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Official Report of Debates (Hansard)

Thursday 13 December 2001

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Jeudi 13 décembre 2001

Standing committee on justice and social policy

South Asian Heritage Act, 2001

Health Protection and Promotion Amendment Act, 2001

Chair: Toby Barrett
Clerk: Tom Prins

Comité permanent de la justice et des affaires sociales

Loi de 2001 sur l'héritage sud-asiatique

Loi de 2001 modifiant la Loi sur la protection et la promotion de la santé

Président : Toby Barrett
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

Thursday 13 December 2001

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE ET DES AFFAIRES SOCIALES

Jeudi 13 décembre 2001

The committee met at 1009 in committee room 2.

The Vice-Chair (Mr Carl DeFaria): I'd like to call the committee to order. I'll just read the motion that was passed with unanimous consent.

Ms Marilyn Mushinski (Scarborough Centre): Could you ask for silence from the audience, Mr Chairman, so that we can hear you?

The Vice-Chair: I beg your pardon?

Interjection: Exactly.

The Vice-Chair: Thank you.

The order, with unanimous consent on a motion by Mrs Ecker, reads:

"That third reading of Bill 105, An Act to amend the Health Protection and Promotion Act to require the taking of blood samples to protect victims of crime, emergency service workers, good Samaritans and other persons, be discharged and the bill be recommitted to the standing committee on justice and social policy for clause-by-clause consideration on Thursday, December 13, 2001, from 10 am to 12 noon;

"That the committee will report the bill to the House on Thursday, December 13, 2001, and at such time the bill will be ordered for third reading; and

"That when the order for third reading is called, the Speaker shall put the question immediately on third reading without further debate or amendment and without any deferral of the vote."

The second part of this order, with unanimous consent on a motion by Mrs Ecker, reads:

"That the standing committee on justice and social policy shall be authorized to meet from 10 am to 12 noon on Thursday, December 13, 2001, for clause-by-clause consideration of Bill 98, An Act to proclaim May as South Asian Heritage Month and May 5 as South Asian Arrival Day;

"That the committee will report the bill to the House on Thursday, December 13, 2001, and at such time the bill will be ordered for third reading; and

"That when the order for third reading is called, the Speaker shall put the question immediately on third reading without further debate or amendment and without any deferral of the vote."

Is it the pleasure of the committee that we deal with Mr Gill's bill first? Agreed.

SOUTH ASIAN HERITAGE ACT, 2001

LOI DE 2001 SUR L'HÉRITAGE SUD-ASIATIQUE

Consideration of Bill 98, An Act to proclaim May as South Asian Heritage Month and May 5 as South Asian Arrival Day / Projet de loi 98, Loi proclamant le mois de mai Mois de l'héritage sud-asiatique et le 5 mai Jour de l'arrivée des Sud-Asiatiques.

The Vice-Chair: If I may, I will start then—

Mr Peter Kormos (Niagara Centre): There's a motion by Mr Wood moving an amendment to the preamble.

The Vice-Chair: We have to start with section 1, and when we get to the preamble—

Mr Kormos: No, we have to deal with the preamble. That comes before section 1.

The Vice-Chair: The clerk has just indicated that in clause-by-clause we have to go through the sections first and then deal with the preamble at the end.

Are there any comments, questions or amendments to section 1? Seeing none, shall section 1 carry? Carried.

Section 2.

Mr Kormos: Sections 2, 3 and 4 together, please?

The Vice-Chair: All right. Shall sections 2, 3 and 4 carry? Carried.

Mr Kormos: Mr Wood, please.

Mr Bob Wood (London West): I'm getting support today.

The Vice-Chair: We're dealing now with the preamble. Are there any amendments?

Mr Bob Wood: There are. I move that the second paragraph of the preamble to the bill be amended by striking out "Maritius" and substituting "Mauritius, Singapore, Malaysia."

I might indicate that I have a second amendment as well, which I presume you'd want to deal with after you've dealt with the first amendment.

The Vice-Chair: Go ahead and read the second amendment.

Interjection.

Mr Bob Wood: I think it's correct.

Ms Mushinski: It says "striking out 'Maritius' and substituting"—

Mr Bob Wood: I'm sorry. The amended spelling of Mauritius is correct. I think the unamended spelling leaves something to be desired.

The Vice-Chair: Go ahead and read the second amendment.

Mr Bob Wood: OK.

Mr Kormos: Carried.

Mr Bob Wood: We've got a lot of latitude here.

I move that the third paragraph of the preamble to the bill be amended by striking out "South Asian immigrants" and substituting "South Asians."

The Vice-Chair: Are there any further amendments?

Mr Kormos: Debate on this amendment before we—

The Vice-Chair: First of all, these amendments are out of order, and I'll be asking for unanimous consent to deal with them. Is there unanimous consent? Agreed.

Mr Kormos: Debate?

The Vice-Chair: Go ahead, Mr Kormos.

Mr Kormos: I'm pleased to support the amendment. Mr Gill was very co-operative during the course of presenting this bill and certainly had the co-operation of the New Democratic Party. I'm grateful to Gurpreet Sodhi for drawing to my attention and to Mr Gill's attention that the inclusion of the word "immigrants" as compared to the broader reference to "South Asians" would exclude people like Ms Sodhi, who is South Asian Canadian but who was born here and who is not an immigrant in her own right. Mr Gill again responded positively to that observation. This truly makes this bill an inclusive one that considers the historical role of South Asians as immigrants, but also the role of their children, their grandchildren and their great-grandchildren, the South Asian community being a myriad in itself of cultures, ethnicities and religions, but having a sense of community and certainly a significant role in Canadian history and the Canadian present.

The Vice-Chair: Any other comments?

Mr Bob Wood: I might add that I agree with what Mr Kormos has said, and I think the intention of these changes is to be more inclusive, thereby demonstrating in a stronger way the very positive contributions South Asians make and have made to this province. It's intended to strengthen and demonstrate even more strongly the contribution that is being made and has been made to the province.

The Vice-Chair: If there are no further comments, shall the first amendment carry? Carried.

Shall the second amendment carry? Carried.

Shall the preamble, as amended, carry? Carried.

Shall the long title carry? Carried.

Shall Bill 98, as amended, carry? Carried.

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

We have now completed Bill 98.

HEALTH PROTECTION AND PROMOTION AMENDMENT ACT, 2001

LOI DE 2001 MODIFIANT LA LOI SUR LA PROTECTION ET LA PROMOTION DE LA SANTÉ

Consideration of Bill 105, An Act to amend the Health Protection and Promotion Act to require the taking of blood samples to protect victims of crime, emergency service workers, good Samaritans and other persons / Projet de loi 105, Loi modifiant la Loi sur la protection et la promotion de la santé pour exiger le prélèvement d'échantillons de sang afin de protéger les victimes d'actes criminels, les travailleurs des services d'urgence, les bons samaritains et d'autres personnes.

The Vice-Chair: We're dealing now with Bill 105. Are there any comments, question or amendments to any sections of the bill, and if so, to which sections?

Mr Garfield Dunlop (Simcoe North): There are seven different amendments. That follows up on two previous amendments made by Mr Bryant and Mrs McLeod at the previous justice and social policy committee. I'd like to make a few other comments, if I could. Shall I do it now or later?

The Vice-Chair: Go ahead, Mr Dunlop.

Mr Dunlop: Members of the committee, I want to take this opportunity to thank the committee members, Mr Levac, Mr Bryant, Mr Kormos and Mrs McLeod, as well as our own caucus members, and all three caucuses for their support on this bill.

It's been a very difficult process to go through a bill of this size as a private member. I think it's good legislation. I know it will take some time to implement this piece of legislation, but in the end I think it will be good for Ontario when we do have it proclaimed. I thank everyone for their input along the line.

I've got these amendments, and I think all three caucuses have looked at them. I'll be prepared to read them out as we get there.

The Vice-Chair: Do you want to move the first amendment?

Mr Dave Levac (Brant): Mr Chair, I'd like to make a couple of comments as well before we move on to the amendments. In the last week I have gained an understanding of the other side of politics in terms of the co-operation that's being spoken of today. I appreciate the fact that that's being pointed out today. I'm glad to hear it, because I was concerned at one time that some games were being played. My party has been told that they were the ones who were trying to ram it through, and the next thing we were told was that we were trying to block it.

1020

I want to make sure the record is perfectly clear that from the very beginning—in fact, I have indications and records and letters that prove we were looking at doing this before the bill showed up in the House. The Liberal Party being accused at one time of trying to ram it through, and having a group sent to the health critic saying, "Why are you trying to ram this bill through?"

and then the very next day other groups coming up to us and saying, "Why are you trying to block the bill?"—if those things were done by anyone, I would suggest to you that's not the way to get co-operation and not the way to get bills passed.

The second thing I would say is that holistically there were concerns raised by my House leader, who basically said that if we weren't able to get certain things done for the entire package that was offered in the House leaders' debates, then I would say to you that that couldn't be singled out as one particular bill. On the record, I was very adamant with Mr Dunlop in our conversations right from the introduction of the bill that he would receive my personal support and my efforts to ensure that the bill passed.

The other part of this that has now come about as a result of this is a clearer understanding of how the process works. So there are recommendations, as far as the process is concerned, that the government side needs to make sure that when they are either in support or not in support, the statements they make to some of the other stakeholders who are outside this group are clear. Some of them told me they were under the understanding that the government had made statements to the effect, "Don't worry about it. It's a private member's bill, and they seldom ever get passed." Because of that, and the tenacious efforts of Mr Dunlop to ensure that this bill did get passed, I appreciate very much, on behalf of those people who are concerned very deeply, that something like this needed to be passed.

Again, for a second time I would congratulate Mr Dunlop's tenacious attitude toward making sure this bill saw the light of day. Some of the things that were done were not above-board—what I would consider above-board—in order to get this bill passed. But the fact is, we're here today to say the bill is going to pass. The amendments that are being offered—and our health critic was able to guide us through those—and Mr Dunlop's taking this on the road and making sure that things that were pointed out in the first draft got corrected, and co-operatively working with the ministry and with the other parties, made sure this thing did get passed.

Having said that, I would say to you for the umpteenth time that we are definitely supporting this piece of legislation. The amendments address the concerns that were being raised by some people. Unfortunately, there are still those who will not like this piece of legislation because of concern about the confidentiality of medical records, but I believe that every effort was made that we finally have a draft of a bill that all of us can support in the intent of what is happening.

I want to congratulate the member, and I also want to indicate to those stakeholders that every effort was made by all three parties to ensure that the passage of this bill was done in a way that tried to protect—and I don't want to be presumptuous to speak on behalf of the NDP, but I understand there were efforts made to make sure this bill got passed.

Having said that, my colleague wants to say a couple of words.

Mr Kormos: Just to say that I don't suffer from performance anxiety.

Ms Mushinski: Just for the record, Mr Chairman, I want to say that in no way have I ever accused anyone of trying to ram this through and block it at the same time. I always attempt to do things above-board, although it's not always easy when others try to tread water, even though I would never sink to their level.

The Vice-Chair: Mr Dunlop, do you want to move the first amendment?

Mr Dunlop: I move that section 22.1 of the Health Protection and Promotion Act, as set out in section 1 of the bill, be amended by adding the following subsection:

"Order for blood samples, definition

"(0.1) In this section,

"'physician report' means a report made by a physician who is informed in respect of matters related to occupational and environmental health and all protocols and standards of practice in respect of blood-borne pathogens, which report assesses the risk to the health of the applicant described in subsection (1) as a result of the applicant's having come into contact with a bodily substance of another person in the circumstances described in subclause (1)(a)(i), (ii) or (iii)."

The Vice-Chair: Mr Dunlop has moved government motion 1. Are there any comments? Seeing none, shall the—

Mr Kormos: Chair, perhaps there could be a brief explanation of the impact of this, if it's available.

Mr Dunlop: Basically, this is more of a definition, Mr Kormos. The reason is to define the physician report as a report made by a physician who is informed about occupational health and medical protocols relating to blood-borne pathogens.

Mr Kormos: As I understand it, Chair, this is again imposing a restriction on the types of doctors who can be called upon. It relies upon doctors who have specific experience and expertise, as indicated, not only with respect to occupational health issues but also the protocols around it relating to the physician's role primarily.

Ms Mushinski: It suggests there are some medical practitioners who actually don't have the knowledge of those protocols, and this makes sure that those who conduct the tests actually do.

The Vice-Chair: Any other comments? Shall government motion 1 carry? Carried.

Mr Dunlop, you have another motion on section 1?

Mr Dunlop: Yes. I move that subsection 22.1(1) of the Health Protection and Promotion Act, as set out in section 1 of the bill, be amended by striking out "and" at the end of clause (c) and by adding the following clauses:

"(e) the applicant submits to the medical officer of health a physician report on the applicant made within seven days after the applicant came into contact with the bodily substance; and

"(f) having regard to the physician report mentioned in clause (e), the order is necessary to decrease or eliminate

the risk to the health of the applicant as a result of the applicant's having come into contact with the bodily substance."

A brief explanation, Mr Chairman, is that clause (e) requires an applicant to submit a physician's report as part of the application process, and clause (f) requires the medical officer of health to consider the physician's report when considering whether on reasonable grounds the order to take a blood sample is necessary to decrease the risk to the health of the applicant.

Mr Kormos: What this section does is restrict access to the process. It makes sure that a person who is an applicant has to first undergo an initial physical examination and consultation with presumably their own doctor, and this again controls access, willy-nilly, to the process. In other words, it has to be considered by the medical officer of health in determining whether or not that medical officer of health is going to require samples in determining whether there is effectively a prima facie ground for concern on the part of the applicant. There may well be scenarios where an applicant has personal fear because they've come into contact with, let's say, bodily fluids but, after visiting their physician, can be assured that the nature of the contact was such that it won't require the intrusion by way of requesting a blood sample from the respondent party. Again, this narrows the process. It makes the funnelling significantly more severe than what it was in the original form of the bill.

Mr Levac: Garfield, there have been a few questions raised with the seven days. That is a maximum to ensure that there's no loss of time in which it's required to get these tests done. I defended it or explained it in terms of a maximum of seven days so there would be no interference in the time frame. As we know, medically, the sooner the better.

Mr Dunlop: Yes, the sooner the better, but a maximum of seven.

1030

Ms Mushinski: I just actually had a question of Mr Kormos, who is a lawyer. Is this clause (e)—

Mr Kormos: I haven't seen a fee yet this morning.

Interjection: Send a bill for this, Peter.

Ms Mushinski: Please don't see that as an insult. It's a question actually on the context of clause (e). When I first read this, I didn't understand what it meant because there are no commas, there's no grammatical context at all. If this was to be legally interpreted, would you understand it?

Mr Kormos: I think I understand it. Again, it severely restricts the scope of medical officers of health in ordering blood samples, because it requires the applicant to have undergone a physical examination and to have that report available for and provided to the medical officer of health who is being called upon to make a determination as to whether to require blood samples from the respondent.

Ms Mushinski: A good enough explanation for me, Mr Chairman.

The Vice-Chair: Do you wish legislative counsel to comment on it?

Mr Kormos: I'd like to hear his version.

Mr Michael Wood: I'd just like to support what Mr Kormos said in regard to the interpretation of the motion. The two clauses that are being added by the motion fall within subsection 22.1(1), so you have to read the introductory words of 22.1(1), which are saying that these clauses are conditions precedent to making an application to the medical officer of health for the order that's set out later in the section. These are additional conditions.

Mr Kormos: I should indicate further, Chair, that this amendment, among others, is a direct response to the concerns raised by the medical officer of health when he was here last week. They flow very much and address the concerns that he raised.

Mr Bob Wood: May I ask a question here? It says they can make a written order at the start of 22.1(1). Why would it not read "the applicant has submitted"? We're saying they can make a written order if they're satisfied that "the applicant submits." Either the applicant has or hasn't submitted. You can't be satisfied that they submit.

Mr Michael Wood: Could I answer that? I suppose it's theoretically possible that at the same time as the applicant goes to the physician for the physician report, the applicant starts to make the application. But in any event, I think it is clear from clause (e) what the timelines are.

Mr Bob Wood: Why would it not be "has submitted" rather than "submits"?

Mr Michael Wood: As I say, the applicant could submit the physician report at the same time as submitting the application.

Mr Bob Wood: Sure, but surely the submission has to be made before he can be satisfied or he or she makes the order.

Mr Michael Wood: Yes, it is true that the—

Mr Bob Wood: It can't be contemporaneous. The one's got to happen before the other.

Mr Michael Wood: The medical officer of health has to have the physician report before making the order.

Mr Bob Wood: That's my point. So why would it not be "has submitted" rather than "submits"?

Mr Michael Wood: Perhaps "has submitted" would be more accurate, but it's—

Mr Bob Wood: If you're satisfied with that, if a friendly amendment would be entertained, maybe it should read "has submitted." Because they're not contemporaneous. The submission has to happen before he or she can be satisfied.

Mr Michael Wood: You are right that the medical officer of health cannot make the order until the applicant has submitted the physician report and the application.

Mr Bob Wood: Would you be satisfied to change "submit" to "has submitted"?

Mr Michael Wood: Yes, I would personally, but—

Mr Kormos: I understand that's the lawyer part of Mr Wood coming into play, but from a linguistic point of view, I just put this to you—and I don't quarrel with

what you say, because I submit that "submits" in effect means "has submitted" in the context of this bill. "Submits" sounds better linguistically, but then when have lawyers ever cared about—other than it's bluebell time in Kent—the rhyme or rhythm?

Mr Bob Wood: You would agree that they're not contemporaneous. The submission has to happen before the—

Mr Kormos: Yes, I'm not quarrelling with you.

Mr Bob Wood: I would suggest "has submitted" is better than "submits."

Mr Kormos: I'm not quarrelling with you.

Mr Bob Wood: I don't want to take up the morning.

Mr Kormos: And legislative counsel agrees that "submits" is intended to say "has submitted" in any event. That's how I interpret it. So, God bless, let's do that.

Mr Bob Wood: All right. If counsel is satisfied with "has submitted" and the committee is prepared to unanimously agree to that change, I will suggest it. If Mr Dunlop accepts it—

Mr Dunlop: I accept that, yes.

Mr Kormos: Agreed.

Mr Levac: We're agreeing? That's fine, go ahead. I have another example of the wording as in the body of the bill itself so it makes sense to match it.

Mr Kormos: The amendment to the amendment is clearly friendly and it's also passed and been agreed to.

The Vice-Chair: Mr Wood, do you want to move the amendment, then?

Mr Bob Wood: I move an amendment, I guess, to the amendment—which, if I have unanimous consent, I gather can be accepted—that we remove "submits" in clause (e) and change it to "has submitted."

Mr Kormos: Agreed.

Mr Dunlop: Agreed.

Mr Bob Wood: You're satisfied with that?

Mr Michael Wood: Yes.

The Vice-Chair: Carried.

Mr Levac: Mr Chair, on the amendment, for clarification purposes: when it says "a physician," does it necessarily mean a personal family doctor or "a" physician, which could include the emergency doctor dealing with the case immediately?

Mr Kormos: The physician report refers back to the earlier amendment.

Mr Michael Wood: Yes. As Mr Kormos just said, the physician report is defined in the section, but also the term "physician" is defined in the Health Protection and Promotion Act to be a legally authorized medical practitioner of health.

Mr Levac: So that is a broad stroke of who can initiate the report.

Mr Michael Wood: Well, "a physician" is a large category, a legally authorized medical practitioner, but the physician who makes the physician report has to be a physician who, at the time of making the report, is informed of the matters that are set out in the definition.

Mr Levac: So, for the purposes—and I have to put this out there—of an emergency worker or a good Samaritan who has to go to an emergency room, the physician at that time could make the report to expedite the process that's necessary for treatment in the event of getting any one of these diseases spoken of.

Mr Michael Wood: It would be a matter of interpretation. A physician, a legally authorized medical practitioner, could make the report, but when the applicant makes the application, the medical officer of health would look at the report—

Mr Levac: And make a determination, sure.

Mr Michael Wood: —and have to satisfy himself or herself that the physician was informed at the time of making the report.

Mr Levac: That's understood, but what I'm getting at is how quickly you can start the first phase, and that's the idea, right?

Mr Kormos: Chair, if I may, there are no two ways about it: these amendments are not opening the doors, they're narrowing access, and I think everybody understands that. Let's understand that. That may not make some people happy, but in an effort to balance the issues—the matter of collecting a blood sample from a respondent is a serious intrusion on that party, I put it, far less serious when it's the result of being a victim of crime, where for instance an alleged rapist is caught. It doesn't particularly offend me to call upon an alleged rapist to provide bodily samples. These amendments restrict access, which again doesn't make everybody happy, I understand that, but in an effort to balance the interests of a number of parties here, I put it to you that these are healthy amendments.

Please, look at the next amendment, though, because you've got the definition of "physician report." The next amendment is critical as well, so these have to be looked at in context. I'm talking about the addition of subsection (1.1), the number of things that a reporting physician—that is, the author of a physician report—may require of an applicant in the process of preparing that report.

Mr Levac: I appreciate that.

The Vice-Chair: If there are no further comments, shall government motion 2, as amended by Mr Wood's motion, carry? Carried.

We have another motion, government motion 3.

1040

Mr Dunlop: I move that section 22.1 of the Health Protection and Promotion Act, as set out in section 1 of the bill, be amended by adding the following subsection:

"Making the physician report

"(1.1) A physician who makes a physician report on an applicant described in subsection (1) may require the applicant to submit to an examination, base line testing, counselling or treatment for the purpose of making the report."

It permits the physician making the report to request that an applicant submit to an examination on baseline testing or counselling or treatment; that means the person asking for the report.

Mr Kormos: Garfield's explanations of these amendments are like referring to the dictionary for a reference and finding the definition of "impeccable" to be, well, "impeccable."

Once again, this expands the power of the physician who's called upon to make the physician report to compel the applicant to do a number of things at the discretion of that physician as part of his or her compiling of the report. Again, does it create hurdles for the applicant? Yes, it does. I appreciate that not everybody is going to be happy with that, but it permits a physician—and it isn't compulsory—to require, among other things, to take a look at counselling, and more important—and this is in response to the medical officer of health, because the medical officer of health made it quite clear that our medical officers of health have a great deal of power already to collect evidence of communicable diseases from any number of people in the community—that their scope and focus was on a public health basis.

The critical consideration here is the issue of baseline testing, which you will recall was referred to specifically by the medical officer of health last week as something that was absent from the bill as it stood then. This is very much in response to the concerns raised and addresses head-on the concerns raised by the medical officer of health. I think we should take the medical officer of health's advice and recommendation in that regard and pass this amendment, appreciating that it will not please everybody.

Mr Levac: Having read this, and my previous question coupled together, as Mr Kormos suggested, I have an understanding that this does not interfere with the individual's personal responsibility to follow a process and a path. Where I would suggest it might be advantageous once the bill passes is for organizations that may or may not be affected by this particular piece of legislation to do—shall I call it—a professional development workshop to ensure that they understand, as part of their response to this, what steps can be taken and how they can be taken. Having asked the question the first time about the other amendment, for clarification purposes, how quickly we can start the process, with that balance Mr Kormos is talking about to narrow the scope in which this can apply, under comments by the medical officer of health, it seems to me to be putting on to the shoulders of the individuals that request the reporting certain steps to be taken. Then it should be made very clear how to respond to that. Maybe, going along with the idea of trying to protect as much as possible the individual's rights and freedoms and also the medical officer of health's responsibility for the public good, I can support the amendment with the understanding that there needs to be very strong and purposeful professional development to ensure that everyone knows what steps to take to get the treatment as quickly as possible, if indeed they end up being exposed.

Mr Bob Wood: I'm not going to support this amendment. I'm going to abstain on it unless it's changed. I don't think anyone who is competent should be required to take counselling or treatment. I think that's wrong in principle and I want to put that on the record. Unless there's unanimous consent, obviously, we can't remove counselling or treatment, but I think it's wrong in principle to require someone who is competent to take counselling or treatment. I think they can make that decision. If they don't want the counselling or don't want the treatment, I don't think they should be required to take it.

Ms Mushinski: It's just "may."

Mr Bob Wood: No, no. It's mandatory. The doctors could say you have to take counselling and you have to take treatment. I think that's wrong in principle.

The Vice-Chair: Any other comments?

Mr Kormos: Could you call the question, Chair?

The Vice-Chair: All right. Mr Dunlop moved government motion number 3. Shall the motion carry? Carried.

We have government motion number 4.

Mr Dunlop: I move that subclauses 22.1(2)(b)(i) and (ii) of the Health Protection and Promotion Act, as set out in section 1 of the bill, be struck out and the following substituted:

"(i) to have it delivered to an analyst or a member of a class of analysts specified in the order to have the sample analyzed, and

"(ii) to provide the applicable analyst with the addresses for service of the following persons, if the medical officer of health has those addresses: the applicant, the physician of the applicant, the person from whom the sample was taken and the person's physician; and"—and that's going to take us on to the next section.

There are two comments I'd like to make on this. We are doing this to clarify where the reports about the blood analysis and the notices about the reports are to go, namely, the applicant and the physician and the subject of the order and the physician, if the medical officer of health actually has their addresses. It also clarifies whether he is obliged to deliver a notice to the subject—only if the analyst succeeded in delivering the report of the blood sample results to the subject's physician.

Mr Kormos: Not quite. It goes beyond that, Mr Dunlop because, you see, the previous section's (ii) restricted the number of people whose addresses had to be provided to the analyst, and that made it difficult to comply with subclause (c)(ii). What (ii) does here is effectively create consistency between (ii) of clause (b) with (ii) of clause (c) and parallel them. But I suspect it was the result of an oversight in the original drafting of the bill and this cleans up that oversight.

The Vice-Chair: All right. Any other comments? Seeing none, shall government motion number 4 carry? Carried.

We have government motion number 5.

Mr Dunlop: I move that subclauses 22.1(2)(c)(ii) and (iii) of the Health Protection and Promotion Act, as set out in section 1 of the bill, be struck out and the following substituted:

"(ii) make reasonable attempts to deliver a report on the results of the analysis to the physician of the person from whom the sample was taken,

"(iii) make reasonable attempts to deliver, to the person from whom the sample was taken, a notice that the analyst delivered the report mentioned in subclause (ii) if the analyst succeeded in delivering the report under that subclause,

"(iv) make reasonable attempts to deliver a report on the results of the analysis to the physician of the applicant, and

"(v) make reasonable attempts to deliver to the applicant,

"(A) a notice that the analyst has made reasonable attempts to deliver a report on the results of the analysis to the physician of the applicant, and

"(B) a recommendation in writing that the applicant consult his or her physician for a proper interpretation of the results of the analysis."

The Vice-Chair: Any comments, Mr Dunlop?

Mr Dunlop: No.

The Vice-Chair: Any other comments?

Mr Kormos: Once again, this is cleaning up some less than precise drafting in the original bill.

Mr Levac: Just as a question of clarification, when the results of the analysis are sent to the physician, is the rationale behind that to avoid the individual misinterpreting the results, so that the physician would have the responsibility to make sure the results are not misinterpreted?

Mr Dunlop: Yes.

The Vice-Chair: No other comments? Shall government motion number 5 carry? Carried.

We have government motion number 6.

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Mr Dunlop: I move that section 22.1 of the Health Protection and Promotion Act, as set out in section 1 of the bill, be amended by adding the following subsection:

"Health Care Consent Act, 1996

"(4.1) The Health Care Consent Act, 1996 does not apply to the taking of a sample of blood under clause (2)(a)."

It's our feeling that this particular amendment strengthens the bill as well.

Mr Kormos: Once again, this addresses an observation made by the medical officer of health when he was here before the committee during the course of questions put to the medical officer of health.

The Vice-Chair: Any other comments? Shall government motion number 6 carry? Carried.

There are no other amendments to this section. Are there any comments before I move section 1? Shall section 1, as amended, carry? Carried.

There are no amendments to section 2. Are there any comments on section 2? Shall section 2 carry? Carried.

Section 3: I think there is one government amendment.

Mr Dunlop: I move that section 97 of the Health Protection and Promotion Act, as set out in section 3 of the bill, be amended by adding the following clauses:

"(c.1) prescribing the information that a physician report as defined in section 22.1 must or may contain;

"(c.2) prescribing a form for a physician report as defined in section 22.1 and requiring that the report be in the prescribed form;"

This is to provide regulation-making authority that provides the minister with the power to make regulations prescribing the information that a physician report must contain in the physician report form itself.

Mr Kormos: First of all, let's understand that the Lyn McLeod amendment that was moved and passed at the last committee hearing, also to section 97, was essential to generate the capacity by regulation to create regulation around privacy considerations.

I've got to tell the sponsor of this bill, I've seen increasing use of regulation over the course of the years I've been here. I don't like it. This government has passed whole bills that consist of nothing more than a shell, and then everything is contained in regulation. Regulation, as you know, is done behind closed doors. It's not necessarily done without consultation and it indeed can be done with no consultation. We have no control over that. The government has a majority and it has used that majority to ram through that type of legislation consistently.

I am prevailing upon the government today to assure everybody that in the course of developing regulations around the Lyn McLeod amendment—paragraph (d), for instance, the privacy issues—that in preparing regulations around all of what this expanded section will be, all parties be consulted. Again, this government has received communications from any number of groups, but I think it's imperative that the personnel being considered and the passage of the bill be consulted in that regard. I'm talking about front-line emergency service people. I think that's the broadest way of putting it. But any number of communities and people in our community have expressed concern, and I think this is the stage at which—because the regulations really are the crux of it. The regulations are what will make this bill work in an effective, fair and least intrusive way, or not. All I can do is plead with the government to ensure that that consultation with everybody takes place during the drafting of those regulations. The regulations are critical to this bill.

I'm glad the government accepted Liberal amendment, paragraph (d), for privacy issues. Again, these two amendments are valuable as well because the bill doesn't do that—the bill, perhaps, should have done it—and so we couldn't debate it. But the bill doesn't. That's why it's unfortunately being delegated to regulatory power. So be it. But please, you have some degree of control, I hope, over your cabinet.

Mr Bob Wood: We're doing our best.

Mr Kormos: Please use your influence to ensure that there's full consultation in the development of these regs.

Mr Dunlop: If I could respond very briefly to that, I just want to personally guarantee you—I want you to know that I'm going to keep a very close eye on where this bill goes from here, on the implementation period, on the educational aspects that may be required with this bill

as well. I understand it's not easy from this point on, but I want to personally guarantee that I will.

Mr Kormos: You know what? I expect the opposition critics will be keeping a close eye on that too.

Mr Dunlop: Would that be you, Mr Kormos?

Mr Kormos: It would be, and my counterparts.

Mr Levac: As Mr Kormos pointed out, there were some concerns raised, and I do want to give my health critic Lyn McLeod credit for looking at that concern that was raised and the government for the paragraph they accepted.

Just a voice to echo the same concern, that within the regulations, if they're considered to be of value for the implementation of this particular bill and the process that's required to assist the emergency workers, the good Samaritans and other people who may come in contact, we would be notified of any changes or the types of regulations that are going to be looked at in order for that to happen. Basically, our concern has been voiced as well.

The Vice-Chair: Any further comments? Seeing none, shall government motion number 7 carry? Carried.

Shall section 3, as amended, carry? Carried.

Any comments on section 4? Seeing none, shall section 4 carry? Carried.

Shall section 5, the short title, carry? Carried.

Shall the long title of the bill carry? Carried.

Shall Bill 105, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Thank you, I'll do so.

I just want to congratulate the members from all sides for their co-operation on this bill, and also the stakeholders, the emergency services people who have been here throughout the bill.

Mr Kormos: I hope nothing happened to Mr Gill this morning, nothing negative?

Ms Mushinski: No.

Mr Kormos: He's OK?

Ms Mushinski: Yes.

The Vice-Chair: Thank you. The committee is adjourned.

The committee adjourned at 1058.

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