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**Official Report  
of Debates  
(Hansard)**

**Monday 29 October 2001**

**Journals  
des débats  
(Hansard)**

**Lundi 29 octobre 2001**

**Standing committee on  
general government**

Subcommittee report

Vital Statistics  
Statute Law Amendment Act  
(Security of Documents), 2001

**Comité permanent des  
affaires gouvernementales**

Rapport du sous-comité

Loi de 2001 modifiant des lois  
en ce qui concerne  
les statistiques de l'état civil  
(sécurité des documents)

Chair: Steve Gilchrist  
Clerk: Anne Stokes

Président : Steve Gilchrist  
Greffière : Anne Stokes

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Monday 29 October 2001

Lundi 29 octobre 2001

*The committee met at 1531 in committee room 1.*

**SUBCOMMITTEE REPORT**

**The Chair (Mr Steve Gilchrist):** Good afternoon. I call the standing committee to order for the purpose of considering Bill 109, An Act to enhance the security of vital statistics documents and to provide for certain administrative changes to the vital statistics registration system.

The first order of business would be consideration of the report from the subcommittee on committee business. I believe every member has a copy. I'm looking for a volunteer to read it into the record.

**Mr Dave Levac (Brant):** Your subcommittee met on Monday, October 22, 2001, to consider the method of proceeding on Bill 109, An Act to enhance the security of vital statistics documents and to provide for certain administrative changes to the vital statistics registration system, and recommends the following:

(1) That, pursuant to the order of the House dated Wednesday, October 17, 2001, the committee schedule clause-by-clause consideration of Bill 109 on Monday, October 29, and Wednesday, October 31, 2001; and

(2) That the deadline for receipt of amendments be 5 pm on Friday, October 26, 2001.

So submitted.

**The Chair:** Mr Levac has moved adoption of the subcommittee report. Any further comment? Seeing none, I'll put the question. All those in favour of the subcommittee report? Opposed? It is adopted.

VITAL STATISTICS  
STATUTE LAW AMENDMENT ACT  
(SECURITY OF DOCUMENTS), 2001  
LOI DE 2001 MODIFIANT DES LOIS  
EN CE QUI CONCERNE  
LES STATISTIQUES DE L'ÉTAT CIVIL  
(SÉCURITÉ DES DOCUMENTS)

Consideration of Bill 109, An Act to enhance the security of vital statistics documents and to provide for certain administrative changes to the vital statistics registration system/ Projet de loi 109, Loi visant à accroître la sécurité des documents de l'état civil et

prévoyant certaines modifications administratives au système d'enregistrement des statistiques de l'état civil.

**The Chair:** That then takes us to point 2 on your agenda, which is clause-by-clause consideration of Bill 109.

Are there any amendments, comments or discussion for sections 1 through 6 in the act? Seeing none, I'll put the question. All those in favour of sections 1 through 6? Opposed? Sections 1 through 6 are carried.

Section 7: any comments, amendments?

**Mr Joseph Spina (Brampton Centre):** I move that section 45.1 of the Vital Statistics Act, as set out in section 7 of the bill, be amended by adding the following subsection:

"No fee

"(2) No person shall charge a fee for acting as a guarantor."

**The Chair:** Do you wish to speak to the amendment?

**Mr Spina:** Basically, at this point there are some fees collected by municipalities for various administrative costs, but we don't feel that a guarantor—it leaves the door open, I suppose, to be bought off, for lack of a better way to describe it. We want a guarantor to be as honest and have as much integrity as possible, so therefore they would not be in a position to charge a fee.

**Mr Levac:** I would really like to commend the government for picking up on this amendment. As I spoke in the House to it, I expressed an interest in this particular amendment simply because of the fact that I was asked to be given money as a guarantor, refused it, and said we'd maybe better take a look at that because there would be people who could be charging money for that service. I thank the government for putting that amendment forward.

**The Chair:** Further debate? Seeing none, all those in favour of the amendment? Opposed? It is carried.

**Mr Spina:** I move that subsections 45.2(2) and (3) of the Vital Statistics Act, as set out in section 7 of the bill, be struck out and the following substituted:

"Other documents

"(2) The registrar general may limit the number of certificates and certified copies of registrations that may be issued in respect of any change of name, death, still-birth or marriage.

"Application for reconsideration

"(3) On the application of a person who has been refused a birth certificate or a certified copy of a birth

registration under sections 44 or 45 or who has been refused a birth certificate or a certified copy of a birth registration under this section, the registrar general shall consider the matter and he or she may grant or refuse the application.”

**The Chair:** Any comment?

**Mr Spina:** Sometimes there are some elements of the information requested that may not be 100% complete, but if there are sufficient relevant criteria to verify that it is the proper individual and it is justified, even though technically under the rules of the form they may not completely comply, there is enough discretion on the part of the registrar general to be able to still grant the issuance.

**The Chair:** Further debate?

**Mr Mike Colle (Eglinton-Lawrence):** If I could ask staff—is there staff here? Under this amendment, does a person who has been denied a birth certificate by the process or by the registrar general have the right to demand a review or a hearing to determine why he or she has been denied the birth certificate?

**Ms Diane Zimnica:** Diane Zimnica, with the Ministry of Consumer and Business Services.

There is a right of reconsideration under this proposed amendment for anyone who is refused a birth certificate or a certified copy of a birth registration under any one of three sections of the act. Birth certificates and certified copies of birth registrations are issued pursuant to section 44 of the act, section 45 of the act, and now under this new section where we limit the number of birth certificates. Anyone refused a copy of their own birth certificate would have the right to apply for reconsideration to the registrar general, who is the minister at this point in time. The registrar general would be compelled to look at the application and then make a decision. Then of course a further review would be to a judicial review.

**Mr Colle:** Therefore, the registrar general would have to review the reason. Upon request, there’s an obligation on the registrar general to review it and, subject to that review, the registrar would determine whether or not the person has a legitimate request?

**Ms Zimnica:** That’s correct.

**Mr Colle:** The registrar general cannot deny that right to review?

**Ms Zimnica:** No. Must review the request for reconsideration; must review the application or the request; obliged to review the application or the request—doesn’t have to grant it, but must review it, must take a look at the reasons the person was denied the certificate or the certified copy.

**Mr Colle:** It would give them the right to have some reconsideration take place, just by making that request in writing or whatever it is that there’s been some mistake.

**Ms Zimnica:** That’s correct.

**Mr Colle:** The wording is a bit ambiguous: the registrar general “shall consider the matter and he or she....” OK, so the registrar “shall consider” it, so upon request. In other words, there’s an obligation to consider it.

**Ms Zimnica:** That’s correct.

**Ms Shelley Martel (Nickel Belt):** Under subsection (3), then, if you are refused the birth certificate, you will receive notification of the same, a letter stating that?

**Ms Zimnica:** That’s correct.

**Ms Martel:** I understand that would be if you were applying for the first time?

**Ms Zimnica:** Applying for the first time or if you wanted a replacement certificate.

**1540**

**Ms Martel:** OK. Is there a circumstance under which the registrar general can revoke a birth certificate which is a process not triggered by an original application? Can you have a birth certificate and have it revoked and not receive notification of the same?

**Ms Zimnica:** You could have a birth certificate that would be cancelled. You would get a letter saying that your certificate has been—it is the number that’s cancelled. The birth registration, which is the underlying document, cannot be cancelled without a hearing. That’s provided for in section 52 of the act. So you can’t lose your identity, the registrar general cannot strip you of your legal identity as an Ontarian, without giving you a formal SPPA hearing. The birth certificate, or a certified copy of the birth registration, is just that; it is a copy of the registration or the certificate is an extract from that original document. For that, yes, you could be cancelled. You’d get a letter saying, “Pursuant to your call that you’d said you lost or had your certificate stolen, we’ve cancelled that number.” It’s like deactivating a credit card; that credit card is deactivated but it doesn’t mean your right to get another copy is extinguished. You would reapply for a certificate, and if you were refused at that point you would trigger an automatic reconsideration—this very section we’re talking about.

**Ms Martel:** I think what I’m thinking about is something a little bit different. Bear with me for a moment. Let’s say, for example, the registrar general had some information about an individual which would lead him or her to believe the birth certificate originally was provided in error. What is the obligation of the registrar general at that point with respect to reviewing that information? And what notification, if any, is then provided to the individual who had that birth certificate when it is cancelled?

**Ms Zimnica:** Let me break your question down into two parts. First, if you were given a birth certificate in error, you weren’t entitled to the certificate in the first place. It isn’t yours. I’m trying to understand the circumstances in which you could’ve gotten one that you weren’t entitled to get.

**Ms Martel:** Well, the government has phrased some of this around the events of September 11. One of the scenarios raised was the following: let’s say, for example, you have a birth certificate from someone who is dead and that comes to the attention of the registrar general. I would assume there would be a cancellation of that.

**Ms Zimnica:** I would think there probably would be a cancellation of that.

**Ms Martel:** And what happens after that?

**Ms Zinnica:** Under the normal course of things, a letter would go out indicating that your certificate has been cancelled.

**Ms Martel:** And you have a right to appeal?

**Ms Zinnica:** If the certificate itself has been cancelled, you have the right to apply for a new one the same day. You could call up and say, "I'm entitled to the certificate. I would like one." We would say, "Fine. Here's your application form. Can you answer the entitlement questions?" If it was determined that you weren't entitled, you wouldn't get another one but you would have the right of reconsideration of that decision.

**Ms Martel:** Under the legislation as it stands, even with the changes, you can't appeal cancellation of a birth certificate. You have to apply for a new one.

**Ms Zinnica:** Right.

**Ms Martel:** Is there a reason we wouldn't apply the same process for a cancellation of the birth certificate? I use an extreme example, but what I'm concerned about is that the registrar gets information that may or may not be correct. They cancel the birth certificate. Why don't we have the same mechanism for appeal of that as we are providing here for an application for a new certificate? Do you understand what I'm getting at?

**Ms Zinnica:** Yes, I do. The registrar general firstly is going to be bound to a very high level of scrutiny. You're not going to cancel willy-nilly someone's birth certificate. You would have to be very satisfied and have it on very good information. The kind of information we are talking about would be clear, cogent, something in writing provided to us by law enforcement. That's what's being envisioned in this section.

Your certificate will be cancelled under one of two circumstances: it has been reported lost, stolen, destroyed, found; and the other circumstance is really going to be when the registrar general has reasonable grounds to believe there's a fraudulent or improper use, and we're only going to find that out if law enforcement tells us. At that point, the office of the registrar general or the registrar general would be liaising with the RCMP, with the FBI. That kind of decision wouldn't be undertaken, for example, upon a letter from a disgruntled spouse. Law enforcement would be involved right at the front end.

So providing a right of appeal in those circumstances—you may in fact have a document that someone's not entitled to out there until the hearing process is concluded. That surely thwarts the whole intention of the bill, which is to deactivate a certificate that is being fraudulently used, in the extreme circumstance, by a terrorist. Assume and then talk later. Law enforcement would be involved at that point.

**Mr Spina:** I'm not sure if this would help, Shelley, but the certificates, as they are being or will be issued henceforth, will have a numbered registration which will be kept, and when a cancellation is then issued for whatever reason, there's notice, and they have to appeal, apply and say, "Hey, this shouldn't have been cancelled"

for whatever reason. The reality is that they have to reissue a new one therefore, because the one that was cancelled will be documented as cancelled. That number is cancelled and they would have to reissue a new number to that individual. That's probably one of the main reasons, for the control to continue forward.

**Ms Martel:** I assumed that in most cases there's probably going to be a very good reason for that to occur, but in the circumstance that there isn't, I wanted to make sure someone does have a right to deal with that. If it is to apply for a new one, that's fine.

**Mr Colle:** I just have one more question. In terms of the denial of an application, some of the information may be difficult to ascertain: the hospital, the doctor, your mother's place of birth. That could happen; you know, you've got an adoption situation and then it changes over and so forth. What happens if you can't get—is that grounds for denying an application? Is there any way for the registrar or whoever to take that into consideration if it isn't complete? What's the mechanism there?

**Ms Zinnica:** The questions are weighted. You don't have to answer every single question. I'm not at liberty to disclose how they're weighted, but I can tell you that up until this point in time and into the future, the registrar general deals with those on a case-by-case basis and every effort is made to ascertain that someone is who they say they are. No one is trying to withhold a certificate from someone who's legitimately entitled to it. Of course, the right of review is triggered by this very amendment that the government is proposing. If you were denied because you couldn't answer the key questions to prove entitlement, you would be able to apply for a reconsideration, provide your written reasons to the minister, and the minister could take a look at it and then overrule that decision that was made to deny you a copy of the birth certificate.

**Mr Colle:** That's what I was concerned about, that there might be one bit of information missing and that person, because it would be incomplete, would be denied.

**Ms Zinnica:** No.

**Mr Spina:** I think what happens too, Mike, is that when the appeal is made it essentially also triggers the right of the registrar general to conduct the investigation. They may have that authority in any case, but it would certainly trigger and motivate them to do an investigation to determine that if there are mitigating circumstances preventing this person's issuance of the certificate, then let's go into them. Your example, most particularly with regard to adoptees—it would be able to get into the appropriate records, perhaps, to see if that verification is there.

**The Chair:** Any further debate on this amendment? Seeing none, I'll put the question. All those in favour of the amendment? Carried.

Shall section 7, as amended, carry? It is carried.

Section 8: any comments or amendments? Shall section 8 carry? Section 8 is carried.

Section 9.

**Mr Spina:** I move that section 51.2 of the Vital Statistics Act, as set out in section 9 of the English version of

the bill, be amended by inserting “do” after “to” in the last line.

**The Chair:** Any debate?

**Mr Spina:** It just makes the thing proper, that “it is appropriate to do so” so we have a very clear sentence there.

**The Chair:** In the absence of any further debate, I’ll put that question. All those in favour of the amendment? Opposed? It is carried.

1550

**Mr Colle:** I move that subsection 51.2 of the Vital Statistics Act, as set out in section 9 of the bill, be amended by adding the following subsections:

“Hearing

“(2) A person may apply to the registrar general for a hearing if,

“(a) the person has been refused a certificate or certified copy of a registration under section 44 or 45 or has been refused an additional certificate or certified copy of a registration under section 45.2; or

“(b) the person has had a certificate or a certified copy of a registration cancelled under this section.

“Same

“(3) The registrar general shall hold a hearing when he or she receives an application under subsection (2) and he or she shall decide whether a certificate or certified copy should be issued or replaced.”

Briefly, it’s our feeling that we are trying to ensure that in certain cases where there was a dispute and a refusal of application, at least the person making that application for review to the registrar general be given a hearing. I know the amendment put by the government talks about the review taking place more internally and perhaps the person never had a chance to appear before the registrar or his or her representative. We are trying to make it a little stronger in terms of at least guaranteeing that a person who has a cancellation or refusal take place has the right to a hearing with the registrar general or his designate. That was the motivation for the amendment.

**The Chair:** Further debate?

**Mr Spina:** One of the concerns we have with this is that in the event that you have an individual who is deliberately fraudulently using birth certificates and you end up with a public notice situation—the individual may be in the process of trying to cross the border improperly, and if you start giving them a heads-up like this, it gives them time to get away, if you will. That’s the reason we disagree with this motion.

**Mr Colle:** I don’t quite understand that.

**Mr Levac:** I just want to talk to Joe about the logic behind that. My understanding is that once the person has lost their certificate, there’s concern that this person still may be able to cross the border? He doesn’t have the certificate now, so being held at the border doesn’t prevent the person from having a hearing, right? The way you’ve described it is that if this person comes to the border with a cancelled certificate, which would be on the record, the officials would have the right to refuse entry because he’s got a cancelled certificate. We are

looking at a hearing after the cancellation of the certificate, which means the person couldn’t get across the border—

*Failure of sound system.*

**Mr Levac:** —so it’s one more step than what you’ve already amended. It has no effect whatsoever on the previous concern about getting across a border or anything, because they don’t have the certificate in the first place.

**Mr Spina:** It becomes an open hearing process and it just becomes bureaucratic. If you start getting into those kinds of hearings or situations, then you need a place to have that kind of hearing, you need to have staff around. Essentially, it becomes like a quasi-tribunal, I suppose, in other kinds of hearings we have. Frankly, in our opinion, it’s the view that the individual does have the right of appeal to the registrar general, with the appropriate reasons, and the registrar general therefore has the discretion. But to get into a situation where you’ve got to have the individuals personally speaking with the registrar general on a hearing basis, you’re getting into a whole lot of red tape.

**Mr Levac:** Our contention is that what you consider red tape is our view of what democracy is. That’s the difference between the two. You have the right to form the appeal and the registrar general hears the case, which we accepted. But the next step, we are saying, is a next level to ensure that the people who have those certificates removed have the opportunity to make sure they’re heard and that they have that opportunity. A price to pay is the right to have that person’s day in court. That’s basically what we are saying. The day in court is no longer with them. The day in court, right now, with the amendment we passed for you, is giving the registrar general that opportunity to ensure the appeal has taken place, but we’re asking that we allow the person to appear. That’s the only difference.

**Mr Spina:** If you are truly concerned about the right of the individual to have the document, then clearly going through that kind of process would drag the time frame out and certainly would not be in the interest of the applicant or the appellant. But there is always going to be a judicial option available in the long run if the registrar continues to refuse to grant it and that individual feels they have a legitimate case. There is always the judicial process at the end of the day that will override that.

**Ms Martel:** Can the ministry tell me how many birth certificates are cancelled in a year and how many may be denied? Then we’ll know.

**Ms Zimnica:** It isn’t currently done. The right of cancellation is a brand new right under the statute, so we can’t give you a number at this point in time.

**Ms Martel:** And do you have a sense of how many would be refused if you apply for the first time?

**Ms Zimnica:** We actually don’t anticipate a lot of folks being refused. People who are legitimately entitled to the document will be able to answer the questions and will get the documents. We really can’t guess.

**Ms Martel:** I was just trying to get at whether or not this really was going to be some kind of cumbersome

process involving all kinds of people and a lot of dollars. I suspect it isn't.

**Ms Zimnica:** If we do offer a right of appeal every time someone—the way in which the motion is drafted, it would allow the right of appeal whenever someone's certificate has been reported lost or stolen. I don't know how many people would avail themselves of that, whether you would have people just looking to create some havoc for the government and asking for a hearing when they get a notice that their certificate was cancelled. I can't even begin to guess, Ms Martel, as to how many we would cancel.

**The Chair:** Any further questions? Seeing none, I'll put the question on the amendment. All those in favour? Opposed? The amendment fails.

Shall section 9, as amended, carry? Carried.

Section 10: again a Liberal motion.

1600

**Mr Colle:** I move that subsection 52(4) of the Vital Statistics Act, as set out in section 10 of the bill, be struck out and the following substituted:

“Requirement re: hearing

“(4) Before making an order under subsection (1), the registrar general shall give interested parties an opportunity to be heard.”

It's the same thing, trying to at least allow some kind of face-to-face hearing to take place. Whether we like it or not, bureaucrats make mistakes, and this is a huge bureaucracy in Ontario. I mean, we are creating a huge bureaucracy here with birth certificates. At least give that person a right to be heard, just in case there is some kind of lack of proper process or lack of full information, and don't rely totally on the bureaucrat, the registrar general, to make the decision. You can go to judicial review, but for an ordinary person, paying a lawyer \$1,000 every 15 minutes is very expensive. Anyway, that's a continuation, really, of our last motion in terms of trying to get a hearing in place.

**Mr Spina:** Section 52 already gives the right of a full hearing. The problem we have with this is that it talks about “interested parties an opportunity to be heard.” We stand by the same argument, that it should be the individual who has the right of appeal. I think it is already there and available to the applicant, and that's why we would disagree with this motion.

**The Chair:** Further debate? Seeing none, I'll put the question. All those in favour? Opposed? The amendment fails.

Shall section 10 carry? Section 10 is carried.

Section 11: any amendments or comments? Seeing none, shall section 11 carry? It is carried.

Section 12.

**Mr Colle:** I move that section 53.1 of the Vital Statistics Act, as set out in section 12 of the bill, be amended by adding the following subsection:

“No commercial use of information

“(3.1) An institution that receives information under this section shall not sell or otherwise use it for commercial purposes or advantage.”

This is a bit of a fine point. There are attempts by the government in this legislation to restrict private corporations from profiting from this information. We are trying to tighten it up so that any other government agency or institution would be prohibited under the act from making this information available for commercial purposes or some commercial advantage. It's just an attempt to make it a little more aggressive in terms of ensuring that people's private information is not disseminated by this government agency or other government departments. We are just trying to tighten that up.

**Mr Spina:** We would agree that this particular amendment does what Mr Colle indicated. In a manner of speaking, it may be covered elsewhere, but this very clearly designates that, and we would support this amendment.

**The Chair:** Further debate? Seeing none, all those in favour of the amendment? Opposed? The amendment is carried, which takes us to an NDP motion.

**Ms Martel:** I move that section 53.1, as set out in section 12 of the bill, be amended by adding the following:

“Definition

“(5) Despite subsection (4), for purposes of disclosing information under subsection (3),

“‘institution’ means,

“(a) an institution under the Freedom of Information and Protection of Privacy Act,

“(b) an institution under the Municipal Freedom of Information and Protection of Privacy Act,

“(c) the United Nations, Interpol, or any government, or government agency, inside or outside Canada designated as an institution under the regulations.”

I spoke to this on second reading and I had quite an extensive conversation with Mr Bailey, who is here, so he will guess what's coming and why. Let me break it into two areas. At the top of section 53, it says the “Duty to collect information” and says very clearly that the registrar general, if he or she considers it necessary, can collect information from a number of sources. We agree with that. That may be a hospital, that may be a funeral home, that may be a large number of places from which information will have to be sought to confirm it is correct. We don't have a problem with that.

Our concern comes in the section that says “Duty to disclose information,” which puts an onus on the registrar general to disclose information to a number of bodies. Those bodies, as they appear in the government bill right now—it refers specifically, in (c), to “any agency, board, commission, corporation or other body, inside or outside Canada, designated as an institution in the regulations.” I have a serious concern with “corporation” and I have a serious concern with “other body,” which, to my way of thinking, is completely open-ended. There is no restriction on that whatsoever that I can see.

When I talked to Mr Bailey about it, he said the government's concern was primarily to be able to disclose information to organizations like the CIA or FBI when we were dealing with information that might involve

terrorism. I can appreciate that. I'm also concerned about the reference to "outside Canada," but I can live with that. What I'd like us to do, then, is as much as possible to limit the disclosure to the same. What I tried to do in the amendment was to put down specifically that the obligation refers only to government agencies. We have named the United Nations, we have named Interpol, if that will help the government, but we have restricted it to "government, or government agency, inside or outside Canada."

We would like the reference to "corporation" and the reference to "any body," which is as wide open as it can possibly be, to be taken out so we are very clear who we are sharing or disclosing information with. I see that as a protection for people. If the words "other body" remain, that could mean anyone inside or outside of Canada, and I don't think we want that kind of disclosure possibility. That's the purpose of trying to limit it to agencies that we thought might deal with terrorism or at least government agencies that may have a need to know that, but not to "corporations" and not to "body" as it appears in the text.

**Mr Levac:** Just as a question of clarification on what Ms Martel is concerned about, is there a rationale from staff or the government side on the definition for "corporation" and/or "other body" to assist me in helping me frame my concerns? I share with the government the concern about not having that information available when issues arise as a result of a birth certificate issue. We need to get that information to the appropriate channels. Can you define for me the corporation idea, the other body idea, to ensure it is not so open-ended that it leaves the door so wide open that this information can be shared with absolutely anybody? I'd appreciate it, position-wise.

**Mr Spina:** It raises an interesting series of questions. The key part of it is that the paragraph is a direct word-for-word extract out of FIPPA, which has been in place for 14 years, the freedom of information and privacy act. We have taken that exact phrase right out of the act, which is one reason we felt this amendment from Ms Martel was essentially redundant. I appreciate her efforts to specifically indicate the United Nations, Interpol, that sort of thing. But rather than have the specific bodies in the legislation, we would be looking at identifying specific bodies like that in regulation, because there may be temporary bodies set up. For example, there may be inquiry commissions set up on an international or a national or a co-operative basis. Therefore, it would be more flexible, obviously, to identify the specific bodies in regulation rather than legislation.

But the basic and fundamental opposition to this amendment is that we've taken it right out of the freedom of information and privacy act. That's why we felt it was the most effective.

1610

**Ms Martel:** If I might, I've got the information and protection of privacy act and the Municipal Freedom of Information and Protection of Privacy Act. The definition of "institution" in both cases does not refer to "other

body" and does not say anything about "inside or outside Canada."

**Mr Spina:** We were referring to the phrase—go to section 1, from what I understand. It says "any agency, board, commission, corporation or other body designated as an institution in the regulations." It is in section 1 of the act, Shelley.

**Ms Martel:** I'm looking at the information and protection of privacy act: "'Institution' means (a) a ministry of the government of Ontario, and (b) any agency, board, commission, corporation or other body designated as an institution in the regulations." Where's the "inside or outside Canada"?

**Mr Spina:** It doesn't say inside or outside of Canada, just any other designated as an institution in the regulations. In the regulations, therefore, we can define these specific bodies, whether they be inside or outside of Canada.

**Ms Martel:** But if what you're trying to do is make sure we have some kind of communication with regulatory bodies that deal with law enforcement, why wouldn't you try to define that? The government gave me the idea that the names of these things might change. I don't think the name of United Nations is going to change. Maybe the CIA will change at some point in the future. But it seems a moot point, because if the name changed, you could easily require an amendment to deal with the name change. Your definition of "body inside or outside Canada" could be just about anything.

**Mr Spina:** Well, as an institution in the regulations. In the regulations we would define the specific bodies that we feel would be currently eligible, for lack of a better way to describe it, for that information to be shared. But at some point, there may be special commissions that may be struck for whatever reason. I'm thinking of a war crimes commission or something along those lines. It may not have been specifically designated in the reg. It just makes it easier to alter the reg, as opposed to having to pass a piece of legislative amendment that specifically identifies this body we now want to co-operate with.

**Ms Martel:** Can you tell the committee, if the government has thought about this in that regard, who you've got in mind?

**Mr Spina:** We've talked about United Nations or Interpol, those kinds of things. At this point, we couldn't possibly predict a commission such as I described.

**Ms Martel:** I'm sorry. If you said you were going to do some of these in the regs, you must have an idea of whom you're—

**Mr Spina:** Oh, of some of the bodies that would be identified in the regs? Not at this point. Certainly, some of these are being given consideration, for obvious reasons, particularly with the concern that's arisen in the last couple of months; more particularly to have more security for our own residents, but to be able to help the international law enforcement community trace fraudulent use of our stats.

**Ms Martel:** So the ministry remains convinced that you will not have a private sector body, for example, that



would come forward requesting information on individuals and that you would have an ability to refuse—

**Mr Spina:** It is my understanding, and I stand to be corrected by staff, that nobody other than the individual can apply for this kind of documentation unless there is a substantial reason for that to happen. For example, if a person—I don't know—goes into a coma for whatever reason, there are other elements of the system that would kick in, living wills or that sort of thing, for another party to be able to act on behalf of the individual. It is my understanding that the only person who can apply is the individual or a parent or legitimate guardian. They are the only people who can apply for information under this process.

**Ms Martel:** But the provision that the government wants to put in is that it is the duty of the registrar general to disclose to a broad range of institutions, broadly defined.

**Ms Zinnica:** It is not envisioned that there's going to sharing with private corporations, but here's one example. Someone is born in Ontario and dies in Montana. We receive information that that person has died, so we can flag our system, flag that person's birth registration, so no one could fraudulently—we do what's called a birth-death linkage. They check the Montana obits and know that person has died so they come here to get a new birth certificate in that person's name and establish a new identity. We have information—it may not be reliable information—that that person has died in Montana. In order to verify the death, we would call up the hospital. The only way to get the information under the privacy rules as they exist is that we would have to give some information. “Could you please tell us about John Smith, born in Ontario, November 26, 1967, and here's his mother's name.” We've disclosed personal information by making the phone call and asking for the information back. In order to get the verification, we need to disclose. Under the current IPC decisions and under the FIPPA legislation, you need statutory authority to disclose, and it has to be mandatory authority. That's the trick. You have to be obliged under your statute to give the personal information in order to meet the IPC and the privacy requirements.

That's an example. We can't know at this stage which hospital you'd want to designate.

**Mr Levac:** Mr Spina described for me “other bodies.” I appreciate that clarification because it does satisfy me

in terms of the information being disclosed to other bodies because of the creation of a new body for terrorism purposes or an international body created after the legislation. That clarifies that. Your example still didn't give me an example of why we would put corporations in that. Would that be because of a private sector circumstance that owns the rights to that information?

**Ms Zinnica:** No. What I'm thinking of is a hospital in the United States that's run privately. That would be a corporation.

**Mr Levac:** Which is a private corporation.

**Ms Zinnica:** Right. It's not part of a government.

**Mr Levac:** Therefore, because it is classified as a corporation, you have to put it in here to cover off the idea of giving that information out in order to get it.

**Ms Zinnica:** That's correct.

**Mr Levac:** That's all I needed.

**Mr Spina:** Even our own hospitals are corporations.

**Mr Levac:** But they're public agencies at this point, aren't they?

**Mr Spina:** Well, that's for the lawyers to decide.

**Mr Levac:** I wanted to make the distinction of why corporations. People's impression would be, “Oh, God, they're going to give Texaco the information,” because the employee happened to be there. But we're talking about a corporation designated under the regulations in order to receive the information you need to verify the death. Good clarification. Thank you very much.

**The Chair:** Any further comment? Seeing none, I'll put the question. All those in favour of the amendment? Opposed? The amendment fails.

Shall section 12, as amended, carry? Section 12, as amended, is carried.

Are there any comments or amendments to sections 13 through 19? Seeing none, I'll put the question. Shall sections 13 through 19 carry? Sections 13 through 19 are carried.

Shall the title of the bill carry? Carried.

Shall Bill 109, as amended, carry? It's carried.

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

Thank you very much. With that, we have done our duty again today with alacrity. Thank you all. The committee stands adjourned until the call of the Chair.

*The committee adjourned at 1619.*





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