

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

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

G-42

## **Journal des débats (Hansard)**

G-42

### **Standing Committee on General Government**

Workplace Safety  
and Insurance Amendment  
Act, 2021

1<sup>st</sup> Session  
42<sup>nd</sup> Parliament  
Tuesday 16 March 2021

### **Comité permanent des affaires gouvernementales**

Loi de 2021 modifiant la Loi  
sur la sécurité professionnelle  
et l'assurance contre  
les accidents du travail

1<sup>re</sup> session  
42<sup>e</sup> législature  
Mardi 16 mars 2021

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Chair: Goldie Ghamari  
Clerk: Isaiah Thorning

Présidente : Goldie Ghamari  
Greffier : Isaiah Thorning

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111 Wellesley Street West, Queen's Park  
Toronto ON M7A 1A2  
Telephone 416-325-7400; fax 416-325-7430  
Published by the Legislative Assembly of Ontario



Service linguistique et des publications parlementaires  
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Publié par l'Assemblée législative de l'Ontario

ISSN 1180-5218

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENTCOMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Tuesday 16 March 2021

Mardi 16 mars 2021

*The committee met at 0900 in room 151 and by video conference.*

WORKPLACE SAFETY  
AND INSURANCE AMENDMENT  
ACT, 2021LOI DE 2021 MODIFIANT LA LOI  
SUR LA SÉCURITÉ PROFESSIONNELLE  
ET L'ASSURANCE CONTRE  
LES ACCIDENTS DU TRAVAIL

Consideration of the following bill:

Bill 238, An Act to amend the Workplace Safety and Insurance Act, 1997 / Projet de loi 238, Loi modifiant la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail.

**The Chair (Ms. Goldie Ghamari):** Good morning, everyone. I call this meeting to order. We are here today to conduct clause-by-clause consideration of Bill 238, An Act to amend the Workplace Safety and Insurance Act, 1997.

We have the following members in the room: MPP Sheref Sabawy and MPP Wayne Gates. The following members are participating remotely: MPP Bob Bailey, MPP Guy Bourgouin, MPP Stephen Crawford, MPP Chris Glover, MPP Amarjot Sandhu, MPP Mike Schreiner, MPP Daisy Wai and MPP Jane McKenna. Staff from Hansard, broadcast and recording, and legislative counsel join us remotely today.

To make sure that everyone can understand what is going on, it is important that all participants speak slowly and clearly. Please wait until I recognize you before starting to speak. Since it could take a little time for your audio and video to come up after I recognize you, please take a brief pause before beginning. As always, all comments should go through the Chair. The Clerk has distributed the amendment packages to all members and staff electronically.

Are there any questions before we begin? MPP Gates.

**Mr. Wayne Gates:** I'd like to rise on a point of order to seek unanimous consent agreement to allow debate in consideration of motions. The point you can make here, and I'd like that to be done now—the reason being that the motions actually deal with deeming workers who have been living in poverty, and also around presumptive language, where our health care workers and our essential

workers are being denied WSIB. I would like to have unanimous consent that we be allowed to discuss those.

Obviously, if you saw our committee hearings the other day, you heard from an individual who was working and making \$50,000 a year—he got injured on the job, and what happened is that because he was deemed by WSIB, he had to then claim ODSP or OW and was living in poverty. He explained that he has lost everything. He has lost his family. He has lost, really, his self-esteem, through no fault of his own, like he said. He has been arguing this—and I believe he actually lives in the Green Party leader's riding.

There is no reason why, this morning, we can't have that debate—a fair and honest debate on deeming—so that injured workers in the province of Ontario could be added to this bill, very simply, as well as presumptive language. I've had a number of calls in my office around our health care workers who got COVID-19 at work and were denied WSIB through no fault of their own.

So I would like to have those three motions that were put forward debated here this morning, and I'd like to have unanimous consent to do that.

**The Chair (Ms. Goldie Ghamari):** MPP Gates has moved a motion. Is there any further debate? MPP McKenna.

**Ms. Jane McKenna:** No.

**The Chair (Ms. Goldie Ghamari):** Okay. MPP Schreiner.

**Mr. Mike Schreiner:** I don't know if that was meant as part of a vote or a comment. I would just encourage the members to allow a fulsome debate about how we can amend the WSIA to include a variety of workers who currently are not served by the WSIB system in ways that I think are detrimental not only to their individual lives but to our communities and our province.

Here is an opportunity to debate a balanced bill that not only looks at how changes can be made to WSIB to support large employers—but an opportunity to talk about how the system can be more balanced in a way that also supports the workers the system was designed to support. So I would be more than happy to grant unanimous consent for us to have that conversation today and to discuss those amendments.

**The Chair (Ms. Goldie Ghamari):** MPP Crawford.

**Mr. Stephen Crawford:** I would respectfully decline that motion. We have lots of time to debate in the House, so I would not grant unanimous consent.

**The Chair (Ms. Goldie Ghamari):** Is there further debate or are members prepared to vote? All right.

MPP Gates has moved a motion. All those in favour, please raise their hands. All those opposed, please raise their hands. I declare the motion lost.

We'll now begin clause-by-clause. Are there any comments to any section of the bill? MPP Gates.

**Mr. Wayne Gates:** I just want to say that, again, as we heard—

**The Chair (Ms. Goldie Ghamari):** At this point, I am asking if there are any comments to any section of the bill. So this is a general comment about the bill, MPP Gates?

**Mr. Wayne Gates:** It's a general comment about the bill.

**The Chair (Ms. Goldie Ghamari):** Okay.

**Mr. Wayne Gates:** We've had an opportunity, as one of my colleagues in the government has said this morning, to debate this bill. And I don't know how any reasonable person who is elected as an MPP here can't understand, in the province of Ontario, that nobody who gets hurt on the job should live in poverty. I don't know how you can't say this is an opportunity—to my colleague from Guelph, who talked about a balanced bill, a bill that's fair for workers, fair for employers. This certainly isn't fair for workers in the province of Ontario. It's not fair for our health care workers and our essential workers here in the province of Ontario. It makes no sense that my colleagues on the Conservative side are saying no to talking about deeming here and including it in the bill. We have a chance to fix something that has gone on for years through a number of political parties.

I'm saying the time has come to treat workers fairly, the time has come to make sure that nobody in the province of Ontario who's making \$50,000 a year gets hurt on the job and then has to lose his house, has to lose his family, has to not be able to pay his mortgage—all that happens to him when he gets injured on the job because WSIB decides that they deem somebody. That makes no sense. How can you sit there and say, "We're not going to debate this. We're not going to include it in this bill"? It almost brings tears to my eyes to know that people are living like that in the province of Ontario. My colleagues have an opportunity to fix it. We can fix it today. This is a very small bill, and we've got all day. We're already here. I'm already here in Toronto. I'll debate this all day.

All I want to see is people who have been deemed, who got hurt on the job, living with respect and dignity so they can take care of their family. We have a chance to fix that. I don't know how anybody can't agree to that.

And on the presumptive bill—"I go to work, I'm a nurse, and I'm taking care of people with COVID-19. I get COVID-19 myself." We know we've had thousands of workers who got COVID-19—not just nurses, but workers right across the province of Ontario. We've had 20 people die in the province of Ontario, that I know about. Why would we not want to take care of that and make sure that if they have COVID-19, they're getting WSIB? Let WSIB prove that it wasn't done in the workplace.

These are bills that make a lot of sense to me. I said this during debate, Chair—and I think you were there: How

can we allow this to happen in this province? This is one of the richest countries in the world, one of the richest provinces in the country, and my colleagues here are saying no to allowing us to debate these motions. It's wrong.

**0910**

I understand what they're doing on the other bill. If you take a look at the bigger picture on what they're doing on their bill, they're making sure that corporations aren't paying more into WSIB. And yet, we look at, who is it going to help?

Let's just use one example, because I think that's fair and reasonable, and I know you don't want me to talk all day, although I could. Let's take a look at Amazon. That's a company that you're going to make sure is not paying any more money. They made \$22 billion last year. That is who's going to benefit from what you guys are doing. And yet, the worker who's living in poverty through no fault of his own isn't going to be helped today. If you take a look at what happened—I saw it on the news, when I was up early this morning. Amazon is now being investigated by the Ministry of Labour. The very bill that you're bringing forward today is going to help Amazon. Yet here, this morning, you turn down our motions to help workers in the province of Ontario—workers who, through no fault of their own, got injured; essential workers who, through no fault of their own, went to work in a health care setting or at Shoppers Drug Mart.

Without the essential workers, where would we be? We wouldn't be here today. We have relied on them for a year.

We have an opportunity here to make sure that deeming is taken care of and added to this bill, that presumptive language is taken care of and added to this bill. I'm not asking for a lot here. The people in the province of Ontario deserve better from us. They need legislation that's going to fix deeming. They need legislation that's going to fix presumptive language.

I understand what you're doing over here, but it has to be balanced. It has to be fair. Like I said—and I mean this, from the bottom of my heart—nobody who gets hurt on the job should have to live in poverty. We can fix that. Think about that—how you'd feel going out of this room today. To my colleague across from me: How would you feel today, knowing that you, as an MPP, fixed deeming so that no worker in the province of Ontario would have to live in poverty, so that no worker would have to lose their family, so that no worker would have to lose their home?

Chair, \$50,000 is not a lot of money. But when you're working in a place and it's providing for your family, allowing your kids to maybe go to figure skating or play some hockey, and then, all of a sudden, that stops because you got injured and now the WSIB wants to deem you and you have to go on OW and ODSP—guess what that shifts from? That shifts from the employer's responsibility to the taxpayer's. Think about that. Taxpayers are paying for people who get injured on the job.

So I'm saying to all of my colleagues, I'm looking at you—I don't think you can see me, because you guys are

on TV; I don't know if you can or not. I'm begging you, please change your mind. Include deeming in this bill. Include presumptive language in this bill. Take care of our heroes who have protected us for a year, who are being denied WSIB.

I don't know what more I can say. I can't believe that you won't include it in this bill.

And who are you going to protect here? You're going to protect Amazon, which we know is shut down today and is being investigated by the very ministry that's bringing this bill forward.

I ask my colleagues, what are we doing here? I'm looking at you. I respect every one of you. On this, you have a chance today to fix having people who go to work every day—and I can relate to it. I don't know if you know this; I came out of a plant. I worked at General Motors. A lot of people—not only did they get hurt on the job; they got cancer on the job. There are lots of people who have been deemed out of workplaces—GE in Peterborough. And I'm saying to my colleagues, you have a chance today to fix it.

To my colleague across from me—although he's not really looking at me too much: You have a chance today to fix this deeming. Stop it once and for all. Stop people going to work, being deemed by WSIB and living in poverty. Do you know what? It can happen to any of us. We have a room full of workers right here—people who are doing the TV, and our Clerk. They could slip and fall outside here. They have a good job, then they get deemed by WSIB and they lose everything—they lose their home, they lose their family, they lose their community in a lot of cases. It's wrong. I don't know why you won't do it. It's breaking my heart. I don't beg too often, but—do you know what? This has gone on for over 25 years. We have a chance to fix it today.

Thanks very much for giving me a few minutes to speak.

To my colleagues on the Conservative side: It's a mistake. Sometimes, I don't know how you guys live with yourselves.

It could be your son or daughter who gets hurt on the job. It could be a grandchild—to the few of us who are a little older—who goes to work for the first time. If you know anything about young workers—it's young workers who get hurt. We've had a couple of young people, 19, 20 years old, get killed on the job, in construction, just over the last couple of months. We have young people who go to work at McDonald's or a place like that and get hurt on the job. It could happen to anybody.

Fix the deeming bill. Fix presumptive language.

Thank you. I appreciate the time.

**The Chair (Ms. Goldie Ghamari):** Just a quick reminder to all members to please make your comments through the Chair.

Is there any further debate? MPP Glover.

**Mr. Chris Glover:** I want to echo my colleague's comments. Over the last year, during this pandemic, there has been a change in consciousness in this province. We've come to realize that the most essential workers—the ones who operate our grocery stores, who are in the

restaurants, who are delivering food—are often underpaid. They're disproportionately racialized. They're disproportionately women. We've got this bill before us and it's about the WSIB, and it doesn't do anything for those front-line workers.

I've heard many government members talk about front-line heroes. And yet, some of these front-line heroes are in workplaces where a COVID-19 outbreak happens and then they get denied or have to fight for WSIB; it's not automatically presumed that they got it in that workplace. So they go days or weeks without pay, without any income. You can't call people front-line heroes then open up the WSIB and continue to deny those front-line heroes—who are risking their lives over this past year in the workplaces—WSIB. We've got a bill before us that opens up the WSIB, but the only thing it does is to reduce the potential impact on employers. It does nothing for the workers. Since this bill opens up this act on the WSIB, let's make some balanced changes for employers and for workers. First and foremost, let's do something for those people you deem as front-line heroes.

I would echo my colleague's sentiment. I hope that you will consider some of the amendments that we're going to bring forward to actually make this bill balanced so that employees can benefit from this and so that employees—those front-line heroes—won't be denied WSIB.

**The Chair (Ms. Goldie Ghamari):** Is there any further debate? MPP Schreiner.

**Mr. Mike Schreiner:** I'll try to be quick, because I know people want to get moving forward—but obviously, there are a number of amendments that have been proposed today that will likely be ruled out of order.

Today is an opportunity to have a fair and balanced bill, to say to the people—literally a year ago this week, when we shut down the province, two things resonated with me. One was, “We're all in this together,” and two, “We're going to bang pots and pans and celebrate and thank the front-line heroes.” A lot of those front-line heroes—particularly in the cases of retirement homes and group homes—aren't even covered by WSIB. A lot of those front-line heroes contracted COVID-19 on the job—caring for our loved ones, keeping our stores open, keeping distribution centres open—and are being denied WSIB coverage.

A lot of those front-line heroes get hurt on the job.

The injured workers who came, and Mr. Taylor in particular, who I ran against in the last election—his story of somebody who was making decent money, taking care of his family, being very active in his community—obviously, he has remained active in his community, even as an injured worker. To have their lives completely upended and to be forced to live in poverty just for going to work, just for doing what so many of us say you should do—“Get a good job, take care of your family, contribute to your community and our province.”

**0920**

I think we have an opportunity today. If we're going to open WSIB, let's open it in a way that, yes, might give some relief to businesses that have also been struggling

through this pandemic—but I think if we're truly going to say that we're in this together and that we're going to celebrate front-line essential workers and call them heroes, we have to treat them like heroes. Having a balanced and fair WSIB system, to me, is the decent and respectful thing to do.

I'm hoping that the government members will not block unanimous consent when we get to some of these amendments that I'm assuming the Clerk will rule out of order. There's an opportunity today to make a real and substantial difference in a lot of people's lives.

**The Chair (Ms. Goldie Ghamari):** MPP Bourgouin.

**Mr. Guy Bourgouin:** We have a chance here to do something. I'm not going to repeat what my colleagues have said—but employers did get breaks through the years, and yet workers have not. We have an opportunity to fix deeming, and also presumptive language.

In northern Ontario, I've seen time and time again workers being deemed—work that is not even in their town—and being told, “There is work two hours from Kapuskasing, in Timmins. No, it's not our fault. This is the work you need to do.” And people say, “Well, my family—I work in Kapuskasing,” or “I work in Hearst,” which is three hours away, same scenario.

We have a chance to balance the bill a bit on both sides for employers and for workers, so I urge my colleagues to support these motions that we're going to bring forward to amend WSIB. Don't forget, WSIB used to be called the Workers' Compensation Board. It was made to help injured workers, and yet injured workers now are suffering, living in poverty. We have a chance to do something that will help injured workers—heroes, like we call them—so let's do the right thing here today and pass these motions that we are proposing.

**The Chair (Ms. Goldie Ghamari):** We have a new addition. MPP Michael Coteau, can you please confirm that you are MPP Michael Coteau and that you are present in Ontario?

**Mr. Michael Coteau:** I am indeed Michael Coteau, and I'm present in Toronto.

**The Chair (Ms. Goldie Ghamari):** Is there any further debate? Seeing none, we'll now move to section 0.1, motion number 1. MPP Bourgouin.

**Mr. Guy Bourgouin:** I move that section 0.1 be added to the bill:

“0.1 Section 1 of the Workplace Safety and Insurance Act, 1997 is repealed and the following substituted:

“Purpose

“1(1) The paramount purpose of this act is to protect the rights of injured workers.

“Same

“(2) The additional purposes of this act, so long as they are consistent with the protection of the rights of injured workers, are to accomplish the following in a financially responsible and accountable manner:

“1. To promote health and safety in workplaces.

“2. To facilitate the return to work and recovery of workers who sustain personal injury arising out of and in

the course of employment or who suffer from an occupational disease.

“3. To facilitate the re-entry into the labour market of workers and spouses of deceased workers.

“4. To provide compensation and other benefits to workers and to the survivors of deceased workers.”

**The Chair (Ms. Goldie Ghamari):** On NDP motion number 1: The proposed amendment is out of order because it seeks to amend a section of a parent act that is not before the committee.

As Bosc and Gagnon noted on page 771 of the third edition of House of Commons Procedure and Practice, “An amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent act, unless the latter is specifically amended by a clause of the bill.”

We now turn to motion number 2. MPP Schreiner.

**Mr. Mike Schreiner:** I move that the bill be amended by adding the following section:

“0.1 Section 2 of the Workplace Safety and Insurance Act, 1997, is amended by adding the following subsection:

“Residential care facilities and group homes

“(3) An employer, whether public or private, in either of the following industries is a schedule 1 employer for the purposes of this act:

“1. Residential care facilities, including retirement homes, rest homes and senior citizens' residences.

“2. Group homes.”

**The Chair (Ms. Goldie Ghamari):** Committee members, regarding independent motion number 2, the proposed amendment is out of order because it seeks to amend a section of a parent act that is not before the committee.

As Bosc and Gagnon noted on page 771 of the third edition of House of Commons Procedure and Practice, “An amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent act, unless the latter is specifically amended by a clause of the bill.”

MPP Schreiner.

**Mr. Mike Schreiner:** I seek unanimous consent to allow consideration of amendment 2. I believe this is an opportunity for us to extend WSIB coverage to many of the heroes who have been on the front lines of this pandemic for the last year and are not even covered by WSIB right now.

**The Chair (Ms. Goldie Ghamari):** Are members prepared to give unanimous consent or no? No? All right.

We will carry on to section 0.2. We have motion number 3. MPP Gates.

**Mr. Wayne Gates:** I move that section 0.2 be added to the bill:

“0.2 The act is amended by adding the following section:

“Presumptions re: COVID-19

“Application, essential business workers

“15.0.1(1) This section applies with respect to workers who work for a business that was listed as an essential



business in an order made under the Emergency Management and Civil Protection Act.

“Occupational disease

“(2) If a worker receives a positive test for the disease known as COVID-19, the disease is presumed to be an occupational disease that occurred due to the nature of the worker’s work, unless the contrary is shown.

“Timing of diagnosis

“(3) The presumption in subsection (2) applies to a positive test received on or after January 25, 2020.

“Clarification

“(4) For greater certainty, this section applies,

“(a) whether the worker works for the essential business as an employee or otherwise; and

“(b) regardless of when the business was listed as an essential business in an order made under the Emergency Management and Civil Protection Act.

“Pending claim before board

“(5) If a worker to which this section applies filed a claim for entitlement to benefits relating to COVID-19 and the claim is pending before the board on the day this section comes into force, the board shall decide the claim in accordance with this section.

**0930**

“Pending claim before appeals tribunal

“(6) If a worker to which this section applies filed a claim for entitlement to benefits relating to COVID-19 and the claim is pending before the appeals tribunal on the day this section comes into force, the appeals tribunal shall decide the claim in accordance with this section.

“Denial vacated

“(7) If a worker to which this section applies filed a claim for entitlement to benefits relating to COVID-19 and the claim was denied by the board or by the appeals tribunal before the day this section comes into force, the denial is vacated and the worker may refile a claim to be decided in accordance with this section.”

**The Chair (Ms. Goldie Ghamari):** MPP Gates has moved motion number 3. Is there any debate? Seeing none, are members prepared to vote? All those in favour of motion number 3, please raise their hands. All those opposed, please raise their hands.

MPP Schreiner?

**Mr. Mike Schreiner:** I was wondering if we could have a recorded vote on this.

**The Chair (Ms. Goldie Ghamari):** Yes, we can.

#### Ayes

Bourgouin, Gates, Glover, Schreiner.

#### Nays

Bailey, Crawford, McKenna, Sabawy, Sandhu, Wai.

**The Chair (Ms. Goldie Ghamari):** The motion is lost. Turning now to motion number 4: MPP Schreiner.

**Mr. Mike Schreiner:** Out of respect for my colleagues and their time, we just voted on the same motion, so I’ll withdraw at this point.

**The Chair (Ms. Goldie Ghamari):** Thank you. We now turn to section 0.3, motion number 5. MPP Gates.

**Mr. Wayne Gates:** I move that section 0.3 be added to the bill:

“0.3 Section 43 of the act is amended by adding the following subsection:

“No earnings after injury

“(4.1) The board shall not determine the following to be earnings that the worker is able to earn in suitable and available employment or business:

“1. Earnings from an employment that the worker is not employed in, unless the worker, without good cause, failed to accept the employment after it was offered to the worker.

“2. Earnings from a business that the worker does not carry on.”

**The Chair (Ms. Goldie Ghamari):** On NDP motion number 5; Committee members, the proposed amendment is out of order because it seeks to amend a section of a parent act that is not before the committee.

As Bosc and Gagnon noted on page 771 of the third edition of House of Commons Procedure and Practice, “An amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent act, unless the latter is specifically amended by a clause of the bill.”

MPP Glover.

**Mr. Chris Glover:** I seek unanimous consent of the committee to allow this amendment.

**The Chair (Ms. Goldie Ghamari):** Do we have unanimous consent from the committee members? No? All right.

We’ll move now to motion number 6. MPP Schreiner.

**Mr. Mike Schreiner:** I’ll just note that I voted yes on unanimous consent on the last one, and I will withdraw this motion since it’s the exact same motion.

**The Chair (Ms. Goldie Ghamari):** Okay. We now turn to section 1 of the bill. Is there any further debate on section 1? Seeing none, are members prepared to vote? Shall section 1 carry? All those in favour, please raise their hands.

**Mr. Wayne Gates:** Can we have a recorded vote on this, as well?

**The Chair (Ms. Goldie Ghamari):** A recorded vote has been requested.

#### Ayes

Bailey, Crawford, McKenna, Sabawy, Sandhu, Wai.

#### Nays

Bourgouin, Gates, Glover, Schreiner.

**The Chair (Ms. Goldie Ghamari):** I declare section 1 carried.

Turning now to section 2: Is there any further debate?  
MPP Schreiner.

**Mr. Mike Schreiner:** I just want to raise concerns around section 2. Even members of the public who are quite knowledgeable about the WSIB system, who came to committee to speak in favour of this bill, raised concerns about section 2 possibly compromising the independence of the board and opening the door to ministerial influence in the workings of the WSIB system. I find that deeply concerning.

I'm wondering if members of the government who put this bill forward can explain why this clause is in the bill and address the very legitimate and valid concerns that even supporters of the bill have raised about the possible compromising of the independence of the WSIB and consolidating additional power into the hands of the minister.

**The Chair (Ms. Goldie Ghamari):** Further debate?  
MPP Gates.

**Mr. Wayne Gates:** I want to echo my colleague's concerns. It's not entirely clear why the government is seeking these powers now or whether there are any barriers now in obtaining information from the board. The WSIB is supposed to be an arm's-length agency and not treated as a piggy bank for the well-connected big business friends of the Premier. There are a lot of concerns around why the minister needs these powers when, quite frankly, he already has that.

**The Chair (Ms. Goldie Ghamari):** Is there further debate? Seeing none, are members prepared to vote? All those in favour of section 2 carrying, please raise their hands.

**Mr. Wayne Gates:** Recorded vote, please, Chair.

**The Chair (Ms. Goldie Ghamari):** MPP Gates has requested a recorded vote.

### Ayes

Bailey, Crawford, McKenna, Sabawy, Sandhu, Wai.

### Nays

Bourgouin, Gates, Glover, Schreiner.

**The Chair (Ms. Goldie Ghamari):** I declare section 2 carried.

Turning now to section 2.1: Is there any debate? Is there anyone willing to move motion number 7? MPP Schreiner.

**Mr. Mike Schreiner:** I'll acknowledge that even though we're of different parties, MPP Coteau brought forward this motion and asked me, as a member of the committee, to submit it on his behalf.

I move that section 2.1 be added to the bill:

"Employment Standards Act, 2000

"2.1(1) Subsection 1(1) of the Employment Standards Act, 2000 is amended by adding the following definition:

"“personal emergency leave pay” means pay for any paid days of leave taken under section 50; (“indemnité de congé d'urgence personnelle”)

"(2) The definition of ‘regular wages’ in subsection 1(1) of the act is repealed and the following substituted:

"“regular wages” means wages other than overtime pay, public holiday pay, premium pay, vacation pay, domestic or sexual violence leave pay, personal emergency leave pay, termination pay, severance pay and termination of assignment pay and entitlements under a provision of an employee's contract of employment that under subsection 5(2) prevail over part VIII, part X, part XI, section 49.7, section 50, part XV or section 74.10.1; (“salaire normal”)

### 0940

"(3) Subsection 15(7) of the act is amended by striking out ‘sick leave, family responsibility leave, bereavement leave’ and substituting ‘personal emergency leave’.

"(4) Sections 50, 50.0.1 and 50.0.2 of the act are repealed and the following substituted:

"Personal emergency leave

"Definition

"50.(1) In this section,

"“qualified health practitioner” means,

"(a) a person who is qualified to practise as a physician, a registered nurse or a psychologist under the laws of the jurisdiction in which care or treatment is provided to the employee or to an individual described in subsection (3), or

"(b) in the prescribed circumstances, a member of a prescribed class of health practitioners.

"Personal emergency leave

"(2) An employee who has been employed by an employer for at least one week is entitled to a leave of absence because of any of the following:

"1. A personal illness, injury or medical emergency.

"2. The death, illness, injury or medical emergency of an individual described in subsection (3).

"3. An urgent matter that concerns an individual described in subsection (3).

"Same

"(3) Paragraphs 2 and 3 of subsection (2) apply with respect to the following individuals:

"1. The employee's spouse.

"2. A parent, step-parent or foster parent of the employee or of the employee's spouse.

"3. A child, stepchild or foster child of the employee or of the employee's spouse.

"4. A grandparent, step-grandparent, grandchild or step-grandchild of the employee or of the employee's spouse.

"5. The spouse of a child of the employee.

"6. The employee's brother or sister.

"7. A relative of the employee who is dependent on the employee for care or assistance.

"Advising employer

"(4) An employee who wishes to take leave under this section shall advise his or her employer that he or she will be doing so.

"Same

"(5) If the employee must begin the leave before advising the employer, the employee shall advise the

employer of the leave as soon as possible after beginning it.

“Limit

“(6) Subject to subsection (7), an employee is entitled to take a total of 10 paid days of leave under this section in each calendar year.

“Same, employed for less than one week

“(7) If an employee has been employed by an employer for less than one week, the following rules apply:

“1. The employee is entitled to unpaid days of leave under this section, rather than paid days of leave.

“2. Once the employee has been employed by the employer for one week or longer, the employee is entitled to paid days of leave under this section, and any unpaid days of leave that the employee has already taken in the calendar year shall be counted against the employee’s entitlement.

“Leave deemed to be taken in entire days

“(8) If an employee takes any part of a day as paid or unpaid leave under this section, the employer may deem the employee to have taken one day of paid or unpaid leave on that day, as applicable, for the purposes of subsection (6) or (7).

“Personal emergency leave pay

“(9) Subject to subsections (10) and (11), if an employee takes a paid day of leave under this section, the employer shall pay the employee,

“(a) either,

“(i) the wages the employee would have earned had they not taken the leave, or

“(ii) if the employee receives performance-related wages, including commissions or a piece work rate, the greater of the employee’s hourly rate, if any, and the minimum wage that would have applied to the employee for the number of hours the employee would have worked had they not taken the leave; or

“(b) if some other manner of calculation is prescribed, the amount determined using that manner of calculation.

“Personal emergency leave where higher rate of wages

“(10) If a paid day of leave under this section falls on a day or at a time of day when overtime pay, a shift premium or both would be payable by the employer,

“(a) the employee is not entitled to more than his or her regular rate for any leave taken under this section; and

“(b) the employee is not entitled to the shift premium for any leave taken under this section.

“Personal emergency leave on public holiday

“(11) If a paid day of leave under this section falls on a public holiday, the employee is not entitled to premium pay for any leave taken under this section.

“Evidence

“(12) Subject to subsection (13), an employer may require an employee who takes leave under this section to provide evidence reasonable in the circumstances that the employee is entitled to the leave.

“Same

“(13) An employer shall not require an employee to provide a certificate from a qualified health practitioner as evidence under subsection (12).”

**The Chair (Ms. Goldie Ghamari):** On independent motion number 7: Committee members, the proposed amendment is out of order because it seeks to amend a section of a parent act that is not before the committee. As Bosc and Gagnon noted on page 771 of the third edition of House of Commons Procedure and Practice, “An amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent act, unless the latter is specifically amended by a clause of the bill.”

MPP Gates.

**Mr. Wayne Gates:** First of all, I’d like to thank the member for supporting Peggy’s bill on sick days. It just proves that we can get along here at Queen’s Park. He read it out on behalf of the Liberals, which is interesting.

We all know that the federal sick days are inadequate for the people of the province of Ontario. We also know that under COVID-19, we certainly need sick days. You only have to look here in the Toronto region—there are a lot of MPPs in the Peel area, where we’ve seen so many people get sick with COVID-19.

Somebody asked, “Why do you need sick days?” Well, a lot of these workers are making minimum wage. They’re racialized. Why we haven’t got sick days in the province of Ontario makes no sense.

In my own area of Niagara, we need sick days as well, particularly for our essential workers.

I want to thank my colleague for supporting Peggy’s bill, the NDP bill. I think it’s a bill that’s extremely important in the province of Ontario. It’s long overdue.

No worker should have to go to work sick. That’s what’s happening in the province of Ontario. That’s how COVID-19 is spreading. Now that we have the variant, which may even force a third wave, sick days are even more important, quite frankly.

I don’t know how the Conservative government will not support sick days—

**The Chair (Ms. Goldie Ghamari):** MPP Gates, my apologies for interrupting.

This amendment is out of order, so unless there’s unanimous consent to debate this amendment, we have to move on.

**Mr. Wayne Gates:** Maybe I didn’t hear you, but are you basically saying—

**The Chair (Ms. Goldie Ghamari):** At this point, we need unanimous consent from the committee in order to comment on this particular amendment, because it has been ruled out of order.

**Mr. Wayne Gates:** So you ruled it out of order.

**The Chair (Ms. Goldie Ghamari):** Yes. So unless there is unanimous consent from the committee—

**Mr. Wayne Gates:** For me to continue?

**The Chair (Ms. Goldie Ghamari):** To debate this particular amendment. Otherwise, we could debate further.

**Mr. Wayne Gates:** That’s fair. Thank you.

**The Chair (Ms. Goldie Ghamari):** MPP Schreiner.

**Mr. Mike Schreiner:** On behalf of my colleague, I seek unanimous consent to debate this motion.

**The Chair (Ms. Goldie Ghamari):** Do we have unanimous consent to—no, committee members have not provided unanimous consent.

We'll now turn to—

*Interjection.*

**The Chair (Ms. Goldie Ghamari):** MPP Coteau?

**Mr. Michael Coteau:** I just want to point out that the motion being presented was based on a bill I presented in the Legislature. I think MPP Gates was referencing another bill. But this is a bill on sick days that I presented, which is actually active within the Legislature today. I just wanted to put that out as a point of information.

**The Chair (Ms. Goldie Ghamari):** Thank you, MPP Coteau.

We now turn to section 3. Is there any debate on section 3? Seeing none, are members prepared to vote? All those in favour of section 3 carrying, please raise their hands. All those opposed, please raise their hands. I declare section 3 carried.

Turning now to section 4: Is there any further debate on section 4? Seeing none, are members prepared to vote? All

those in favour, please raise their hands. All those opposed, please raise their hands. I declare section 4 carried.

We turn now to the title of the bill. Shall the title of the bill carry? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare the title of the bill carried.

Shall Bill 238 carry? Is there any debate? MPP Bailey?

**Mr. Robert Bailey:** Yes, I just wanted to say “carried.” Sorry.

**The Chair (Ms. Goldie Ghamari):** Oh, my apologies. All right.

All those in favour of Bill 238 carrying, please raise their hands. All those opposed, please raise their hands. I declare Bill 238 carried.

Shall I report the bill to the House? All those in favour, please raise their hands. All those opposed, please raise their hands. I declare the motion carried.

There being no further business, this committee now stands adjourned. Thank you, everyone.

*The committee adjourned at 0954.*







## **STANDING COMMITTEE ON GENERAL GOVERNMENT**

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### **Substitutions / Membres remplaçants**

Mr. Wayne Gates (Niagara Falls ND)  
Ms. Jane McKenna (Burlington PC)

### **Also taking part / Autres participants et participantes**

Mr. Michael Coteau (Don Valley East / Don Valley-Est L)

### **Clerk / Greffier**

Mr. Isaiah Thorning

### **Staff / Personnel**

Ms. Julia Hood, legislative counsel