section 8 through section 16 to schedule 16 carried.

We'll now proceed to consider section 17. I understand there's a government motion pending, motion number 49.

**Ms. Lindsey Park:** I move that paragraph 1 of subsection 17(2) of schedule 16 to the bill be amended by adding the following subparagraphs:

“0.i promote access to justice,

“ii.1 be responsive to the needs of low-income individuals and disadvantaged communities in Ontario,”

**The Chair (Mr. Roman Baber):** Any debate? Mr. Singh.

**Mr. Gurratan Singh:** With respect to 49, once again just to put it on the record, it is our hope that “access to justice” and these terms like “low-income individuals” being put in the purposes section is to ensure that the piece of legislation is inspired and driven by these values.

**The Chair (Mr. Roman Baber):** Ms. Park.

**Ms. Lindsey Park:** I share the words “inspired” and “driven by.” I think that's another good way to describe it, and I would suggest that including these purposes in the objects of a corporation—and “objects,” to me, mean core function. Objects are often even listed in articles of incorporation that form a corporation and are core to their functionality.

**The Chair (Mr. Roman Baber):** Further debate? Are members ready to vote on government motion number 49? All those in favour of government motion number 49? All those opposed? I declare the motion carried.

We will now consider section 17 to schedule 16, as amended. Any debate? Seeing none, shall section 17 to schedule 16, as amended, carry? All those in favour? All those opposed? I declare section 17 to schedule 16, as amended, carried.

Sections 18 to 20 to schedule 16 do not have any proposed amendments. Is it the will of the committee that I bundle them together for consideration? Any debate with respect to sections 18 through 20 to schedule 16? Seeing none, are members ready to vote on sections 18 through 20 to schedule 16, inclusive? All those in favour? All those opposed? I declare sections 18 through 20 to schedule 16 carried.

1610

We will now consider section 21. I understand that there is a government motion pending, being motion number 50. Ms. Park.

**Ms. Lindsey Park:** I move that subsections 21(2) and (3) of schedule 16 to the bill be struck out and the following substituted:

“Composition

“(2) The board shall be composed of 11 persons appointed for a specified term by the Lieutenant Governor in Council on the recommendation of the minister.

“Same

“(3) Five of the persons appointed under subsection (2) shall be selected by the minister from a list of persons recommended by the Law Society of Ontario.”

**The Chair (Mr. Roman Baber):** Any debate? Seeing none, are members ready to vote on government motion number 50? All those in favour? All those opposed? I declare the motion carried.

I understand that there is a pending motion, number 51, by the independent member.

**M<sup>me</sup> Lucille Collard:** I withdraw the motion. Thank you.

**The Chair (Mr. Roman Baber):** Thank you.

I understand that there is a further motion by the opposition, being motion number 52.

**Mr. Gurratan Singh:** I move that paragraph 1 of subsection 21(3) of schedule 16 to the bill be amended by striking out “At least three but no more than” at the beginning.

**The Chair (Mr. Roman Baber):** I must rule this amendment out of order because the committee has already made a decision and voted on the content of subsection 21(3) of schedule 16 to the bill. It has been amended, so the motion is obsolete and out of order.

I understand that there is a further motion, number 53, by the official opposition.

**Mr. Gurratan Singh:** I move that subsection 21(3) of schedule 16 to the bill be amended by adding the following paragraph:

“3. The Attorney General shall ensure that the board as a whole has knowledge, skills and experience in the operation of clinics.”

**The Chair (Mr. Roman Baber):** Unfortunately, that motion is also out of order in view of the passage of government motion number 50.

We will now proceed to consider section 21 to schedule 16, as amended—

*Interjection.*

**The Chair (Mr. Roman Baber):** There is a government motion, number 54, which is the final motion dealing with section 21. Ms. Park, would you like to move the motion?

**Ms. Lindsey Park:** I move that section 21 of schedule 16 to the bill be amended by adding the following subsection:

“Vacancies

“(6.1) If there are one or more vacancies on the board, the remaining members may exercise all the powers of the board if they would constitute a quorum of the fully constituted board.”

**The Chair (Mr. Roman Baber):** Any debate on government motion 54? Seeing none, are members ready to vote? All those in favour of government motion 54? All those opposed? I declare the motion carried.

We will now proceed to consider section 21 to schedule 16, as amended. Any debate? Seeing none, are members ready to vote on section 21 to schedule 16, as amended? All those in favour? All those opposed? I declare section 21, as amended, carried.

Sections 22 through 45 of schedule 16 have no proposed amendments. Is it the will of the committee that I bundle them together for consideration? Thank you. Any debate with respect to sections 22 through 45? Seeing none, are members ready to vote on sections 22 through 45, inclusive, to schedule 16? All those in favour? All those opposed? I declare sections 22 through 45 to schedule 16 carried.

We will now consider section 46 to schedule 16. I understand that there is a government motion, number 55. Ms. Park.

**Ms. Lindsey Park:** I move that subsection 46(3) of schedule 16 to the bill be amended by striking out “14” wherever it appears and substituting in each case “30”.

**The Chair (Mr. Roman Baber):** Any debate on government motion number 55? Seeing none, are members ready to vote on government motion number 55? All those in favour? All those opposed? I declare the motion carried.

We will now consider section 46 to schedule 16, as amended. Any debate? Seeing none, are members ready to vote on section 46 to schedule 16, as amended? All those in favour? All those opposed? I declare section 46, as amended, carried.

Sections 47 and 48 do not have any proposed amendments. Is it the will of the committee that I bundle them together? Any debate on sections 47 through 48 to schedule 16? Seeing none, are members ready to vote on section 47 and section 48? Shall section 47 and section 48 carry? All those in favour? All those opposed? I declare sections 47 and 48 carried.

We now proceed to consider an independent amendment, amendment number 56. Madame Collard.

**M<sup>me</sup> Lucille Collard:** I’ll withdraw the motion. Thank you.

**1620**

**The Chair (Mr. Roman Baber):** Thank you.

Sections 49 through 61 do not have any proposed amendments. Is it the will of the committee that I bundle them together for consideration? Thank you.

Any debate on sections 49 through 61, inclusive? Seeing none, are members ready to vote on sections 49 through 61 to schedule 16, inclusive? All those in favour? All those opposed? I declare sections 49 through 61 to schedule 16 carried.

We will now consider schedule 16, as amended, as a whole. Any debate? Are members ready to vote on schedule 16, as amended, as a whole? Shall schedule 16 as a whole, as amended, carry? All those in favour? All those opposed? I declare schedule 16, as amended, as a whole, carried.

Okay. We’ll move on to schedule 17. Sections 1 through 3 of schedule 17 have no proposed amendments. Is it the will of the committee that I bundle them together for consideration? Thank you.

Any debate with respect to sections 1 through 3 to schedule 17? Seeing none, are members prepared to vote on sections 1 through 3 to schedule 17? All those in favour? All those opposed? I declare sections 1 through 3 to schedule 17 carried.

We will now consider schedule 17 as a whole. Any debate? Seeing none, are members ready to vote on schedule 17 as a whole? Thank you. Shall schedule 17 as a whole carry? All those in favour? All those opposed? I declare schedule 17 as a whole carried.

We now proceed to schedule 18. Sections 1 through 7 of schedule 18 do not have any proposed amendments. Is

it the will of the committee that I bundle them together for consideration? Thank you.

Any debate with respect to sections 1 through 7 to schedule 18? Seeing none, are members prepared to vote on sections 1 through 7 of schedule 18? Shall sections 1 through 7 of schedule 18 carry? All those in favour? All those opposed? I declare section 1 through section 7 to schedule 18 carried.

We will now proceed to consider section 8 to schedule 18. I understand that there is a government motion pending, being government motion number 57. Ms. Park.

**Ms. Lindsey Park:** I move that section 8 of schedule 18 to the bill be struck out and the following substituted:

“Commencement

“8. This schedule comes into force three months after the day the Smarter and Stronger Justice Act, 2019 receives royal assent.”

**The Chair (Mr. Roman Baber):** Any debate? Seeing none, are members ready to vote on government motion number 57? All those in favour of government motion number 57? All those opposed? I declare motion 57 carried.

We will now proceed to consider section 8 to schedule 18, as amended. Any debate? Are members ready to vote on section 8, as amended? Shall section 8 to schedule 18, as amended, carry? All those in favour? All those opposed? I declare section 8, as amended, carried.

We will now consider schedule 18 as a whole, as amended. Any debate? Seeing none, are members ready to vote on schedule 18 as a whole, as amended? Shall schedule 18 as a whole, as amended, carry? All those in favour? All those opposed? I declare schedule 18 as a whole, as amended, carried.

By way of an alert to the members, I understand that there is a notice from the government seeking to vote against schedule 19 to the bill because of prior passage of comparable legislation. However, the process still requires us to look at the sections individually before we do so.

So we will now consider section 1 through section 7 of schedule 19. Any debate? Seeing none, are members ready to vote on section 1 through section 7 to schedule 19? Should section 1 through section 7 to schedule 19 carry? All those in favour? All those opposed? I declare section 1 through section 7 to schedule 19 lost.

1630

We will proceed to vote on schedule 19 as a whole, and I do have government notice regarding schedule 19. Any debate? Are members ready to vote on schedule 19 as a whole? Should schedule 19, as a whole, carry? All those in favour? All those opposed? I declare schedule 19 lost.

We’re going to proceed with schedule 20. I see no amendments proposed to schedule 20. Is it the will of the committee that I bundle sections 1 through 3 to schedule 20 for consideration by the committee? Any debate on sections 1 through 3, inclusive, to schedule 20? Seeing no debate, are members ready to vote on sections 1 through 3 to schedule 20? Shall sections 1 through 3 to schedule 20 carry? All those in favour? All those opposed? I declare sections 1 through 3 to schedule 20 carried.

We will now consider schedule 20 as a whole. Any debate on schedule 20? Are members ready to vote on schedule 20 as a whole? Shall schedule 20, as a whole, carry? All those in favour? All those opposed? I declare schedule 20, as a whole, carried.

We return to sections 1 through 3 of the bill. We will now consider section 1 to the bill. Any debate? Are members ready to vote on section 1 to the bill? Shall section 1 carry? All those in favour? All those opposed? I declare section 1 carried.

We will now consider section 2. Any debate on section 2 of the bill? Seeing none, are members ready to vote on section 2 of the bill? Shall section 2 of the bill carry? All those in favour? All those opposed? I declare section 2 to the bill carried.

We will now consider section 3, respecting the short title of the bill. Any debate? Seeing none, are members ready to vote on section 3 of the bill? Shall section 3 of the bill carry? All those in favour? All those opposed? I declare section 3 carried.

We will now consider the title of the bill. Any debate on the title of the bill? Are members ready to vote on the title of the bill? Shall the title of the bill carry? All those in favour? All those opposed? I declare the title of the bill carried.

We will now consider the bill as a whole, as amended. Any debate with respect to the bill as a whole, as amended? Mr. Singh.

**Mr. Gurratan Singh:** As we outlined before and as we continue to make mention to, the bill, as amended, still holds serious concerns with respect to access to justice, with respect to ensuring that class actions can go forward without being subjected to a higher standard of predominance and superiority si

milar to American models. We still see that the issues outlined by the law commission are still present.

Those concerns still exist, despite the amendments being made. It’s something that stakeholders have brought forward. It’s something that different legal aid clinics have brought forward. We heard in committee a lot of concern around these different issues, so I would ask the government to reconsider its approach on these criticisms that have been brought forward, to ensure that we can protect access to justice in our province.

**The Chair (Mr. Roman Baber):** Further debate on Bill 161 as a whole, as amended? Seeing none, are members prepared to vote on the bill as a whole, as amended? Shall Bill 161—

*Interjection.*

**The Chair (Mr. Roman Baber):** Sorry?

**Mr. Gurratan Singh:** A moment’s indulgence?

**The Chair (Mr. Roman Baber):** Sure.

**Mr. Gurratan Singh:** Recorded vote.

**The Chair (Mr. Roman Baber):** Okay. With members prepared to vote and a recorded vote being sought, shall Bill 161, as amended, as a whole, carry?

**Ayes**

Bouma, Gill, Pang, Park, Tangri, Triantafilopoulos.

**Nays**

Collard, Morrison, Rakocevic, Gurratan Singh.

**The Chair (Mr. Roman Baber):** I declare Bill 161, as a whole, as amended, carried.

Finally, I'd like to inquire from the committee if I shall report the bill, as amended, to the House. Any debate? Are

members ready to vote as to whether I shall report the bill to the House? Shall I report the bill, as amended, to the House? All those in favour? All those opposed? It's carried.

Members, thank you very much. It's been an interesting exercise and a good debate. I'm very, very grateful to you for your co-operation and your decorum and your indulgence.

Seeing no further business, I will hereby adjourn the committee. Thank you.

*The committee adjourned at 1640.*







## **STANDING COMMITTEE ON JUSTICE POLICY**

### **Chair / Président**

Mr. Roman Baber (York Centre / York-Centre PC)

### **Vice-Chair / Vice-Présidente**

Ms. Effie J. Triantafilopoulos (Oakville North–Burlington / Oakville-Nord–Burlington PC)

Mr. Roman Baber (York Centre / York-Centre PC)

Mr. Will Bouma (Brantford–Brant PC)

M<sup>me</sup> Lucille Collard (Ottawa–Vanier L)

Mr. Parm Gill (Milton PC)

Ms. Natalia Kusendova (Mississauga Centre / Mississauga-Centre PC)

Ms. Suze Morrison (Toronto Centre / Toronto-Centre ND)

Ms. Lindsey Park (Durham PC)

Mr. Gurratan Singh (Brampton East / Brampton-Est ND)

Mrs. Nina Tangri (Mississauga–Streetsville PC)

Ms. Effie J. Triantafilopoulos (Oakville North–Burlington / Oakville-Nord–Burlington PC)

Mr. Kevin Yarde (Brampton North / Brampton-Nord ND)

### **Substitutions / Membres remplaçants**

Mr. Billy Pang (Markham–Unionville PC)

Mr. Tom Rakocevic (Humber River–Black Creek ND)

### **Clerk / Greffier**

Mr. Christopher Tyrell

### **Staff / Personnel**

Ms. Tamara Kuzyk, legislative counsel