



ISSN 1710-9442

Legislative Assembly
of Ontario
Second Session, 38th Parliament

Assemblée législative
de l'Ontario
Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Monday 14 May 2007

Journal des débats (Hansard)

Lundi 14 mai 2007

**Standing committee on
justice policy**

Provincial Advocate for
Children and Youth Act, 2007

**Comité permanent
de la justice**

Loi de 2007 sur l'intervenant
provincial en faveur des enfants
et des jeunes

Chair: Lorenzo Berardinetti
Clerk: Anne Stokes

Président : Lorenzo Berardinetti
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Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
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Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
JUSTICE POLICY**

**COMITÉ PERMANENT
DE LA JUSTICE**

Monday 14 May 2007

Lundi 14 mai 2007

The committee met at 1105 in room 228.

PROVINCIAL ADVOCATE FOR
CHILDREN AND YOUTH ACT, 2007

LOI DE 2007 SUR L'INTERVENANT
PROVINCIAL EN FAVEUR DES ENFANTS
ET DES JEUNES

Consideration of Bill 165, An Act to establish and provide for the office of the Provincial Advocate for Children and Youth / Projet de loi 165, Loi visant à créer la charge d'intervenant provincial en faveur des enfants et des jeunes et à y pourvoir.

The Chair (Mr. Lorenzo Berardinetti): It now being 11 o'clock, I call this meeting of the standing committee on justice policy to order. Good morning, everybody. Welcome to the committee. The order of business is clause-by-clause consideration of Bill 165, An Act to establish and provide for the office of the Provincial Advocate for Children and Youth. What we're going to do is, we're going to go through it clause-by-clause and vote, members of committee, and we'll exclude that one section for now because we have to vote on all the other ones. But I understand there's a motion coming on one section. I think there's a motion in front of everybody that has been received from the office of the clerk.

Are there any additional motions, comments or questions a member would like to table now?

Ms. Andrea Horwath (Hamilton East): Can I just ask: Once the motion is on the table, we can discuss it a little bit—is that right?

The Chair: That's right. But we have to vote on the other ones. We go through each section.

What I'll do is ask the first question, which is: Is there any debate on sections 0.1 through 16, inclusive, of the bill?

Ms. Horwath: I just want to briefly raise once again my concerns that are outlined in sections 13 and 14 and the sections around access to information. From my perspective, there's still a real problem with the advocate's ability to get records provided and information provided by service providers, as well as the fact that the government's still prepared to go forward in not allowing deaf children to have the same level of advocacy as provided to other children in the province. Those are two major flaws in the bill that are contained in the sections

mentioned that I still have concern with. I think it's appropriate to put that concern on the record.

Having said that, I raised it last time around. It's problematic, but on balance, I'll be supporting it because I think the bill needs to go forward.

The Chair: Thank you. Further debate? I will now put the question. All those in favour of sections 0.1 through 16 of the bill? Opposed? It's carried.

There's a new section, 16.1. There is a motion in front of us. Would somebody like to move that motion?

Mr. David Zimmer (Willowdale): I move that the bill be amended by adding the following section:

"Duty to permit advocate to enter

"16.1 If the advocate seeks to enter the premises of an agency or of a service provider to communicate with children or youth, the agency or service provider, as the case may be, shall permit the advocate to do so."

In plain language, what that means is that there's a new obligation on agencies or service providers to allow the advocate to enter the premises of the agency or service provider to communicate with children or youth upon the request by the advocate. We've taken the unusual step of reconvening this standing committee on justice policy to address an unanticipated concern that arose in relation to the amendments that we made previously to improve access by the advocate to children and youth. The two amendments that were made in clause-by-clause at our last sitting were: first, to strengthen the obligation on agencies and service providers by requiring them, without reasonable delay, to provide the advocate with private access to a child in care and reasonable private access to a young person in custody; and second, the clause requiring the advocate to provide notice to agencies or service providers that he was planning to enter a place to communicate with the child or youth was struck out.

Since then, a concern has been raised that the elimination of the clause leaves the bill silent on the advocate's ability to enter the premises of agencies and service providers. In response to that concern, we've proposed to add a new obligation on agencies and service providers that clarifies, in unmistakable language, that there will be a requirement to allow the advocate, on request, access to the premises of those same agencies and service providers for the purpose of communicating with the children or youth and that no notice will be required.

As I say, that's a concern that developed after our last clause-by-clause session here. I hope I'm not putting

words into the mouths of the opposition critics, but as I understand it, you're supportive of this amendment.

The Chair: Thank you, Mr. Zimmer. Is there any further debate?

Ms. Horwath: I have been made aware that this was coming forward and I'm going to support it, because I think it's important to be clear about the advocate's ability to enter a premises for the purposes of communicating with children. I still am concerned, though, that that clear ability and opportunity does not exist in this bill for the advocate to obtain information, records and documents from service providers per se. It's a huge problem. I'm quite disappointed that the government didn't see fit to fix that problem, but I know it still exists. I don't know how you do a systemic review without having as-of-right access to records and information from service providers that are part of the system that needs to be reviewed. I'm still very, very concerned about that. I'll leave it at that because that's more in line with the issue around the advocate's access to premises.

Mrs. Christine Elliott (Whitby–Ajax): While we do share the concerns that Ms. Horwath has just indicated, we also will be supporting this amendment because it does state, in very clear and unmistakable language, that the advocate shall be permitted to enter.

The Chair: Mr. Ruprecht?

Mr. Tony Ruprecht (Davenport): Yes, Thank you very much. I thought that, Ms. Horwath, when you spoke earlier about not knowing what happened in sections 13 to 18—is that the section you referred to earlier?

Ms. Horwath: No. The sections I was talking about earlier—13 and 14—are around the issue of deaf children and that the bill provides a two-tiered response to deaf children. They don't get the same kind of advocacy rights as other children in the bill the way it's written now.

Mr. Ruprecht: Thank you very much. That clears up one question. The other one is: In terms of these amend-

ments, the amendments in 16, did you say that you weren't aware of them before?

Ms. Horwath: No, I was aware of them. I knew that this was coming. I've seen the resolution. Sorry.

Mr. Ruprecht: You were; okay. Thank you.

The Chair: I will now put the question. Shall the new section, 16.1, carry? All those in favour? Opposed? Carried.

Is there any debate on the remaining sections, 17 through 25, inclusive, of the bill?

Ms. Horwath: Just around the issue of section 18, which is the information and privacy piece, my understanding is that there's still some considerable concern from stakeholders, including the child advocate that we currently have in the province of Ontario, around this particular piece. It speaks to, first of all, young people not even being able to understand really what it says, and it's supposed to be for their benefit. Also, there are issues around access to information from a systemic perspective. So I wanted to again put that on the record. I think it is an important function. We are tying the hands of the advocate if we can't have her or him deal with the access to documents that they need for systemic review.

The Chair: Any further debate? I'll now put the question. Shall sections 17 through 25, inclusive, carry? All those in favour? Opposed? Carried.

We'll move down to the title. Shall the title of the bill carry? All those in favour? Opposed? Carried.

Shall the bill, as amended, carry? All those in favour? Opposed? Carried.

Shall I report the bill, as amended, to the House? All those in favour? Opposed? Carried.

If there is no other business, do I have a motion to adjourn? Ms. Van Bommel, thank you. Mr. Ruprecht, thank you. All in favour? Opposed? Carried. Thank you.

The committee adjourned at 1114.

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