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Standing Committee on Justice Policy

Enhancing Access to Justice
Act, 2024

1st Session
43rd Parliament

Wednesday 28 February 2024

Comité permanent de la justice

Loi de 2024 visant à améliorer
l'accès à la justice

1^{re} session
43^e législature

Mercredi 28 février 2024

Chair: Goldie Ghamari
Clerk: Thushitha Kobikrishna

Présidente : Goldie Ghamari
Greffière : Thushitha Kobikrishna

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE POLICY

COMITÉ PERMANENT DE LA JUSTICE

Wednesday 28 February 2024

Mercredi 28 février 2024

The committee met at 0900 in committee room 2.

ENHANCING ACCESS TO JUSTICE ACT, 2024 LOI DE 2024 VISANT À AMÉLIORER L'ACCÈS À LA JUSTICE

Consideration of the following bill:

Bill 157, An Act to amend various Acts in relation to the courts and other justice matters / Projet de loi 157, Loi modifiant diverses lois en ce qui concerne les tribunaux et d'autres questions relatives à la justice.

The Chair (Ms. Goldie Ghamari): Good morning, everyone. The Standing Committee on Justice Policy will now come to order.

We are here to conduct clause-by-clause consideration of Bill 157, An Act to amend various Acts in relation to the courts and other justice matters.

Please wait until I recognize you before starting to speak. As always, all comments should go through the Chair. Are there any questions before we begin?

Are there any comments or questions on any section or schedule of the bill, and if so, to which section?

We will now begin clause-by-clause consideration of the bill.

Bill 157 is comprised of three sections which enact 19 schedules. To deal with the bill in an orderly fashion, I suggest we postpone these three sections to dispose of the schedules first. Is there agreement? Thank you.

We'll now turn to schedule 1. There are no amendments to sections 1 to 18 of schedule 1. Does the committee agree to bundle them? Thank you. Is there any debate on sections 1 to 18 of schedule 1? Are members prepared to vote? Shall schedule 1, sections 1 to 18, carry? All those in favour? All those opposed? I declare schedule 1, sections 1 to 18, carried.

Turning now to schedule 1, section 18.1: Who would like to move motion number 0.1? MPP Wong-Tam.

MPP Kristyn Wong-Tam: I would like to move this motion.

I move that schedule 1 of the bill be amended by adding the following section:

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

“Enhancing Access to Justice Act, 2023

“55. (1) The Ministry of the Attorney General shall hold consultations with the following groups no later than 30 days after the day the Enhancing Access to Justice Act, 2023 receives royal assent:

“1. The Ontario Architects Association.

“2. The Association of Architectural Technologists of Ontario.

“3. Any other groups the ministry considers it appropriate to consult with.

“Same

“(2) The ministry shall file a report with the Standing Committee on Justice Policy setting out the content and conclusions of the consultations no later than 30 days after completing the consultations referred to in subsection (1).

“Same

“(3) No later than 30 days after it receives the report referred to in subsection (2), the standing committee shall provide recommendations to the ministry regarding whether schedule 1 of the Enhancing Access to Justice Act, 2023 should come into force.

“Same

“(4) No later than 30 days after it receives the recommendations referred to in subsection (3), the ministry shall provide recommendations to the Lieutenant Governor regarding whether schedule 1 of the Enhancing Access to Justice Act, 2023 should come into force.”

The Chair (Ms. Goldie Ghamari): MPP Wong-Tam has moved motion 0.1.

Is there any debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: This committee has obviously heard from a number of deputants. We had two great and very productive days of hearing about deputations. I think we have also heard that there were a number of concerns raised by the architectural technologists of Ontario, namely, number one, that they were never consulted about a schedule in a bill that directly impacts their membership and the way they conduct their business as a regulator.

Through schedule 1, we were hoping that the government members would agree that instead of hastily moving forward, we should pull back and allow for some further consultation, in this case initiating consultation with the AATO, so that they can be brought forward to the ministry, as well as the Ontario Architects Association, so that they can hear each other out. There may be other stakeholders that may want to have a say in the matter, but we will leave that to the minister himself and the ministry staff to determine who that would be.

It's very clear that the Attorney General did not consult with the AATO. In my conversations with the OAA, I asked them directly, “Would you be open to further con-

sultation?” And they directly said to me, “Yes, there’s always room for dialogue.” So I don’t think it would be prudent and wise of us to rush ahead when, clearly, there’s a conflict that we want to see resolved, and it would probably be best resolved by just giving these parties more time to come together to speak about their concerns.

I also want to mention, Chair, that we don’t want to set a precedent in this case, where we have the Ontario Architects Association who have gone ahead and carried out business outside the scope of their title. In this case, that’s exactly what has happened. The AATO was forced to go to court to resolve the matter, and the court settlement and the ruling actually ruled in their favour.

By the way the schedule is framed right now, not only is the Attorney General sidelining what I think is an important settlement, they’re also effectively sidelining the AATO. It’s like, on two occasions, they’ve now been bruised and sidelined, and I think that’s just wholly unfair. So we’re hoping to resolve that, Madam Chair, and give everybody more time to come to a better resolution.

The Chair (Ms. Goldie Ghamari): Is there further debate? MPP Saunderson.

Mr. Brian Saunderson: I will be opposing the amendment. The thrust of the hearing was the issue of the missing middle for the architectural technologists that were members of the OAA, and we heard about their enhanced scope.

These two associations aren’t mutually exclusive, but having membership with the OAA is fundamentally different, and the thrust of this legislation is to solve that issue. So I applaud the parties getting together for further consultation and I think that will be necessary, but it’s going to delay, and it’s not changing the important schedule 1, in my opinion.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Collard.

M^{me} Lucille Collard: Yes, I just want to voice my support. I would have thought about including in the legislation a consultation obligation. I think, given the context and the lack of consultations for one of those two institutions, it might bring some peace if the ministry were to follow through on that. So I’ll support the motion.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: The AATO has been the regulator of architectural technologists since 1969. This is an organization that has, I would say, largely demonstrated its worth. It is well respected and regarded. As far as I can tell, the only thing that they have going against them is that they have the OAA that continues to broaden its scope and tries to raid them. I’m going to just use that language, because I think we want to be able—we’re not going to be able to resolve all their differences. I just think it would be grossly unfair, after they received a court ruling and then a settlement that ruled in their favour and the court specifically said the OAA had been issuing illegal licences. I want to be very clear that’s what is at stake here: that the court had actually ruled against the OAA, and this government is putting forth legislation that excluded consultation

with the AATO and then is rewarding the OAA for bad behaviour.

Now, I don’t know in what other arena we would want to be able to reward bad behaviour. This would also mean that there might be other professional associations—if they step out of scope, if they start doing things that are illegal and outside of their mandate, will this government continue setting a precedent, furthering a precedent of rewarding bad behaviour? I don’t think that’s good government. I don’t think that’s what the residents of Ontario would expect from a good and honest government, and I really urge that the government members reconsider their position.

The request is simply this: Give everyone more time to come together. The AATO has been entirely sidelined. This is a schedule that appeared—when they found out, we found out. So they were not consulted despite the fact that they had a very strong court ruling in their favour. It is not their fault, and yet this government is penalizing them.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Saunderson.

Mr. Brian Saunderson: I think we need to be clear on the numbers and the scope of the issue here. There are many thousands of architectural technologists and 150 of those were members of the OAA and about 850 of them were members of the technologists’ college. So there are several thousands that are practising without registration in either, because they’re sheltering under a registered architects licence. So to me, it makes sense to have the Ontario Architectural Association governing the body because the majority of them work in that sector.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: One third of the OAA’s architectural technologists are already and also AATO members. And right after the legal settlement, AATO directly offered to grandparent everyone else that was licensed under the OAA—illegally licensed under the OAA. So as far as I see it, Madam Chair, they’ve already offered a solution, a very elegant and immediate solution so that people can continue to practise.

It is misleading for the government members to suggest that somehow the AATO doesn’t have a role in this. They have been the regulator since 1969, and they’ve done nothing wrong according to the judicial outcome.

This will now set up two licensing bodies, which I would deem as “red tape.” It will become more costly and cumbersome and confusing, and I don’t think it needs to take place. There is absolutely no reason. I have not heard a single reason that’s legitimate on why consultation cannot happen involving the AATO, who has been entirely in the right here. They’ve done absolutely nothing wrong, and this government is punishing them.

0910

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? MPP Wong-Tam has moved motion number 0.1. All those in favour? All those opposed? I declare the motion lost.

MPP Kristyn Wong-Tam: Recorded vote.

The Chair (Ms. Goldie Ghamari): Sorry, it's too late.

Turning now to schedule 1, sections 19 and 20: There are no amendments. Does the committee agree to bundle them? Thank you. Is there any debate on schedule 1, sections 19 to 20? Are members prepared to vote? All those in favour, please raise your hands. All those opposed? I declare sections 19 and 20 of schedule 1 carried.

Turning now to schedule 1, section 21, I have NDP motion number 0.2. Who would like to move this motion? MPP Wong-Tam.

MPP Kristyn Wong-Tam: Thank you very much, Chair, and if I can just ask for a recorded vote on all the motions moving forward as we deal with each item.

The Chair (Ms. Goldie Ghamari): Yes, all right. Okay, we can do a recorded vote for every single one.

MPP Kristyn Wong-Tam: Thank you very much.

I so move this additional motion.

I move that section 21 of schedule 1 to the bill be struck out and the following substituted:

“Commencement

“21. This schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.”

The Chair (Ms. Goldie Ghamari): MPP Wong-Tam has moved motion number 0.2. Is there any debate? No? Okay. Are members prepared to vote?

A recorded vote has been requested. Should motion number 0.2 carry?

Ayes

Mamakwa, Stevens, Wong-Tam.

Nays

Bailey, Coe, Dixon, Hogarth, Sabawy, Saunderson.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to schedule 1, section 21: There are no amendments. Is there any debate? Are members prepared to vote? Shall schedule 1, section 21 carry? All those in favour? All those opposed? I declare schedule 1, section 21 carried.

Turning to schedule 1: Shall schedule 1 carry? All those in favour? All those opposed? I declare schedule 1 carried.

Turning now to schedule 2: There are no amendments to sections 1 to 4 of schedule 2. Does the committee agree to bundle them? Thank you. Is there any debate on sections 1 to 4 of schedule 2? No. Are committee members prepared to vote? Shall schedule 2, sections 1 to 4, carry? All those in favour? All those opposed? I declare sections 1 to 4 of schedule 2 carried.

Shall schedule 2 carry? All those in favour? All those opposed? I declare schedule 2 carried.

Turning now to schedule 3: There are no amendments. I propose we bundle sections 1 to 3. Is there agreement from the committee? Thank you. Is there any debate on

sections 1 to 3 of schedule 3? Are members prepared to vote? Shall sections 1 to 3 of schedule 3 carry? All those in favour? All those opposed? I declare sections 1 to 3 of schedule 3 carried.

Shall schedule 3 carry? All those in favour? All those opposed? I declare schedule 3 carried.

Turning now to schedule 4: There are no amendments to sections 1 to 3 of schedule 4. I propose we bundle them. Shall sections 1 to 3 of schedule 4 carry? All those in favour? All those opposed? I declare sections 1 to 3 of schedule 4 carried.

Turning now to schedule 4, section 4, we have government motion number 1. MPP Hogarth.

Ms. Christine Hogarth: I'm happy to read this. I'll take a deep breath.

I move that section 4 of schedule 4 to the bill be struck out and the following substituted:

4. Section 207, subsection (1), subsection (4) “of the act are repealed and the following substituted:

“Expunging of record

“(1) A chief of police shall expunge—

The Chair (Ms. Goldie Ghamari): Sorry, MPP Hogarth. Can you please repeat from “Subsections 207”? You said, “(1) and (4),” not “(1) to (4).”

Ms. Christine Hogarth: Okay.

“Subsections 207(1) to (4) of the act are repealed and the following substituted:

“Expunging of record

“(1) A chief of police shall expunge an entry made in a police officer's employment record respecting a disciplinary measure two years after the day the disciplinary measure was imposed if,

“(a) the disciplinary measure is described in paragraph 2, 3, 4, 5 or 6 of subsection 200(1); and

“(b) no other entries relating to disciplinary measures were entered into the officer's employment record in the two years following that day.

“Same

“(2) A chief of police shall expunge an entry made in a police officer's employment record respecting a disciplinary measure five years after the day the disciplinary measure was imposed if,

“(a) the disciplinary measure is described in paragraph 1 of subsection 200(1); and

“(b) no other entries relating to disciplinary measures were entered into the officer's employment record in the five years following that day.

“Extension

“(3) Despite subsections (1) and (2), a record of a disciplinary measure that is described in paragraph 1 or 3 of subsection 200(1) may be retained in a police officer's employment record for longer than two years or five years, as applicable, if,

“(a) the officer consents to the extension; or

“(b) the adjudicator orders that the period be extended after conducting a hearing under this section.

“Hearing

“(4) A chief of police may apply to the commission chair to appoint an adjudicator to hold a hearing for the purpose of determining whether a record described in subsection (3) should be retained for longer than two years or five years, as applicable, as a result of extenuating circumstances.

“Application timing

“(4.1) An application under subsection (4) must be made within the prescribed period, if such a period has been prescribed.

“Appointment of adjudicator

“(4.2) The commission chair shall appoint an adjudicator within 30 days after the day the application was received, except in exceptional circumstances.”

The Chair (Ms. Goldie Ghamari): MPP Hogarth has moved government motion number 1. Is there any debate? MPP Hogarth.

Ms. Christine Hogarth: This is fixing some technical mistakes, and it’s also some clarification in the French translation.

The Chair (Ms. Goldie Ghamari): Is there any further debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: Madam Chair, I want to just recognize that this motion is out of scope of the bill.

The Chair (Ms. Goldie Ghamari): That’s to be determined by the Chair. It’s not out of scope.

Is there any further debate? MPP Collard.

M^{me} Lucille Collard: Yes. I would just like some information to understand the rationale of it. It looks like it was five years. Now we’re moving down to two years to expunge the record for disciplinary measures. I’m just wondering if anyone knows what the standard is elsewhere about expunging records for disciplinary measures. Are we following something that’s standard? Would anyone from the government side know the rationale for that?

The Chair (Ms. Goldie Ghamari): Is there further debate?

Ms. Christine Hogarth: On the changes? Is there someone from the Solicitor General’s office here who can help answer that?

The Chair (Ms. Goldie Ghamari): There are people on Zoom who might be able to answer.

Ms. Christine Hogarth: Perhaps someone from the Solicitor General’s office can—

The Chair (Ms. Goldie Ghamari): Is there someone from the Solicitor General’s office on Zoom?

Interjection.

Ms. Christine Hogarth: Oh, there he is right there.

Mr. Brian Sanderson: Perfect timing.

Ms. Christine Hogarth: Perfect timing. Maybe the Solicitor General’s office [*inaudible*]. You’ll have to repeat your question.

The Chair (Ms. Goldie Ghamari): Yes, you can come up and speak to the motion. Someone had a question about a motion.

Mr. Oleksandr Shvets: Sure. Is the motion the first one?

The Chair (Ms. Goldie Ghamari): If you come sit down, she will just repeat the question. We just need you at the—

Interjection.

0920

The Chair (Ms. Goldie Ghamari): No, we need you at the microphone.

Interjection.

The Chair (Ms. Goldie Ghamari): I need you at the microphone. Thank you.

She will just repeat the question, and then you can answer. Please state your name for the record before you begin.

Mr. Oleksandr Shvets: Oleksandr Shvets.

The Chair (Ms. Goldie Ghamari): Thank you.

What was your question, MPP Collard?

M^{me} Lucille Collard: Thank you, Madam Chair, for indulging.

The changes bringing expunging of records after two years for the disciplinary measures—my question is, what are the standards elsewhere? It was five years before that was proposed. Now we’re moving it down to two years. I’m just wondering where that was taken from. What’s the rationale for having two years? Is that because it’s a standard that’s applied elsewhere in human resources or in employment regulations or legislation?

Mr. Oleksandr Shvets: I believe so, yes, but I would direct this question to the strategic policy department of the Ministry of the Solicitor General. If you could put this question in writing and send it to them, I think you would get a more direct response.

M^{me} Lucille Collard: The reason I was asking that is because I do have a concern, and I will just state it to be on the record. Somebody who has had a disciplinary measure imposed, for example, under subsection (5), to get some counselling or training because they have anger management issues—they are required to entertain some training or some counselling and whatnot, so this is on their record. After two years, this gets expunged without really knowing if the person has resolved the issues. If it happens again after those two years—and presumably counselling can go for an extent of time—if the same behaviour is reoccurring, then there’s nothing on the record that shows that that was a pre-existing condition and that more stringent measures should be taken. That’s my concern.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Dixon.

Ms. Jess Dixon: I believe, in looking at this a little bit closer, what is being proposed is that the two-year period is now permissible if the officer in question has completed required tasks: for example, participating in counselling, forfeiting pay, forfeiting days, that type of thing. The five-year period still remains if there are tasks to be completed that have not been completed. There’s also still the possibility for a chief of police to keep the record for five years or for an adjudicator to order that the record be kept for five years. So it’s not an automatic switch from five down to two; it’s that two is now an option if conditions are met, if the officer is believed to have addressed the issues that led to that initial record. That is my understanding of it.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Collard.

M^{me} Lucille Collard: Except that that two years expunging of record is a “shall expunge” unless something happens, so automatically this gets erased from the record. So if something happens after the two years, there is no record of the past behaviour that could explain why this person is at that point.

I’m just concerned because police officers interact with people on a very close basis, and they are a figure of authority, so they have a lot of power. I think that they should not be subject to a lower standard, but to a higher standard. That’s why it’s important to know their past behaviour. I think two years is a very short time frame to expunge the record.

The Chair (Ms. Goldie Ghamari): MPP Dixon.

Ms. Jess Dixon: Again, I’m not an expert in this, but looking at it, this is only in relation to certain sections of the CSPA. So what I am interpreting is that these are most likely lower-grade issues, and in order for them to be expunged, the officer has to have completed whatever was required of them—whether it’s a reprimand, a cut of pay, additional counselling, that type of thing. So it’s not an open removal of any type of offence. I believe there are other offences that are still subject to the five years. As I said, the chief of police can extend it, as can an adjudicator. That’s my understanding—that this is limited in scope.

The Chair (Ms. Goldie Ghamari): Is there further debate? Are members prepared to vote?

Shall motion number 1 carry? All those in favour? MPP Wong-Tam has requested to have recorded votes for all motions, so just keep your hand up until your name is called.

Ayes

Bailey, Coe, Dixon, Hogarth, Sabawy, Saunderson, Stevens, Wong-Tam.

The Chair (Ms. Goldie Ghamari): I declare motion number 1 carried.

Shall schedule 4, section 4, as amended, carry? All those in favour? All those opposed? I declare schedule 4, section 4, as amended, carried.

Turning now to government motion number 2 and schedule 1, section 4.1: Who would like to move this motion, government motion number 2? MPP Hogarth.

Ms. Christine Hogarth: Sure.

I move that section 4.1 be added to schedule 4 to the bill: “4.1(1) Paragraph 5 of subsection 220(1) of the act is repealed.

“(2) Subsection 220(2) of the act is amended by striking out ‘conflict of interest in respect of labour relations matters’ at the end and substituting ‘conflict of interest in engaging in or assisting with collective bargaining’.”

The Chair (Ms. Goldie Ghamari): Committee members, the proposed amendment is out of order because it seeks to amend a section of the Community Safety and Policing Act, 2019 that is not before the committee. As Bosc and Gagnon note on page 771 of the third edition of House of Commons Procedure and Practice, “an amendment is inadmissible if it proposes to amend a statute that

is not before the committee or a section of the parent act, unless the latter is specifically amended by a clause of the bill.”

The motion is out of order unless there is unanimous consent from the committee to bring it forward. Is there unanimous consent from the committee?

MPP Kristyn Wong-Tam: Madam Speaker, I just want to note that we are in support of bringing this particular motion forward—

The Chair (Ms. Goldie Ghamari): Yes, so I need unanimous consent in order to bring it forward.

MPP Kristyn Wong-Tam: Yes, and I’m just saying, yes, we are in agreement.

The Chair (Ms. Goldie Ghamari): Okay, thank you. We can debate it after, though, but I just have to—yes, thank you.

Okay, there is unanimous consent to bring this motion forward, so regarding government motion number 2, we can now debate it. Is there any debate? MPP Hogarth.

Ms. Christine Hogarth: The proposed amendment would narrow the class of individuals to be excluded from membership in a police association due to a likely conflict of interest arising out of being employed in a confidential capacity in relation to engaging in or assisting with collective bargaining. The proposed amendment to the text in section 220(2) places the focus on likely conflicts of interest arising from engaging in or assisting with collective bargaining rather than labour relations matters more broadly. Repealing of paragraph 5 and narrowing the type of conflict of interest that would result in exclusion from membership in the police association may reduce disputes over whether certain individuals meet the criteria for exclusion that would require the matter to be determined by an arbitrator appointed by the chair of the Ontario Police Arbitration Adjudication Commission, also known as the OPAAC.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: Thank you very much, Madam Speaker—sorry; Madam Chair.

The Chair (Ms. Goldie Ghamari): That’s okay. You can call me “Speaker.” It’s fine. I’ll take it.

MPP Kristyn Wong-Tam: I apologize. I’m just fighting off a cold.

I just want to, number one, acknowledge that we agree to this motion even if it’s out of scope. It’s important that we are able to address matters that are urgent and before us right now. We did provide unanimous consent, although oftentimes the government may not always return the favour or the courtesy.

The Chair (Ms. Goldie Ghamari): Let’s just focus on the motion.

MPP Kristyn Wong-Tam: Yes. Thank you, Chair.

I want to also just say that we are in support of this motion. This motion creates that new section that’s technically out of scope, which we now agree that we can deal with. It changes the language in a subclause provision from “labour relations matters” to “engaging in or assisting with collective bargaining.” This, actually, to me, is

technical and inconsequential to the larger public, but internally, I think it makes a huge difference for the police association and it further protects the bargaining rights, which, of course, our party will always be in support of.

0930

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall government motion number 2 carry?

Ayes

Bailey, Coe, Collard, Dixon, Hogarth, Sabawy, Saunderson, Stevens, Wong-Tam.

The Chair (Ms. Goldie Ghamari): I declare motion number 2 carried.

Turning now to schedule 1, section 4.1: Shall it carry? All those in favour? All those opposed? I declare schedule 1, section 4.1 carried.

There are no amendments to sections 5 to 11 of schedule 4. Does the committee agree to bundle them together? Thank you. Is there any further debate on schedule 4, sections 5 to 11? Are members prepared to vote? All those in favour, please raise your hands. All those opposed? I declare schedule 4, sections 5 to 11, carried.

Turning now to schedule 4, section 12, we have government motion number 3. MPP Hogarth.

Ms. Christine Hogarth: I move that subsection 12(2) of schedule 4 to the bill be amended by striking out “1 to 4” and substituting “1 to 4.1”.

The Chair (Ms. Goldie Ghamari): Is there any debate? Are members prepared to vote? Shall government motion number 3 carry? All those in favour? All those opposed?

Interjection.

The Chair (Ms. Goldie Ghamari): Oh. Recorded vote. My apologies. Please keep your hands raised for the recorded vote.

Ayes

Bailey, Coe, Collard, Dixon, Hogarth, Mamakwa, Sabawy, Saunderson, Stevens, Wong-Tam.

The Chair (Ms. Goldie Ghamari): I declare government motion number 3 carried.

Turning now to schedule 4, section 12, as amended: Shall it carry? All those in favour? All those opposed? I declare schedule 4, section 12, as amended, carried.

Shall schedule 4, as amended, carry? All those in favour? All those opposed? I declare schedule 4, as amended, carried.

Turning now to schedule 5: There are no amendments to sections 1 to 4. Does the committee agree to bundle them? Shall schedule 5, sections 1 to 4, carry? All those in favour? All those opposed? I declare schedule 5, sections 1 to 4, carried.

Shall schedule 5 carry? All those in favour? All those opposed? I declare schedule 5 carried.

Turning now to schedule 6, we have NDP motion number 3.1. MPP Wong-Tam.

MPP Kristyn Wong-Tam: I move that section 1 of schedule 6 to the bill be struck out and the following substituted:

“1. Section 43 of the Courts of Justice Act is repealed and the following substituted:

“Judicial Appointments Advisory Committee

“43. (1) The committee known as the Judicial Appointments Advisory Committee in English and as Comité consultatif sur les nominations à la magistrature in French is continued.

“Composition

“(2) The committee is comprised of,

“(a) two—”

The Chair (Ms. Goldie Ghamari): Sorry; can you repeat that?

MPP Kristyn Wong-Tam: “(2) The committee is composed of,

“(a) two provincial judges, appointed by the Chief Justice of the Ontario Court of Justice;

“(b) three lawyers, one appointed by the Law Society of Ontario, one by the Canadian Bar Association-Ontario and one by the Federation of Ontario Law Associations;

“(c) seven persons who are neither judges nor lawyers, appointed by the Attorney General; and

“(d) a member of the Judicial Council, appointed by it.

“Criteria

“(3) In the appointment of members under clauses (2)(b) and (c), the importance of reflecting, in the composition of the committee as a whole, Ontario’s linguistic duality and the diversity of its population and ensuring overall gender balance shall be recognized.

“Term of office

“(4) The members hold office for three terms and may be reappointed.

“Chair

“(5) The Attorney General shall designate one of the members to chair the committee for a three-year term.

“Term of office

“(6) The same person may serve as chair for two or more terms.

“Function—”

The Chair (Ms. Goldie Ghamari): Sorry. Could you please repeat “Term of office”? You missed a word in that sentence.

MPP Kristyn Wong-Tam: Thank you, Chair.

“Term of office

“(6) The same person—

The Chair (Ms. Goldie Ghamari): No, no. The whole thing, the whole sentence, from subsection 4.

MPP Kristyn Wong-Tam: Oh, I see.

“Term of office

“(4) The members hold office for three-year terms and may be reappointed.”

The Chair (Ms. Goldie Ghamari): Thank you. You can now just continue.

MPP Kristyn Wong-Tam: Continue to cascade to number 5, or jump to 7?

The Chair (Ms. Goldie Ghamari): No, go to 5.

MPP Kristyn Wong-Tam: “Chair

“(5) The Attorney General shall designate one of the members to chair the committee for a three-year term.

“Term of office

“(6) The same person may serve as chair for two or more terms.

“Function

“(7) The function of the committee is to make recommendations to the Attorney General for the appointment of provincial judges.

“Manner of operating

“(8) The committee shall perform its function in the following manner:

“1. When a judicial vacancy occurs and the Attorney General asks the committee to make a recommendation, it shall advertise the vacancy and review all applications.

“2. For every judicial vacancy with respect to which a recommendation is requested, the committee shall give the Attorney General a ranked list of at least two candidates whom it recommends, with brief supporting reasons.

“3. The committee shall conduct the advertising and review process in accordance with criteria established by the committee, including assessment of the professional excellence, community awareness and professional characteristics—”

The Chair (Ms. Goldie Ghamari): Sorry, you have to repeat that. “And—”

MPP Kristyn Wong-Tam: “—awareness and personal characteristics of candidates and recognition of the desirability of reflecting the diversity of Ontario society in judicial appointments.

“4. The committee shall make recommendations—”

The Chair (Ms. Goldie Ghamari): You have to repeat that. It’s “may.” You said “shall” instead of “may.” Sorry; it’s just really important to read what’s there.

MPP Kristyn Wong-Tam: Thank you, Chair.

“4. The committee may make recommendations from among candidates interviewed within the preceding year, if there is not enough time for a fresh advertising and review process.

“Qualification

“(9) A candidate shall not be considered by the committee unless he or she has been a member of the bar of one of the provinces or territories of Canada for at least ten years or, for an aggregate of at least ten years, has been a member of such a bar or served as a judge anywhere in Canada after being a member of such a bar.

“Recommendation by Attorney General

“(10) The Attorney General shall recommend to the Lieutenant Governor in Council for appointment to fill a judicial vacancy only a candidate who has been recommended for that vacancy by the committee under this section.

“Rejection of list

“(11) The Attorney General may reject the committee’s recommendations and require it to provide a fresh list.

“Annual report

“(12) The committee shall prepare an annual report, provide it to the Attorney General and make it available to the public.

“Same

“(13) The committee shall include such content in the annual report as the Attorney General may require.

“Tabling of annual report

“(14) The Attorney General shall table the committee’s annual report in the assembly.

“Personal liability

“(15) No action or other proceeding for damages shall be instituted against the committee or any of its members for any act done in good faith in the execution or intended execution of any power or duty of the committee, or for any neglect or default in the exercise or performance in good faith of such power or duty.

“Crown liability

“(16) Subsection (15) does not, by reason of subsection 8(3) of the Crown Liability and Proceedings Act, 2019, relieve the crown of liability in respect of a tort committed by a person mentioned in subsection (15) to which it would otherwise be subject.”

The Chair (Ms. Goldie Ghamari): Thank you. MPP Wong-Tam has moved NDP motion 3.1. Is there any debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: This amendment will return the selection process of the Judicial Appointments Advisory Committee to how it existed before the 2021 amendments were made by this provincial government. It will return the JAAC’s manner of operations to how it existed before those amendments.

0940

In those amendments in 2021, the government increased the Attorney General’s influence over the JAAC by increasing the number of appointees selected by the Attorney General. It also increased the minimum number of judicial candidates the JAAC must provide the Attorney General, giving the Attorney General more control over who they can select to be judges in Ontario.

Chair, this issue has become, as we all know, a very contentious one. We are very proud of the justice system in Ontario. Ontarians deserve to have a justice system that they can trust, that is impartial, that is non-partisan. By way of the Attorney General’s overreach, he has politicized the justice system. The judges of Ontario should not be beholden to anyone. It doesn’t matter to me who they have supported in the past. I think it’s absolutely critical that Ontarians know that this government is going to defend their democratic institutions, and we know that the judiciary is part of the third leg of the government branch. If there is influence over the judiciary, including the politicization with blatant patronages, it will erode our democracy, and I think we can all agree that our democracy is worth fighting for.

The Attorney General has appointed individuals who have been former staff of the Premier to the Judicial Appointments Advisory Committee who were only recently registered lobbyists working on behalf of for-profit and non-profit corporations. As more and more information comes out about who the individuals are, their qualifications, I think it’s best, Chair, that we reset the clock, bring us back to the same recommendations that have guided this government for years on how judicial appointments

should take place without unnecessary overreach and power from the Attorney General.

The Chair (Ms. Goldie Ghamari): Is there any further debate? MPP Saunderson.

Mr. Brian Saunderson: I categorically reject the submissions I just heard from across the floor. Going back to the pre-2021 process will further clog our justice system and access to justice for our residents. It does not in any way compromise the independence of the judiciary. Frankly, I'm surprised at my friend's comments.

We do not want to go back to the pre-2021 model. This model will accelerate the appointment of justices by allowing the vetted candidates to be carried forward over a 12-month period, so when the advisory committee comes back for further appointments, they must consider the previously vetted candidates. It will in fact enhance transparency around candidate diversity by requiring an annual report that will review or cover the information that was voluntarily disclosed by the applicants during the application process. So there is a check and balance right there.

The independence has not been compromised in any way, and the pre-2021 system was so slow and cumbersome that it's had impacts that we're still feeling today. We're cleaning that up and this is all part of that acceleration process.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Collard.

M^{me} Lucille Collard: I welcome the proposition to improve the composition of the advisory committee. I think that it's very necessary that we keep in mind the importance of holding the judicial independence of our democracy.

I am worried by what I'm seeing, what I'm hearing from the Premier and from the Attorney General into appointing people who are like-minded. The way that the composition is crafted, it gives more influence of the government into the appointments, and that's a concern to me because it erodes the confidence of the public, of the people who appear before the courts. It impairs their confidence.

However, I think we could have gone a little bit better, like the way the JAAC functions, the committee functions at the federal level. When we're talking about increasing the speed at which we can fulfill the vacancies—they don't wait for a vacancy to happen before they actually start to work. They keep a roster of people. They interview people every so often, so they have a roster of people they can recommend on any given vacancy that occurs, and those individuals are kept on the roster for two years. Therefore, we do have qualified candidates who are readily available to fulfill vacancies, should we need.

Also, I don't see in there any opportunities for speeding up the process by allowing the committee to meet electronically. Even though that may be provided elsewhere, I don't see it in there.

So I generally support the intent of this motion—I would have liked to see a little bit better, and maybe it's on me to propose anything else.

The Chair (Ms. Goldie Ghamari): Further debate?

Ms. Jess Dixon: I just have to comment on the member opposite's characterization of judges and judicial in-

dependence, as somebody who, I think, has had far more experience appearing before judges and in courtrooms than the member opposite. What the member opposite is describing is, frankly, an appalling attack and mischaracterization of judicial independence and the role of judges in this province. The idea that judges would operate as a political animal is insulting. When they become appointed to the bench, they become adjudicators; their goal is to apply the law to the cases before them. I have never met a judge who I felt was a political animal. Frankly, I have met a number of judges whose background and career would have led me to anticipate a certain quality of decisions from them, and I have been dramatically surprised in that regard—their goal is to the law, not to a political animal. And suggesting that this will somehow lead to an American-style justice system is insulting to the people who become judges and who are judges in this province.

The Chair (Ms. Goldie Ghamari): Further debate?

MPP Kristyn Wong-Tam: I think it's important, for some clarity here—these are not words that I'm sharing simply on my own. The legal community is quite alarmed, as most members across in the government seats would know, including the federation of law associations of Ontario, which represents 46 independent legal organizations that have written a statement that calls the Premier's understanding of the judicial appointments system and the judiciary—I think “juvenile misapprehension” was the exact language, along with other words that were chosen to describe what is happening in the judiciary at this moment with respect to the politicization of the judicial appointment process; “irresponsible,” “harmful.” All of this is directed at the government for their brazen patronages.

I think it's important for us to recognize that any language and perhaps proposition from the government that this process that they're undertaking is going to somehow speed up the courts—you've had six years.

Chair, the government has had six years to fix the system. We now have the worst performance record across the country with respect to our trials. It takes five years—five years—for a case to get to trial. We're seeing an alarming number of cases, including serious offences, violent offences, being tossed out.

So if there is any proposition from the government that somehow they are fixing the problem by giving themselves more power to make political patronage appointments for people who are political Conservative donors, who are former political staffers for the Premier, who are registered lobbyists for gun American manufacturers, I just don't follow it, and I doubt very much that the legal community is following it as well.

We have to stand up for our democratic institutions. It's absolutely critical for us to do so—

Ms. Christine Hogarth: Point of order: Are we going on this political diatribe? We're debating a motion.

I think that you're far in the weeds about this. Now I'm offended.

The Chair (Ms. Goldie Ghamari): I would suggest that we stick to the content of the motion.

MPP Kristyn Wong-Tam: I regret that the member is offended, but I'm sharing the opinion of the legal community

that is extremely alarmed. I'm actually quoting their words. I'm reading the statement. I'm quoting their own words out of public statements that they have made—

The Chair (Ms. Goldie Ghamari): Yes, but those comments are not specific to this motion. We're debating the motion in front of us. Those comments you're making could be perhaps made in question period, but right now, I would ask all committee members to focus on the topic at hand, which is the motion.

0950

MPP Kristyn Wong-Tam: Thank you very much, Chair.

Moving forward, the Conservative government has given itself more control over judicial vacancies by increasing the number of recommended candidates to the Judicial Appointments Advisory Committee. It has been claiming that this is to increase the diversity in the benches, but at the same time, the Judicial Appointments Advisory Committee has not been publishing even its annual reports, which it was bound to do by legislation. We haven't seen an annual report in 2019, 2020, 2021 or 2022, and I doubt very much we're going to see one in 2023.

So, Chair, I am trying to reset the clock. I want to be able to go back to a place before there was significant tampering in our system, and I'm doing this in defence of our democratic institutions.

The Chair (Ms. Goldie Ghamari): Is there further debate, or are members—MPP Saunderson.

Mr. Brian Saunderson: I'm going to express some of the outrage that's coming across from this side of the floor, and I think there's a fundamental misapprehension by my colleague opposite about the role of the JAAC, the Judicial Appointments Advisory Committee. It is vetting all of the candidates. The only change this legislation is making is saying that rather than come out with two candidates, they're going to come out with at least six. They're still being vetted. There is an absolutely neutral appointed body that is vetting these candidates. Then, the Attorney General selects from six, as opposed to two. So where political interference is coming into this process, I don't know.

And I can tell you that I know personally one of the former heads of the JAAC in Ontario, an extremely competent civil servant, who was a deputy minister at Queen's Park. My friend, across the way, is impugning—absolutely impugning—the credibility and objectivity of the JAAC, and I find that offensive and completely uncalled for. I will not be supporting her amendment.

The Chair (Ms. Goldie Ghamari): MPP Collard.

M^{me} Lucille Collard: Just on that last comment: Just a reminder that the Attorney General has now given himself the power to reject the list that is proposed to him by JAAC to get a new list. So I guess this kind of objectivity is not on the JAAC; I think it's on the minister to get the list that he wants, until he gets the people that he wants. I think that this motion is actually trying to uphold the safeguard of judicial independence, of which the appointment selection process is a very important element. Therefore, it is very appropriate to review the way the JAAC is functioning. The JAAC was created to give that distance between the executive and the judiciary, and now we're having a composition that is now put in question.

The last point that I will make is that judicial independence is a question of perception as much as de facto. Right now, the public is raising eyebrows and even being really concerned about what they're hearing about a government not wanting to appoint any other member to the bench than people who are like-minded, who are Conservatives. So that is concerning. Again, judicial independence is not just based on fact, and I'm not disputing the independence of judges when they're appointed; I'm just saying that the public is losing confidence because of what's happening.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Mamakwa.

Mr. Sol Mamakwa: Meegwetch, Madam Chair. I know that for me, when we talk about this motion, it has an impact on people in the north. I go to jails. I visit jails. There's one in Kenora. When I go in there, I visit the people who are in there, and it's mostly people who look like me. I might see one person who looks like you.

I do the same thing in Thunder Bay, and same thing: mostly First Nations people, then, all of a sudden, you see here and there people who look like you. I think it's important to acknowledge when we talk about the impacts of when you think about “like-minded people.”

I live with oppression on a daily basis. I live with colonialism on a daily basis. I live with racism on a daily basis. I think when people get called out on it, they get very defensive. Sometimes people are not ready for change, and I think it's important that the system that's there acknowledges what it does to people.

We go after the same thing: We want better families. We want a better Ontario. We want a better Canada. We want a better society. But sometimes, we do not agree on how we get there. Just some thoughts. Meegwetch.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Saunderson.

Mr. Brian Saunderson: I want to thank my colleague for his comments over there. It's certainly an issue that we're very much aware of at MAG. We were up last winter, about a year ago, opening the Kenora courthouse, which is a Gladue courthouse, and for the appointment of an Indigenous JP in that area, so it's certainly an issue we're alive to.

And you're absolutely right: Our Indigenous representation is overrepresented in our criminal justice system and there's a lot of work to be done upstream, as well as at the court processes. The Gladue system is designed to do that and helpful to do that, to try and heal the community by dealing with the victims as well as the offenders when they come to the judicial decision. So it is something that is in play.

There are also Gladue courts in the Toronto courthouse, which recently opened last spring, and in the London courthouse, and we're working on increasing that presence of Gladue court systems around the province.

Thank you to the member for his comments.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: I just want to also point out that it's important for us to recognize that part of the rationale, the reasons the Attorney General has stated that

he needs the additional powers over the judiciary and the judicial appointments, was that he specifically said that he wanted to speed things up. If anything, things have slowed down significantly. Our courtrooms are sitting dark. We don't have enough court reporters. We don't have enough court staff—

The Chair (Ms. Goldie Ghamari): Okay, but, MPP Wong-Tam, does that speak to the scope of the motion?

MPP Kristyn Wong-Tam: It does, Chair, because—

The Chair (Ms. Goldie Ghamari): It does not, MPP Wong-Tam. It does not.

MPP Kristyn Wong-Tam: —because the government has claimed that by wanting to speed up these judicial vacancies, by having them filled—it should be noted that the judicial vacancy in Cornwall has been left unfulfilled for two years by the Attorney General—

The Chair (Ms. Goldie Ghamari): MPP Wong-Tam, again, what does that have to do with the motion in front of us?

MPP Kristyn Wong-Tam: I'm speaking specifically to the motion, because even though—

The Chair (Ms. Goldie Ghamari): No, you're not.

MPP Kristyn Wong-Tam: Even though the Attorney General needed six names, he rejected all six names from the committee—

The Chair (Ms. Goldie Ghamari): Okay, but what does that have to do with the motion?

MPP Kristyn Wong-Tam: I'm proposing that we reset it, because it's not working. It is absolutely not working.

The judicial vacancy in Cornwall has been left unfulfilled for two years. The Attorney General rejected all six of the recommendations from the JAAC committee, and so now we're still short that judge and Cornwall residents are not able to get access to justice in an expedient fashion. So why not go back to streamlining the process, so that it can work, and make sure that the annual reports that are supposed to be issued are issued? Because we haven't seen an annual report since 2019, Chair.

The Chair (Ms. Goldie Ghamari): Is there further debate? Are members prepared to vote?

Interjection: Recorded.

The Chair (Ms. Goldie Ghamari): It's a recorded vote.

Shall motion number 3.1 carry?

Ayes

Collard, Mamakwa, Stevens, Wong-Tam.

Nays

Bailey, Coe, Dixon, Hogarth, Sabawy, Saunderson.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to schedule 6, section 1: All those in favour, please raise your hands. All those opposed? I declare schedule 6, section 1 carried.

Turning now to schedule 6, section 1.1, we have NDP motion number 3.1.0.0.1. Who would like to move this motion? MPP Wong-Tam.

1000

MPP Kristyn Wong-Tam: I move that section 1.1 be added to schedule 6 to the bill:

“1.1 Section 43.1 of the act is repealed.”

The Chair (Ms. Goldie Ghamari): Committee members, the proposed amendment is out of order because it seeks to amend a section of the Courts of Justice Act that is not before the committee.

We'll now turn to schedule 6, sections 2 and 3. There are no amendments. I propose we bundle them. Shall schedule 6, sections 2 and 3, carry? All those in favour? All those opposed? I declare sections 2 and 3 of schedule 6 carried.

Turning now to schedule 6, section 3.1, we have NDP motion 3.1.0.1. Who would like to move this motion? MPP Wong-Tam.

MPP Kristyn Wong-Tam: I move that section 3.1 be added to schedule 6 to the bill:

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

“Plan to keep courtrooms open

“72.1 The Attorney General shall develop a plan to recruit, hire and retain enough trial co-ordinators, court reporters, clerks, assistants, secretaries and other court support staff to keep all available courtrooms open.”

The Chair (Ms. Goldie Ghamari): MPP Wong-Tam has moved motion 3.1.0.1. Is there any debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: This amendment would require the Attorney General to develop a strategy—a plan—to recruit, essentially, enough court-related staff to ensure that our courtrooms stay open.

I've had the opportunity, Chair, to visit the new courthouse, a beautiful facility. I worked on the project as a city councillor when I helped approve the application to get the courtroom built, but I was shocked to see that the building was sitting largely vacant on the day that I appeared. Walking through the beautiful large and stately aisles in the construction, room after room was empty. I thought maybe I was there on a holiday or perhaps they just left the doors open. I just couldn't understand why we had built this magnificent new billion-dollar courtroom and we didn't have it packed and busy, where judges and crowns and defence lawyers and all the clients were there working together to move toward justice. I was absolutely shocked.

The government's failure to properly secure resources for the courts has led to significant courtroom closures and the dismissal of serious criminal cases, many of them that are violent, due to unconstitutional delays.

During the committee, we heard from the Attorney General, who said that he wanted to address those issues at the downtown Toronto courthouse. But we have been hearing that for some time now, and I think that there needs to be a properly developed plan that will then be resourced to get to that outcome. Ontario now has the worst track record across the country with respect to wait time for trials. Over five years it takes to get to trial. It is

far too long. We want to improve that track record. We do not want to be the laggard in this country. I'd like Ontario to be the leader when it comes to judicial appointments in terms of expediency. I want our province to be the leader with respect to the administration of justice through our court system. So it needs to be fixed, and I'm proposing that this is the plan to do so. Thank you.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Saunderson.

Mr. Brian Saunderson: It's nice to know that my friend opposite went to the court for a day; I worked in the courts for 22 years. My colleague was a crown attorney for eight to 10 years. We work in the system daily.

The pandemic has had a dramatic impact on staffing around the world, across every single sector. We're seeing it in health care; we're seeing it in education. It's a massive problem. This government is investing significant amounts: \$6 million in fiscal year 2023-24 to increase full-time staff, offering full-time opportunities for part-time staff. That's on top of the previous hiring of \$72 million invested in the criminal court backlog strategy and our March 23 compensation increases for over 1,500 staff across the province.

The proposed amendment does nothing to change the reality. This is an HR issue, and it is entirely within the purview of the Attorney General's office and it will remain there. We are taking this court backlog seriously; we're aware of it. I might refer my friend to the federal courts where they passed down a ruling condemning the federal justice minister for his lack of action on appointing new justices.

This is not unique to Ontario. We have almost 40% of Canada's population. Our courts see an incredible volume of activity on a daily basis. So, maybe go back another day. We're going to continue with what we're doing.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: I regret to inform the member across that almost every day it looks the same. We're hearing from the court reporters themselves. We're hearing from trial lawyers. We are hearing from individuals, including victims, who have seen their court cases thrown out and charges stayed because of a lack of access to justice, because we have been underfunding the courts. If you don't want to take my word for it, then you can speak to the number of survivors that I know, that have been calling for a fixing of the court system. You can speak to the victims of domestic violence, intimate partner violence and gender-based violence; those who have lost their loved ones to drunk driving, impaired driving and other types of violent crimes.

This is happening regularly. If the government thinks that everything is fine, it is clearly not and everybody else in this room knows this.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Saunderson.

Mr. Brian Saunderson: I can't let this go. The NDP seems to be a party that is repellent to lawyers. They're the only government that had an Attorney General that's not a lawyer, and my friend, the critic, is also not a lawyer.

We are working extremely hard on improving our justice system. I've been meeting regularly with our lawyers associations and our criminal justice system. We are working on this. It's not going to disappear overnight.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none—oh, no. MPP Wong-Tam.

MPP Kristyn Wong-Tam: One last thing: I appreciate that there may not be a lawyer as the critic of the Attorney General from the official opposition, but it doesn't mean that my comments raised on behalf of my party and on behalf of the stakeholders, including constituents out there in your own community—I'm not bringing their stories forward for my health; I'm bringing their stories and their testimonies forward to improve the system. You don't necessarily need to be a trained or educated lawyer to be able to see that the court system is failing.

The Chair (Ms. Goldie Ghamari): MPP Collard.

Mme Lucille Collard: I just want to say that I don't think there's anything wrong to require the Attorney General to demonstrate that he has a plan that could actually re-instate some kind of reassurance in the public that something is actually being done.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall NDP motion 3.1.0.1 carry?

Ayes

Collard, Stevens, Wong-Tam.

Nays

Bailey, Coe, Dixon, Hogarth, Sabawy, Saunderson.

The Chair (Ms. Goldie Ghamari): I declare NDP motion 3.1.0.1 lost.

At this point, we will recess and we will resume at 1 o'clock. Thank you, everyone.

The committee recessed from 1009 to 1300.

The Chair (Ms. Goldie Ghamari): Good afternoon, committee members. We will now resume clause-by-clause consideration of Bill 157, An Act to amend various Acts in relation to the courts and other justice matters. As always, please wait until I recognize you before starting to speak and, as always, all comments should go through the Chair.

We are currently at NDP motion 3.1.0.2. Who would like to move this motion? MPP Wong-Tam.

MPP Kristyn Wong-Tam: I move that section 3.2 be added to schedule 6 to the bill:

"3.2 The act is amended by adding the following section:

""Plan re Legal Aid Ontario funding

""72.2 The Attorney General shall develop a plan to increase current Legal Aid Ontario funding, expand legal services covered by legal aid certificates, increase legal aid financial thresholds and improve Legal Aid Ontario's fee structure.""

The Chair (Ms. Goldie Ghamari): MPP Wong-Tam has moved motion 3.1.0.2. Is there any debate? MPP Wong-Tam.

Mr. Brian Saunderson: Just, if I could—point of order.

The Chair (Ms. Goldie Ghamari): Yes.

Mr. Brian Saunderson: It seems to me this motion is entirely outside the scope of the bill.

The Chair (Ms. Goldie Ghamari): No. If it was the case, we would have already had a ruling, so it's not outside the scope. Thank you.

MPP Wong-Tam?

MPP Kristyn Wong-Tam: This amendment would require the Attorney General to develop a plan to increase current legal aid funding. It is to develop a strategy to allow for a comprehensive overview and set of recommendations to come back that will look at increasing access to justice, especially for those who are low-income.

Currently, what we know is that the legal aid program is underfunded. We've seen a cut to the legal aid funding formula that sits in the range of \$133 million, going back to 2019. And this year, Legal Aid Ontario has been under-spent by \$103 million. This has also led to significant delays in the courts. As the lawyers across the bench will know, if you have self-represented litigants, they are going to take more time and they're going to cause extra delays.

The reason for us putting this forward is to specifically try to develop that strategy. We want to make sure that the government is providing equal access to justice through the legal aid program. It should not be that only the wealthy have access to legal representation. Right now, legal aid funding and the certificate program as it exists is not working, and we've heard this significantly time and time again now from the legal aid clinics: that they're verging and teetering on collapse because they're not able to retain staff lawyers because the legal aid certificate and the legal aid program is not covering the real 2024 cost of doing business today.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Saunderson.

Mr. Brian Saunderson: I maintain the position that this is really outside the scope of this legislation—

The Chair (Ms. Goldie Ghamari): It's not, MPP Saunderson.

Mr. Brian Saunderson: The legislation before us is talking about changes that are on the table. The MAG is very much aware of issues with legal aid and we're addressing that through other means, but it's not, in my submission, part of this bill.

The Chair (Ms. Goldie Ghamari): I mean, I've already determined it's not outside the scope of this legislation. If you want to vote against it, you're welcome to give your reasons why, but to say it's outside of the scope would be incorrect. Thank you.

Is there any further debate?

Mr. Brian Saunderson: Well, I appreciate—

The Chair (Ms. Goldie Ghamari): Is there any further debate?

M^{me} Lucille Collard: Just very briefly, Madam Speaker—Madam Speaker; we keep doing that today—Madam Chair—

The Chair (Ms. Goldie Ghamari): It's all good.

M^{me} Lucille Collard: Yes.

I totally agree with the rationale for presenting this motion so I'll be supporting it. Legal aid has been deeply underfunded, and it's been getting worse over the years. The need, definitely in my riding, is there. I've got people knocking on my door practically every day asking for help because they can't get justice. So I'll be supporting that motion.

The Chair (Ms. Goldie Ghamari): Further debate?

MPP Kristyn Wong-Tam: I would like to just add that because the legal aid clinics and staff lawyers at the legal aid clinics have expressed alarming concern—this is a set of warnings that has been issued to the government as well as to, I would say, the opposition and independent parties for some time—this is not necessarily new. I think we recognize that, in order for the justice system to work for everyone, we need to be able to resource it properly.

As many will know, accessing legal representation is costly. For the number of low-income individuals who rely on the legal aid program who can't seem to get access to legal aid funding, which then renders them unable to get legal representation, it means that they're unable to access justice. So developing a plan that allows us to comprehensively review what is the gap, how do we ensure that we can close it, and then to make sure that those who are often-times underrepresented litigants or self-represented litigants have access to legal aid representation is critical.

I want to just point one other thing out, that the bill is called "enhancing access to justice," and in order for us to do that, we're going to have to think through comprehensively how to reform the legal system to do so. Currently, a single person without any dependants has to earn less than \$18,795 in gross income in order for them to access legal aid. Just to contradict that, with the CERB program, we determined that the basic wage of CERB had to be at least \$2,000 a month, or \$24,000 a year. So it is entirely contingent on us to review the criteria of who is actually going to qualify for legal aid support and then to adequately resource the program so that the people it is intended to help can access the funding.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Saunderson.

Mr. Brian Saunderson: I'm opposing this. These are all issues that are being looked at by the Attorney General, and putting in legislation that we'll review and carry out our mandate is redundant and not necessary.

The Chair (Ms. Goldie Ghamari): Further debate, or are members prepared to vote?

MPP Kristyn Wong-Tam: The only thing I would add is that government cut Legal Aid Ontario funding by \$133 million in 2019. It's never been reinstated, and this last year we saw an underspending of legal aid funding by \$103 million. So whatever strategy the government is working on, I would love to see how it's going to work out and build up Legal Aid Ontario as opposed to tear it down.

The Chair (Ms. Goldie Ghamari): Are members prepared to vote? Shall motion number 3.1.0.2 carry?

Ayes

Collard, Stevens, Wong-Tam.

Nays

Bailey, Coe, Dixon, Hogarth, Kusendova-Bashta, Saunderson.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion 3.1.0.3: Who would like to move this motion? MPP Wong-Tam.

MPP Kristyn Wong-Tam: I move that section 3.3 be added to schedule 6 to the bill:

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

“Plan re crisis and support centres

“72.3 The Attorney General shall develop a plan to increase the amount of funding to Ontario’s rape crisis centres, sexual assault support centres and domestic violence support centres.”

The Chair (Ms. Goldie Ghamari): MPP Wong-Tam has moved motion 3.1.0.3. Is there any further debate? MPP Stevens.

Mrs. Jennifer (Jennie) Stevens: I just want to maybe ask that the government consider unanimous consent to consider this motion. I hope the government will consider that while we discuss it.

The Chair (Ms. Goldie Ghamari): The motion doesn’t require unanimous consent to bring it forward. If it was out of order, I would have said it was out of order.

Mrs. Jennifer (Jennie) Stevens: Okay. Thank you. Sorry.

The Chair (Ms. Goldie Ghamari): MPP Wong-Tam.

MPP Kristyn Wong-Tam: The amendment, obviously, is to develop a plan to increase the amount of compensation available to victims under the Victim Quick Response Program+ to extend the program’s deadlines to make the program accessible to victims of historical crimes, as well as to make the program available to all eligible victims regardless of access to other available publicly funded programs.

Chair, you would have recognized that we had received at this committee a number of deputants who spoke to the issue around victim support and making sure that victims and survivors of sexual violence had the right supports in place in a timely fashion. And in particular, this motion is largely inspired by the presentations of Jellinek Ellis Gluckstein, the lawyers who specialize in representing survivors of sexual violence. This motion is also inspired by the deputation from the Council for a Secure Canada, who spoke to acts of terror and the victims of terror, and this motion is also inspired by the Canada-Israel Jewish affairs deputation.

We want to ensure that survivors of victims of crime, especially violent, heinous crimes have the necessary resources that they need in order for them to rebuild their lives. Oftentimes, we have seen people who have been entirely harmed in the most horrendous and heinous ways, and we don’t have the means to be able to provide the supports that they need in a timely fashion. This plan to be developed by the Attorney General will go a long way in closing that gap and to make sure that those programs that

have been developed are going to respond to the need of the community in a timely fashion.

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The Chair (Ms. Goldie Ghamari): Further debate?

Mr. Brian Saunderson: Again, despite what my friend across the way says, it’s asking the Attorney General to develop a plan to increase the amount of funding, looking specifically at enhancing the ability for claimants to bring civil actions. Again, it’s already within the Attorney General’s purview. Obligating the Attorney General to do what they’re doing—we’re looking at those scenarios, and, really, this sounds to me more of an estimates ask, if you’re asking for increasing funding. That’s not part of this legislation that we’re dealing with today.

I will certainly take the message back to the Attorney General’s office, but I don’t see a role for this in the legislation.

The Chair (Ms. Goldie Ghamari): Further debate?

M^{me} Lucille Collard: Again, I don’t see any problem to ask the Attorney General to develop a plan to reassure people that there is a plan, actually, to help these people. We know that these centres, those community organizations, very often bring very important support with tailored solutions that are adapted to the realities of our communities. They also do it at a fraction of the cost. It’s very cost-effective, the support that is provided. They are also covering gaps that are not covered by government services. The lack of funding is threatening their very survival.

I think it’s a very good thing to propose that there is a plan, so that I can reassure those organizations in my riding that there is a plan and that money is coming.

The Chair (Ms. Goldie Ghamari): MPP Wong-Tam.

MPP Kristyn Wong-Tam: I would further add that whatever plan that the government says that they’re developing—no one knows about it; no one has seen it. I think it’s important for us to do things out in the light. It allows the public to know that we are actively addressing a problem in the system.

In 2019, the Conservative government ended the Criminal Injuries Compensation Board and then replaced it with the Victim Quick Response Program+. That new program isn’t available to victims when they can access public programs, even if those programs have a months-long wait-list. Essentially, we’re asking people to wait for essential life-rebuilding services that are trauma-informed so that victims of domestic violence or victims of violent crime can actually go ahead and rebuild their lives. If anyone has ever had any person in their life who has been a survivor or who has been a victim of crime, you probably know that a months-long wait is far too long. We owe Ontarians much better.

There are billions of dollars in unallocated contingencies in the government coffers. I think that we have an obligation to take a look at the program and to devise a program that is going to be adequately funded so that victims are not revictimized when they have to apply for supports.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall motion 3.1.0.3 carry?

Ayes

Collard, Stevens, Wong-Tam.

Nays

Bailey, Coe, Dixon, Hogarth, Kusendova-Bashta, Saunderson.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion 3.1.0.4: MPP Wong-Tam.

MPP Kristyn Wong-Tam: I move that section 3.4 be added to schedule 6 to the bill:

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

“Plan re crisis and support centres

“72.4 The Attorney General shall develop a plan to,

“(a) increase the amount of compensation available to victims under the victim quick response program;

“(b) extend the program’s deadlines;

“(c) make the program accessible to victims of historical crimes; and

“(d) make the program available to all eligible victims regardless of access to other available publicly funded programs.”

The Chair (Ms. Goldie Ghamari): MPP Wong-Tam has moved motion 3.1.0.4. Is there any debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: As I have mentioned earlier, we are seeing significant harm being re-inflicted on survivors of violence and victims of violent crime. By creating programs where they are underfunded and unreachable to the victims, it simply further retraumatizes them. We have a government that is sitting on billions of dollars of unallocated contingency, which can go directly into better funding the victim compensation funds, instead of asking victims to go to court, which can take up to five years, as everyone knows, because Ontario has the worst track record across Canada in administering court access to justice. It is, I would say, quite reprehensible.

For the survivors, as Jellinek Ellis Gluckstein, the lawyers that represent that group, have said in their deputation and submission, the services and the programs that the government has set up are not working. Their clients are not able to reach them in a timely fashion. So I say let’s review it. Let’s develop a better program and then adequately fund it so you can actually help the victims and survivors you are looking to help.

The Chair (Ms. Goldie Ghamari): Further debate?

Ms. Christine Hogarth: I’m going to oppose this motion because it does appear that it is out of scope. The responsibilities for these programs were transferred to the Minister of Children, Community and Social Services in April 2022. I also just want to remind the members that Madame Collard and all members of all political parties voted unanimously for a bill that alleviated the debt for survivors of human trafficking, so some of that is covered in another piece of legislation.

The Chair (Ms. Goldie Ghamari): Further debate?

MPP Kristyn Wong-Tam: That bill, albeit a very helpful bill that absolutely deserved our support, is not the Victim Quick Response Program+. That program right now is underfunded. It isn’t available to victims when they need it, especially if they are already able to access other public programs. It’s an either/or situation. If those programs have a months-long wait-list, those victims get to the back of the line.

So if the government doesn’t have a strategy to create a better program to support survivors and victims of violent crimes, then this is the chance for them to do so.

The Chair (Ms. Goldie Ghamari): Further debate? Seeing none, are members prepared to vote? Shall NDP motion 3.1.0.4 carry?

Ayes

Collard, Stevens, Wong-Tam.

Nays

Bailey, Coe, Dixon, Hogarth, Kusendova-Bashta, Saunderson.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to sections 4 to 8: There are no amendments. I propose we bundle them. Shall sections 4 to 8 of schedule 6 carry? All those in favour? All those opposed? I declare sections 4 to 8 of schedule 6 carried.

Shall schedule 6 carry? All those in favour? All those opposed? I declare schedule 6 carried.

Turning now to schedule 7: There are no amendments to sections 1 and 2. Does the committee agree to bundle them? Thank you. Is there any debate on sections 1 and 2 of schedule 7? Are members prepared to vote? Shall sections 1 and 2 of schedule 7 carry? All those in favour? All those opposed? I declare sections 1 and 2 of schedule 7 carried.

Shall schedule 7 carry? All those in favour? All those opposed? I declare schedule 7 carried.

Turning now to schedule 8: There are no amendments to sections 1 and 2. I propose we bundle them. Is there agreement? Thank you. Is there any debate to sections 1 and 2 of schedule 8? No. Are members prepared to vote? Shall sections 1 and 2 of schedule 8 carry? All those in favour? All those opposed? I declare sections 1 and 2 of schedule 8 carried.

Turning now to schedule 8, section 3, we have government motion number 4. Who would like to move this motion? MPP Hogarth.

Ms. Christine Hogarth: I move that section 3 of schedule 8 to the bill be amended by striking out “the court” in subsection 21(3) of the Execution Act and substituting “a judge of the Superior Court of Justice”.

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The Chair (Ms. Goldie Ghamari): MPP Hogarth has moved government motion number 4. Is there any debate? No? Are members prepared to vote?

Ayes

Bailey, Coe, Collard, Dixon, Hogarth, Kusendova-Bashta, Saunderson, Stevens, Wong-Tam.

The Chair (Ms. Goldie Ghamari): Seeing as there is no opposition, it's unanimous. Motion carried.

Shall schedule 8, section 3, as amended, carry? All those in favour? All those opposed? I declare schedule 8, section 3, as amended, carried.

Turning now to schedule 8, section 4: Shall it carry? All those in favour? All those opposed? I declare schedule 8, section 4 carried.

Shall schedule 8, as amended, carry? All those in favour? All those opposed? I declare schedule 8, as amended, carried.

Turning now to schedule 9: There are no amendments to sections 1 and 2. I propose we bundle them. Is there any further debate, or are committee members prepared to vote? Shall sections 1 and 2 of schedule 9 carry? All those in favour? All those opposed? I declare sections 1 and 2 of schedule 9 carried.

Shall section 9 carry? All those in favour? All those opposed? I declare schedule 9 carried.

Turning now to schedule 10: There are no amendments to sections 1 and 3. I propose we bundle them. Shall sections 1 and 3 of schedule 10 carry? All those in favour—

Interjection.

The Chair (Ms. Goldie Ghamari): Sections 1 to 3. Okay. All those in favour? All those opposed? I declare schedule 10, sections 1 to 3, carried.

Shall schedule 10 carry? All those in favour? All those opposed? I declare schedule 10 carried.

Turning now to schedule 11: There are no amendments to sections 1 through 3 of schedule 11. I propose we bundle them. Shall sections 1 to 3 of schedule 11 carry? All those in favour? All those opposed? I declare sections 1 to 3 of schedule 11 carried.

Shall schedule 11 carry? All those in favour? All those opposed? I declare schedule 11 carried.

Turning now to schedule 12: There are no amendments. I propose we bundle sections 1 and 2. Shall sections 1 and 2 of schedule 12 carry? All those in favour? All those opposed? I declare sections 1 and 2 of schedule 12 carried.

Shall schedule 12 carry? All those in favour? All those opposed? I declare schedule 12 carried.

Turning now to schedule 13: There are no amendments to sections 1 through 5. I propose we bundle them. Shall sections 1 to 5 of schedule 13 carry? All those in favour? All those opposed? I declare schedule 13, sections 1 to 5, carried.

Shall schedule 13 carry? All those in favour? All those opposed? I declare schedule 13 carried.

Turning now to schedule 14: There are no amendments to sections 1 and 2. I propose we bundle them. Shall sections 1 and 2 of schedule 14 carry? All those in favour? All those opposed? I declare sections 1 and 2 of schedule 14 carried.

Turning now to schedule 14: Shall it carry? All those in favour? All those opposed? I declare schedule 14 carried.

Turning now to schedule 15: There are no amendments to sections 1 through 18. I propose we bundle them. Shall sections 1 to 18 of schedule 15 carry? All those in favour? All those opposed? I declare sections 1 to 18 of schedule 15 carried.

Shall schedule 15 carry? All those in favour? All those opposed? I declare schedule 15 carried.

Turning now to schedule 16: There are no amendments to sections 1 to 3 of schedule 16. I propose we bundle them. Shall sections 1 to 3 of schedule 16 carry? All those in favour? All those opposed? I declare sections 1 to 3 of schedule 16 carried.

Shall schedule 16 carry? All those in favour? All those opposed? I declare schedule 16 carried.

Turning now to schedule 17: There are no amendments to sections 1 through 5 of schedule 17. I propose we bundle them. Shall sections 1 to 5 of schedule 17 carry? All those in favour? All those opposed? I declare sections 1 to 5 of schedule 17 carried.

Shall schedule 17 carry? All those in favour? All those opposed? I declare schedule 17 carried.

Turning now to schedule 18: There are no amendments to sections 1 and 2 of schedule 18. I propose we bundle them together. Shall sections 1 and 2 of schedule 18 carry? All those in favour? All those opposed? I declare sections 1 and 2 of schedule 18 carried.

Turning now to schedule 18, section 3, we have government motion number 5. Who would like to move this motion? MPP Dixon.

Ms. Jess Dixon: I move that subsection 3(2) of schedule 18 to the bill be amended by striking out paragraph 4 of subsection 3(2) of the Victims' Bill of Rights, 1995 and substituting the following:

"4. A victim of a crime if,

"i. the crime is of a sexual nature, or

"ii. the crime is for or involves a sexual purpose."

The Chair (Ms. Goldie Ghamari): MPP Dixon has moved government motion number 5. Is there any debate? MPP Dixon.

Ms. Jess Dixon: I would like to start by giving our sincere gratitude to counsel from Jellinek Ellis Gluckstein—that was counsel Erin Ellis and Vanshika Dhawan—as well as submissions from the Ontario Trial Lawyers Association. They really helped broaden our understanding of this.

The initial wording of this section, as initially proposed, had significantly limited the scope of this section to only victims that were minors or persons with disabilities at the time. As Ms. Ellis explained very clearly, it also had an unintended consequence that when they were dealing with matters that perhaps had been pled down to a simple assault but were still clearly in a sexual context, it was much harder to establish that presumption. Based off of their information and their wisdom in that area, we have amended as I indicated, which, as I said, opens the application of this to all victims. Also, by changing to the "sexual nature," involving a "sexual purpose," it means that we can do exactly what Ms. Ellis talked about, which is they can lead a synopsis about a sexual assault that was pled down to a simple assault and still have the benefit of the presumption

of emotional distress. Thank you again to their able counsel. It was very helpful.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: I want to also lend our very strong support to this amendment and also to extend our thanks to Erin Ellis and Vanshika Dhawan, solicitors from Jellinek Ellis Gluckstein Lawyers. Their deputation was excellent. They really helped broaden the thinking of who is a victim and what type of support they deserve.

And of course, as currently drafted, the provision would have failed to capture, for example, inappropriate sexual misconduct between a vulnerable student who may be over the age of majority and a teacher who was clearly taking advantage of a position of power in order to harm or manipulate them. Adults in particular can be vulnerable to power imbalances as well, and oftentimes that may lead to criminal misconduct, either in the workplace or in doctor-patient settings. The language of sexual misconduct covers all power imbalances, so I'm glad to see that that's going to be amended. And at the end of the day, what we want to do is make sure that those who are in positions of power do not abuse their powers.

The other portion around making sure that the requirement of the original legislation about having a person with a disability at the time of the crime—it was very peculiar when I saw that language in the government legislation. I'm very pleased to see it being corrected right now, but it was very troubling to understand why it was such a specific requirement that one had to be living with a disability when the crime took place. If you're a victim of crime, it shouldn't really matter what your physical abilities are, and we also know that physical assault can happen when people are children, when they were children, and that vulnerable people, obviously, are people who are living with disabilities and other developmental disabilities. So by making this amendment, I think that this bill got a lot stronger, especially as it relates to schedule 18, and we're fully in support of this amendment.

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The Chair (Ms. Goldie Ghamari): Further debate, or are members prepared to vote? Shall government motion number 5 carry?

Ayes

Bailey, Coe, Collard, Dixon, Hogarth, Kusendova-Bashta, Saunderson, Stevens, Wong-Tam.

The Chair (Ms. Goldie Ghamari): I declare the motion carried.

Turning now to independent motion 5.0.1: MPP Collard, would you like to move this motion?

M^{me} Lucille Collard: Yes, thank you, Madam Chair.

I move that subsection 3(2) of schedule 18 to the bill be amended by adding the following paragraph to subsection 3(2) of the Victims' Bill of Rights, 1995:

“7. A victim of a crime that is motivated by hatred against an identifiable group.”

The Chair (Ms. Goldie Ghamari): MPP Collard has moved motion number 5.0.1. Is there any further debate? MPP Collard.

M^{me} Lucille Collard: I think we've heard compelling reasons why this kind of crime should be included in the presumption. It shouldn't be hard to agree that victims of hate crimes invariably suffer emotional distress, and that's why they should be included in the presumption and benefit from the lower requirement to prove the harm they have suffered.

I want to take the opportunity to thank the team at legislative counsel for helping, a little bit last-minute, with this particular one. I have to say that the challenge was trying to find a way to word it in a way that was inclusive, because “hate crime” is not defined anywhere. Actually, there are a bunch of different definitions in various jurisdictions at the federal and provincial level.

I thought this one was a simple one, so hopefully the committee can agree.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Dixon.

Ms. Jess Dixon: I'll begin by saying I appreciate the intent behind the motion. I won't be supporting it for these reasons: The ability for victims of hate-motivated crime to seek compensation and damages is already present; they are a listed group. The issue with hate crimes, from my perspective, is that this extends to even, for example, property crimes, so it would be very difficult, I would say, for a court to identify specific victims who would be deserving of that presumption of emotional distress when we're talking about even something like a vandalism issue.

I believe that the Victims' Bill of Rights has already done quite a bit to make sure that the people that have experienced hate crimes are represented. They have the ability to sue for emotional distress. It simply doesn't create that automatic presumption, as I said, because it would be, I think, very overbroad and very challenging for a court to actually apply a presumption in this case.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: We would certainly be happy to lend our support to this motion. I have a very similar motion just two motions back that narrows it down a little bit further. As the independent member was saying, it's just trying to sort through the exact language that's required within the Criminal Code.

I certainly have no objections to supporting this motion. The intention is good. I think that we heard very clearly that we need to be able to support those who have been victims of hate crimes. As we know, hate crimes are on the rise in Canada: the rise of anti-Semitism; the targeting of individuals for wearing religious clothing; the rise of Islamophobia. The more we stand up for the communities that are targeted, I think the better.

CSIS has just released a report talking about the rise of violence directed at the 2SLGBT community. It is very alarming. We saw three generations of a London family killed because they were Muslims specifically. It would be, I think, important for us to recognize that victims of hate crimes should deserve and have the same rights and

access to the judicial system, and not have to again demonstrate that they have faced that emotional duress. So I would be happy to support this motion.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall independent motion 5.0.1 carry?

Ayes

Collard, Stevens, Wong-Tam.

Nays

Bailey, Coe, Dixon, Hogarth, Kusendova-Bashta, Saunderson.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion number 5.0.1.1: Who would like to move this motion? MPP Wong-Tam.

MPP Kristyn Wong-Tam: I move that subsection 3(2) of schedule 18 to the bill be amended by adding the following paragraph to subsection 3(2) of the Victims' Bill of Rights, 1995:

"7. A victim of a terrorism offence, as defined in section 2 of the Criminal Code (Canada)."

The Chair (Ms. Goldie Ghamari): MPP Wong-Tam has moved NDP motion number 5.0.1.1. Is there any debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: Just as we've heard from the lawyers who represent victims of gender-based violence, as well as trial lawyers talking about the need to ensure that the Victims' Bill of Rights is going to be comprehensively worded—that allows for those who have received harm to be able to access the justice system the way it's intended to. We also heard from Council for a Secure Canada, who I think were very clear that victims of terror also should be included in this category.

Victims of terror suffer emotional distress. They suffer egregious harm. They face significant trauma. We have seen victims of domestic terrorism right here in Canada, whether it's the van attack in North York in the city of Toronto or the London family that was killed not too long ago. That community still mourns the loss of that family. It has also been extensively documented that victims of terror need support, and the consequence of not having support leaves them with debilitating financial, physical and psychological harm.

By including this amendment, we would be speaking to and trying to support those who have been the victims of terrorism as well, and I think that we should do that.

The Chair (Ms. Goldie Ghamari): Further debate?

Mr. Brian Saunderson: I will be opposing. In the current legislation, we are adding victims of crime to the list who can apply for claims. However, the presumption has not been extended to that because it will depend on the circumstances of each case.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall NDP motion 5.0.1.1 carry?

Ayes

Collard, Mamakwa, Stevens, Wong-Tam.

Nays

Bailey, Coe, Dixon, Hogarth, Kusendova-Bashta, Saunderson.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to NDP motion 5.0.1.2: Who would like to move this motion? MPP Wong-Tam.

MPP Kristyn Wong-Tam: I move that subsection 3(2) of schedule 18 to the bill be amended by adding the following paragraph to subsection 3(2) of the Victims' Bill of Rights, 1995:

"8. A victim of a crime motivated by hate, within the meaning of subclause 718.2(a)(i) of the Criminal Code (Canada)."

The Chair (Ms. Goldie Ghamari): MPP Wong-Tam has moved NDP motion 5.0.1.2. Is there any debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: It's very similar to the independent member. I think we both clearly heard the deputation coming from CIJA, that they wanted to see victims of hate crimes be included in the Victims' Bill of Rights. Obviously, we are seeing a rise of hate crimes right across the country, including in Ontario, and by including victims of hate crimes to be in the Victims' Bill of Rights, it will be very clearly stated forward that they are going to be protected under that bill. By excluding them, they are not protected in that bill.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Dixon.

Ms. Jess Dixon: My reasons for not supporting this are the same as for the independent motion. This is a group of people who are not excluded. They are already a group that can sue for damages. However, this would open them up to the presumption of emotional distress. Again, what that would do is say that anybody who is a victim of any type of offence motivated by hate—and so we're getting into property crimes, areas where it would be virtually impossible for the court to actually determine who a victim was. So it's quite a bit different than what we're dealing with, the type of assaults and so on considered and these others, where we have someone that's gone through a criminal process and we're clearly able to identify them as a victim of that offence. So, again, I would not say this is a group that is excluded. It's categorically included, however, not being given the presumption because it would be overbroad and essentially impossible to actually implement.

1340

The Chair (Ms. Goldie Ghamari): Further debate? MPP Collard.

M^{me} Lucille Collard: Just quickly: I'm not certain I'm following the rationale of the government, because while it is true that it might include damage to property, the presumption is just to acknowledge that these people, having suffered these crimes, have suffered emotional distress. I

don't think anybody can deny the fact that if your house is vandalized with writings on your house because of your religion or your culture—I don't think anybody should dispute that this particular crime would cause you emotional distress. This is what the presumption is aiming at, so I'm not sure I understand completely the complication of trying to apply this whether it relates to property or to crime on the person.

The Chair (Ms. Goldie Ghamari): MPP Dixon.

Ms. Jess Dixon: Again, you could conceive of the idea, for example, of graffiti being applied to a religious institution, which, obviously, would be and is a terrible thing. However, are you then giving that presumption to every single person who is in any way associated with that? As far as the criminal context is considered, that would not happen. We wouldn't have the benefit of a criminal proceeding that has actually identified blame and attached it to a specific victim, so then it would be essentially left to the court to be trying what almost amounts to a criminal case to try to identify who the victims are.

Again, the way it functions currently is that type of hypothetical victim is not in any way denied the opportunity to sue. They are listed as an included group. However, they do have to provide some sort of evidence or testimony to show that they sustained emotional distress, which, I think, when we're talking about the very broad scope that would be possible here, is a reasonable threshold to cover, because, again, it's not the job of this type of court to be apportioning that type of responsibility. They're usually piggybacking off of another decision, which is why when we were addressing the victims, basically, we were broadening it so that they could use the results of a criminal trial. But in this case, I just don't see how it would be possible, and instead, it seems far more sensible to me to be the way it currently is where someone would actually have to go to the court. As I said, it's a process by which—"This is the evidence that shows that I sustained emotional distress," and the court rules on that basis.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: I think recognizing that CIJA would not come before this committee and provide us a recommendation that I believe will be misguided—largely, they do have lawyers that review legislation. They have a very strong government relations team. I think that they are coming forward largely because of what they're seeing in the community. The rise of anti-Semitism is alarming for everyone, the rise of hate at vulnerable communities.

In order for victims to sue in court, we recognize that it does take a very long time. You have to be able to meet the certain threshold. By ensuring that it meets the threshold through the Criminal Code, it enables the victims, in this case, of hate crimes, a bit of a pathway forward that doesn't revictimize them again, and I think that's what CIJA was trying to say to us when they appeared before this committee, is that victims of hate crimes need to have an access to the judicial process without having to be revictimized by having to tell their story over and over again.

And it's not just property damage, as we know. It could be all sorts of other acts that can be quite violent, that can cause serious injury to body or perhaps even death, so it may be the family or others who are taking this matter forward. I don't see a reason why we should not support this, and I really think that the government should reconsider its position.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall NDP motion 5.0.1.2 carry?

Ayes

Collard, Mamakwa, Stevens, Wong-Tam.

Nays

Bailey, Coe, Dixon, Hogarth, Kusendova-Bashta, Saunderson.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Turning now to government motion 6R: MPP Dixon.

Ms. Jess Dixon: I move that section 3 of schedule 18 to the bill be amended by adding the following subsection:

"(3) Subsection 3(2) of the act is amended by adding the following paragraph:

"7. A victim of an assault if the victim was under the age of 18 or was a person with a disability at the time of the assault and if one of the following criteria was met at the time of the assault:

"i. The assailant was in a position of trust or authority over the victim.

"ii. The victim was in a relationship of dependency with the assailant."

The Chair (Ms. Goldie Ghamari): MPP Dixon has moved government motion 6R. Is there any debate? Ms. Dixon?

Ms. Jess Dixon: Again, I want to extend my gratitude to counsel Erin Ellis and Vanshika Dhawan for their able submissions on this. It was very helpful. What they had raised in their submissions was the issue, basically, of child abuse and allowing victims of child abuse to also have the benefit of this presumption. As originally drafted, that had not been considered. What we've arrived at here is somewhat reflected by my questioning at the time. I was a little bit concerned, saying, "I agree with what you're saying. However, how do we limit it so that we're still keeping the scope where we want it to be, which is child abuse, versus peer-on-peer, essentially?" So that's what we've arrived at, where we are now opening it to children or people with a disability, but saying that in order to be entitled to the presumption, the person abusing them, the person committing the offence had to be in a position of trust or authority—so not necessarily a parent, but obviously that includes a parent, but it could also include a teacher, a counsellor, a coach etc.—or the victim was in a relationship of dependency with the assailant, which I think addresses, particularly, a lot of the concerns that might happen specifically with a

person with a disability. So I think this is a very good balancing of interests.

The Chair (Ms. Goldie Ghamari): Further debate?

MPP Kristyn Wong-Tam: We would like to also lend our support to this motion and, with that, to also echo the thanks that the member across has provided to Erin Ellis as well as Vanshika Dhawan from Jellinek Ellis Gluckstein Lawyers.

It is incredibly hard, I think, for us to imagine children being harmed, and yet we know it happens. Children are defenceless. They are not, oftentimes, able to speak for themselves, and it may take a very long time before they actually even try to address the harm that they've experienced as children—and this would go the same for people living with disabilities.

What we heard from the lawyers from the firm was that oftentimes children do not seek compensation until much later in life, as adults, and so having them not have to retell their story again, justifying the harm that they've received, I think, is important. So for that, I want to thank them for bringing that to our attention. I think this was a very good fix.

The Chair (Ms. Goldie Ghamari): Further debate? Are members prepared to vote? Shall government motion 6R carry?

Ayes

Coe, Collard, Dixon, Hogarth, Kusendova-Bashta, Mamakwa, Saunderson, Stevens, Wong-Tam.

The Chair (Ms. Goldie Ghamari): There's unanimous consent, so the motion is carried.

Shall schedule 18, section 3, as amended, carry? All those in favour? All those opposed? I declare schedule 18, section 3, as amended, carried.

Turning now to schedule 18, section 4, we have NDP motion 6.0.0.1. MPP Wong-Tam.

MPP Kristyn Wong-Tam: I move that section 4 of schedule 18 to the bill be amended by adding the following subsection:

“(2) Subsection 5(4) of the act is amended by striking out ‘the victims’ justice fund account shall be used to assist victims’ and substituting ‘the victims’ justice fund account shall be used to assist victims, including Ontarians who are victims of crimes abroad’.

1350

The Chair (Ms. Goldie Ghamari): MPP Wong-Tam has moved NDP motion 6.0.0.1. Is there any further debate? MPP Wong-Tam.

MPP Kristyn Wong-Tam: This motion, as members will recognize, is largely in response to the deputation provided by Council for a Secure Canada. They specifically wanted us to expand the category in the Victims' Bill of Rights to include victims of terrorist activity, terrorist attacks. Expanding the opportunity for Ontarians who are victims of terrorism, who have experienced it from abroad, will allow them to access the fund as Ontario residents here.

The Chair (Ms. Goldie Ghamari): Further debate? MPP Saunderson.

Mr. Brian Saunderson: I appreciate the intent as well of this amendment, but I will not be supporting it. Victims of crime are not excluded if the crime happens abroad. It has to come within the Criminal Code. Provided there's a conviction under the Criminal Code, there is an ability of somebody who has suffered an enumerated crime abroad to claim under this provision.

As well, there are federal programs, and we're in discussions with the federal government about increasing those programs. I don't want to fetter the discretion of the victims' board to be able to allocate those funds as they deem appropriate.

The Chair (Ms. Goldie Ghamari): Further debate? No. Are members prepared to vote? Shall motion 6.0.0.1 carry?

Ayes

Mamakwa, Stevens, Wong-Tam.

Nays

Coe, Dixon, Hogarth, Kusendova-Bashta, Saunderson.

The Chair (Ms. Goldie Ghamari): I declare the motion lost.

Shall schedule 18, section 4 carry? All those in favour? All those opposed? I declare schedule 18, section 4 carried.

There are no amendments to sections 5 to 11 of schedule 18. I propose we bundle them together. Is there any further debate on sections 5 to 11 of schedule 18? No. Are members prepared to vote? Shall schedule 18, sections 5 to 11, carry? All those in favour? All those opposed? I declare sections 5 to 11 of schedule 18 carried.

Shall schedule 18, as amended, carry? All those in favour? All those opposed? I declare schedule 18, as amended, carried.

Turning now to schedule 19, there are no amendments to sections 1 to 17 of schedule 19. Does the committee agree to bundle them? Is there any further debate, or are members prepared to vote? Shall schedule 19, sections 1 to 17, carry? All those in favour? All those opposed? I declare schedule 19, sections 1 to 17, carried.

Shall schedule 19 carry? All those in favour? All those opposed? I declare schedule 19 carried.

Now we turn to the beginning, and I shall ask, shall section 1 of the bill carry? All those in favour? All those opposed? I declare section 1 carried.

Shall section 2 carry? All those in favour? All those opposed? I declare section 2 carried.

Shall section 3 carry? All those in favour? All those opposed? I declare section 3 carried.

Shall the title of the bill carry? All those in favour? All those opposed? I declare the title of the bill carried.

Shall Bill 157, as amended, carry? All those in favour? All those opposed? I declare Bill 157, as amended, carried.

Shall I report the bill, as amended, to the House? All

those in favour? All those opposed? I declare that I shall report the bill, as amended, to the House.

Thank you, everyone. Thank you to committee members. As always, it's been great to have you all here. Thank you for the informative debate.

At this point, the committee is now adjourned until the next time. We have no further business. Thanks again. Have a great afternoon, and may the odds be ever in your favour.

The committee adjourned at 1355.

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