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Friday 1 September 2006

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Vendredi 1^{er} septembre 2006

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

Kevin and Jared's Law
(Child and Family Services
Statute Law Amendment), 2006

Loi Kevin et Jared de 2006
modifiant des lois en ce qui
concerne les services à l'enfance
et à la famille

Chair: Andrea Horwath
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Friday 1 September 2006

Vendredi 1^{er} septembre 2006

The committee met at 1007 in committee room 1.

**KEVIN AND JARED'S LAW
(CHILD AND FAMILY SERVICES
STATUTE LAW AMENDMENT), 2006**

**LOI KEVIN ET JARED DE 2006 MODIFIANT
DES LOIS EN CE QUI CONCERNE
LES SERVICES À L'ENFANCE
ET À LA FAMILLE**

Consideration of Bill 89, An Act to amend the Child and Family Services Act and the Coroners Act to better protect the children of Ontario / Projet de loi 89, Loi modifiant la Loi sur les services à l'enfance et à la famille et la Loi sur les coroners pour mieux protéger les enfants de l'Ontario.

The Vice-Chair (Mr. Tony C. Wong): Good morning, ladies and gentlemen. This is the standing committee on regulations and private bills. Today we're dealing with Bill 89, An Act to amend the Child and Family Services Act and the Coroners Act to better protect the children of Ontario.

I wish to call the attention of members to the report in front of you, prepared by the research officer. That package also includes a letter from the Ministry of Children and Youth Services, and another one from the Ministry of the Attorney General, replying to and clarifying some of the points raised by members on Tuesday, August 29.

Another matter that I would like to deal with before I start with any amendments is that on Tuesday, August 29, Mr. Jackson requested that a letter from Margaret Patterson be deemed to be read into the record. I've been advised by the clerk that no letter could be deemed to be read into the record, so I need unanimous consent from the committee to have some member read it into the record, if the committee wishes.

Mr. Cameron Jackson (Burlington): Mr. Chairman, I apologize. I thought that if we had unanimous consent we could get the letter in, but I would be more than pleased to. I indicated to Ms. Patterson that I would read the letter into the record—it's not a very long letter—if that is agreed.

The Vice-Chair: Is that agreed, members? Agreed. Please proceed.

Mr. Jackson: This is a letter dated August 29, 2006, to Premier Dalton McGuinty and all elected members of the committee for Bill 89, Kevin and Jared's Law.

"I would like to thank you for the opportunity to address this committee with a view to assisting in some small way to what is an extremely important first step towards wiping out the ageless blight on society, namely abuse. All kinds of abuse!

"Abuse has no gender nor does it skip over any form of life on this planet. However, today, we are addressing the Kevin and Jared's Law, Bill 89.

"I will first of all present myself to you. My maiden name was Margaret Helen Patterson and my married name is Skelton. I am a survivor of domestic abuse which, from my personal knowledge, was a plague handed down from father to son and on to grandsons. I grew up in a male-dominating house and watched my mother being physically abused at the whim of the man who was my father. I watched my grandmother as she was beaten and debased daily. I grew up thinking this was normal and that somehow it was the fault of the women. We had all been brainwashed into believing that somehow we women deserved this treatment and the men simply had to do this for the women's own good. These men did not believe in a God but did believe that they were indeed gods to be reckoned with.

"Children who are victimized are victimized for life.

"I have written a book about my dreadful life in what was locally known as a highly respectable family. There was no shortage of intelligence nor of charisma, however, there was indeed a grave shortage of respect for all ... human being.

"When people choose to abuse because something simply does not go their way or their target does not simply agree with them, then we must all remember that the perpetrator makes a choice to bully, ... pick up a knife ... pick up a hammer or a gun ... or simply picking up a stick ... in order to subdue, control, maim or kill whomever they choose to victimize.

"It is all about choices in this life and we have to educate our young that abuse is indeed an unacceptable choice and will not be tolerated.

"To leave children in the care of anyone who has the penchant to making all the wrong choices is setting these children up to be the next Kevin and Jared. Do you know what little Jared's last words must have sounded like?

“Daddy don’t! Daddy don’t! Don’t hurt my Mummy Daddy! Please Daddy stop it! No! Daddy No! No! Daddy No! I am bleeding Daddy. Mummy help me? Mummy ... Mummy ... Mummy ... Mu...’

“Let us never forget this heroic little boy and let us all get busy with the job of protecting every child born from this day forth.

“I would like to suggest that two years mandatory jail terms for the very first offence. Second offence should warrant at least 10 years simply because the safety of the target of the abusers must be protected.

“No more ankle braces, no more consideration about keeping their jobs, no more thinking that ‘they must have asked for it.’ It is white and black ... you choose to do that crime then you must do the time. We must build more prisons and make the prisoners earn their keep by working and extra monies earned should go to the victim for what is necessary professional help.

“I am enclosing a copy of my book which is titled *My Mother’s Voice* for your perusal. I have made suggestions in this book on how to start to solve this horrible affliction. I am not interested in promoting my book but am very interested that perhaps it can be used as a catalyst towards wiping out this horrific social plague.

“Note: this is not a marriage problem this is a social problem.

“The laws must be changed, improved autopsies after the fact is great, but it does not stop the evil being dealt out.

“I am begging you with all of my heart and on behalf of all the Kevins and Jareds to make Ontario the very first province to demand zero tolerance towards all kinds of abuse. I would love to see posters erected right across this province stating that Ontario has zero tolerance for any form of abuse. Let us be the leaders in attacking this horrific problem. If we can spend millions to advertise the dangers of smoking ... successfully ... then we can do likewise for the dangers of abusers.

“I leave this problem in your very capable hands and beseech you to change the thinking of protectionism towards the bully and place that same protection where [it] is most definitely needed and that is with the victims.

“Little Kevin and Jared you will linger within my heart forever.”

That was signed by Margaret Helen Patterson.

Thank you, Mr. Chair.

The Vice-Chair: Thank you, Mr. Jackson.

Members of the committee, before we begin clause-by-clause consideration, I will now invite Mr. Jackson to make opening remarks.

Mr. Jackson: Thank you, Mr. Chairman.

I have with me three separate bills that have been before the Ontario Legislature: Bill 78, which goes back to May 10, 2004; Bill 83 in March 2006; and Bill 89 in April 2006. Three times this Parliament has had an opportunity to examine the circumstances around the tragic deaths of children who die at the hands of a parent or family member while under, or having been under, some form of supervised access in our province.

Parliament has devoted two full hours of public debate on this issue, and during the course of two full hours, we’ve had two motions passed unanimously by the House in support of the content, the purpose, the direction and the safety features implicit in this legislation. To my recollection, there wasn’t a single negative comment on behalf of the children and the victims who were involved in the cases.

We do know statistically that this form of violence, this form of getting back at a spouse through the children, is growing in this province. We know that in the month of March in this province, four children died while a form of supervised access was present in domestic situations. We know that in a case in Oshawa, for example—this committee heard briefly about Luke’s Place—the very first moment that the supervised access order was removed, the boy was murdered by his father. This is a very serious problem. It’s more than a problem, because it has the tragic consequences of loss of life. We’ve heard passionate, emotional testimony from five victims of violence, three of whom had their children die as a result of these circumstances and several of whom were concerned that their children are still at risk.

The bill is very simple; it’s only three clauses. It calls for the chief coroner of this province to make mandatory a coroner’s inquest when a child dies under these circumstances. There are only three occasions when a coroner is compelled by the citizens of this province to conduct an inquest: when a criminal dies while in some form of custody; when someone dies during an industrial accident; and currently, the courts have suggested that the province’s interpretation of the circumstances when a coroner calls an inquest when vulnerable persons in institutions die—that there should be an automatic coroner’s inquest. I understand that the government, the Attorney General’s office, which has a bit of a conflict of interest here, is currently in the courts arguing against the protection components of mandatory coroner’s inquests. I would hope that, as parliamentarians, we can make the distinction between what our courts are dealing with with persons in institutions—in the case that’s before the courts in Ontario, mental health patients—and a child whose loss of life can be directly attributed to the failure of the state to take seriously child protection issues, to fully implement the instruments of child protection that are there to protect a child but that did not. So I do not see these as contradictory policy directions. I believe we, as parliamentarians, have the right to move forward and seek mandatory coroner’s inquests.

There are only two features to this legislation. One is a mandatory coroner’s inquest, and the other is that if, in the opinion of the coroner, the victim’s family should have standing at a coroner’s inquest—that currently is the law now—the coroner has that right. But we are putting it into law, not in regulation, that the coroner would then say, “You can have standing.”

1020

For those members of the committee who do not understand what “standing” means—and I see one

learned member of the bar who's here today, so he knows and he could probably do a better explanation of this—"standing" in simple terms means that when Julie Craven was before us just two days ago, she would be invited by the chief coroner of this province to actually come forward and ask questions at a coroner's inquest through legal counsel. She would be able to ask the police why it took them one hour to find Jared's body. She would be able to ask the paramedics why they were denied access to the home. The police refused to allow the ambulance attendants to come in to attend to Jared until they cleared the house. She would be able to ask Andrew Osidacz's mother why she didn't phone the police when he apparently took a carving knife from her home and walked three doors in an effort to kill his wife.

So standing at a coroner's inquest is a very important issue, but I'm not even asking for that to be mandatory. I'm saying that that would be the choice of the coroner and, further, that the victims' justice fund in this province, which is currently bloated to the tune of \$47 million—I checked it this week on the Web—that, in fact, they could apply, based on the coroner's recommendation, to Management Board of Cabinet to have the cost of legal counsel paid for.

This is not a major public policy leap. In fact, I wrote it so that the Attorney General maintains control over this fund. I know, because I was the person who drafted the original terms of reference for this fund almost 17 years ago. This is of critical importance that not only will the coroner's inquest be able to find answers, but it will also allow families to get answers to questions as well. So this is not a major leap forward. This is a small but substantive piece of legislation for Ontario citizens on the path to improving their victims' rights in our province.

I hope that Jenny Latimer and Julie Craven and several other deputants have inspired the members of this committee to keep an open heart and an open mind on these most critical matters to those families who've been affected.

That concludes my comments. I will have some minor amendments that I will be bringing forward, but at this time, I want to thank you, Mr. Chairman, and the committee for the day of hearings. Hopefully, we will come through today with a bill that we can take forward to the Legislature. Thank you.

The Vice-Chair: Thank you, Mr. Jackson. Members of the committee, are there any comments, questions or amendments to any section of the bill, and if so, to which section?

Mr. Dave Levac (Brant): I move that subsection 72.2(1) of the Child and Family Services Act, as set out in section 1 of the bill, be amended by striking out the portion before clause (a) and substituting the following:

"Duty to report child's death

"72.2 A person or society that obtains information that a child has died shall report the information to a coroner if."

The Vice-Chair: Mr. Jackson?

Mr. Jackson: Could I ask, are you approving section 1 and section 59.2, and then we can go in sequential order?

The Vice-Chair: I've been advised by the clerk that we don't need to debate every clause unless there's an amendment. So I would like to deal with the first amendment, if that's agreeable to you.

Mr. Jackson: So, in other words, section 59.2, there are no amendments and therefore it stands.

The Vice-Chair: That is my understanding.

Mr. Jackson: I was seeking clarification. Okay. Then I apologize for interrupting. I wanted to hear Mr. Levac's explanation.

The Vice-Chair: Mr. Levac, please continue.

Mr. Levac: Thank you. It's basically streamlining, and it enhances the speed with which the reporting gets done. Instead of minister to minister, it can be done directly by an individual in any organization, similar to CAS or those that would be automatically compelled to report it directly to the coroner.

Mr. Jackson: Can I ask a question? My training was that it's hard to impel a transfer agency to report to other ministers, so that's a policy variation. In the guidelines that we were given for the child death reporting and review process, do the CASs report to the ministry's regional supervising coroner? So are we clear, are your current procedures for CASs to report directly to the coroner or do they report to the minister?

Mr. Levac: At present?

Mr. Jackson: Yes.

Mr. Levac: I'm not aware of that; if I can get some assistance on it?

Interjection.

Mr. Levac: Directly to the coroner.

Mr. Jackson: Okay. So we are being consistent that under the current guidelines they report directly.

Mr. Levac: Correct.

Mr. Jackson: Okay, because originally, legal counsel had suggested that you can't get one ministry reporting to another ministry's agency unless it's through the minister.

Mr. Levac: My understanding is that that has been clarified and it would expedite the reporting directly to the coroner. The coroner would then take it from there and do whatever the coroner does. It doesn't have to wait for ministerial comment.

It's very similar—if I may, just a quick note—to the expectation that a teacher, not a principal, would report child abuse to the CAS. They're still expected. They don't have to go to their principal. They can go directly and report, by law. If they believe there's abuse, they have to make the contact with the CAS.

The Vice-Chair: Any further comments or questions on this amendment?

Mr. David Zimmer (Willowdale): I would also just observe that I think the amendment removes any political influence from the communications chain and allows the coroner to move ahead quickly without having to wait for direction from the minister. It cuts out any time that the

minister may need for discussion, so it's a much more direct approach to this issue.

The Vice-Chair: Any further comments or questions? If not, then shall this amendment carry? All in favour? Opposed, if any? That is carried.

Any further questions, comments, amendments? Mr. Levac.

Mr. Levac: I have an amendment to section 1 of the bill, clause 72.2(1)(c) of the Child and Family Services Act.

I move that clause 72.2(1)(c) of the Child and Family Services Act, as set out in section 1 of the bill, be struck out and the following substituted:

“(c) the child subsequently died as a result of a criminal act committed by a parent who had custody or charge of the child at the time of the act.”

Shall I explain?

The Vice-Chair: Would you like to speak to the amendment?

Mr. Levac: Right now, we believe that the way the clause is does not capture the intent, which is the parent or the person responsible for the charge. It could be anybody who comes in under the parent's supervision. That means that a drunk driver committing a criminal act—if the parent was under supervision and kills the child. That's not what the intent of the bill was. It was to go after the person who was responsible for the child. So that was just the change of the wording. The intent, we believe, was to capture the family member who was responsible for committing a criminal act. That's the purpose of the change.

1030

The Vice-Chair: Any comments or questions? Mr. Jackson.

Mr. Jackson: One of my original drafts indicated that simply leaving it as “a parent” might be strengthened by having “or family member who had custody or charge of the child at the time of the act.” Without getting into a very long and detailed analysis of the complications associated with supervised access, it's also designed for other family members, domestic arrangements. It's a lot more flexible: the range of persons who have access. There were reasons why we indicated—“not committed by a parent,” the whole issue around the plea bargaining component and the burden of proof of who actually committed the crime, as opposed to negligence, failing to provide the necessities of life and so on. I'm trying not to focus on Jared Osidacz, where there was a clear criminal act of the father stabbing the child to death versus the clear case of criminal negligence that was plea bargained away.

I'm not going to hold it up for that purpose, but I would recommend a friendly amendment to say “by a parent or family member who had custody,” if that's acceptable to the mover.

The Vice-Chair: Mr. Levac, do you accept that as a friendly amendment?

Mr. Levac: Can I get clarification to address what Mr. Jackson is saying? I'd like to make sure that we do cover

that point off, so I would defer to legal counsel to ensure that we're doing that right. So if I could have some assistance from legal counsel. I think it's fair to say, Cam, that a definition of “parent,” if it's encompassing the people that you're talking about, would cover it off. If not, then we would accept it as a friendly amendment.

The Vice-Chair: Before I invite legal counsel to speak, Ms. Horwath would like to speak as well.

Ms. Andrea Horwath (Hamilton East): My only question would be, in cases where a parent was negligent in the care they were providing for their child and some other person was given access to the child and then killed the child, the way it's written, this doesn't sound like it takes care of that. And that person may not be a family member. That person might be a friend—

Mr. Jackson: A boyfriend.

Ms. Horwath: —or an acquaintance or anyone.

Mr. Levac: The boyfriend. So maybe we need to get some clarification to encompass exactly what we're trying to do here.

The Vice-Chair: Mr. Jackson, are you formally moving this as an amendment to the motion on the floor?

Mr. Jackson: Yes. I feel that “committed by a parent” is too narrow, which is why I had it written a little more flexibly. Let's get the clarification first on the question of—

The Vice-Chair: Can you please move it formally for the record.

Mr. Jackson: I move that section 72.2(1)(c) be further amended by adding after “parent” the words “or family member.”

Mr. Michael Wood: I'm Michael Wood, legislative counsel. I'd like to ask a point of clarification: Is “or family member” a family member of the child or of the parent?

Mr. Jackson: Of the parent who had custody at that time.

Mr. Levac: The rest of the sentence would say that.

Mr. Jackson: Okay. Now we can see what the problem is here.

Mr. Levac: That's why we wanted legal counsel to give us some advice on it.

The Vice-Chair: Let me invite legal counsel to speak at this time.

Interjection.

Mr. Levac: One more before that.

The Vice-Chair: Mrs. Jeffrey.

Mrs. Linda Jeffrey (Brampton Centre): Can I ask one more question? Having dealt with First Nations communities, I would be worried that the word “parent” might limit who would be involved. I would be happier with a more inclusive word, because in the First Nations it can be your band member, your tribe member or the aunt down the street. Maybe “guardian” would be a better word. I don't know what that word would be but maybe legal counsel can help us with that.

The Vice-Chair: Before we go any further, I don't know if Mr. Jackson would like to comment on this.

Mr. Jackson: We already know that the government is going to be putting forward an amendment, the causes for an investigation, so this is a rather benign section, considering—I can foresee circumstances where the parent isn't in the room when the child is murdered. Okay? So they're not directly committed, convicted, or there is no direct conviction. That's why I use the example.

Kevin Latimer's father went to the Beer Store, got drunk, passed out, and his child died. He copped a plea and got a lesser charge. I think leaving it the way it is, with the discretion with the coroner, is a far smarter way to go than someone saying, "We don't have to report because he wasn't charged." Meanwhile, the child is dead. There was a "supervise" order in place. He was in another room or had left the child abandoned.

The Vice-Chair: Mr. Jackson, I guess you still have not responded to the question of whether the family member is one of the parents or—

Mr. Jackson: I answered that question.

Mr. Levac: Just read the rest of the sentence. I think that's what he's saying.

The Vice-Chair: Okay.

Mr. Jackson: It is the family member who had custody or charge of the child at the time of the act.

The Vice-Chair: Okay, thank you. Legal counsel, please come forward.

Ms. Jennifer Gallagher: My name is Jennifer Gallagher. I'm counsel with the Ministry of Children and Youth Services. Thank you for giving me an opportunity to assist the committee with this point.

It may be of assistance for the committee to know that the term "parent" is defined in the Child and Family Services Act. That definition will apply to this particular section, and the definition defines "parent" very broadly. I'll read to you in fact who would be included: "the child's mother"; an individual described in one of paragraphs 1 to 6 of subsection 8(1) of the Children's Law Reform Act, unless it is proved on a balance of probabilities that he is not the child's natural father. What that means in plain language is any male person who is presumed to be the biological father of the child.

It also includes an "individual having lawful custody of the child"; and "an individual who, during the 12 months before intervention under this part, has demonstrated a settled intention to treat the child as a child of his or her family, or has acknowledged parentage of the child and provided for the child's support." That would include any person who, within 12 months before the society became involved, cared for the child as a parent, even if it wasn't under a formal, legal order. That often, in child protection proceedings, includes grandparents, family members or members of a child's band who have been providing care for the child.

The next piece is "an individual who, under a written agreement or a court order, is required to provide for the child, has custody of the child or has a right of access to the child." Certainly in this section, in terms of "parent," it would be anyone who has supervised access under a court order.

1040

Lastly, it's "an individual who has acknowledged parentage of the child in writing under section 12 of the Children's Law Reform Act." This section specifically excludes a person who is a foster parent. I can assist the committee by advising that the term "parent" in this section includes a very broad range of persons.

The Vice-Chair: Thank you, legal counsel. Any questions or comments?

Mr. Levac: I'll defer to Mr. Jackson, but having heard that, I'm satisfied that the word "parent" captures the spirit of what it was that this clause is talking about, and that is the person, not some stranger who commits the murder or the kid gets killed and the drunken driver is playing on the street in front of the house. We're going after the people who are supposed to be taking care of the child. The definition of "parent" seems to me to be quite satisfying, so I'll leave it at that.

Mr. Jackson: I have indicated the desire to make sure that persons who are designated by the parent to have responsibility—this sits at the seat of the main problem we have with children's aid societies: We put the child into custody and then something happens, something that's inappropriate, but it's not always the individual who was charged with that responsibility who was involved. That's why it's the family members who encapsulate that.

We'll vote to the amendment and then we'll vote on the amendment. I don't foresee very many circumstances where the act isn't committed directly. We're trying to get an automatic coroner's inquest when the child dies under these circumstances. The police may take considerable time before they lay proper charges, or the charges may vary, as they did with Kevin Latimer, because he was charged with criminal negligence causing bodily harm at first, and then criminal negligence causing death. He plea bargained criminal negligence causing death and got off. But there was a criminal charge in Kevin Latimer's case. He should have had a coroner's inquest.

The Vice-Chair: Mr. Jackson has moved an amendment to Mr. Levac's motion. Any further comments on Mr. Jackson's amendment?

Mr. Levac: Yes, now that I have legal counsel here. It's an amendment to the amendment and the words—Cam, help me—"family member"?

Mr. Jackson: "Or family member who had..." The parent designated it to a grandparent. Generally, it's always the grandparent or the girlfriend or, in this case, Jared Osidacz was in the care as well of the girlfriend.

Mr. Levac: Having any of the circumstances that have just been described, would there be anything detrimental to including that change to the definition of a parent by adding "family member"? Does that broaden it any more, does that help—

Ms. Gallagher: It does broaden it.

Mr. Levac: It does broaden it? Because there's an expectation in what Mr. Jackson is saying that if we say "parent," then we do have a scope. If we say "family

member,” do we broaden the scope too far? Is it anything that we shouldn’t be doing in terms of protecting the children?

Ms. Gallagher: I would defer to legislative counsel, but I can comment that—

Mr. Levac: I’ll ask either one.

Mr. Wood: It’s really a policy choice, but I think both legal counsellors are in agreement that by adding “family member,” you do expand the scope of “parent” from the definition that was read to me, and it must be a fairly recent change to the—

Ms. Gallagher: It’s in the definitions under section 37 that apply to part III only. So because of the placement of this particular section in section 72.2, that definition would apply.

Mr. Wood: And it would seem to me that “family member” would include people such as aunts and uncles who would not be included in the definition of “parent.”

Ms. Gallagher: Yes, that’s correct.

Mr. Wood: So it’s a policy question as to whether you want to expand the scope of the clause.

Mr. Levac: I do.

The Vice-Chair: Any further comments? We need to have a vote on this amendment to the amendment. If there are no further comments or questions, then I want to put this to a vote. All in favour of this amendment? Opposed, if any? That is carried.

The amendment, as amended: Do we have any further comments or questions? If not, will the amendment, as amended, carry? All in favour? Opposed, if any? That is carried.

We’re still with section 1, members of the committee. Any further comments, questions or amendments?

Mr. Jackson: Yes. I’m in the same section as you.

Mr. Levac: Okay.

Mr. Jackson: I move that subsection 72.2(1) of the Child and Family Services Act, as set out in section 1 of the bill, be amended by adding “Despite any other duty, policy or practice” at the beginning.

The Vice-Chair: Mr. Jackson, I will take a recess to distribute your amendment. We’ll take a recess of three minutes.

The committee recessed from 1046 to 1057.

The Vice-Chair: Members of committee, can we resume? We are now back in session, and copies of Mr. Jackson’s amendment to section 1 have been distributed. Mr. Jackson?

Mr. Jackson: Thank you, Mr. Chairman. I’ve inserted this section, “Despite any other duty, policy or practice,” simply because the government recently decided to take more seriously the issue of unusual child deaths in this province; they haven’t specifically looked at the issue that’s before this bill. That’s why putting this in allows the government to continue, in its current piecemeal approach, to look at child protection. I’m simply saying that this bill, which calls for a mandatory coroner’s inquest and the reporting mechanisms to it, can occur despite any other duties, policies or practices that they have been instructed by their minister.

The Vice-Chair: Any comments or questions?

Mr. Levac: By way of clarification and a question to Mr. Jackson, inside of the expectation that the bill will require a mandatory coroner’s inquest, that’s on top of rather than either/or. Is that what you’re saying?

Mr. Jackson: Yes. This bill, in and of itself, should not interfere with the administrative—remember the timely six boxes? I’m showing for Hansard. I’m actually pointing out the six boxes in the steps of how we internally investigate these things without telling anybody. Remember?

So in spite of all of this internal stuff that’s going on that the public never sees, which is now the government’s policy, duty and practice—in spite of all that—I’m saying, this legislation then says you must go forward. My fear is, you have an amendment which discusses that this process shall be behind closed doors, done administratively by the very people involved, and then that will be the process. I don’t want to end up with that, so I’m trying to separate that. This says that you can have any steps leading up to it. You don’t have to report directly to the minister; you report directly to the coroner, and so on and so forth. In legal form, it’s just more clear that you can continue doing all that, but you must have this coroner’s inquest. You can investigate all you want, but at the end of the day there’s going to be a coroner’s inquest. So I’m respecting this closed-shop process that the government has come up with in favour of this transparent process at the end of the day. That’s all it was designed to do.

The Vice-Chair: Any further comments or questions?

Mr. Jackson: Call the question.

The Vice-Chair: If not, then I’m going to put this to a vote. All in favour? Opposed? The motion is defeated.

Any further questions, comments or amendments? Mr. Jackson.

Mr. Jackson: We have a considerable number of procedural matters to deal with in section 22, and I would ask that we stand that down till my further amendments. I didn’t receive these amendments until about 6 o’clock last night; I received a call from the Premier’s office about 10 o’clock at my residence last night. I’ve not shared all this information with my colleague from the NDP. So I wonder if I could stand that down and go to section 41, which I believe is a less contentious motion, and then we’ll return to 22, where the substantive elements of the bill are.

The Vice-Chair: Mr. Jackson, I’m still on section 1.

Mr. Jackson: I know you are.

The Vice-Chair: So can we deal with section 1 first?

Mr. Jackson: Okay.

The Vice-Chair: Mr. Levac.

Mr. Levac: I do have an amendment for section 1. I move that subsection 72.2(2) of the Child and Family Services Act, as set out in section 1 of the bill, be struck out.

That section is related to an amendment we just passed previously that makes the references that we did debate, the minister-to-minister communication. Having that one

done, it just means that this is matching it, so that's why we want that struck out.

The Vice-Chair: Any comments or questions? If not, all in favour? Opposed, if any? That is carried.

Any further amendments to section 1 of the bill? If not, shall section 1, as amended, carry? All in favour? Opposed, if any? That is carried.

We will now deal with section 2. Mr. Jackson?

Mr. Jackson: I would ask that we move to section 41 of the act dealing with cost of representation, which I don't believe is as contentious, and I do have an amendment to table in that regard. Then we can return to the contentious one, which I think may take a considerable amount of debate, which is subsection 2(1) and section 22.1.

The Vice-Chair: We have not seen your amendment yet. Do you have a copy of that for distribution?

Mr. Jackson: Yes, I'm just pulling that together for you now.

The Vice-Chair: We'll take a recess of five minutes to make copies and distribute your amendment.

The committee recessed from 1104 to 1115.

The Vice-Chair: Members of the committee, we will now reconvene. Mr. Jackson has indicated that he wishes to make an amendment to subsection 2(2) of the bill prior to considering subsection 2(1). I need unanimous consent to do that. Is this agreeable?

Mr. Levac: That's fine.

The Vice-Chair: Mr. Jackson.

Mr. Jackson: I wish to amend section 41 of the act as set out in the second section. This talks about the costs of representation, on the understanding that the coroner may designate someone to have standing who is victimized by the death of the child. That's subsection 3. It sets out that the coroner would designate and approve it—

Mr. Levac: Point of order, Mr. Chairman.

The Vice-Chair: Mr. Levac.

Mr. Levac: Sorry for the interruption. Do we not have to read the amendment first, and then we'll—

Mr. Jackson: Yes.

Mr. Levac: I'd appreciate that.

The Vice-Chair: Mr. Jackson, please move it for the record.

Mr. Jackson: All right. I move that section 41 of the Coroners Act, as amended by subsection 2(2) of the bill, be amended by adding the following subsection:

“Exception

“(5) Despite subsection 4, Management Board of Cabinet shall not approve any payment under that subsection to a person who has been convicted of an offence under the Criminal Code (Canada).”

The Vice-Chair: Thank you.

Mr. Jackson: As I was stating, subsection 3, which we're in, deals with the coroner determining that a victim or a partner or a parent could have standing at the inquest, and that that person may apply to the minister to have the costs incurred for representation by legal counsel be paid from the victims' justice fund. It then goes on to say that this is subject to one condition, which is that it

must be approved by Management Board of Cabinet. This is now a second condition, which is that there cannot be a Criminal Code conviction, so that there cannot be a cloud associated with anyone who has standing before the coroner's inquest. That's why I've submitted that further amendment.

The Vice-Chair: Any further comments or questions?

Mr. Levac: I think I grasp the concept here. Basically, in a nutshell, you're not going to reward somebody who doesn't deserve to be rewarded, or using the fund's money for any other purposes. That's what I understand it to be. I hate to say this again, but can we take a short recess to ensure that legal counsel understands that? Because I'm not a lawyer and I don't understand the nuances of commanding Management Board of Cabinet, or of legal advice as to if it's doable, that kind of stuff. If I can just take a short recess for that.

The Vice-Chair: Mr. Zimmer would like to speak at this time.

Mr. Zimmer: Can I just ask Mr. Jackson a question? With this exception (5), that Management Board not approve funding anybody who's been convicted of a criminal offence, in the situation where, let's say, there's a 45-year-old parent who at age 19 had a conviction for impaired driving some 20 years before, and it was just routine, to the extent that there is routine impaired driving—it was somebody stopped at a Christmas RIDE program—so they have a criminal record, presumably that would catch them. Is it the intent to go that far?

Mr. Jackson: I figure if you can operate a boat on a lake in Ontario and lose your licence, Mr. Zimmer, for the same example I think that you shouldn't have access to the victims' justice fund in the province.

Mr. Zimmer: Thank you. I just wanted to understand the scope.

Mr. Jackson: I agree with you.

The Vice-Chair: Thank you, members. We will take a recess of five minutes.

The committee recessed from 1119 to 1127.

The Vice-Chair: Members of the committee, we are back in session. Any comments or questions on Mr. Jackson's amendment?

Mr. Zimmer: The concern here is that the proposed amendment is too broad, and I set up the example when I asked Mr. Jackson the question, did he agree that the section would catch a 45-year-old male who had been convicted at age 19 for impaired driving but who had otherwise led an exemplary life? I can extend that to an even more dramatic scenario. What about the 45-year-old female who at age 18 was convicted of shoplifting in a record store? Presumably, she has a criminal record for theft under a couple of hundred dollars, but with that extant or existing record, if this section applied, she would be denied funding for her legal needs.

That raises a number of questions having to do with discrimination under the Charter of Rights and Freedoms and one's ability to be treated fairly in the conduct of their defence at a coroner's inquest and so on. So in my view, if it was called for a review in a judicial

proceeding, this would have all sorts of charter discrimination problems. So I would urge the committee to vote against this.

The Vice-Chair: Any further comments?

Mr. Jackson: Far be it from me to correct someone with a legal degree, but a person with standing at a coroner's inquest isn't there for their legal defence. So it would be misinformation to suggest that.

Standing is a privilege. It's conveyed by the coroner in the interests of getting at the truth. Standing is an impediment—standing with legal counsel, rather, I should say, could potentially be an impediment, but their rights are not being abrogated, because the state determines who gets standing at a coroner's inquest.

I have lobbied long and hard to have individuals like the de Villiers family in the Jonathan Yeo inquest. I could go on and on with my experience at the coroner's office. However, the victims' justice fund is a privilege, to assist those family members. Currently, the government policy is that it is unavailable to victims directly, and if that is the case, then that really is the issue here. However, Management Board, in my view, should not be handing out this money to people who have victimized other people.

Using your example, Mr. Zimmer, of a person who had the same criminal conviction for drinking and driving, either a boat or a car, and there is a criminal conviction and someone dies, it would be most inappropriate for Management Board to be put in a position to have to say, "You know what? We just don't think this person should have it, because somebody has died as a result of their criminal negligence."

This is to save Management Board from having to make an obvious decision, and an unnecessary controversy for the government of the day. That's why I put it in. Personally, I think if you have broken the law, then you shouldn't be sourcing a discretionary fund—which this is—that assists victims to have standing when they've been victimized.

I don't mean to correct you, but when you referred to "for their legal defence," they're not in a position to defend. They're not on trial. They are there so that the victim has a voice.

You can have standing, but in the case of Julie Craven there are outstanding matters. When the chief coroner visited their home with me, he brought along the OPP. I asked him about the presence of the OPP. He indicated that there may be part of the investigations into the conduct of the Brantford police and therefore he required the OPP to be there, because the Brantford police can't investigate themselves. Under the system we had present to us before, that is the case, but under a coroner's inquest, the coroner's office has to maintain that independence.

So in my view, Julie Craven should have legal counsel. There is sufficient evidence from her testimony, from the death certificates, from the police reports, the medical certificates—in all of the documents I've seen

and the hours I've spent on this case—that she should have legal counsel.

As I've said, the attempted murder weapon was secured without anyone contacting the police; there's criminal negligence there. The failure to report Jared being stabbed—potential criminal negligence there for not reporting the death of a fellow citizen, or the attempted murder, and the failure to report, which is failure to provide the necessities of life. There are some ongoing civil matters here. If there was ever a case where a family deserved to have access to the fund to assist them—I've never seen a better case than this in my 22 years at Queen's Park.

The purpose of this section is to relieve Management Board of Cabinet from the awkward situation of learning at some point that the individual who's applying has a criminal record and has, by definition in our laws, victimized other people. That's why it's been submitted. I would encourage members to see the merit in that.

The Vice-Chair: Mr. Zimmer.

Mr. Zimmer: Equal protection of the laws: It's equal protection of your ability to defend yourself legally in the criminal context. It also includes legal representation, generally, in a non-legal context.

There will be huge charter issues here. I throw out this example, again, just to make the point: What about the single mother aged 40 who's caught up in this process, who's had a shoplifting conviction at age 19 involving some food and milk that she stole, arguably, to feed the family, and as a result of that she has this existing criminal conviction? She would, under this amendment, be barred from access to that fund. I can't conceive that that's the extent to which you would intend this amendment to apply, but nevertheless, that's the extent to which it would apply. The amendment is far too broad. It sweeps everybody up under the carpet. The amendment should be defeated.

Mr. Levac: I want to say, on two levels—number one, as Mr. Jackson pointed out, far be it from him or from me to question somebody who's studied law, but there's so many branches of law, I would hazard a guess that even lawyers would admit that they don't know every single law of the land and how it applies.

The concern I have is that it not be seen that the Chair of Management Board, nor I or anyone else—and I've spoken publicly about this—would support that someone under the circumstances that Mr. Jackson talked about would be given money to defend themselves or to explain themselves or get standing on the committee. I agree that we should be very cautious and careful of how we do that in the fund that is being talked about by Mr. Jackson. I don't even question Mr. Jackson's intent and Mr. Jackson's experience. As I said in the deputations before, I highly respect the focus of his concern in justice and I understand that he's done an awful lot of work on this, so being a lawyer or not being a lawyer isn't the argument for me.

What I'm concerned about is getting it right so that we don't get these kinds of things happening. We took a

five-minute recess so that I could get some clarity on that, Mr. Jackson, and they told me they'd probably need a week and a half. None of them are constitutional lawyers. It got brought up; it's a concern. And it will become evident in the near future, when we do amendments, that not wanting to support it has got nothing to do with us saying to you that under these explained circumstances we shouldn't be giving money. That goes without saying in terms of my colleagues or even the Chair of Management Board. We couldn't assume—and I agree with you. We shouldn't be putting our government—not ours personally in terms of the Liberals, but our legislative governments—into circumstances where they have to be seen as being supportive of people who do really nasty, bad things. What we shouldn't also be doing, though, is setting them up to fail if indeed that's the circumstance behind constitutional challenges and we're not doing enough homework on this.

Quite frankly, my decision under the circumstances, hearing clearly what Mr. Zimmer is saying and hearing what legal counsel said in our five-minute recess and coming back to the comment that it will become clear as to why this concern needs to get arrested, is to bow to that.

Mr. Jackson: Frankly, the concept was shared with me by legal counsel. It's not uncommon for the government to protect itself in discretionary matters, not to extend the benefit to persons who were convicted under the Criminal Code. It exists in a number of factors, and in Mr. Zimmer's most recent example in government, operating a motor vehicle, you are denied a certain privilege. So that's the context. I didn't dream it up; it was recommended to me by legal counsel. I've tabled it; my conscience is clear. We'll proceed, but I certainly did get good legal advice in terms of presenting it. So we will proceed and we will agree to disagree.

The Chair: Ms. Horwath.

Ms. Horwath: Thank you for the opportunity to make a few comments on this. I've been listening to the debate back and forth, and I can see both sides of the picture in terms of what the intent is, to make sure that the fund is not used in a way that would support or reward previous criminal activity or in some way be seen to be saying to someone, "No matter what you've done in terms of your own past behaviour or your own past brushes with the law, you're still able to access the fund."

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So I understand Mr. Jackson's desire to make that not accessible to someone who has had serious Criminal Code convictions. However, I do take to heart the examples brought forward by Mr. Zimmer in regard to the reality that the Criminal Code. Quite a large body of infractions are covered under there, and so there could be some infractions that are not considered to be so heinous as to make a person not eligible for assistance if they were seeking standing in an inquest, wanted to have legal counsel and wanted to get some support financially to assist with that.

It seems to me that the crossed-out amendment on the same page, which I know isn't on the floor, deals with the idea that where Management Board of Cabinet considers it appropriate. That's where we need to come down on this kind of issue. It's never, ever black and white. We've seen by the examples given by both the member moving the motion as well as the government side that it's not black and white; there are always subtleties. By casting this net too narrowly in terms of not allowing anyone through it—that causes me some concern. So although I support the intent of the reason why this motion's here, I have some concerns with the far-reaching implication of it. I would like to have seen some kind of compromise come forward, because I think it's an important piece to have in there, but I'm not comfortable with it being as broad as it is in terms of catching everyone who has had any kind of conviction at all under the Criminal Code.

I don't know whether there can be an amendment that would satisfy the kinds of concerns that are being raised. Obviously, that's not something that the government side has been able to come up with. Even though I do support the intent that this motion encapsulates, I really feel uncomfortable with the wording as it stands, so I'm not going to be able to support it.

The Vice-Chair: Thank you, members. If there are no other comments or questions, I will put this to a vote. All in favour of the amendment? Opposed, if any? That is defeated.

Any further questions, comments, amendments?

Mr. Jackson: Chairman, following on your earlier ruling to complete section 2 before section 1, I wish to speak to items 3 and 4, which are still remaining in section 41 of the Coroners Act.

Mr. Levac: Is that the amendment you just gave us, Cam?

Mr. Jackson: No. I'm just talking to completing this section, which I asked the Chair if we could do before, and leave section 22 to the end, because it's the most contentious—

The Vice-Chair: Mr. Jackson, you're not moving any amendment for subsections (3) and (4); you want to speak to those two subsections, right?

Mr. Jackson: That is correct.

Interjections.

The Vice-Chair: Is this agreeable to members, for Mr. Jackson to speak to subsections (3) and (4)? They both relate to section 41 of the Coroners Act, which we just dealt with.

Mr. Jackson: Chairman, I was wondering if Mr. Levac had any changes to subsection 2(2).

Mr. Levac: Yes, section 2.

The Vice-Chair: Subsection 2(2)?

Mr. Levac: Yes. Let me make sure I'm following what Mr. Jackson is asking here. You have before you amendments that we have presented. I would defer to the clerk. The next amendment that I'm talking about, is that the question that's being asked of me, about subsection

2(2), the death of a child? Mr. Jackson, is that what you're talking about?

Mr. Jackson: Am I to look at your amendments?

Mr. Levac: Yes, in reference to your question. Did you say section 2?

Mr. Jackson: My understanding is, the amendment that I have from you in front of me—

Mr. Levac: —is subsection 2(1).

Mr. Jackson: And I'm referring to subsection 2(2). I was asking if you had any amendments for 2(2).

Mr. Levac: Yes, I do.

The Vice-Chair: You have an amendment, Mr. Levac, for subsection 2(2) of the bill?

Mr. Zimmer: The section reads, "Section 41 of the act is amended by adding the following subsection: 'Costs of representation.'" Is that where we are?

Mr. Levac: Yes. I think we're going to have to have copies of this, so we're going to need to take another recess. Do you want me to read it before, Mr. Jackson and Ms. Horwath?

Mr. Jackson: I'm wanting to know what section we're in. I have an amendment to subsection 2(1), in accordance with your amendments.

The Vice-Chair: We're not dealing with that section yet.

Mr. Jackson: I understand that, but I'm wanting to understand—when I'm looking at this document in front of me, it amends subsection 2(1) and then it further goes on to amend subsection (2), the death of a child. Is that correct?

The Vice-Chair: I think Mr. Levac is putting forward a separate amendment, and we don't have a copy of that yet. Is that correct?

Mr. Levac: No, you don't. Might I ask for clarification? I'm looking at subsection 2(1) in section 2—

The Vice-Chair: We're not dealing with that at this time.

Mr. Levac: —and my request is that we sequentially deal with the amendments as we normally do so that we can move on to all of section 2, and sequentially we would start with subsection 2(1).

Mr. Jackson: The Chair has already ruled on that and he has agreed to accept my amendments if we do section 2 before we do section 1. I asked for that; the committee granted that.

Mr. Levac: So we do not—

Mr. Jackson: We're finishing section 2 and then, once that's done, we will finish the contentious section 2(1).

Mr. Levac: And we do not close off section 2 after we deal with the amendments that Mr. Jackson is talking about?

The Vice-Chair: Members of committee, the unanimous consent that I got from you related to subsection (2) of section 2. I did not at that time know that Mr. Jackson would also like to speak to subsections (3) and (4) of section 2, but they are related because they all relate to section 41 of the Coroners Act. I don't know

if it is agreeable for Mr. Jackson to continue to speak to subsections (3) and (4) prior to dealing with subsection (1).

Mr. Jackson: The comments that I made were that we deal with section 2 in its entirety and then finish with section 1. Those were the exact words that I requested in my request. It was not challenged nor—

The Vice-Chair: That's correct, but subsection (2) technically does not include subsections (3) and (4), because we're dealing with subsection (2) at this time.

Mr. Jackson: We're dealing with subsection 2(2). Anything that falls in—and that's what I asked—subsection 2(2), and that includes item 3, costs of representation, payment, and the recent amendment, "exemption," that was defeated. I had asked that that section be approved and voted on before we move to the final—the only reason I asked was that was the arrangement that I informed the Premier's office of last night, because we were trying to work an accommodation if we cannot salvage—the government will put an amendment in a moment that will be rather controversial, and I wanted to separate the controversy of that from the less controversial subsection (2). That was my purpose and my intent, and I informed the Premier's office of that last night when they called me. I asked for that, and I didn't get an objection.

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The Vice-Chair: The legislative counsel would like to speak.

Mr. Wood: I think there's perhaps some confusion here between, on the one hand, the subsections of the bill and, on the other hand, sections of the Coroners Act that are being amended. As I understand the ruling of the Chair earlier, what the committee was going to do was to look at 2(2) of the bill, which deals with everything that the bill does to section 41 of the Coroners Act. In fact, the committee can only look at subsections of the bill in making its rulings.

We just had a motion from Mr. Jackson to amend section 41 of the Coroners Act; it was defeated. My understanding was that the committee is still considering 2(2) of the bill, i.e., everything related to section 41 of the act. After that's done, then the committee would return to consider 2(1) of the bill, which relates to section 22.1 of the Coroners Act.

The Vice-Chair: Mr. Levac.

Mr. Levac: Further clarification, please: If that is the case, the question I have is, does it stop us from returning to subsection 2(1) of the act?

The Vice-Chair: No, it does not.

Mr. Levac: Nothing closes the door.

Mr. Jackson: No, no. I stood it down; all I did was stand it down.

Mr. Levac: I appreciate that, Cam, but I'm just making sure that that's understood in terms of what the process is, so that the door doesn't get closed on this amendment that we have because we've done something technical.

The Vice-Chair: No, I don't think we have any problem going back to subsection (1) after we've dealt with subsection (2).

Mr. Levac: That does not include the amendment Mr. Jackson gave us under subsection 2(1), so we will be returning to Mr. Jackson's amendment—

Mr. Jackson: Both yours and mine.

The Vice-Chair: That is correct.

Mr. Levac: —and we will be returning back to the amendment we're submitting once we've finished the discussion that Mr. Jackson has received through the Chair consent to finish. A question on that: Are we receiving amendments, Mr. Jackson, in your discussion?

Mr. Jackson: No.

Mr. Levac: Okay, thank you.

The Vice-Chair: Mr. Jackson.

Mr. Jackson: There are only two key elements to this piece of legislation. One is the mandatory nature of the coroner's inquest in the case of a child who dies at the hand of a parent when there is or has been a supervision order in place. The other piece that is rather critical and important is this whole issue of once an inquest has been determined, in the opinion of the coroner, should a family member who's been adversely affected be given standing that they can apply through the minister to Management Board—because the public cannot apply to Management Board directly; they can only apply through a minister—and Management Board would approve it. This is a very significant element to Kevin and Jared's Law.

In particular, it was clearly evidenced with the comments we received from the women who were before us who experienced the high cost of participating in the court system and the proliferation of not having a real voice in our court system. So now that they find themselves with standing in a coroner's inquest, it's absolutely essential that they be provided with, or be considered for, the assistance of legal counsel.

I might suggest to you that under the previous government, the Ontario victims of crime office, the OVC, provided assistance to victims who found themselves in these kinds of services. I referred to it in the public hearings as “navigating the system.” This currently does not exist today any longer. However, the victims' justice fund clearly sets out opportunities for the public to participate and therefore they qualify. So we're just stating that this is one reason upon which an application can be made by an Ontario citizen—a victim—who the coroner says can have standing, should be allowed to apply. They may not get it, but they should be allowed to apply to have their legal costs covered so that legal counsel can assist them in cross-examining individuals who are before or compelled to be in attendance during a coroner's inquest. As I've stated earlier, this is subject to the approval of Management Board, so the government is not changing policy here; we're just putting in law what is currently in practice for the province.

Mr. Chairman, those are my comments. I urge members—the victims community is very anxious to see this section embedded in our law. We were one of the

first provinces to have such an extensive victims' justice fund, and we'd like to see it working more directly for victims in our province.

The Vice-Chair: Thank you. Any further comments on subsection 2 of the bill? Mr. Zimmer.

Mr. Zimmer: Let me just raise—sorry, I'm trying to follow several bouncing balls here. Let me just raise a number of technical, legal and administrative issues that need addressing with respect to this amendment. First of all—

Interjection.

Mr. Zimmer: All right. We'll come back to that.

The Vice-Chair: Mr. Zimmer, do you want to reserve your comments at this time?

Mr. Zimmer: Yes. We'll reserve comment.

The Vice-Chair: Any further comments, questions?

Interjection.

The Vice-Chair: No, we're not voting yet, because we will now go back to subsection 2(1).

Mr. Jackson: Section 2?

The Vice-Chair: We do not vote by subsection, Mr. Jackson. We have to complete dealing with section 2 before we put this to a vote. So we're going back to subsection 2(1).

Interjection.

The Vice-Chair: Yes, but I have an amendment from Mr. Levac in front of me and I would need unanimous consent to deal with your amendment first because it's chronologically—

Mr. Jackson: Mine follows later?

The Vice-Chair: That's right, yes.

Mr. Jackson: My 22(1) amendment?

The Vice-Chair: That's correct. I got a copy of this about 10 minutes ago, so chronologically it was received after the other amendment on subsection 2(1).

Mr. Jackson: Might I state, Mr. Chairman, that that would not be my ruling if I were in the chair because we previously took the onus away from the minister in subsection 72(2). So it would be required, and legal counsel would advise you, that currently, as it stands, this section has to be amended to remove the onus from the minister to putting the onus on “a coroner shall.” So, having brought that to your attention, that has primacy given that we, as a committee, unanimously amended the section in 72.2.

We need to clean up the language before we proceed, otherwise we are attempting to amend a bill which contradicts what we just approved in subsection 72(2).

The Vice-Chair: Mr. Jackson, I understand your point, and I'm going to invite the legislative counsel to comment.

Mr. Wood: It is true, as Mr. Jackson says, that an amendment is required to section 22.1 of the Coroners Act to make it consistent with what the committee has done in section 1 of the bill. However, it is not my call to decide which of two motions that affect section 2 of the bill should go first. That decision is up to the Chair. I assume Mr. Jackson has a copy of the government motion that has been filed which affects the whole of

section 2. I'd just point out that if that motion passes, then Mr. Jackson's motion would conflict with it.

Mr. Jackson: Yes, precisely.

Mr. Levac: Mr. Chairman, given the circumstances of the delicacy with which we've been gently plodding along in trying to get some things done, I don't have a problem seeking unanimous consent for Mr. Jackson's amendment to be put forward.

The Vice-Chair: Thank you. Do we have unanimous consent for Mr. Jackson to deal with his amendment on subsection 2(1) first? Agreed? Mr. Jackson.

Mr. Jackson: Thank you, Mr. Chairman.

I move that section 22.1 of the Coroner's Act, as set out in subsection 2(1) of the bill, be amended by striking out "The minister shall direct a coroner to hold" and substituting "A coroner shall hold."

The Vice-Chair: Thank you. Further comments?

Mr. Jackson: This very clearly—I agreed with the government on having all parties in the province report directly to the coroner, and the coroner, understanding the circumstances, will be required under the law to conduct a coroner's inquest, as set out in the previous clauses which we have approved: 72.2(1)(a), (b), (c) of the Child and Family Services Act. This, in effect, is the singular most important *raison d'être* for this bill, the fact that the coroner shall hold an inquest into the death of these children. The government has been helpful in streamlining that process, and I thank them for that, but at this point, the whole purpose of Kevin and Jared's Law, as stated by the grieving mothers of both Jared Osidacz and Kevin Latimer—they asked specifically that it be mandatory for the coroner to call these inquests. That is the entire purpose of having this bill, and this section will be further clarified in that regard.

The Vice-Chair: Thank you. Any further comments or questions?

Mr. Levac: There probably are some concerns that will be raised in the next round of amendments and we'll clarify our position as to why we can't support this amendment.

Mr. Jackson: Recorded vote.

The Vice-Chair: Any further comments, questions? If not, then I'm going to put this to a vote.

Ayes

Horwath, Jackson.

Nays

Jeffrey, Levac, Rinaldi, Zimmer.

The Vice-Chair: This motion is defeated.

Any further motions?

Mr. Levac: I move that section 2 of the bill be struck out and the following substituted:

"2.(1) Section 1 of the Coroners Act is amended by adding the following definition:

"'child' means a person under the age of eighteen years; ('enfant')

"(2) Section 10 of the act is amended by adding the following subsection:

"Death of child

"(2.2) If a child who is subject to an order for access that is supervised, or that had been supervised within the previous 12 months, dies as a result of a criminal act committed by a parent who had custody or charge of the child at the time of the act,

"(a) the person who is, or was, supervising the access shall immediately give notice of the death to a coroner; and

"(b) the coroner shall investigate the circumstances of the death;

"and, as a result of the investigation he or she is of the opinion that an inquest ought to be held, the coroner shall issue his or her warrant and hold an inquest upon the body."

The Vice-Chair: Thank you. Mr. Levac, the clerk has pointed out that you seem to have missed a few words.

Mr. Levac: I did?

Interjection: "If."

Mr. Levac: The "Death of a child"?

Mr. Wood: No, the "if" is in the final—

The Vice-Chair: The second-last line.

Mr. Wood: The second-last line: "and, if as a result...."

Mr. Levac: Okay. I'll start with (b):

"(b) the coroner shall investigate the circumstances of the death;

"and, if as a result of the investigation he or she is of the opinion that an inquest ought to be held, the coroner shall issue his or her warrant and hold an inquest upon the body."

The Vice-Chair: Thank you. Members of committee, I am going to rule this motion out of order because the amendment opens a section of the Coroner's Act that is not open in Bill 89. In order to do that, I need unanimous consent from committee members. Do I have unanimous consent?

Mr. Levac: To accept the amendment?

The Vice-Chair: To accept the amendment.

Mr. Levac: You have it from me.

The Vice-Chair: Members, is this agreeable?

Mr. Levac: Mr. Chairman, under those circumstances, may we take a recess for 15 or 20 minutes?

Mr. Zimmer: Can we come back at 1?

Interjection: A point of order: My stomach growleth.

Mr. Jackson: Did Hansard get that or not is the big question.

The Vice-Chair: We'll take a recess and come back at 1.

The committee recessed from 1206 to 1311.

The Vice-Chair: Members of the committee, we will now reconvene. Mr. Levac moved an amendment to section 2 of the bill which I have ruled out of order. Mr. Levac.

Mr. Levac: No further amendments.

The Vice-Chair: Any further comments or questions? If not, then we will vote on section 2. Shall section 2 carry?

Mr. Jackson: Mr. Chair, just for clarification, what is remaining in section 2 now, before the act?

The Vice-Chair: Subsection 2(1) is unamended. Subsection 2(2) has been amended.

Mr. Jackson: It's not amended.

The Vice-Chair: Sorry, subsection 2(2) is as is. It has not been amended.

Mr. Jackson: Thank you.

Ms. Horwath: Mr. Chair, wasn't section 2 amended by Mr. Jackson?

Mr. Jackson: That was defeated.

The Vice-Chair: All the amendments on section 2 have been defeated. So section 2, as unamended—

Mr. Jackson: As is.

The Vice-Chair: Shall section 2 carry? All in favour? That's carried.

Section 3: Any comments, questions or amendments? We'll vote on section 3 now. Shall section 3 carry? Carried.

Section 4: Comments, questions, amendments? Shall section 4 carry? That is also carried.

Shall the title of the bill carry? All in favour? That is carried.

Shall Bill 89, as amended, carry?

Mr. Jackson: Mr. Chair, before we do that, this was an unusual set of circumstances, and I want to commend the Chair for navigating us through it as skilfully as he has. I had a defeated amendment which in section 22.1 removed, "The Minister shall direct a coroner," and that now is the way the bill will sit. Is that not correct, that it will sit in that way, as opposed to, "A coroner shall hold"?

The Vice-Chair: That is my understanding.

Mr. Jackson: Is it not procedural that in the event that there is a desire, we'd need unanimous consent to reopen that to amend it?

The Vice-Chair: Are you requesting unanimous consent to reopen that?

Mr. Jackson: I'm looking to my colleagues if this might not better support the intent. I supported the government's amendment which took the onus off the minister to report but put the onus on the coroner to react. Both my colleague from the New Democratic Party and myself supported the government's positive amendment in that regard. This slightly sits as inconsistent. At the time, the government thought other amendments may come forward. Might I ask the indulgence of the Chair to inquire from the government if they would consider the importance of correcting or adjusting the minister directing a coroner to the amendment "a coroner shall hold" an inquest, instead of the minister directing them? I think that would be consistent with what the government came forward with as a positive recommendation in their first amendment.

The Vice-Chair: Mr. Jackson, you are requesting consent to reopen subsection 2(1), right, which previously defeated an amendment related to—

Mr. Jackson:—which I understand would need to be unanimous, but I'm seeking the advice of Mr. Levac.

Mr. Levac: This is procedural, so the question I ask is to basically get to what Mr. Jackson is requesting. That is, can we open the defeated amendment singularly without opening any other part of the act that's been passed so that we can re-evaluate our decision to defeat, and if so, signalling to Mr. Jackson that we don't have any problems with what he asked initially because of our decision to pass the bill, and reflect what Mr. Jackson said: that, because we passed an amendment earlier to avoid the minister, it's now the coroner's responsibility to call that inquest?

If I have an understanding that that's all we're doing, to try to just get that amendment done and get it out of the way without reopening anything else, I'm okay with it. That would be the copy Mr. Jackson gave us, handwritten. Procedurally, is that doable?

The Vice-Chair: Members of committee, I've been advised by the clerk that we need to reopen the whole of section 2 in order to consider any amendments.

Mr. Levac: I'll defer to Mr. Jackson. I think he knows exactly what I'm talking about.

Mr. Jackson: I appreciate my colleague from Brantford's comments. It would be my intention to only recommend to the committee that we revisit the amendment of subsection 2(1) as previously tabled and defeated only, and that the unanimous consent to reopen is done so with the understanding that it is to amend that one friendly amendment suggested.

Mr. Levac: Can I ask if Ms. Horwath is okay with it?

The Vice-Chair: Members of committee, the clerk has requested a recess of five minutes to confirm that this is possible—

Mr. Levac: Procedurally possible.

The Vice-Chair:—in terms of procedure. So we'll take a recess of five minutes.

Mr. Levac: Thank you.

The committee recessed from 1317 to 1322.

The Vice-Chair: Members, we can now reconvene. I need, first of all, unanimous consent from members to reopen section 2 of the bill. Do I have that? Is this agreeable? Okay. We will now reopen section 2.

I understand that Mr. Jackson wants to move the same amendment that was previously defeated. In that regard, I need unanimous consent specifically for Mr. Jackson for a defeated amendment to be reconsidered. Do I have unanimous consent on that? Yes.

Mr. Jackson.

Mr. Jackson: I move that section 22.1 of the Coroners Act, as set out in subsection 2(1) of the bill, be amended by striking out "The Minister shall direct a coroner to hold" and submitting "A coroner shall hold".

The Vice-Chair: You mean, "and substituting."

Mr. Jackson: And substituting—I'm sorry—"A coroner shall hold."

The Vice-Chair: Okay, thank you. Any further comments, questions? If not, then we can vote on that. Shall the amendment carry? All in favour? That is carried.

Any further comments, questions or amendments to section 2? If not, then section 2 has now been amended. Shall section 2, as amended, carry? All in favour? That is carried.

Shall Bill 89, as amended, carry? All in favour? That is carried.

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

Mr. Levac: In tradition—I know Mr. Jackson will have a short comment to make; I do too—I want to thank the committee. I want to thank all of the staff at the ministry level for helping us and guiding us through this. I would mention Mr. Jackson's crusades over the years and, particularly in this case, thank him for his passion and compassion in dealing with the bill. I want to thank the families, the deputants, for coming forward. I couldn't be prouder of this committee than I am today. Thank you.

The Vice-Chair: Thank you, Mr. Levac. Mr. Jackson?

Mr. Jackson: Chairman, I too, want to thank the members of the committee for perhaps one of the most difficult committee days we've had, listening to some of the most difficult and tragic circumstances hitting families in our province. So to the staff who've come forward from the ministries to help guide us, to our table staff who've assisted us, to Mr. Levac, who has worked closely with me, and Ms. Horwath for her support, I want to thank each and every one of you.

I was asked about 15 minutes ago about my reaction to a certain item in this potential bill, and I said, "Please look at the short title of the bill. It's not my name on that bill. It's Kevin and Jared." So we all did something very special for Kevin and Jared. We may not be able to help Kevin Latimer, but I personally am quite confident that there will be a coroner's inquest for Jared Osidacz, as there will be mandatorily in this province for his father, who murdered him. So I'm also deeply moved by the opportunity that Julie Craven may achieve standing at a coroner's inquest and that she may be considered to be given the counsel that she will need in order to navigate through that process.

So to everyone, thank you. This is a proud day for victims' rights in our province, and I thank you. I will certainly not be shy about sharing that on the floor of the Legislature if we can get this passed as soon as possible. My understanding is that we've worked out with the House leaders that this bill would get tabled on 25 September, when we come back and that we'd have a short opportunity. I look forward to the comments from the member for Brantford and the member from Hamilton East in the House that day.

The Vice-Chair: Thank you, Mr. Jackson. Members of the committee, I also want to thank all of you, the ministry as well as committee staff and members of the public who've participated and assisted us in this matter.

So shall I report the bill, as amended, to the House? That's carried.

Any other business? If not, the meeting is adjourned.

The committee adjourned at 1328.

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