

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

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## **Official Report of Debates (Hansard)**

HE-28

## **Journal des débats (Hansard)**

HE-28

### **Standing Committee on Heritage, Infrastructure and Cultural Policy**

Fairness for Road Users Act  
(Contraventions Causing Death  
or Serious Bodily Harm), 2023

1<sup>st</sup> Session  
43<sup>rd</sup> Parliament

Wednesday 12 July 2023

### **Comité permanent du patrimoine, de l'infrastructure et de la culture**

Loi de 2023 sur l'équité  
envers les usagers de la route  
(contraventions ayant causé  
un décès ou des blessures  
corporelles graves)

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

Mercredi 12 juillet 2023

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Chair: Laurie Scott  
Clerk: Isaiah Thorning

Présidente : Laurie Scott  
Greffier : Isaiah Thorning

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON HERITAGE,  
INFRASTRUCTURE  
AND CULTURAL POLICY**

**COMITÉ PERMANENT DU PATRIMOINE,  
DE L'INFRASTRUCTURE  
ET DE LA CULTURE**

Wednesday 12 July 2023

Mercredi 12 juillet 2023

*The committee met at 1000 in committee room 1.*

**The Clerk of the Committee (Mr. Isaiah Thorning):**

Good morning, honourable members. In the absence of the Chair and Vice-Chair, it is my duty to call upon you to elect an Acting Chair. Are there any nominations?

**Mr. Vijay Thanigasalam:** I would like to nominate MPP Nolan Quinn.

**The Clerk of the Committee (Mr. Isaiah Thorning):**

Thank you. Does the member accept the nomination?

**Mr. Nolan Quinn:** Yes.

**The Clerk of the Committee (Mr. Isaiah Thorning):**

Are there any further nominations? There being no further nominations, I declare nominations closed and MPP Quinn elected Acting Chair of the committee.

FAIRNESS FOR ROAD USERS ACT  
(CONTRAVENTIONS CAUSING DEATH  
OR SERIOUS BODILY HARM), 2023

LOI DE 2023 SUR L'ÉQUITÉ  
ENVERS LES USAGERS DE LA ROUTE  
(CONTRAVENTIONS AYANT CAUSÉ  
UN DÉCÈS OU DES BLESSURES  
CORPORELLES GRAVES)

Consideration of the following bill:

Bill 15, An Act to amend the Highway Traffic Act to create an offence of contravention causing death or serious bodily harm / Projet de loi 15, Loi modifiant le Code de la route pour ériger en infraction le fait d'avoir causé un décès ou des blessures corporelles graves pendant la commission d'une contravention.

**The Acting Chair (Mr. Nolan Quinn):** Good morning, everyone. The Standing Committee on Heritage, Infrastructure and Cultural Policy will now come to order. We are here to conduct public hearings on Bill 15, An Act to amend the Highway Traffic Act to create an offence of contravention causing death or serious bodily harm. We are joined by staff from legislative research, Hansard, and broadcast and recording.

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

Our first presenter is the bill's sponsor, MPP Jennifer French. She will have 20 minutes to make an opening

statement, followed by 40 minutes for questions and answers, divided into two rounds of seven and a half minutes for the government members, two rounds of seven and a half minutes for the official opposition members and two rounds of five minutes for the independent member. Are there any questions?

You have 20 minutes for your presentation. You may begin, MPP French.

**Ms. Jennifer K. French:** Thank you very much, Chair, and good morning, committee. I am very pleased to be sitting in the hot seat today. It's my first time in this chair in the nine years that I've had the privilege of serving the Legislature. In fact, while I have made some changes through the years, this is the first time that a private member's bill has come before committee, and so I really appreciate your time and attention this morning to raise this important issue.

I'm grateful to be here today to discuss Bill 15, An Act to amend the Highway Traffic Act to create an offence of contravention causing death or serious bodily harm. The short title of this bill is the Fairness for Road Users Act. This is a bill about fairness and justice for survivors and families who have suffered unimaginable harm and loss.

I have introduced a version of this bill before, but this reintroduced private member's bill, Bill 15, would add a meaningful change for families across the province who know too well the pain of loss or injury on our roads.

This bill amends the Highway Traffic Act. If a person causes or contributes to causing an accident which causes death or serious bodily harm and, at the same time, the person was contravening the Highway Traffic Act or its regulations, then the person is guilty of an offence. The court would be able to sentence the person to a fine of up to \$50,000, or to imprisonment for up to two years, or both. The court may also suspend the person's driver's license or permit.

We all know terrible things can happen on the roads when people violate the Highway Traffic Act. However, as it stands now, in the event that someone dies or is significantly injured as a result of an HTA violation, there is not a significant penalty that can be given upon sentencing. Too many families have been devastated by a judge's inability to do more than issue a \$500 fine, which is a slap in the face to loved ones who are already suffering. Judges have also been frustrated by the inappropriate limits placed on them by current legislation, or so we've been told by the families in the courtrooms.

This Bill 15, the Fairness for Road Users Act, would increase penalties if someone on the road breaks a driving law and hurts or kills someone, and this bill would give the court options during sentencing so that families might no longer suffer insult after suffering injury.

I want to thank the advocates, families and friends who have shared very real pain with me, as well as their very important perspectives. I know today we will be hearing from Gerry Rhodes and Brian Burnett, who I met through the Bikers Rights Organization. They are long-time advocates for this change, and they have worked tirelessly across these past 20 years by gathering thousands of signatures, seeing this bill be reintroduced multiple times in slightly different forms with different governments. They have written to different governments and ministers, and they've showed up every time this bill or this issue has been raised in the House.

An important part of what we do as legislators is listen to people, learn from them and try to make things better. Gerry Rhodes worked hard to be heard, and I would like to acknowledge that my colleague Wayne Gates tried years ago, in 2015, to have this issue fixed through his similar PMB, Bill 154, but wasn't successful then. When I became the NDP critic for infrastructure, transportation and highways, I introduced this bill as Bill 122, then reintroduced it as Bill 62 and now, finally, as Bill 15. So I'm going to highlight some of what I shared during debate of this bill back in November, but I want to expand so that the committee has a clear understanding of what I am seeking to do.

I will also say that I appreciate the time that this Minister of Transportation has given me, and the time invested by ministry staff in understanding this problem properly and for being willing to work to fix this problem. I also am joined by families and survivors in being very grateful for this opportunity to present to committee.

This bill began its road back in 2002 north of Batchawana Bay, Ontario. Wanda and David Harrison were visiting from the States and were touring on their motorcycles and were enjoying Ontario, northern Ontario especially. A man from Etobicoke made an unsafe left turn across their path and killed both of them. The OPP closed the TransCanada Highway for six or seven hours while they gathered all evidence and, days later, they laid a charge of unsafe turn. Police could not lay a more serious charge, hence the Highway Traffic Act infraction. The maximum penalty was \$500—a \$500 fine for the death of two people.

Gerry Rhodes shared with me what was heard in the courtroom that day. The judge wished for more options to reach for during sentencing, and I hope Mr. Rhodes will share his experience with this committee later. That moment in that courtroom set Gerry on a path of advocacy in the Harrisons' memory but also for the many people hurt and killed on our roads.

We know that terrible things can happen on the roads. When people violate the Highway Traffic Act and someone dies or suffers serious bodily harm as the result of that violation, there is not a significant penalty that can

be given upon sentencing. Too many families have been further devastated by a judge's inability to reach for more than that \$500 fine. Survivors of a collision as a result of a Highway Traffic Act violation are often lucky to be alive. They are heading to a very challenged and changed future, and they are told at sentencing that their suffering is worth no more than 500 bucks.

I have spoken with many people, and I want to bring their words here today and share my understanding of those words.

Motorcycle rider Ray Damude remembered his good friend Stan Krawcar to me. He said, "It's sad to relive an incident that brought myself and the community such grief. Stan Krawcar—a close friend and business partner—was struck down on his motorcycle by a driver making an illegal left-hand turn. Upon arriving at the scene, watching my friend die was devastating.

"Going to the court hearing was almost as devastating, as the judge said he wished he could impose a much harsher penalty for the manslaughter, but his hands were tied and sentencing could only result in a \$500 fine." He said, "This incident has haunted me ever since as the punishment does not align with the crime."

I also appreciate that Brian Burnett is going to be at Queen's Park today to speak to this committee. He has come to sit in the gallery every time this bill has come before the House—when it was Bill 154, Bill 122 and, now, as Bill 15. Mr. Burnett is the Bikers Rights Organization's Fallen Riders Memorial coordinator. For many years, at the end of May, motorcycle riders have gathered on the lawn or nearby at Queen's Park for a memorial service honouring fallen motorcycle riders, and this event was inspired by the tragic road death of his dear friend Chris Mayhew.

But Mr. Burnett also has a story to share about his own collision. Mr. Burnett is fortunate to be alive—and I had shared his story during debate—but he is forever changed by the damage that was done. I know he'll share his story today, but something he said to me has stuck with me. He said, "It doesn't go on your licence, doesn't go on your record. A 'turn not in safety' doesn't go anywhere except on your own conscience. People are dying and we want to have justice for the families."

#### 1010

I also would like to have justice for families and justice for survivors. During committee hearings of the government's Bill 282, MOMS Act, when we were talking about road safety, it was my privilege to speak to the committee and bring forward amendments on this very issue, but there were some people who came to that committee advocating for change, and I'll share their thoughts.

Jessica Spieker was the co-chair and spokesperson for Friends and Families for Safe Streets, a group of people whose loved ones were suddenly, senselessly and violently killed by drivers in a collision on Ontario streets, or for people like her who survived a crash with severe injuries. Their survivors and the loved ones they've lost were all vulnerable road users or people using the road

who are outside of a motor vehicle. Ms. Spieker shared with us then:

“In 2015, I was riding my bike to work in a straight line on a bright morning with the right of way when an oncoming driver made a left turn and slammed her large SUV into me. When she struck me, she broke my spine, she inflicted a brain injury and she did such extensive damage to the side of my body that she hit that I developed a large blood clot in my leg. Later, a piece of that blood clot broke off, chewed through my heart and landed across both lobes of my lungs. In effect, her actions nearly killed me twice.”

At sentencing, the driver’s fine was \$300, and as Jessica told us, “That the value of my health and my future was \$300 hurts me every single day.”

That day, at committee, she was joined by Heather Sim; Heather’s father, Gary Sim, was killed on his bicycle. She told us:

“On June 30, 2017, my dad was riding his bike home from running errands. His bike was the preferred mode of transportation for him in the city. He was riding straight past a plaza when a driver in a van drove up behind him, passed him and turned right into him. He spent two days on life support before he died.

“For my dad’s case, the driver was charged with a ‘turn not in safety.’ He was found guilty and given the maximum fine of \$500 and two demerit points. There was no licence suspension. At sentencing, the judge called a recess to determine if she could increase the fine as she felt this was not sufficient but, unfortunately, her hands were tied by the Highway Traffic Act. My dad’s life was worth so much more than \$500.”

I asked her more about her family’s story, and she explained:

“In our case, for example, right now, you have to have a dangerous driving charge to have additional charges. With our case, that just wasn’t going to be used because we were told that the bar is set so high for that that they rarely charge it, and when they do charge it, it’s rare that they can actually keep it going in court. They usually get found not guilty of that. So right now, with our case, it was a ‘turn not in safety,’ because they knew they definitely could charge that, they could prove that and he would be found guilty of that. If they were to up it to the dangerous driving charge, there was the risk of him walking with absolutely no charges. But to add to that, he drove away from the scene of the crash, and he always drove. There was never even a licence suspension in his case.”

Committee, I explained my bill to both Jessica and Heather at that committee for the MOMS Act, that I was hoping to have legislation changed, and Ms. Sim commented in regard to this legislative change we’re discussing today: “In our case’s example, the judge thought the \$500 wasn’t enough and she went to see if there was a way she should increase it, because it was crazy that that was all it was going to be. I think that would be fantastic, because that happened in our exact case, and the judge made it clear that she thought this should be a lot higher,

based on what happened, but her hands were tied, and she made that very clear in the sentencing.”

By passing this bill, the goal is to give we can give judges like judge more options when they are reaching for justice.

Today, I am pleased that folks and organizations are taking the time to present to committee. I want to thank Ontario Good Roads for their constant and unwavering support of better roads and better safety. I appreciate that they will be here to offer their perspective. I know their board passed a resolution in support of Bill 15 and what it hopes to achieve. I want to thank them for considering it and supporting it.

Also as I said at the beginning, I’ve been doing this job for nine years, and years ago it was my privilege to serve as the critic for community safety and correctional services. I worked closely with the police and front-line and first responders, and I learned a lot from them. Recently, I spoke with Mark Baxter, president of the Police Association of Ontario and I learned a lot more. He had served a long time as a traffic cop, so I was appreciating his perspective, and I am glad to have the association’s interest in this bill and what it would mean to real-life officers—sorry; what it would mean in real life to officers. They are also real-life officers, but I worded that strangely.

Police may respond to a collision, see the awful carnage and well know the devastating loss to a family, but they have to lay a charge that they can support with evidence. Only an evidence-based charge is going to stand up in court. An improper turn or flipping an unsafe U-turn may kill someone, but it is still technically a minor Highway Traffic Act infraction. A judge also cannot upsize a Highway Traffic Act sentence. They have no tools to reach for beyond the maximum of \$500. The driver may be a menace or a serial offender—and as I mentioned before, this does not go on their record—or they might be unlucky, but the judge is not able to factor in any of the circumstances at sentencing, and I do believe a judge should be able to use their discretion.

Also, some of the conversations that I’ve had with people who have shown an interest in this bill who have questions because there are some high penalties on the books. There are high penalties in standing legislation, but those are for the charge of careless driving. My understanding is that more than 80% of those charges are pled down to lesser charges like an improper U-turn. Almost no one is convicted of careless driving, and they plead down, so what we think is happening in our courts is not happening in that regard. We don’t see closure for families. There isn’t very much justice for survivors or surviving families right now.

So I am proposing this very simple bill—and when I say “simple,” I mean it’s not complicated. The language is in line with careless driving, to give the judges access to higher penalties and options if the charge sticks and a driver is sentenced. This is not a have-to. If someone makes a left-hand turn into a car and it results in a fender-bender and no one is killed or catastrophically injured, then this is not triggered, is my understanding; they can

still have an appropriate fine of \$300, \$400 or what have you, and the range is from \$100 to \$1,000. But this particular infraction or a “turn not in safety” has a maximum of \$500, which is why I’m using that as the reference point.

So this bill is proposing to increase the penalty to be in line with careless driving. It increases the minimum fine to \$2,000 with a maximum of \$50,000, and it outlines a range of penalties, including that a judge can suspend a licence or permit, which currently and unbelievably isn’t an option. A judge cannot make up a charge to fit what they see in their courtroom; they have to reach for the penalties that are in law.

I appreciate very much that the government has brought this forward to committee. I do want to work together to move this bill to clause-by-clause consideration and through the other side of third reading and into law. There are many measures that should be law to make our roads safer.

My private member’s bill is one of those, and out of respect for the 20 years of work done by the folks I’ve been speaking about and who you’re going to hear from today, it is a stand-alone piece. That said, it is a piece of a broader puzzle to address the need for victim impact statements and education, broader “vulnerable road user” definitions and a host of other measures that would both make our roads safer and would support survivors and surviving loved ones.

I want the government members to consider that there has been a tremendous amount of work done by my colleagues, who continue to work with advocacy and safety groups across the province on behalf of vulnerable road users. The member from University–Rosedale has worked on “vulnerable road user” legislation that would ensure mandatory added penalties are added with the sentence when someone is seriously injured or killed, and now my colleague from Ottawa Centre is championing the need for “vulnerable road user” legislation and is connecting with folks across the province on road safety issues. I know that the government members have folks in their communities who are raising these issues regularly.

We used to say the “vulnerable road user” act and this bill were sort of a one-two punch, but it is part of the strategy to make things better and safer, both for road users—but in this case, in my case, this doesn’t necessarily make the roads safer, but in the event of something unimaginable and terrible, it does seek to ensure more justice for the families or survivors.

**1020**

So I want to thank you for your time today. I appreciate the chance to share the experiences and voices of people who know first-hand why this needs to be fixed. There is nothing that can ease the suffering of grieving loved ones, and there is nothing to be done that can help folks to heal by this bill, in terms of their physical injuries, but this will ensure that the additional harm of a \$500 slap in the face can’t happen to anyone else. This bill, again, is about giving the courts the opportunity to proceed fairly, factoring in justice for families or survivors.

I do hope to continue working with this minister and committee to move this issue forward and into law. I’m not sure how much time I have left—

**The Acting Chair (Mr. Nolan Quinn):** One minute left.

**Ms. Jennifer K. French:** One minute? Look at that. Well, I am happy to take any questions, and I will leave it there. Thank you very much to the committee for giving me the time, and I am happy to discuss. Thank you.

**The Acting Chair (Mr. Nolan Quinn):** Thank you for your presentation, MPP French.

This round of questions will start with the official opposition. You have seven and a half minutes, MPP Bell.

**Ms. Jessica Bell:** Thank you, MPP French, for coming in and speaking about this bill. It’s an incredibly important bill. The need to make our roads safe by bringing in tougher enforcement of our Highway Traffic Act will mean that everyone—bike riders, motorcycle riders, drivers, pedestrians and transit users—will be able to get from A to B and be safe. It’s more likely they’ll be safe, and that matters.

Like you, I have worked with many family members who have lost a loved one, people who have lost children, people who have lost wives, sisters, fathers and mothers. Communicating with them and talking to them has moved me. It’s made me realize how vulnerable people can be on the road and how families can be irrevocably changed and scarred by the experience.

I’ve also, like you, been very troubled by watching what happens when a loved one wants to go to court to seek justice, and they realize that the court system is not a place where justice can be found right now. We are hearing cases of a driver who has done the wrong thing not even being required to turn up to court to hear the consequences of their actions, being able to very easily plea down to a fine, which is minimal—especially when, in some cases, there is a loss of life—and really being able to walk away from a devastating scene and from devastating consequences.

I wanted to ask you a few questions about the bill and some of the questions or comments I’ve heard as well. One is, what have you personally learned by advocating for this bill over the years? It’s been some time that you’ve been advocating for this bill.

**Ms. Jennifer K. French:** Well, I’ve learned the, I’ll say, intimate and personal details of loss from people. They’re compelling, of course, but it’s also been eye-opening to hear some of the tangles in the court system. There are bigger challenges that need to be addressed as well, when courts are backed up and things need to move more quickly. The pleading down is part of that.

Actually, I had a conversation with the minister at the beginning of all of this—I mean, years ago. She and I talked about it, and I won’t quote her, but I remember the gist of it was we talked about that there are stiff penalties on the books, that there are tough things, that careless driving is a significant penalty or penalty range, but that what is happening—I don’t have the actual stats, but I



understand in almost all of them, around 80% or something like that, the charge is pled down. So whether that's a matter of a charge is laid of careless driving on-scene, that officers may look at the devastation and lay a charge of careless—knowing that technically it's a Highway Traffic Act violation. It might be an improper U-turn, right? Someone flipped a U-turn illegally and killed someone or made an illegal left-hand turn or failed to stop at a stop sign. Those are Highway Traffic Act violations, right? They're not criminal, but they still might lay the charge of "careless" in practice because someone was killed. But then what happens at the court is, it doesn't meet the threshold of careless. It isn't careless driving; it would have been a Highway Traffic Act violation. So it's pled down necessarily because that's what the evidence supports. Then that's where we put us into that Highway Traffic Act violation range of this particular penalty problem of a maximum of \$1,000, depending on the thing, but usually a "turn not in safety" is \$500.

There's also the case of it might meet the threshold of careless, but again—courts are not my thing; I can't speak specifically about that—there are a number of reasons why they might plead down to an improper U-turn, as I had said, and again it brings it into that penalty range.

So this bill is not saying that if you make a left turn or flip a U-turn and you hit a car, a light standard or something else, you get a \$2,000 to a \$50,000 fine or lose your licence for a year—none of this is a have-to. None of this is throwing the book at someone. None of this is prescriptive. What it says is—it's my understanding—that if someone is killed, if it reaches that threshold of catastrophic injury, in that case the judge can look at, I'll say, the merits of the case or consider what happened. They could say, "This driver has done this four or five times, this driver has a history of garbage driving, and I'm going to factor that in or what have you." But it gives a range, and I'm going to say I trust the justice system and the judges sitting there to hear the case, to assume that they are going to know what to reach for and this gives them more tools.

What I have learned, in short—sorry, I went long. But I have a microphone and I'm in the hot seat and I'm glad to be here today. But what I have learned is that I think what we think is happening in the courts in this regard isn't actually able to. When you read the comments after a terrible story in a local newspaper about a family being killed and you read the comments and people say, "Well, that's our justice system for you. They're just letting them off the hook." Actually in this case, that's not what's happening. They don't have the tools to reach for.

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Ms. Jennifer K. French:** That has been something that I have learned. I didn't mean to take up the whole time, but you run the risk. Cut me off next time if you need to.

**The Acting Chair (Mr. Nolan Quinn):** MPP Bell?

**Ms. Jessica Bell:** I want to thank you for advocating for this bill. I also want to thank the government for looking into this bill and showing interest in wanting it to

pass. I fully support this initiative. It is an effective strategy to make our roads safe for everybody. It's part of this idea of having proper enforcement, education, engineering changes and more to ensure everyone can get from A to B in one piece, safely and not have to worry about whether they're going to get a call from a police officer because their loved one has died. That's really what we're aiming for here, and there are so many families out there who have lost a loved one or someone who's been personally injured who want to see us do the right thing today. I think we are, and I think we're going to.

**The Acting Chair (Mr. Nolan Quinn):** Unfortunately, that's all the time we have for this round of questions.

The next round will go to the independent member. You have five minutes, MPP McMahon.

**Ms. Mary-Margaret McMahon:** Thank you very much. Happy summer, Chair. I've not seen you, so thanks for chairing for us today. Thank you, MPP French, for this valuable and important bill coming forward. Anything we can do to make our roads safer for all users, especially ones who are more vulnerable.

You spoke to some stories—Jessica Spieker is my constituent actually. She went through a nightmare that none of us should have to deal with. We have so many tragic stories on our streets in Toronto: Alexandra Amaro, a young 23-year-old who was hit and killed on Dufferin a few years back: Douglas Crosbie, who was my resident, was a beautiful Beach dad who was hit and killed in Leslieville.

I was knocked off my bike in 2014. Fortunately it wasn't that bad, but there was a charge—the driver was charged with careless driving and we went to court and then his charge was withdrawn because of some, let me say, bogus Versadex computer filing system. So that whole court system, I think, is another whole topic that was part and parcel with this that we need to talk about, but as I said, anything you can do, we can do to keep our roads safe and make them safer.

**1030**

Just with regard to Bill 15: if you can explain to us how different it is from Bill 213, which you probably remember was brought in in 2017 by former MPP Eleanor McMahon—no relation, although I'd like her to be. She was very involved with Share the Road, but also you know the story of her husband, a former OPP officer, being killed on the road by a driver who had many, many infractions already and was still driving with a suspended licence.

**Ms. Jennifer K. French:** I appreciated Eleanor's work here at the Legislature. I know she continues to be a safety advocate. I will admit I don't know that bill in particular. I do know that she stood in the House often and talked about road safety and cyclist safety. I won't surmise—I imagine I would have her support in this; I have no idea. But I'm not familiar with that bill in particular.

This particular bill has had four forms, and I know anything she submitted wasn't the same as this. But as I mentioned, the vulnerable-road-user legislation that has

been tabled in different ways is all kind of interconnected and part of a puzzle we need to figure out.

**Ms. Mary-Margaret McMahon:** And can you take us through the chronology of these four forms? You were explaining all the different bills with MPP Gates—

**Ms. Jennifer K. French:** So 2002 was the first bill, and honestly, I don't know that history super well. I do know that the Bikers Rights Organization and Gerry Rhodes, who you'll hear from today—that would be a great question for him because he has seen this bill through the last 20 years and has been fighting like mad to make this change for various reasons, a lot of them very personal to him and other members of that community, the biker community.

But 2002 was the first time, but then this was a northern Ontario story. I see MPP Mantha here, and he knows this issue well, because it was in his community that this had happened and he raised it at the time. I know that MPP Gates, who was the critic for transportation in 2015, brought it forward and debated it—it was a different government at that time—and it did not pass.

Then was my Bill 122—I forget the timelines of elections, prorogation and what have you, but they're basically the same bill reintroduced as Bill 122, Bill 62 and Bill 15.

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Ms. Jennifer K. French:** So it has been here as an idea. It's something I think people are interested in fixing. In terms of the specifics or the consequences or all of that, there's lots of room to figure this out properly, but there is a real reason to do that, so I'm glad that we're here discussing it today.

**Ms. Mary-Margaret McMahon:** Well, thank you very much. I really appreciate your tenacity.

**The Acting Chair (Mr. Nolan Quinn):** Thank you.

The next round of questions will go to the government. You have seven and a half minutes.

**Mr. Hardeep Singh Grewal:** Thank you very much, Chair, and welcome, MPP French. Thank you so much and congratulations on your determination in moving this bill and bringing this bill to the House. I know it's the fifth time this bill has been brought before the House, but it's the first time we're in committee debating this particular bill. It speaks to the importance, because this bill has been introduced and supported in the past three Parliaments, so it's a huge topic of concern for all parliamentarians across party lines.

I know we all have family members and loved ones who have been impacted by such tragic accidents, and I think everybody in this room has a personal story which really affected them or hurt their lives, which we all have in our hearts. It is a concern for everyone involved.

But I also want to talk about the issue here that really warrants our attention, which is for us to consider today whether this bill will achieve our desired outcome. With that, I'd like to ask a few questions in terms of the consultations that you've done with stakeholders within law enforcement, stakeholders within the community to

highlight some of the similarities and some of the duplicative actions that have been written in this particular bill and the similarities and identical language that's used in section 130 of the Highway Traffic Act, and see how this bill will prevent confusion and unintended consequences.

Can you share some of the consultations that you had to make sure that those unintended consequences will not be present according to the way it's written?

**Ms. Jennifer K. French:** You've put a few pieces in there, so if I don't answer them all, get me back on track. I have done a lot of—when I say “personal consultation,” I mean hearing the personal experience side. I shared some of that today. Many in the biker community, the motorcycle riders, have lost loved ones and friends or have been injured themselves, as we will hear, and they have heard in the courtroom that judges, who have factored in what actually happened in that instance, didn't feel that they had what they needed at sentencing.

When I spoke with the folks from the police association, they wanted to know a bit more about my bill. I'm not going to quote them here because that's—it was a good discussion, but one of my take-aways from it was that officers on the road, when they get to the scene of a collision, are the ones laying the charge, and they carry a fair burden—or an unfair burden—but a significant burden to make sure that they lay a charge that can be substantiated, can stick. But they also know in that moment that someone was killed, and so an improper left turn or a “turn not in safety,” a violation of the Highway Traffic Act, somehow seems like it isn't going to carry the weight because—it's not their job to mete out the sentences, of course, but they do have to lay a charge with appropriate evidence. It is something that I think closes a gap, that if officers are—when I say upsizing a charge, I mean looking at it and laying a charge of careless driving. Because a judge may determine it careless or not, but they are often plead down. That's not for police officers to follow that case all the way through, unless they're called to trial, but the reality is, oftentimes it is plead down.

One of the things I will say is I believe this is part of the story of making the roads safer, but I don't think that a higher penalty range is necessarily going to change someone's behaviour in that moment, that they aren't going to flip that thoughtless U-turn to hit the McDonald's on the other side of the street because they know that if they kill someone there's a big penalty. It's not so much that part of the story. This part of the story is, when that person flips an illegal U-turn and someone is killed or someone is catastrophically injured, at sentencing, once the judge has factored things in, they can reach for more and that there is more justice. There will never be enough justice when you lose a loved one, but that there will be more justice at sentencing.

In terms of the language, the language is in keeping with the charge of careless driving, but again, it's that range. In terms of unintended consequences, not having served as a judge, I can't imagine what that would be, but if I were in a courtroom, listening to the merits of a case, listening to the circumstances, and I hear that this person

was unlucky and this was a collision that—I'm not going to finish that thought. But if someone was unlucky or was—let me back up. No one sets out to kill someone on the roads. People go about their day and hope to come home to their loved ones: drivers, pedestrians, cyclists, motorcyclists. So this isn't about criminal intent, right? In putting the penalty range along with careless, it gives the judge, who I'm sure isn't first day on the job, has seen all sorts of things—and can reach in that appropriate range. But beyond that, I can't speak to—

**Mr. Hardeep Singh Grewal:** Thank you, Ms. French. Just for the sake of time, because we're all running on a short timeline—but I also want to give you the opportunity to get all of your thoughts across as well because it's a very important topic that we're all discussing today.

My major concern lies with the execution of the bill and the effectiveness of the way it's currently written, because at the end of the day, as a committee, our objective is to make sure—

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Mr. Hardeep Singh Grewal:**—legislation that we've passed passes successfully and those intentions that we've laid out actually are delivered through the court system and through the justice system.

1040

Very quickly, could you maybe talk about some of the people that you've talked about in the legal community, and their opinions of the effectiveness of this particular bill and how it will be implemented?

**Ms. Jennifer K. French:** That may be some work that the government and I continue to do. I found out today that there have been some submissions and some other thoughts shared, and I think that in order to bring forward legislation that will accomplish what I'm hoping to and what people have asked, we will do it well and we will do it right. I've been here a while; I've seen legislation that kind of goes through quickly and then has to be changed. This is small—it's a one-pager, is what I mean—and I think that there is time to figure out what the wording should be exactly.

If it isn't this, fine. The spirit is here. I think we're clear on the spirit of it. If there is—

**The Acting Chair (Mr. Nolan Quinn):** Unfortunately, that's all the time we have for this round of questioning.

For the next round, we'll go back to the official opposition. You have seven and a half minutes, MPP Sattler.

**Ms. Peggy Sattler:** I want to thank and congratulate MPP French for her efforts to bring this bill forward, not just most recently at second reading, but the previous occasions where you introduced and debated this bill.

We just heard the member on the government side raise some of the government concerns about this legislation, but this issue came to the fore, as you described, in 2002, so it has been over 20 years that this has been on the government's radar—various governments' radars. A private member's bill similar to this has been brought forward five times.

In your efforts to advocate on this issue, can you give us a sense of what you've heard from the government side as to why this change is not being made? Because it seems, from what you've said, that judges are calling for this sentencing tool to be able to bring justice to those families who have lost loved ones or whose loved ones have been grievously injured in a Highway Traffic Act infraction. Given that, given this 20 years of history, given that judges have been calling for this, what have you heard about the resistance and why this change has not been made?

**Ms. Jennifer K. French:** I would say, from the families anecdotally, with their experience in the courtrooms, that they've been hearing that judges want to reach for more tools. There's an understood need at sentencing. Obviously the families feel that it isn't fair. There will never be anything fair, but \$500 is a slap in the face. So we've been hearing that.

When Mr. Gates debated his bill, and it died at second reading and didn't have the chance to go through to committee, I can't speak to that particular government's motivation, but it sort of felt like they didn't understand the issue at the time. It was a private member's bill that had come up quickly, and it was sort of, "I don't know what that is; never mind," I'm guessing—I've never been in government.

This government, though: When I had tabled it as Bill 122 and again as Bill 62, I did make a point of speaking to the minister, basically walking across the room and sitting beside her and saying, "Okay, what do you understand about this? What don't you? Who can I talk to? How can I help? Is this something the government would consider?" Because for this government and Conservative governments generally, part of their brand, I would say, is the law-and-order side. And this is, at the end of the day, about the penalty, this particular bill, and what happens after something bad happens.

I knew that there was some common ground in terms of the fairness, and so that's why I'm glad that I was able to speak to the minister. I don't know if I would call it "resistance," but we had some work to do, and I took the time and ministry staff met with me to figure out the spirit of this and what we're hoping to accomplish. The unintended consequences have been that concern, right? They wanted to consult with the Attorney General's office and figure out if this was the right penalty, I'll say, framework, for lack of the right word.

My answer to that is I don't know. I don't know if the exact language is perfect or what it should be. I think the committee, hopefully, is clear after today, and the government and ministry are clear on what we're wanting to accomplish. So if there is slightly different language, if the penalty shouldn't be the same as careless driving—I haven't heard that specifically, but I think that's the concern.

I don't know what the unintended consequences might be, because, again, it's "if at sentencing." So if the judge had said, "Yes, you are guilty of this charge and I'm factoring in all the things," then they have something to reach for and they can decide if it's a \$2,000 fine or if it's

pull the licence for a few years, or if it's \$50,000 or what have you. Considering how seldom "careless" sticks or maybe is even the appropriate charge, I can't speak to that, but very seldom is that penalty range being given out. So this isn't about throwing the book at someone. This isn't about being prescriptive of it, that everyone who is in a terrible collision needs to have the maximum. Again, it's that range. That's what I'm hoping to accomplish.

I'm glad, frankly, that the government is not rushing clause-by-clause consideration today because I would like this to be the right version, factoring in people's concerns. This needs to be changed. This needs to be fixed.

**Ms. Peggy Sattler:** Okay. Thank you again for your advocacy on this issue. I just want to say that, as MPPs, we have the opportunity to bring forward as many private members' bills as we can draft, but we only have one opportunity to debate a private member's bill over the course of like every year and a half or so.

What has touched you personally about this issue that led you to advocate on this particular private member's bill and not give up and to continue to push for this change?

**Ms. Jennifer K. French:** Well, I had tabled it initially and didn't debate it in that first year because I did have some other priorities, and that kind of bugged me—because this is one that bugged me, right? This is one that was about fairness.

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Ms. Jennifer K. French:**

The fellows that I have been hearing from through the years have lived this for 20 years. I appreciate their advocacy, but also when I go to their conference and meet with them—folks who ride a motorcycle on the weekend and they hope they come home to their families. They want to know that if they don't come home to their families, there will be some justice and not further hurt. It was an interesting thing to understand, that people, when they go out on the roads, they are taking their families with them and that burden.

So I think that is why I picked this one to debate, is that story needs to get sorted out. After 20 years, this needs to be fixed.

**The Acting Chair (Mr. Nolan Quinn):** Thank you. For the next round of questions, we will go to the independent member. You have four and a half minutes—sorry, five minutes. MPP Mantha.

**Mr. Michael Mantha:** I want to thank you for your tenacity and dedication in bringing this forward, and I do want to let you know that if it doesn't go through this time, it will be introduced again and we will get this right eventually, because riders, cyclists, families, judges, police officers, even the bar association who raised their concern—and in their report, I want to use their opening line in their conclusion. It says, "The OBA supports the goal of making the roads safer for all road users, including vulnerable road users such as cyclists and pedestrians. We also support making the penalties under the HTA proportionate to the offences committed."

This is what this bill is basically doing. It's giving the tools to the judges and police officers to make the enforcement, to recognizing the severity, the fatalities, the bodily injuries that could be happening.

I do want to state something for my colleague here in regard to the work that her colleague had brought in in 2017, the work that was done by Eleanor McMahon. I will be reaching out to her very shortly because I'm introducing legislation to amend the HTA for repeat offenders with suspended licences. A beautiful young lady out of Iron Bridge—her name is Maresa Cappelli. We're going to be introducing the MarLaw Act, which will actually be addressing some of those concerns, so stay tuned. That is coming as well.

But what I do want to ask the member here is, what's the next step? We're trying to have this discussion, and everybody seems to be in agreement. We were in agreement in 2002, 2015, 2019 and 2021. We seem to be in agreement here again in 2022. We're fighting over words.

My question to you is, how does the public help you? How does the public get involved and engaged in order to get this over the next hump? Because this bill, again, has been introduced five times. It comes through, we do a lot of work, but then it sits on a shelf and collects dust. How do we eliminate that dust and actually bring it into law?

1050

**Ms. Jennifer K. French:** Well, thank you for asking. This being, as I said at the beginning, the very first time my name has been on a private member's bill that has gone to committee, I would say that part of that is 20 years of advocacy. That's not what it should take for legislation that is needed to move forward, but that's where we are.

I also said I am grateful that the minister and ministry have shown an interest in figuring this out, which—you said we had agreement back in whatever, whatever; we didn't. We didn't. The government of the day at that time didn't delve. So we're discussing this. We want to make sure that it's what it needs to be. I have watched various governments bring forward legislation that they're still doing housekeeping on to amend and fix their bills years later, so I'm not suggesting that we do this wrong the first time and then fix it after the fact, but I do think that there is a way to move forward.

How does the public get involved? I guess we'll get a sense of things today from the government after they've talked to the various stakeholders who are coming before us. But I think clause-by-clause, where if there are amendments that need to happen or if the government, in its wisdom, chooses a different wording in this bill that maintains the spirit—I don't care if it goes through government legislation. More than half the things I've accomplished here have gone through government legislation. I don't need the credit; the credit goes to the activists and the advocates, right? The point is to fix this problem thoughtfully and appropriately, but we do have what I think is the right solution here.

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Ms. Jennifer K. French:** I'm not backing away from what I've submitted, but I'm saying that that should not be a barrier to getting this change done.

So I maintain that this bill is the right way, and if the government has some thoughts during clause-by-clause, we're looking forward to doing that work together.

**Mr. Michael Mantha:** I just want to end off by saying, as an avid rider myself, for much of the public out there, it's not evident what this impacts, or what these changes to the Highway Traffic Act would potentially mean. For those that are riders out there—avid cyclists, motorists, people on scooters—you get sensitized to what this means and the impacts of what it could potentially bring as far comfort to, particularly, the families and the individuals that are affected by this.

Again, I want to thank you for bringing this forward. You certainly have an ally in me in moving this along.

**Ms. Jennifer K. French:** Thank you.

**The Acting Chair (Mr. Nolan Quinn):** The next round of questions will go to the government for seven and a half minutes. MPP Martin.

**Mrs. Robin Martin:** Thank you very much, Chair, and could you please tell me when we have two minutes left so I can share the time? Thank you.

Thank you very much, MPP French, for bringing the bill forward. As we've all indicated, it's something of interest to everybody. We all want to make sure justice is done. I think there may be a way forward, but the question we have to deal with today is what the most appropriate or the best way forward is, and that's because we're making laws and we want to make sure that they're good.

One of the things you said—and could you please keep your answer short, because I have a lot of questions to get us forward on this thing. One of the things that you said was you seek to ensure more justice, not make the roads safer. I want to know what you mean by “justice” in that sentence.

**Ms. Jennifer K. French:** Okay, I would like to correct my record. I am also interested in making the roads safer. I wasn't suggesting we not make the roads safer.

**Mrs. Robin Martin:** Okay, but I think the objective that you're aiming at—certainly in some of the comments you've made and some of the submissions people have made, it's about the hurt that happens when something tragic like this happens. I think you're aiming at that, and certainly, MPP Joel Harden also said something similar in his statements in the Legislature. That's what I'm asking.

**Ms. Jennifer K. French:** I think when someone is killed or catastrophically injured, justice is something that can never quite be attained. You cannot replace someone who is lost. And when it comes to people's health and wellness, you can't turn the clocks back. However, what we have heard, and as I shared today, is at sentencing there is further harm to the families, that there isn't closure—and if that's what you mean by heart, the human experience of that. I think when we look across the justice system, the impacts on the family are something that we do factor in in our justice system.

**Mrs. Robin Martin:** Thank you for that. I'm not trying to put you on the spot. I'm just trying to understand what we're trying to get at, what we are aiming at.

There are, of course, other remedies within our justice system at large. The Highway Traffic Act is not the entire justice system. There are criminal remedies, and generally they're designed to punish behaviour with ill intent, with bad intent. There are several remedies to compensate for loss or to enforce rights, including for wrongful death, for example, and then there are regulatory pieces of legislation like the Highway Traffic Act which generally regulate what's otherwise socially useful behaviour and try to prevent future harm.

So what I'm getting at is, is the Highway Traffic Act the right place to do what you're looking to do?

**Ms. Jennifer K. French:** My understanding is yes. There have been different ideas floated, I think, over the past 20 years. As I shared from Heather Sim, who lived it with her family after her father was killed, there was discussion—they could not use a dangerous driving charge, which comes with additional charges with more options, we'll say, for judges at sentencing, because it wouldn't have met the threshold. It was a “turn not in safety” in that case, which is a violation or an infraction of the Highway Traffic Act. When people are killed in this way—an improper U-turn, “turn not in safety”—the charge is a Highway Traffic Act violation, so the penalty is within the Highway Traffic Act. That's what judges have now. That's why we've ended up at this point. So I believe it is.

**Mrs. Robin Martin:** I'm a lawyer, but I haven't practised in this area, and I'm not a police officer, but my understanding is that police officers can also lay charges—lay an information for a charge for dangerous driving under the Criminal Code etc.

I guess what I'm trying to suggest is, maybe part of the issue is training for police officers, so that they know what the remedies available to them are and how to proceed with all of those remedies, rather than a change to the Highway Traffic Act. I'm only proposing that as a possibility, because there could be things within our justice system in many places. The question I'm trying to get at is, is this the right place to find the remedy?

Another question I have is, does anything in your proposed change to the Highway Traffic Act prevent it from being pled down when it goes to court?

**Ms. Jennifer K. French:** Those are both good questions.

I'm sorry that the police aren't able to present today. I know that they had expressed an interest in this—

**The Acting Chair (Mr. Nolan Quinn):** Two and a half minutes remaining.

**Ms. Jennifer K. French:** An officer on the ground will lay a charge that they know can be proven in court, to the best of their ability, to factor in the evidence and lay an appropriate charge. So if a police officer were to lay a charge of careless driving or dangerous driving with the criminal pieces, that isn't likely to stick if the infraction was indeed—and when I say “just an illegal left turn,” I

don't mean to diminish what happened. But it is a Highway Traffic Act violation to—

**Mrs. Robin Martin:** Thank you for that. Really, charges are pled down because they can't prove the case, so there's a reason for it. I don't know that there's a problem with that, because that's how the system works. You plead down if they can't prove a case. That means they can't prove the case.

One other question is, did you intend a blanket charge across the entire Highway Traffic Act, which is—what you've done is attached this to everything across the entire Highway Traffic Act, so anything you do, like leave your licence at home and you caused a death, you would face this, and that seems not related.

I'm going to let my colleague MPP Smith continue.

**The Acting Chair (Mr. Nolan Quinn):** MPP Smith.

**Ms. Laura Smith:** Thank you, and through you, Chair, first of all, I'd like to congratulate you on your efforts in this bill. We always want to make our highways and our streets safer. But my question to you is an issue of Constitution and constitutionality. There's something in law called mens rea, which means "guilty mind." Before you perform an act with intent, you actually have to have that put into the recipe.

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

1100

I don't know if you've received this, but the Ontario Bar Association made a submission dated July 6, and they talked about your specific bill and cited just that. I'll go to paragraph (e): "Constitutionality: Many of the offences in the HTA are 'absolute liability' offences, which means it is not necessary to prove intent." This gets back to the mens rea attitude. "With the addition of jail time for even minor offences, Bill 15 would make it necessary to prove intent to be constitutionally compliant."

Are you concerned, given that this is possibly not constitutionally compliant, that this bill will not be functional?

**Ms. Jennifer K. French:** I certainly would want it to be functional, so factoring that in before clause-by-clause—

**The Acting Chair (Mr. Nolan Quinn):** Unfortunately, that's all the time we have for this round of questioning. Thank you, MPP French, for coming in front of the committee.

## GOOD ROADS

DR. EZRA HAUER

BIKERS RIGHTS ORGANIZATION  
(ONTARIO) INC.

**The Acting Chair (Mr. Nolan Quinn):** Today's remaining presenters have been scheduled in groups of three for each one-hour time slot, with each presenter allotted seven minutes for an opening statement, followed by 39 minutes of questioning for all three witnesses, divided into two rounds of seven and a half minutes for the

government members, two rounds of seven and a half minutes for the official opposition members and two rounds of four and a half minutes for the independent member of the committee. Are there any questions? Okay, perfect.

The next presenters can come to the table: Mr. Butler, Mr. Hauer and Mr. Rhodes, please. Just so everyone is aware, Mr. Rhodes is on Zoom in front of us.

I will now call on Mr. Butler. You will have seven minutes for your presentation. State your name and organization for Hansard, please.

**Mr. Scott Butler:** Thank you. My name is Scott Butler. I'm the executive director at the Ontario Goods Roads Association. It's my pleasure to be here in support of this piece of proposed legislation. We are the oldest municipal association in the province, founded in 1894. So far as I know, we're the only non-profit that has ever given birth to a ministry, known as MTO, formerly a subcommittee of the Good Roads board of directors known as the highway committee.

Our members are composed of about 419 of the 444 municipalities in Ontario, as well as 18 First Nations. Together, they have responsibility for over 310,000 lane kilometres of roads. Those roads are the fundamental source of liability for municipalities as they are currently composed. They are a bellwether indicator of what risk looks like for municipalities, and the fact that people fundamentally being either killed or severely injured on those roads contributes to a whole bunch of costs and burdens on local governments is motivation for us to be supporting this bill without qualification.

Municipalities are currently struggling to manage risk, in particular to manage risk on the roadways. We see the proposed legislation as one key component of modifying how that risk is actually managed. Anything that can go towards realizing outcomes where individuals are using roads more safely is going to be really important.

The Ministry of Transportation just released the 2020 Road Safety Annual Report, as well as the provisional 2021 and 2022 reports, and they tell rather a grim story: 20 years of progress have basically eliminated in the last two years. Fatalities are back up where they were 20 years ago, and those are manifest when we see insurance rates for local governments doubling year over year.

There are lots of different options available for managing risk on roadways. Legislative change such as this is a key component. It's a fundamental ingredient in the recipe that gets us towards far fewer and ultimately no one being killed and severely injured on the roadways. In addition to the engineering, in addition to enforcement, we see legislation such as this actually providing a bit of an opportunity for people to understand the responsibility that they assume when they get behind the wheel. If you're driving on roads in Ontario, you have a different obligation when you're behind the wheel than you do when you're walking. We fundamentally expect that. I don't think that's an unreasonable assumption for people to hold when they set out to use a public roadway in Ontario.

If the penalties associated and created by this legislation actually cause people to drive safer, if it causes them to

slow down, if it causes them to be more empathetic or more mindful of how others are using the roads, then it's worthy of support. The reality is, we're up against the wall. As I've said, we've lost two decades of progress. Our roads are back to where they were at the turn of the century in terms of how people are being killed and injured, and this is fundamentally bad news.

I know we comfort ourselves by saying we're the safest subnational jurisdiction in North America. That's a pretty low bar to get across, quite frankly, when you start looking at what the fatality rates are in some of the states in the US and in Mexico. I think we need to do better. We need to set our sights higher. We need to start looking at what jurisdictions such as Finland, such as Norway, such as Denmark, such as the Netherlands have done and start making the modifications that they started making 40 years ago in order to realize the same outcomes.

I'm going to cede the rest of my time so that we can perhaps dedicate it to questions. I look forward to the conversation. Thank you.

**The Acting Chair (Mr. Nolan Quinn):** Thank you for your presentation.

I will now call on Ezra Hauer. You have seven minutes for your presentation. Please state your name and organization for Hansard.

**Dr. Ezra Hauer:** Thank you. My name is Ezra Hauer. I represent no organization. I'm a lifelong student of road safety and, as you will see, my life has been long.

I offer an apology; being old, I forgot my hearing aid, so please take that into account when you ask questions.

I tend to agree with the previous speaker, except for his conclusion. I think if this bill would promote safety on our roads, I would support it; my message is that it will not, so I'm speaking in opposition to this bill.

I have done some cursory search of the literature, trying to find out what the chances are for this bill to induce safer behaviour on the roads and thereby reduce the misery of road crashes; the message of the literature is that it will not. The scientific literature that I have encountered in my cursory review suggests that increasing fines can induce slight changes—and the message is “slight changes”—in behaviour, provided that the chance of apprehension is reasonably high. In this case, the chance of apprehension is so minuscule as to be imperceptible. We have about 500 fatalities per year, and we have more than 10 million drivers per year, so the chance of being apprehended under this bill is 0.00005%—something that just, in human perception, doesn't exist. All the research I have reviewed will say that this bill will not affect human behaviour.

Having spent my life in road safety teaching and research, I know people—I asked three of the best-known, most-prominent experts on human factors in road safety whether this bill will have any effect. They all said, unanimously, “No, it will not.”

I can appeal to your common sense. You all know about the tragic crash in Manitoba. The driver had to stop at a stop sign before crossing the Trans-Canada Highway, look to his left, see whether there is oncoming traffic in two fast-moving lanes, cross to the median, face a yield sign,

look to his right to see whether there is traffic coming onto two fast lanes, and then cross. He failed, as we all know.

**1110**

Can you imagine that this driver would have considered in his actions the possibility of being fined or jailed? If he didn't consider his chance of him being killed and the chance of the passengers being killed, would the prospect of a fine induce him to act differently? It just makes absolutely no common sense.

This is what research shows: To change human behaviour takes a reasonable chance of being apprehended. It's not the size of the fine; it's the chance of being apprehended. You have to consider the situation. If you want to park illegally, you will take the fine into consideration. But if you yourself are going to be killed, the fine cannot really have any effect on your behaviour.

These comments I can offer as a student of road safety. There are other comments that come to my mind as a human being, if I may proceed without the background of expertise being invoked here. There is an unfairness in this. The unfairness is manifold. This poor bus driver—we all hope that he will recover—will face legal consequences. If he's fined or jailed, it's not only him who will be suffering; his dependents will be, just as the poor truck driver in the Humboldt Broncos crash is being jailed, and his fiancée is now waiting for him, and his parents are waiting for him.

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Dr. Ezra Hauer:** So increasing fines and jail time results in consequence to innocent parties. I think that needs to be taken into account.

The other issue is equity. I don't know whether you know, but poor people are overrepresented in crashes. These fines will affect mostly poor people. What will they be fined for? For the transgressions that I and you all commit. We all speed on our highways. We all witness speeding. More than 60% of drivers speed on the highway, and they all take chances. If somebody took the chance and lost, he—

**The Acting Chair (Mr. Nolan Quinn):** Unfortunately, that's all the time we have. Thank you for your presentation.

**Dr. Ezra Hauer:** I'm just finishing the sentence—he is guilty of the same offence for which he will be judged. Thank you for your attention.

**The Acting Chair (Mr. Nolan Quinn):** I will now call on Mr. Rhodes. You will have seven minutes for your presentation. Please state your name and organization for Hansard before you begin.

**Mr. Gerry Rhodes:** My name is Gerry Rhodes, and I am the provincial government liaison officer for the Bikers Rights Organization (Ontario) Inc., as well as the provincial chair. The Bikers Rights Organization of Ontario is a not-for-profit organization composed of motorcycle enthusiasts standing together in a common interest to make government and law enforcement agencies aware of common necessity for reasonable and fair motorcycle

legislation along with safety, education and public awareness programs.

The problem, as we see it: There currently exists an injustice in Ontario. A driver stopped at a RIDE program and over the limit loses their licence for 90 days without a trial or conviction. Upon a conviction, they lose their licence for a further year—a \$1,000 fine.

We now have a speeding infraction, renamed as “stunt driving”: a minimum \$2,000 fine, 30-day licence suspension and immediate confiscation of the vehicle for two weeks.

Use a false CVOR certificate: maximum penalty, \$5,000. False driver’s licence: up to \$50,000. Red light: \$1,000.

Compare those penalties to a driver who makes an unsafe left turn in front of a motorcycle and kills both riders. Under the Highway Traffic Act, it’s an unsafe turn and a \$500 fine. Persons committing the aforementioned infractions pay a comparatively large penalty because they have the potential to cause serious or fatal harm, but a person who actually kills with an unsafe turn will receive nothing more substantial than a \$500 fine under the current provisions of the Highway Traffic Act.

In July 2002, William James Duff turned left in between three motorcycles on Highway 17 near Batchewana, Ontario. The resultant collision immediately claimed the lives of David and Wanda Harrison, tourists from the States. Mr. Duff was convicted of an unsafe turn and received the maximum penalty allowed under the Highway Traffic Act.

The justice at trial expressed his frustration at the lack of penalties available to him. Biker number 2 in that group of three bikes looked in his mirror and saw his friends die. The justice mentioned that had Mr. Duff been charged under the Criminal Code, he would have had more opportunity for an appropriate sentence: offence number 0427/02; Justice of the Peace Gilles Lecouteur.

Officers, justices of the peace, families are all frustrated with the lack of penalty for justice for the family. There’s no deterrent, either. Far too many road users die or are seriously injured because of a lesser infraction of the Highway Traffic Act, and the penalty available is only \$500.

Ontario motorcyclists have a great concern over the deaths of an estimated 470 motorcyclists, through no fault of their own, which occurred between 1993 and 2019. From ORSAR, over the years from 1993 to 2019, we see that between 22% and 45% of all motorcycle accidents for a given year are not the fault of the motorcycle rider. Failure to yield is a major concern.

As of 2012, 15 individual American states had enacted a total of eighteen separate right-of-way pieces of legislation to help protect motorcyclists. By advising you of this, we simply wish to point out the fact that many other legislative bodies have recognized the issues facing motorcyclists in particular. Currently, infractions in the Highway Traffic Act that could result in harm to others carry a stiffer penalty than infractions which actually can cause death. A \$500 fine is not appropriate.

Many would have you believe that more serious charges can be laid in the case of a more serious accident. This is not true. All charges laid must be supported by the evidence, or they will be readily beaten in a court of law. If evidence supported more serious charges, police would use them. That is, to some extent, the crux of our problem: The serious penalties tend to exist in the Criminal Code and not the Highway Traffic Act. The issue is not so much with the charge laid as what is an appropriate penalty for the offence and its real or potential consequences.

The unfortunate fact is that the majority of traffic accidents and deaths are caused by a violation of the Highway Traffic Act or its regulations, and the evidence available will only support a charge under that act, and not sufficient evidence exists to support Criminal Code charges or even a charge of careless. Bill 15 needs passage to close this oversight. For our purposes, a sense of justice, real and perceived, is a requirement.

There are over 6,000 signatures in the Legislature to make this change. It has been 20 years—over 20 years; 21 now—since we began trying to change this Highway Traffic Act. The government of Ontario has increased penalties for various offences over the past several years in response to a need to curb inappropriate dangerous driving behaviours. Such an increase in penalties needs to occur to deter right-of-way violations. Fair treatment under law would indicate that administrative infractions should not carry a higher penalty than an infraction with the potential of causing death.

Bill 15 needs passage to provide stiffer penalties for all infractions of the Highway Traffic Act that result in death or serious injury to others, and that would then create a safer environment for all Ontario road users.

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**1120**

**Mr. Gerry Rhodes:** Thank you.

It is time to raise the penalty for those who actually cause death, to a level commensurate with those who only have the potential to do so. Ontario needs Bill 15 to provide justice for victims, deterrence for offenders, and fairer treatment under law for all vulnerable road users.

Deterrence works, people. Take a look at our alcohol laws right now. You don’t think that, over the last 20 years, there has been a major change in public attitude towards drinking and driving? It works.

And the police work with the tools that they have. They’re not lazy. That accident in 2002? They closed the Trans-Canada for six hours. You don’t do that just, “Well, let’s just do a small charge.” They did it because that was the only evidence they had to support the charge.

**The Acting Chair (Mr. Nolan Quinn):** Thank you for your presentation.

For this round of questions, we will start with the government. You’ll have seven and a half minutes. MPP Pang.

**Mr. Billy Pang:** This question is for Mr. Hauer.

This morning, when I was on my way to the Legislature for this meeting, on Jarvis, there were two jaywalkers just running out of nowhere in the middle of the road. They



were almost—not my car—hit by the car in front of me. They were that close. When the driver honked the horn, the jaywalker used his grocery bag and tried to hit the car—he was only that close. If the driver hit either or both of them, I truly believe that either one of them would have been killed or seriously injured. This happens almost every day in our province.

This act, Bill 15, is talking about fairness for road users. So I'm seeking your personal opinion on how to define the word "fairness"—if something happened, just like what I saw this morning. And would you mind sharing what your opinion is about whether this bill is able to achieve fairness, if passed?

**Dr. Ezra Hauer:** Of course, nothing in my training or experience enables me to speak to fairness.

I'm an engineer by training. As luck would have it, not more than a year ago, I published a paper in the journal of traffic engineering about safety of pedestrian crossings.

The pedestrians in question that you have seen took their lives in chance when crossing the street; I did so, too, because there was no safe crossing to Queen's Park when I walked to this meeting this morning. I had to cross two live lanes of traffic to get here, without a pedestrian crossing. That is really the dilemma—do we provide safety for pedestrians by making streets safer or do we do it by threatening penalties? Who do we penalize in this case? The pedestrian, if he is old like me, finds it very difficult to walk at least 100 metres to the next intersection, and I'm inclined to jaywalk, therefore, because it's difficult for me to cross.

There are very infrequent protected pedestrian crossings on our streets, and the pedestrian crossings that we have are in the Dark Ages, so to speak. They were devised in the 1950s. Why are there no safe pedestrian crossings on our streets? Because we do not want to delay traffic. And that is the dilemma. You are not going to change pedestrian behaviour by increasing the fines. They already face a much greater danger by being killed than by being fined. You are going to save pedestrian lives by a combination of actions: education, legislation, training, engineering, investing in the safety of roads, which is what we are not doing adequately or sufficiently.

I don't want to expand on my answer too much. Thank you for your question.

**Mr. Billy Pang:** Thank you for your answer.

**The Acting Chair (Mr. Nolan Quinn):** MPP Sabawy.

**Mr. Sheref Sabawy:** Thank you very much, Mr. Chair.

Thank you for the submissions. I really appreciate that you took the time to come all the way to present to us and give us some feedback or some opinions, so that we can understand from different points of view.

I have been following the discussions, and we understand. I've seen cases myself where justice didn't get served for multiple reasons. If the lawyer tried to find a flaw in the case or something didn't get documented by the officer, adding some suspicions around the circumstances of the accident which caused the death or caused something, I understand that.

But I don't see the bill being able to prevent that, because again, that's back to the officer who will be in the field. If he successfully documented all that happened—the turns, the timing—if there are cameras and all kinds of other aspects which close any loops where the lawyers can get through and get somebody who's guilty to be innocent, I don't see that bill serving that part.

Again, I am also putting my opinion from my engineering background to Mr. Hauer that the bill is not going to make our roads safer or change the outcome of the accidents. Adding more fines is kind of preventing or adding a burden to make the offence more—from the point of view of the driver, not to do it. But do you see the extra fine would either help the families of the victim, change the behaviour, change the road safety or disallow lawyers from finding loops and getting some guilty people to be innocent?

**Dr. Ezra Hauer:** Thank you, Mr. Sabawy.

**The Acting Chair (Mr. Nolan Quinn):** There's one minute remaining.

**Dr. Ezra Hauer:** I'm afraid that my opinion that it will make families less angry or more accepting is neither here nor there. I'm not a psychologist; I don't know the answer to that question. The only thing I know is that it's unlikely to prevent crashes, and it's likely to cause unnecessary suffering to those on whom these penalties are imposed, their families, their loved ones. So I really don't see the purpose of doing it. That is really my point.

**Mr. Sheref Sabawy:** In the few seconds left, can I get some opinion from the Ontario Good Roads Association, please?

**Mr. Scott Butler:** We have lots of opinions. With regards to that question?

**Mr. Sheref Sabawy:** Yes.

**Mr. Scott Butler:** Which one? The fairness question?

**Mr. Sheref Sabawy:** All four.

**Mr. Scott Butler:** With regard to the fairness, I think we asked the 492 families that had people killed whether or not they think this is fair. That's a really—

**The Acting Chair (Mr. Nolan Quinn):** Unfortunately, that's all the time we have for this round of questioning.

The next round of questions will go to the official opposition. You have seven and a half minutes. MPP French.

**Ms. Jennifer K. French:** Thank you very much. I really appreciate you folks, all three of you, coming to discuss this. That was the goal of today, to hear the different pieces and opinions. It's interesting; this bill is part of—as I had said, it's sort of a one-two punch with the vulnerable road users, with the focus on the victim. This is more the penalty side of things, with the focus on the wrongdoer, I would say.

In terms of mens rea, MPP Smith had asked me a question I didn't have time to answer. This isn't about a criminal charge. People are not setting out to harm. They are setting out to drive and go where they need to go. If they violate the Highway Traffic Act and something happens, like someone is killed or catastrophically injured, this bill is setting forward a penalty framework that judges can reach for.

In terms of some of the thoughtful comments from folks with the Bar Association and others, I'm glad to be able to consider that, and hopefully we have that chance before clause-by-clause. But this is not a criminal charge. This is about what happens after the unimaginable happens. We have heard, as Mr. Butler said, there are a lot of families that are left grieving and people left to heal.

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What we have heard is that the current penalty of \$500—we heard someone at \$300—adds an additional harm to the family, and that is really awful to imagine. It's already an awful circumstance, and there is no way to repair or fix what has happened. In terms of the preventative aspects, I am not a researcher, and I don't know that any of us here in this room can measure—thank you, Mr. Hauer, for sharing your perspective. This is about the impact on the family, what we were hoping to bring to this room today, and that is part of the legal and justice system, the penalty side of things.

I guess I would be glad to thank all of you for coming. Mr. Butler, thank you. I appreciate that your board had put forward a resolution to support this. As I have said and I acknowledge, this bill is one part of what makes the world a better place. If it makes things at all safer, that's a bonus. This was about, again, that perceived justice, as we heard, or justice at sentencing.

Mr. Rhodes, you've heard some of the discussion on the government questions from me. Do you have thoughts that you would be able to offer in your experience? I know you spent time in courtrooms and a number of your friends and members have been impacted by the current situation.

**Mr. Gerry Rhodes:** Yes, it is certainly about justice, but there shouldn't be a concern of what happens to the perpetrator's family. It's the family of the victims that's the focus here. An administrative error, a phony driver's licence, is going to cost me more than killing two people? That's ridiculous. There is no way that should be the case in the Highway Traffic Act.

The police are not lazy. When they close a highway for six hours, they are going to consult with a crown attorney with the evidence that they have at hand and say, "What can we do with this?" Two people dead, five people dead—whatever. They're going to lay the charges that they have the best chance of getting a conviction for. They don't have a choice of going to the Criminal Code if mens rea does not exist. That's basically—what is it—"intent, knowledge, recklessness, or wilful blindness." People don't have that when they go out in the day, they're going to the grocery store or they're going to the corner store, they turn left in front of a motorcycle and kill them. They don't intend on killing people, but the unfortunate fact is, it happens, and the families have no sense of justice at all.

You talk to a police officer and ask him to gauge the reaction of a family when he says, "Oh, yeah, your loved one is not coming home and it's a \$500 fine," and see what the family does—the anger, the hurt. There has to be some sort of sense of justice. You can't charge somebody more of a penalty for administrative simple errors than you can for actually killing.

I've been at this for 20, 21 years. It's time for this bill to pass or some form of this bill to pass. Families need justice. I'm at a loss for words sometimes when I try to talk to people. Nobody seems to understand that this is what the police can only do.

**Ms. Jennifer K. French:** Thank you, Gerry. How much time do I have?

**The Acting Chair (Mr. Nolan Quinn):** A minute and 45 seconds.

**Ms. Jennifer K. French:** Okay. One of the questions—again, there were sort of a flurry of questions when I was presenting. MPP Martin had talked about that the language as it stands now in the bill that I've put forward—and you've seen many iterations of this bill. I think she said it was sort of a blanket that might connect to other infractions. As I read it, it's "while contravening the Highway Traffic Act, if someone causes, or contributes to causing, an accident that causes the death of a person or serious bodily harm to a person." And if that person is found guilty, then this penalty framework is available.

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Ms. Jennifer K. French:** I think the example of someone not getting their driver's licence, that it could trigger this—I can't imagine someone not getting their driver's licence and killing someone. I feel like that would be a very different story, one that I can't imagine. So I'm reading this to mean what we've intended.

You've seen this bill in multiple forms and heard feedback from the government through 21 years. What are your thoughts on that particular thing about the blanket concern?

**Mr. Gerry Rhodes:** Well, the blanket concern has to be there because you can't go through the Highway Traffic Act and pick and choose, because you'll miss one, certainly.

Going back to absolute liability: Somebody mentioned an offence under—I'd like to quote something from the vulnerable road users act of 2018, clause 191—

**The Acting Chair (Mr. Nolan Quinn):** Unfortunately, that's all the time we have for this round of questioning.

Next, we'll go to the independent member for four and a half minutes. MPP McMahon.

**Ms. Mary-Margaret McMahon:** I would just like to remind members that we're using the term "collision," not "accident," especially when it's involving vulnerable road users. It's a lot more respectful and accurate.

Thank you to everyone for coming in and sharing your stories. It's very important for us to hear your lived experience, your knowledge and your suggestions. We appreciate that.

My first question is for Scott Butler from Good Roads. Scott, thank you for supporting this bill. You mentioned that you would aim higher, which is very interesting, and you mentioned other municipalities and places in the world—Denmark—that are doing much more. I'm wondering if you can elaborate on that for us so that we can aim higher to keep Ontarians safe.

**Mr. Scott Butler:** I think when you're looking at road safety more broadly, there's a whole series of steps that you can take. There are frameworks—safe systems, Vision Zero—that look at how we re-engineer the roads to make them safer for all road users. Education is a key component. Enforcement, which I think this bill is a part of, is a key component. And then, there's sort of the cultural expectation. You don't have to travel far—go to Niagara-on-the-Lake and you'll see, suddenly, people who drive like maniacs in other parts of the province yield to pedestrians as soon as they step into a crosswalk. We need to figure out how we can take that culture and those expectations and make them more universal in Ontario. If you can satisfy those sort of engineering—we'll call it "empathy," for lack of a better word—enforcement and education, that gives you a pretty big playground to play in and find solutions. There's no shortage of people doing this and doing it well. I think it's incumbent upon all three orders of government, quite frankly, to work together to realize these sorts of outcomes.

I would remind people that Helsinki and Oslo are not Toronto in terms of size, but they are big, complicated, sophisticated cities. They had zero fatalities in 2020. We have a long way to go.

**Ms. Mary-Margaret McMahon:** Yes, wouldn't it be great to have zero fatalities?

You mentioned Niagara-on-the-Lake. Are there other municipalities in Ontario or across Canada that you could elaborate on that are getting this right?

**Mr. Scott Butler:** I would say there are lots of actions taking place at the local level that are doing some really great work in this space.

Toronto, in spite of the criticism it gets, has actually had a fairly good track record in terms of implementing designs. They've been politicized somewhat. But they're making progress.

We always point to Temiskaming Shores as a really gold star indicator of what can be done. They work together with their chamber of commerce and their council to come up with a whole series of things. They've actually successfully lobbied the province to create the first "2+1" highway system in Ontario.

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**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Mr. Scott Butler:** It's noted that that's a design that will save lives. Temiskaming Shores isn't what people think of when they think of road safety immediately. There are lots of examples out there; it's just a matter of using the province's agency and leverage in this space to coordinate it with all 444 local governments.

**Ms. Mary-Margaret McMahon:** Thank you so much.

**The Acting Chair (Mr. Nolan Quinn):** For the next round of questions, we will go back to the government for seven and a half minutes. MPP Martin.

**Mrs. Robin Martin:** This would be a question for Mr. Butler and, as well, Mr. Rhodes. Over the course of the debates on this bill, going back to 2011, at least, there have been questions and concerns raised about the effectiveness

of the bill in its current form or in the multiple forms that came before. The issues seemed to boil down, though, to the possibility that it creates unintended consequences, maybe a possible encroachment on federal jurisdiction, and that it creates a new charge similar to one that already exists more recently with the careless driving charge which, again, might not address, as I suggested in some questions, the issue of plea-downs happening. Finally, there's a question of whether or not this would be a strict liability offence and what that might mean for how charges are handled by our courts.

So I'd be interested in hearing the thoughts of Mr. Rhodes and Mr. Butler on these concerns and whether or not you see them as valid or likely to be realized, or you have any suggestions as to how they could be addressed. Mr. Butler, do you want to start?

**Mr. Scott Butler:** Sure. It's a law. We test it at the courts, and they decide. If it doesn't work, we amend it. I think it's that simple.

**Mrs. Robin Martin:** Mr. Rhodes?

**Mr. Gerry Rhodes:** Under former Bill 62, Protecting Vulnerable Road Users Act, 2018, "Relation to absolute liability offence," the clause written there was, "An offence under subsection (1) is not an absolute liability offence, even if an offence of contravening a listed provision is an absolute liability offence." Such a clause could be added into this bill, if necessary. We've had constitutional challenges for—I'm sorry; I suffered a stroke a while ago and I slur sometimes. We've had constitutional challenges for many of our laws on the road, including the stunt driving. They passed for reasons of protecting the public.

**Mrs. Robin Martin:** Thank you very much, both of you, for the answers. I was actually looking—the Criminal Code actually has criminal negligence causing death, section 220; dangerous operation causing death, section 320.13(1); impaired driving causing death, section 320.14(3); hit-and-run driving causing death, section 252(1.3); and street racing causing death, section 249.2. So they pick and choose which ones they think are the worst, and then they've attached criminal penalties to those kinds of actions.

I did want to ask Mr. Butler as well: You mentioned Finland and Norway and that we need to do more what they do for road safety, I think. I was wondering if you could elaborate on that, or if you have any information you could send to us to share with the committee about how they do that.

**Mr. Scott Butler:** Sure. I mean, fundamentally, they adopted a Vision Zero or a safe systems framework, and that permeates all aspects of their transportation planning and enforcement. They've made significant capital reinvestments in making roads safer: sidewalks wider, lanes narrower, reducing speeds, putting in pedestrian zones—I know it upsets many people in this city—investing in segregated cycling lanes and basically trying to incent people to not drive as much and, if they are driving, not to drive like maniacs. It's fundamentally that simple. Go online. The Swedish institute for Vision Zero

makes all their information available in about 20 different languages. All we need to do is do a quick find and replace on “Sweden,” plop in “Ontario,” and I think we have a framework we can start with.

**Mrs. Robin Martin:** Thank you very much for that. Then, I guess the other question I had for Mr. Rhodes and you, Mr. Butler—what we’re talking about is punishing the consequences of an unintended act because the mens rea is not there. If the mens rea was there, they would charge it under the Criminal Code.

And so, I guess my question is: How will a harsher penalty—nobody would suggest that the life of a person is only worth \$50,000, just like no one would suggest the life of a person is only worth \$500. How will this address, or how will it help to punish unintended consequences that the person didn’t intend with a \$50,000 fine as opposed to a \$500 fine or the two years of imprisonment or whatever that was? Mr. Rhodes?

**Mr. Gerry Rhodes:** It goes back to the family. The family has been punished. They have no sense of justice.

We have consequences for drunk driving—being caught and not causing harm; being caught at a roadside stop, and they pay a stiffer penalty for having the potential, just the potential, of causing harm. Here, somebody has actually caused harm. It will make people think twice. Maybe it will help with the attitude of people overall. The overall attitude of people changed with drinking and driving laws when they were heavily enforced. Seeing that today you go to jail and lose a licence for a long time and there’s a big fine for killing somebody, maybe somebody will think twice about speeding or about being lackadaisical in their attitude towards the way they behave in traffic.

As the other gentleman spoke about “driving like maniacs”—maybe less people will drive like maniacs when this bill is out.

**Mrs. Robin Martin:** Mr. Butler, did you have anything to add on that?

**Mr. Scott Butler:** Well, I would say I see this as an evolution of the consequences of that unintentional behaviour, right? We change the penalties for behaviours all the time. We increase them; we dial them back.

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Mr. Scott Butler:** This, to me, seems that, by applying it with this blanket standard, it’s changing fundamentally all of those unintended consequences and the penalties that go with them. Is it going to provide adequate emotional restitution to the 592 people in Ontario last year who had someone killed? No. Might it give somebody pause? It might. But just because we’re supposing that it won’t, I don’t think it’s adequate reason not to take these steps. If that’s the case, we need to dial back a whole bunch of other initiatives that we’ve put forward on an annual basis.

**Mrs. Robin Martin:** Thank you, Mr. Butler. MPP Smith?

**Ms. Laura Smith:** Time?

**The Acting Chair (Mr. Nolan Quinn):** Twenty seconds.

**Ms. Laura Smith:** Oh, okay. I’m just actually going to—if I have time; I don’t know if I do, but thank you to all of the witnesses for being here. I just wanted, actually, to make some comments. Retribution is quite often—

**The Acting Chair (Mr. Nolan Quinn):** Unfortunately, that’s all the time we have for this round of questions.

We will go to the official opposition for seven and a half minutes. MPP French.

**Ms. Jennifer K. French:** Thank you. I’ll go ahead and start. Mr. Rhodes, one of the things that I raised in my remarks was what came from a conversation with you a long time ago and it stuck with me, about the fact that when this happens, or at sentencing, when a driver is charged with a Highway Traffic Act violation—like a “turn not in safety” or what have you—that it doesn’t go anywhere. It doesn’t go on your record; it only goes on your conscience.

In terms of the deterrence piece, when we’ve heard awful stories about what has happened on the roadway, sometimes you have drivers who, as we’ve talked about with “vulnerable road user” legislation, would really benefit from education and would benefit from hearing the victim impact. There’s lots of pieces about what could happen in the aftermath that then would work to make the roads safer, right? But if somebody who is a serial offender needs retraining or education, there is the need for that.

But your comment about “it doesn’t go anywhere” and “it doesn’t go on your record”: Could you kind of explain that? Because if we are levying this penalty and someone is losing a licence, perhaps, if a judge deems that appropriate, or has a more substantial—is the opportunity there to make a different kind of impact on the driver?

**Mr. Gerry Rhodes:** Well, there is. For one, they’re going to have an impact because they killed somebody. For the other, having a loss of licence goes against their record. Having them have to listen to goes against their record. Having them have to listen to victim impact statements in court might be a good thing as well, because you can’t form an action and not expect some sort of consequences. I accept consequences for my actions all the time. If I’m going to be foolish on a road, I’m going to suffer the consequences—I am. If I do something to harm somebody else, I expect that there should be some consequences, and the \$500 fine doesn’t cut it. You could go over it and say, “Okay, there’s my money. I’m done. I’m gone.” Have I learned something? Not really.

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**Ms. Jennifer K. French:** Well, the vulnerable user impact piece is not in this bill, but it’s part of the conversation, I think, in terms of where we go down this road.

I’ll cede my time to Ms. Bell or Ms. Sattler.

**Ms. Jessica Bell:** Thank you to all the presenters for coming in. I have a few comments. One, it is important to emphasize that this bill is focused on people who are violating the Highway Traffic Act and seriously injure or kill someone. In the case of a driver driving down Jarvis and having a jaywalker cross the road, this would very

likely not be a situation where a driver is breaking the law. So in this case, this bill wouldn't apply.

The second piece that is also very important to remind us here is that this is about giving judges discretion. Judges are intelligent, competent, thoughtful people with a long track record of taking in the facts and deciding what an appropriate consequence is. We need to give judges the option to lay additional charges or consequences for people who kill or injure someone and who maybe were consistently repeat offenders, who were consistently breaking the Highway Traffic Act and there is a record of that happening. It provides judges with the option to give appropriate consequences to drivers, especially drivers who are consistently breaking the law and putting Ontarians' lives in danger and injuring and killing people. So we need to put this bill in context.

My question is directed to Scott Butler. You mentioned something quite shocking, which is that we have gone back two decades of progress in road safety. Can you explain that statement a little more? What's happening? What has happened?

**Mr. Scott Butler:** Well, I mean, in raw terms, the reason I say that is the number of people involved in injuries on the roads has gone back to numbers we haven't seen in a couple of decades. The number of people killed has risen to numbers we haven't seen in a couple of decades. These are still preliminary findings from MTO for 2022, but fundamentally, the literature and the research seems to indicate that when the pandemic started, fewer people on the road and those that were on the road were driving less safely. They were driving at higher speeds because there were fewer people there. Speed has a direct correlation to tragic outcomes and crashes and it's particularly problematic when it's crashes involving a vehicle and somebody not in a vehicle, whether they're on some other modality, a pedestrian—whatever the case may be.

Ontario is not an outlier in that. We're seeing this pretty much across North America as a standard, but it does sort of put a pretty big dent in the reputation that Ontario has burnished for a long time in terms of its road safety. We're regressing.

**Ms. Jessica Bell:** That's very concerning to hear.

My second question is about what the impact is on municipalities of this increase in injuries and fatalities. Can you explain that to us? How does it affect police officers' behaviour, the financing? Elaborate for us.

**Mr. Scott Butler:** I won't speak to the police officers' behaviour; that's completely outside of my scope. What I can talk to, and at the risk of sounding gauche, is the consequences that municipalities experience.

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Mr. Scott Butler:** I'm looking here: There were 47,000 collisions in Ontario that were either fatal or personal injury collisions in 2022. I guarantee, in a disproportionate amount of those, the municipality was named as a defendant if litigation was following. That's because municipalities—the accident takes place on the road, lawyers will find a deficiency in the road, and the way that tort law

works in Ontario is, they're the deep-pocketed defendant that picks up whatever coverage isn't covered by the other participants in the accident. There are some pretty infamous cases across Ontario, and we're starting to see claims now involving road accidents well into the eight-figure settlements. When people are injured, when they're paralyzed, when—

**The Acting Chair (Mr. Nolan Quinn):** Unfortunately, that's all the time we have for this round of questions.

Next, we'll go to the independent member for four and a half minutes. MPP Mantha.

**Mr. Michael Mantha:** I just wanted to clarify with the committee: Earlier, I read a sentence out of the conclusion out of the Ontario Bar Association which was supportive of seeing changes and making our roads safer—and I think that's what we unanimously hear, often, from all the presenters who are coming in. We want to see our roads safer. However, we're finding reasons why this bill shouldn't go forward. I'm indulging the committee—let's look at reasons why and work towards getting it to move forward in order to make our roads safer.

I'm glad Gerry is here with us this morning. Gerry and I go back quite a ways. I remember, back in 2011, knocking on his door, where this particular piece of legislation was introduced to me.

Gerry, I want to give you an update I just received. I'm reading an update from the MTO this morning: The turning lane into the co-op and the LCBO up in Goulais River is going to happen—not this year, but it's coming. I'll give that update a little bit to the community later.

I was wondering if you can provide us with a little bit of information on the context of this bill and elaborate on the evidence needed for charges being laid and how that becomes part of the issue of this particular bill.

**Mr. Gerry Rhodes:** Well, the evidence required—again, it goes down to, with the Criminal Code, you've got to have the presence of a guilty mind, essentially. You have to be behaving in such a way that you either don't care what happens to other people or you're doing it deliberately—whereas, this accident, there was no intent to actually cause harm. That's the difference; that's the line in the sand, so to speak—where the police have to say, "Do we have enough information or evidence to support some sort of intent to cause this accident?" And if they don't have that, then they have to go to the Highway Traffic Act. Most of the time, nobody goes out and wants to kill people, really—the odd person—but that's the case that the police are facing all the time, they don't have the evidence to support a Criminal Code charge. They're out there, they're available, if they have the evidence, but if they don't have any evidence of intent from the person, then they can't lay a criminal charge; it has to go back to the Highway Traffic Act.

As far as that turning lane is concerned, that would greatly increase the safety of that location, but so would four-laning north of Sault Ste. Marie.

**Mr. Michael Mantha:** I agree with you there, Gerry, but the likelihood of that happening in your lifetime or in mine is very slim.

The other thing that I think is, education—that is needed here. Being an avid rider now, I recall going through a riders' safety course that I took over at Sault College that is also offered by Collège Boréal and other institutions, and what it does is it sensitizes you to the potential hazards that are out there from a biker's perspective.

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Mr. Michael Mantha:** How beneficial would that be—that type of a safety training course—to all motorists? I've never looked at a flapping tarp in the back of a truck in regard to how it could impact me when I'm driving my truck or my car, but when I'm on my bike, I look at it very differently; I also look at the pedestrians; I also look at the weather; I also look at the road conditions. How beneficial could this be for others, in order to learn and be safer on our roads?

**Mr. Gerry Rhodes:** Motorcycle riders are better car drivers because of the reasons you mentioned, sir. Training car drivers to be more sensitive to the vulnerabilities of motorcyclists would be of great benefit. It has been done in other jurisdictions as well. It would be good to do that. As I said, motorcyclists make better car drivers because we're always watching for hazards. We're checking our rear-view mirror—

**The Acting Chair (Mr. Nolan Quinn):** Unfortunately, that's all the time we have for this round of questions. I'd like to thank all three presenters for coming down today and giving us your feedback on this presentation.

That concludes our business for this morning. The committee is now recessed until 1 p.m.

*The committee recessed from 1200 to 1302.*

**The Acting Chair (Mr. Nolan Quinn):** Good afternoon, everyone. The Standing Committee on Heritage, Infrastructure and Cultural Policy will now come to order. We are here to resume public hearings on Bill 15, An Act to amend the Highway Traffic Act to create an offence of contravention causing death or serious bodily harm.

Are there any questions before we begin?

MR. BRIAN BURNETT

**The Acting Chair (Mr. Nolan Quinn):** I will now call on Brian Burnett. You will have seven minutes for your presentation. Please state your name and the organization that you represent.

**Mr. Brian Burnett:** Good afternoon. My name is Brian Burnett. I'm not here as a representative of Bikers Rights Organization (Ontario), because I understand they've already made their presentation this morning via video. I'm here as a left-turning crash survivor.

To start off, I have a couple of short stories here to relay. On July 7, 2001, Peterborough region's road captain, Chris Mayhew, was killed by a left-turning delivery truck while he was returning from a motorcycle event in Campbellford. This was the impetus to bring forward a memorial awareness rally, in my mind. I sat at home later that night and realized that we come here and we protest

handlebar legislation and helmet laws, insurance regs, but nothing would ever get done until the government had the will to do things. So we should come here and maybe remember all those who were killed as the result of someone violating their presumed right to a return or a safe journey to where they were trying to get to on a motorcycle.

Chris Mayhew was killed as the result of a left-turning cube van. He was coming back from Campbellford, as I mentioned, had turned onto Peterborough county highway 38 and was going home to start a vacation the next day—he didn't make it—when a cube van turned across his path. He hit it with such force that basically every bone in his body was shattered, unfortunately. He died with the property owner, with his head in her lap, about five minutes after the collision. It took months to get to court, and when it finally did get to court, the person pled out guilty or was found guilty—I can't remember; it has been that long—to “turn not in safety” and was fined a \$500 fine. The judge, in summing up his sentence, said that his hands were tied because he couldn't impose a stronger sentence because of the provisions in the Highway Traffic Act under the general penalty clause. So that started us off on a move to have things like this bill or any other ways of trying to move forward more of a sense of justice for the family victims and friends of the victims of motorcycle-automobile collisions.

I started the Fallen Riders Memorial, and it has been held every year, apart from the two years during the COVID period when we couldn't meet due to health regulations, right down here on the front lawn, between the flagpole and the statue—other than this year, when we couldn't do it because of the Doors Open Toronto and the party that was in the north part of the park and jamming up all the traffic, so we ended up going down the road here to where we have our post-celebration. The Fallen Riders Memorial is a celebration of people's lives. We have 180 names on our wall now.

I, myself, two years and three months to the day after that, on October 7, 2003, was returning from our region chair's funeral in Peterborough. I was coming up through the city with the intention of going back to work the next day, after having taken three days off to help the family members straighten out the last-minute details for the funeral. On my way there, I came up to an intersection that had a left-turning city bus—there was an open lane beside it, a green light. The intersection was clear, so I pulled out around it, and I was driving up to the front of the bus when a left-turning Honda Civic pulled across my path, and I hit her at almost 30 miles an hour. I hit the fender, hit the hood twice and then hit the pavement—about that quickly, too. That's when the screaming started, until the EMS finally got there to hit me with a shot of morphine to calm everything down. It was a four-block ride to the hospital. That started two and a half months in hospital and then seven and a half months of rehab to relearn how to walk as well as I can now. I contacted the police officer who investigated the case and asked him, “What was the charge that she eventually ended up with?” He said it was section

142(1) of the Highway Traffic Act, which, I understand, is “turn not in safety.” I didn’t actually find out what her actual penalty that she paid for—because I was more concerned in my own recovery.

I’ve been a motorcycle rights advocate and trying to promote motorcycle safety since before I was a rider. I’ve always noticed that motorcycles are more vulnerable to people in cars, trucks or other vehicles.

I would urge the committee, if possible, to pass a recommendation on for this bill to be taken back to third reading. If any legal wording needs to be changed, then please do it so that we can get 20 years of hard work finally summed up and taken care of, so that there is a sense of justice for the family and friends of the victims.

**The Acting Chair (Mr. Nolan Quinn):** Thank you for your presentation.

At this time, we will go to the official opposition. They’ll have seven and a half minutes to be able to ask questions.

**Ms. Jennifer K. French:** Thank you very much, Mr. Burnett, for making the trek to Queen’s Park and braving the traffic this morning. But this isn’t your first visit to Queen’s Park—so if you can give us just a quick rundown of the last 21 years.

**Mr. Brian Burnett:** The first time that I was in the actual Legislature to watch a bill being passed through was Wayne Gates’s—I don’t remember the number.

**Ms. Jennifer K. French:** Bill 154.

**Mr. Brian Burnett:** Thank you. I was watching the second reading of that. Gerry Rhodes and I were both invited down and we actually had the privilege of being taken to lunch downstairs in the restaurant, which was kind of a bit of a shock, I imagine, to some people down there all in their suits and business attire when we come walking in wearing our motorcycle attire. I have a vest at home that has many pins and patches on it because I’ve been a motorcycle rights advocate, as I’ve said, for over 30 years.

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Then, I was here for the second reading of Jennifer’s bill and the eventual unanimous voting on it to come here.

**Ms. Jennifer K. French:** Yes, thank you. So you’ve seen a few different versions of the bill. The one that’s before us today we’ve been discussing in committee and, I will say, in my nine years, this is the first time that I’ve had a private member’s bill with my name on it come to committee, but also in my nine years, this is the first time that I have seen a bill come to committee where we have, I think, really taken the time to hear from people and are maybe going to try and figure this out.

I submit this bill is the right bill to solve it. However, we have had some issues raised about the wording, about how it connects to different things, all of that. So this may continue to be a bit of a journey, but can you, from your standpoint, share with the committee why it’s important that we continue to figure out the right fix, if it isn’t this as worded—that we fix this, and what that would feel like, or why that is important, and to whom?

**Mr. Brian Burnett:** Why it is important is it’s a sense of justice for the family. I have a couple of articles at home from our local paper that actually spell out penalties. The Ministry of Natural Resources caught people with poached deer and moose in their freezer, and they were charged \$13,000 in total fines. Another story I have at home from the local paper shows two individuals that were charged \$14,000. But the life of someone killed in a left turn is only worth \$500 under the general penalty clause of the Highway Traffic Act.

That’s why we’ve been pushing for getting more penalties to appear a little more in line with killing someone, rather than basically a slap on the wrist. It doesn’t go on your licence; it doesn’t go on your insurance record. Can you live with a \$500 fine for killing someone? It only goes on your conscience. I know it would disturb the bejesus out of me if that were to happen.

**Ms. Jennifer K. French:** Okay, thank you. You had raised something that—actually, I think earlier I attributed the comment to Gerry Rhodes. I’ve talked to the two of you a couple of times, so you’ll excuse me if I mix it up, but what you have just said: It doesn’t go anywhere; it doesn’t go on your record. It goes on your conscience.

If this legislation were to go through and if someone killed someone because of an improper left turn or a violation of the Highway Traffic Act, the intent is that the judge has the tool kit to be able to pull from in terms of more appropriate penalties at sentencing, whether that is suspending a licence; if that is incarceration, if it’s warranted; if it’s an increased penalty amount. But it’s up to the judge.

You have been in a courtroom. Could you tell us some of the different instances of what you’ve heard in courtrooms?

**Mr. Brian Burnett:** Well, the last time we were in a courtroom was for Chris Mayhew. And even after all the victim impact statements that had been read, as I mentioned earlier, the judge said that he could only impose a \$500 fine because his hands were basically tied by the provisions in the Highway Traffic Act because they only charged the individual with a “turn not in safety.” There wasn’t the evidence to back up a careless or negligence charge, which has more severe penalties and is covered under the Criminal Code and actually does go on your record.

**Ms. Jennifer K. French:** If this charge, or if these penalties, become law, I think the understanding is that there would be something on someone’s record. Like if their licence is pulled, that becomes part of their record. Do you think that that might serve as a deterrent to that driver if it’s a driver who regularly violates the Highway Traffic Act?

**Mr. Brian Burnett:** I would think that someone facing losing their licence to drive all the time would be mindful of it, as well as increased fines or possible jail time, depending on the severity of the crash. Myself, I know that with my crash, it took me two and a half months, seven months in rehab, and completely altered the course of my life, because I had a full-time job I was working at. I was

rendered virtually unemployable and retired from the crash because I have nerve damage from my knee down. I have very limited mobility in my left ankle. There are all sorts of reasons why I'm not—

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Mr. Brian Burnett:** Yes. I have many, many reasons why I'm not competitive in the workforce anymore—six years of fighting my own insurance company to finally get a settlement out of them, which is actually kind of quick, from what I've heard from some people.

But yes, I would urge that this bill please be adopted. Wayne Gates even mentioned during the last time that this was brought forward in the House that if the government actually wanted to, they could adopt this and make it the law, if there was the will there.

**Ms. Jennifer K. French:** There seems to be the will to be thoughtful about how we proceed, and I hope that the government will indeed take that under advisement and that we can figure out the way to move forward to accomplish this. Thank you, Mr. Burnett.

**The Acting Chair (Mr. Nolan Quinn):** Thank you.

The next round of questions will go to the independent member. MPP McMahon.

**Ms. Mary-Margaret McMahon:** Thank you very much for coming in today, Brian, and sharing your story of your horrific collision, which I'm sure is tough to do.

**Mr. Brian Burnett:** No, I'm quite comfortable with speaking about the crash. At the time, I was rather upset about it because, as I said, I had a full-time job, and I had been at my employment for one weekend short of a year full-time. Prior to that, I did four months as a temp employee, with plans to going from being an injection-moulding machine operator to a setup tech, which has more responsibilities, a little bit better pay. Then, I wouldn't be running a machine all day; I'd be setting up and repairing machines, changing out moulds and basically doing a different job. I'm always looking for something novel and, well, all those plans got tossed into the garbage bin after the crash.

**Ms. Mary-Margaret McMahon:** Again, I'm sorry about that and I'm so glad you're here. Not many survivors, not everyone, could be that courageous to come in and continue the advocacy. You were talking about 20 years of hard work and all your advocacy for safe roads for all. I wonder what originally got you into advocating for that.

**Mr. Brian Burnett:** Well, many years before I started riding, I realized that motorcycles were very vulnerable. You don't have the steel, glass and chrome cage built around you like in a car or a truck. On a motorcycle, you're open to the elements, and you also have a very narrow profile when you're looking straight on to a motorcycle. Cars, they're larger. A car, from the side, you can see. A motorcycle from the side you can see. There was a sticker years ago; it says, "Now you see me," and it shows a profile of a motorcycle; then it shows the front shot, and it says, "Now you don't," which helps get the message out.

Then, when I started riding, I got even more active. I've been a member of the Aid to Injured Motorcyclists program, which was based out of California. Then, I was a member of ABATE Ontario for two years, and I've been a member of BRO Ontario since March 3, 1995, and have been pushing for motorcycle awareness and safety.

We've been doing rides to raise awareness. We do the Fallen Riders Memorial every year to raise both public awareness and awareness, hopefully, from government members that motorcycles are a vulnerable item on the road. Some people look at them as recreational vehicles. Some of them, like myself, look at them as if it could be day-to-day transportation. I do have a car for doing longer distances, but there's something to be said about being out on a highway and being able to see the scenery and smell the sights and hear things going by, although hopefully not being distracted by them either.

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**Ms. Mary-Margaret McMahon:** Yes, I feel the same about cycling.

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Ms. Mary-Margaret McMahon:** If you can just elaborate a bit more on the Bikers Rights Organization, what that's all about.

**Mr. Brian Burnett:** Bikers Rights Organization is a motorcycle rights group that advocates for motorcycle safety, for public awareness. We try to solve any problems between the motorcycle community and law enforcement. If there are existing problems, we try to work out any common ground between them to solve any problems. We host various events. We're not a charity group but we do charitable events. In our old Peterborough region, we used to put on a humane society benefit every year: a corn roast in August to help have a good time, have a party, raise some money and also get awareness of the motorcycles, because we do a ride to the event site and then we would have a party and free camping was involved.

**The Acting Chair (Mr. Nolan Quinn):** Unfortunately, that's all the time we have for this round of questioning.

**Ms. Mary-Margaret McMahon:** Great, thank you.

**The Acting Chair (Mr. Nolan Quinn):** Next, we'll go to the government for seven and a half minutes. MPP Grewal.

**Mr. Hardeep Singh Grewal:** Thank you very much, Chair, and I just want to say thank you and welcome to Mr. Burnett for joining. Thank you for sharing your story with us here today. It's an unfortunate incident that you were involved in. I can relate with you in the sense that I too, after our government passed the helmet exemption law, got a motorcycle. I have an Indian Scout.

I was supposed to go on a ride with one of my friends, but that day I wasn't available to go; I had to make some changes last minute. They were just driving up on a local road, Airport Road in Brampton, and about to make a left on Mayfield, where another driver that wasn't paying attention made a right turn in this instance and hit his motorcycle. My friend went flying off the motorcycle and landed face-first into the pavement—airlifted up to



Sunnybrook and was in the hospital in a coma for months and months and months. Luckily, he's back alive. He's having his own nerve and memory issues, and all of that that comes with such a big accident.

At the end of the day, we as motorcyclists take that risk every day when we get on the road. Whether you're a driver of a vehicle, whether you're a motorcyclist, if you have a trike, we all take a risk every day when we get on the road, and when these unfortunate incidents happen, they hurt all of us. At the end of the day, like I said in the beginning this morning, we all have a story to tell when it comes to these types of incidences. Whereas you've witnessed it first-hand, we've only known those people close to us that have gotten injured in this particular way.

So when it comes to the sentiment of the bill, we all share the same values in this particular room. We don't want anyone to get hurt. We want to have good roads, and we want to have everybody be safe out there on the roads. But the issue at hand that this committee is discussing is the legal language that comes down to the way that this bill is particularly drafted, the duplications that we see within the existing Highway Traffic Act legislation. The last thing we want to see as a committee is this bill get passed the way it's written and then that gets enacted into law, and then when this incident happens again, what happens if they get an even lower penalty based on the way this bill was drafted? There are so many different areas of openness that are written into this, like what if you're driving one day, you forget your driver's licence and then you get pulled into that penalty where you're paying thousands of dollars, right?

So we want it to be more specific to the incident at hand. We want the bill to actually have that meaningful impact that it's intended to have. The discussions we're having today are based on the language and the implications. When it comes to the actual ideology behind it, we're all for it. That's why it's gone through so many Parliaments. That's why every time we talk about it, it's always passed. But we want to get it right. We don't want to end up lowering the penalties by mistake based on the way things are drafted. I just want to ask you, in terms of your opinions, if you had a chance to read the bill the way it's drafted, or do you have any constructive feedback on the implementations of the bill?

**Mr. Brian Burnett:** I've read the bill. I was here for the second reading. I can't quote the bill off-hand, off the top of my head.

**Mr. Hardeep Singh Grewal:** Neither can I.

**Mr. Brian Burnett:** But if it takes a little bit of legalese tweaking, then I'd heartily endorse doing that so long as the bill didn't get gutted so that it's just a slap on the wrist and is not an improvement over the current penalties that are there.

**Mr. Hardeep Singh Grewal:** But at the end of the day, \$500, \$50,000, \$100,000—we can't determine the value of a life just based on financial numbers. It's an unfortunate loss that we have to bear, and there's no amount of money or no amount of repercussions that will ever bring our loved ones back in that sense. I agree with

you; I've witnessed these first-hand. After that incident, I never drove my motorcycle again after that, because what if I get involved in that type of an incident?

I want to yield the rest of my time to my colleague MPP Laura Smith.

**Ms. Laura Smith:** Could I have the time, Chair?

**The Acting Chair (Mr. Nolan Quinn):** Three and a half minutes.

**Ms. Laura Smith:** Thank you so much. Through you, Chair: First of all, I want to start by saying that we're so grateful that you're here—not just here to speak, but here on this earth, after what you've just endured. We appreciate you coming here and sharing your story.

What jumped out for me while you were talking was the tort system. Did you start a civil action? This is the best route, sometimes, to—nothing can take, obviously, the place of time in a hospital and suffering. But did you sue? Did you go through the tort system?

**Mr. Brian Burnett:** No. Actually, my lawyer and the other party's lawyer agreed to mediate a settlement, and that prevented us from having to go to court. That was after six years, though—from the time of the collision to the time of the settlement. I was sitting in a boardroom in downtown Toronto, looking at Old City Hall and the new city hall out the window, after five and a half hours, to finally mediate a settlement. I set the settlement up into a structured annuity, so I have a settlement cheque coming into my bank account every month to take the place of my employment.

**Ms. Laura Smith:** I know that the wheels of justice can sometimes be perceived as moving very slowly, but sometimes—I have a little bit of background in tort—it takes that time to understand the extent of the injuries, and that's why they need to have things assessed later on.

I'm glad that you explored the tort system, because that provided you with a financial remedy which, in essence, provides so much relief for you at this time, which is something that I want to kind of hammer down—that this is not the only remedy, and the Highway Traffic Act is but one area. People can still sue people. That's something that's available to individuals. I'm glad you were able to take advantage of that and seek the amount required for you to live in comfort, hopefully.

I'm just going to talk about something that was submitted. This is from the Ontario Bar Association, dated July 6. They talked about an overbreadth of offences, and one of the things that they brought up—

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Ms. Laura Smith:** Thank you.

They talked about contributions not setting a high bar. They're worried that this could provide a potential for unintended consequences. Consider this example: A driver who was not carrying a licence got a flat tire and pulled over on the side of the road. Another car pulled up to help and was struck by a third car. The driver of the second car was killed. This proposed provision would capture the driver of the first car, as he contributed to the accident and was contravening the HTA by not having his

driver's licence. While this scenario is unlikely, it illustrates the breadth of the offences caught by this provision. The standard of the contribution and the casual disconnect between the offence and the accident has the potential to yield unintended and unconstitutional results. I'm just wondering if you could comment on that.

**The Acting Chair (Mr. Nolan Quinn):** Unfortunately, that's all the time we have for this round of questioning.

We will go over to the official opposition for seven and a half minutes. MPP Glover.

**Mr. Chris Glover:** Mr. Burnett, thank you so much for being here. Thank you for your continued advocacy.

I listened to your statement at the beginning, and maybe I missed it—did you know what the fine was for the person who illegally turned left in front of you?

**Mr. Brian Burnett:** I had an idea that the Highway Traffic Act range for "turn not in safety" was \$60 to \$500, so I knew somewhere in that range is what the little old lady from Lakefield—she was 78 at the time, and this was in 2003, so I'd be surprised if she is still alive today.

**Mr. Chris Glover:** You've been advocating for this bill, for some legislation to make our roads safer for vulnerable users like bikers, like cyclists—

**Mr. Brian Burnett:** Bicyclists, pedestrians, mobility scooters—anything smaller than an automobile, a car or truck.

**Mr. Chris Glover:** And you've been doing this for 21 years?

**Mr. Brian Burnett:** This part, yes. I've been a motorcycle rights advocate, though, for most of my adult life. I'm 66 now. I started even before I started riding because I realized, as I said before, motorcycles are vulnerable to outside influence of cars, trucks and weather.

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**Mr. Chris Glover:** Okay. And one other thing that just struck me, and it may be a bit of an aside, but you mentioned that before this accident where somebody made an illegal left turn in front of your motorcycle—

**Mr. Brian Burnett:** Collision, actually.

**Mr. Chris Glover:** Collision, okay.

**Mr. Brian Burnett:** Accidents can be avoided.

**Mr. Chris Glover:** Thank you, yes. I take the point. So, before this collision, which somebody made an illegal left turn in front of your motorcycle and you suffered severe injuries that are still with you—before that time, you were working as an injection mould machine operator?

**Mr. Brian Burnett:** Injection moulding machine operator, yes.

**Mr. Chris Glover:** Yes. I can relate to that; my father is a tool-and-die maker and he worked at General Motors in injection moulds when it was a fairly new technology at the time. I appreciate the physicality of the work that's necessary to do that.

You have not been able to work since that accident?

**Mr. Brian Burnett:** No, I was involuntarily retired from the workforce basically from the moment of impact with the car because of all the damages done, and then the resulting nerve damage in my knee which prevents the signals going down to my foot and ankle.

**Mr. Chris Glover:** So you've got, basically, a life sentence of injury that you're dealing with and the driver who made the illegal turn got a maximum of a \$500 fine?

**Mr. Brian Burnett:** Yes.

**Mr. Chris Glover:** Okay. I don't ride a motorcycle, but I do ride a bicycle and I use it as my favourite form of transportation, especially getting around the city.

I just want to read a statement from a cyclist and then see if this resonates with you. This is a woman; her father, Gary Sim, was killed on his bicycle, and she said:

"For my dad's case, the driver was charged with 'turn not in safety.' He was found guilty and given the maximum fine of \$500 and two demerit points. There was no licence suspension. At sentencing, the judge called a recess to determine if she could increase the fine as she felt this was not sufficient, but unfortunately, her hands were tied by the Highway Traffic Act. My dad's life was worth so much more than \$500."

Does that resonate with you? Is that similar to your situation?

**Mr. Brian Burnett:** Quite well, yes.

**Mr. Chris Glover:** Yes? And you've seen other incidents with cyclists and bikers?

**Mr. Brian Burnett:** I've seen other incidents where more vulnerable people were taken out. "Turn not in safety." That's basically, like we've said before, a maximum \$500 fine as it stands right now under the general penalty clause.

**Mr. Chris Glover:** Even if the outcome is lifelong injuries or death, there's still a maximum \$500 fine. And that's what this legislation is here to remedy.

**Mr. Brian Burnett:** Yes.

**Mr. Chris Glover:** The other thing: It seems—and I've listened to my colleagues on all sides of the committee here today—like everybody agrees in spirit with this bill. They want to see this happen. You've been advocating for this legislation for decades and I'm just wondering if you would like to make a statement to the MPPs in the committee to make the modifications to this bill that are necessary to make it into law.

**Mr. Brian Burnett:** Well, yes. I'd like to urge any legal tweaking that needs to be done and setting out specific penalties for specific levels. Someone that is injured, like myself, shouldn't get the driver the maximum penalty of losing a licence, going to jail and the maximum fine. There should be a sliding scale. Possibly, yes, you lose your licence for a couple of months or whatever is decided to be appropriate.

But, as it stands now, as I said, we have been pushing for this for over 20 years. It would be a decided victory for our cause and, also, make a lot of people very happy that there is a sense now of justice rather than a minor fine, a slap on the wrist, and carrying on with your life, if you can live with killing someone.

**Mr. Chris Glover:** Okay. Thank you. Did you want to—

**Ms. Jennifer K. French:** Yes.

**Mr. Chris Glover:** Okay, I'll pass it to MPP French.

**Ms. Jennifer K. French:** Do I have enough time?

**The Acting Chair (Mr. Nolan Quinn):** MPP French, you have two minutes left.

**Ms. Jennifer K. French:** Okay. I think this is our last rotation today, so again I want to thank you for taking the time repeatedly to follow this issue through its various incarnations at Queen's Park. I know this is the first time this issue has been brought before committee, and so I'm glad you can see that happen.

Obviously, my name is on this bill, but after having learned from so many people what it would mean to them to have a bit more justice—nothing can replace the loss of a person or their health, but something that is more fitting of what has happened, a penalty range, is the goal. I am committed to doing that work. I will say again—

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Ms. Jennifer K. French:** I appreciate that the minister and ministry and members of the committee have engaged in this process and shown an interest. I hope that we can either fix this—if this bill as written is not what it needs to be, whatever, we'll fix it—or put it in government legislation and fix it, whatever. It's the idea that the spirit of this—and I don't mean to be flippant by saying “whatever,” but I do know there's a lot at stake in terms of the human experience side that I think we can fix and we're committed to doing that work.

I thank you for your commitment to this and for bringing it forward so many times.

**Mr. Brian Burnett:** Thanks for the privilege of being able to come here today and being able to present my statements in that. Thank you.

**The Acting Chair (Mr. Nolan Quinn):** Thank you. For the next round of questions, we will go to the independent member. MPP McMahon, you have four and a half minutes.

**Ms. Mary-Margaret McMahon:** Thank you very much again, Brian, for all your information and your stories. We learned this morning—or I learned this morning—that there have been many iterations of this bill, back before my time. A lot of tenacious people, members of provincial Parliament and people like yourself, are fighting the good fight on this.

I know that a previous MPP, Eleanor McMahon, had Bill 213 where careless driving provisions were enhanced, and that was passed. That was in light of another tragic story, as they all are: Her husband, a former OPP officer, was hit and knocked off his bike on a side road of such, so she started a group called Share the Road that you might know. They do great advocacy work across Canada, actually, and worked on that bill and worked strongly with police, and it passed. Anything we can do to further keep our roads safe for all road users is super important.

We had someone here this morning—Scott Butler from Good Roads Association, and he was giving us some great information and facts, and actually a scary fact that 592 people were killed in Ontario last year on the roads. Then, he mentioned different areas like Helsinki and Oslo that had no fatalities on their roads last year. So he was encouraging us to aim higher, and I just wondered your thoughts on that.

Bill 15 is fantastic, and we've got to get it passed. I'm sure we will, all together, because we care about Ontarians. But what are your thoughts of aiming higher,

even, with education and the proper infrastructure? I know as a cyclist, actually physically protected routes are the best for us, not just some paint. So just your thoughts on that—aiming higher.

**Mr. Brian Burnett:** Well, I haven't actually sat on a bicycle for a good many years myself, but yes, I do realize that they are vulnerable. Aiming higher, I don't know if—that's up to the legislators to do. Myself, any increase in penalties would, as I said, bring a sense of justice now to the families and friends of the victims. I know it will never bring back those who have been tragically killed—no amount of money can do that. But maybe it can bring forward more awareness and make Ontario a little more motorcycle-friendly as well, because we do have a great deal of motorcycle tourism here every year from all outside of the province and from in the province.

I leave the penalties up to you folks.

**Ms. Mary-Margaret McMahon:** All right.

**The Acting Chair (Mr. Nolan Quinn):** There's one minute remaining.

**Ms. Mary-Margaret McMahon:** I appreciate that. Thank you so much for your time.

**The Acting Chair (Mr. Nolan Quinn):** Thank you. For the next round of questions, we will go to the government, with seven and a half minutes. MPP Martin.

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**Mrs. Robin Martin:** Thank you, Mr. Burnett, for coming and for sharing your experiences with us and all the advocacy you've been doing. I was listening to what you said, and I guess one of the questions I wanted to ask you was: In your view, what positive changes do you think that this bill would bring about for people like yourself or the rest of us—all Ontarians, maybe—if it were passed?

**Mr. Brian Burnett:** Well, it would bring forward, as I said, increased penalties. It wouldn't just be a slap on the wrist anymore, which is what the \$500 fine basically is. The person who killed Chris Mayhew actually asked a judge for six months to pay his \$500 fine. I don't know if that was financial problems, but he went right back from the courtroom to the same job he had, driving the new truck that the company had to buy to replace the one that he wrote off.

**Mrs. Robin Martin:** Right. But I guess what I'm kind of trying to get at and what I'm wondering is how that—you, yourself, had an accident—

**Mr. Brian Burnett:** Collision.

**Mrs. Robin Martin:** A collision. The person got a \$500 Highway Traffic Act fine—

**Mr. Brian Burnett:** A maximum \$500 fine.

**Mrs. Robin Martin:** But you also got a settlement. So the person was held accountable because you got a settlement of some kind—

**Mr. Brian Burnett:** Yes, this was a mediated settlement with the insurance companies—both of them.

**Mrs. Robin Martin:** Right. But that was a way of holding the person to account for their actions. And did you feel that that was justice?

**Mr. Brian Burnett:** For myself, personally, I thought that it was a form of justice, yes.

**Mrs. Robin Martin:** Okay. Because the person had been held to account and had to pay—or, through their insurance, had to pay.

**Mr. Brian Burnett:** Yes, had to pay a fine. And then the insurance companies both had to pony up the eventual settlement.

**Mrs. Robin Martin:** Right. And I imagine they would have had to pay higher insurance rates going forward, or not drive.

**Mr. Brian Burnett:** I'm not certain how that would work. I know that with speeding, your insurance premiums go up. With a collision where you're at fault, your insurance premiums go up. But I don't know how the insurance companies handle a "turn not in safety," where you either severely injure or kill someone. I don't know how the insurance rates go for that.

**Mrs. Robin Martin:** I'm pretty sure the insurance companies would raise the rates.

But what I wanted to ask you was, if we can hold somebody accountable through a civil action like you did, why would increasing penalties under the Highway Traffic Act bring justice—I'm using your words—to families and friends of the victims? How do you see that happening?

**Mr. Brian Burnett:** Because it would increase the penalties and it would also increase people going, "If I kill somebody with an improper left turn, I'm not just going to get a slap on the wrist. I could lose my licence, I could go to jail or I could end up with a large, substantial fine," depending on the severity of the crash.

**Mrs. Robin Martin:** But if a person made this illegal turn—

**Mr. Brian Burnett:** Improper turn.

**Mrs. Robin Martin:** —improper turn, and they didn't intend to kill anybody, how would increasing the penalty make them more careful? I don't see how it would address that issue, is what I'm trying to get at. Do you? Can you tell me how you think it would help?

**Mr. Brian Burnett:** As I said, rather than a \$500 fine, if you're facing a \$2,000 fine or one more substantial, or possibly losing your licence or going to jail, it could twig someone to be a little more careful, to look that second time around the vehicle to see that nobody is coming. That was the problem with the lady that hit me. She knew nobody was coming up beside the left-turning bus in her discovery testimony, and it came as a hell of a shock when I hit her at 30 miles an hour for both of us, I imagine.

**Mrs. Robin Martin:** I bet. Well, we certainly hope people look twice and then three times and more, especially when they're around vulnerable road users. We hope they do.

The other thing you said was it would bring more awareness. Can you help us with how it might bring more awareness if we made such a change and increased the penalty?

**Mr. Brian Burnett:** Well, we'd be the first ones, if it did pass, to be putting the word out through the motorcycle

community, as well as to the general public through our events, to say that, "See, it's not just a slap on the wrist anymore. There's a little more of a substantial penalty involved. Wise up to the fact that, yes, we are vulnerable out there. We have a right to share the road, as well." But I don't know—

**Mrs. Robin Martin:** I don't mean to put you on the spot. I'm just trying to get whatever you can offer about—we're trying to figure out how we can do this to achieve the objectives that MPP French is trying to get at.

**Mr. Brian Burnett:** Like I said before, if it needs to be tweaked a little bit to get the language so that it can't be tossed out constitutionally, then please, go to it. Then, we can actually have a celebration when this bill does get passed, because we'll have a sense of justice after a crash.

**Mrs. Robin Martin:** I don't really have any other questions. I can pass it along.

**The Acting Chair (Mr. Nolan Quinn):** MPP McGregor, you have two minutes left.

**Mr. Graham McGregor:** I want to thank you for coming in today. Thanks for championing the issue. I'd just echo the same comments I think we've heard from all the other members—that this is an issue across party lines. I think we all have the same objective. We want to see justice be done, and we want to keep people safe.

When you're in this job, sometimes you get so caught up in standing orders and this and that and whatever, and then you get stark reminders that there's a very human element to the work that we do here.

And I empathize—a lot of our questions are about how we—

**Mrs. Robin Martin:** Make it happen.

**Mr. Graham McGregor:** —make it happen; how we put the pieces together in legalese, as they say. And I fully empathize, when we ask you how we should—legalese is our job. We're the politicians. That's for us, so—

**The Acting Chair (Mr. Nolan Quinn):** One minute remaining.

**Mr. Graham McGregor:** All that preamble to say—with the minute that we have left, is there anything else that you want to get off your chest about the bill and share with the committee here today?

**Mr. Brian Burnett:** I think I've pretty well said everything I hoped to say. I hope the committee will take this favourably and then do what needs to be done, please.

**Mr. Graham McGregor:** Thank you for your time here today.

**Mr. Brian Burnett:** Thank you kindly for, like I said, the invitation and the opportunity.

**The Acting Chair (Mr. Nolan Quinn):** Thank you, Mr. Burnett, for sharing your story today.

That concludes our business for this afternoon.

The committee is now adjourned until 9 a.m. on September 13, 2023.

*The committee adjourned at 1347.*







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