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Chair

Mr. Anthony Housefather

Standing Committee on Justice and Human Rights

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● (1630)

[*English*]

The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)): Good afternoon, everyone. It is a pleasure to welcome everyone to the Standing Committee on Justice and Human Rights' clause-by-clause review of Bill C-78.

We are very pleased to welcome our witnesses from the Department of Justice. We have Ms. Elissa Lieff, senior general counsel.

I totally apologize for your missing the menorah lighting.

Ms. Elissa Lieff (Senior General Counsel, Family, Children and Youth Section, Policy Sector, Department of Justice): Thank you.

The Chair: We have Ms. Claire Farid, who is senior counsel. We also have Ms. Andina van Isschot, acting senior counsel.

Welcome.

For all of the committee members present, let me say that as people know, I have to leave for about a half-hour or 40 minutes between 5:05 and 5:45. Mr. Cooper will be chairing during that time, but we're in sync.

Because I have to walk out and I have one amendment that I am proposing with Madame Fortier, everyone has agreed to do amendment LIB-28.1 first. If that's okay, it will be the only one. Then we'll go back right to the beginning and will go as normal.

I'll turn to Madame Fortier.

(On clause 22)

[*Translation*]

Mrs. Mona Fortier (Ottawa—Vanier, Lib.): Thank you, Mr. Chair.

Thank you, my dear colleagues.

As you know, the Fédération des juristes d'expression française de l'Ontario and the Canadian Bar Association have both said that there are no provisions under which Canadians can obtain a divorce in the official language of their choice, either English or French.

This new provision is intended to make sure that Canadians from one end of the country to the other can obtain a divorce in the language of their choice. I doubt if you want me to read the provision.

Mr. Chair, perhaps you can help me with the next part. There is a provision that requires discussion with the provinces to make sure that those that do not have a provision of that kind, British Columbia, for example, do adopt one.

I hope that all the members of the committee will support this change.

Mr. Anthony Housefather: Thank you.

I must say that I was a little shocked to learn that people in Newfoundland and Labrador and in British Columbia have no right to ask for their divorce proceeding to be heard in French.

[*English*]

As Canadians, we believe that justice and access to justice should be available at the federal level in both official languages, especially when it is something as painful for people to go through and as traumatic as a divorce and the idea of who would parent children. It seems really unfair that there are some Canadians who are not able to do this in their own language, at one of the most painful times in their lives.

This amendment, for which I am hopeful to have support from all parties, is one that will enshrine for Canadians the right of access to divorce in both languages. You can testify in both languages. You can plead in both languages. You can receive translation, if somebody is testifying in the other language. You can also get the judgment in your language of choice, and you have a right to a judge who speaks one or both of the official languages of the parties. This is similar to what we have in the Criminal Code for criminal trials.

There will be another proposed section that says it will go into effect in various provinces on the date when the province is ready. This is a separate amendment, put into effect by cabinet.

I appreciate everyone's forbearance in doing this amendment first. For me as an English-speaking Quebecker, this is incredibly important.

[*Translation*]

It is also extremely important for French Canadians outside Quebec.

[*English*]

Again, I thank my colleagues for their consideration of this really important amendment. We as a committee are doing something very important for Canadians who speak the minority official language in their province today.

I will turn it over to anyone else who wants to comment.

Mrs. Mona Fortier: I might just want to add that, being known to be the member of Parliament for Ottawa—Vanier, I have received many calls and much advocacy from different organizations saying, "This is not possible in my province and I would like you to bring it up, now that the act is being revised". You can acknowledge that there is a need to give access to French Canadians but also know that in Quebec right now you can divorce in both official languages, but that some don't have that possibility. This is why I am advocating today for their being able to do it.

The Chair: Thank you.

Does anyone else wish to comment?

[*Translation*]

Ms. Sansoucy, do you want to comment?

Ms. Brigitte Sansoucy (Saint-Hyacinthe—Bagot, NDP): No.

[*English*]

The Chair: Okay. We'll proceed to a vote.

(Amendment agreed to [*See Minutes of Proceedings*])

(Clause 22 as amended agreed to)

(On clause 1)

The Chair: Thank you so much. Now we'll go back to the beginning, to clause 1 and amendment CPC-1.

Mr. Cooper.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Mr. Chair, I wish to withdraw that amendment.

The Chair: Thank you very much. It's much appreciated.

Then we come to PV-1.

Ms. May, I sent you an email about that one. I hope you saw it.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Yes. I understand that you think it might be inadmissible.

The Chair: It's only because...unless you can provide a reference to gender-based violence somewhere in the bill or in one of the amendments you proposed, which I couldn't find.

Ms. Elizabeth May: First, I'm only here because of the motion that was passed by this committee. I still object to the motion. I object to it restricting my rights at report stage by insisting I be at clause-by-clause. It's often very difficult for a sole member of a party to be at everything.

This evening, I'm sure you share that concern. We have the lighting of the menorah. I will be disappearing for a brief amount of time to be present at that.

I can't refer you to where it's present in the act, but we do need a definition of "gender-based violence". Amending this was a recommendation from a number of witnesses before the committee, including the National Association of Women and the Law. The only thing I could suggest is that the definition of "family violence" within this bill opens up the possibility for a definition of "gender-based violence". I submit that and hope that others will agree.

● (1635)

The Chair: I appreciate that. However, since there is no reference in the bill to "gender-based violence" and there's no amendment that proposes to include those words, you can't create a definition with no purpose. At that point, I have to rule that this amendment is out of order.

I would suggest that perhaps you could look at Madame Sansoucy's amendment on the next page, which introduces something similar in the realm of "family violence", which would have been admissible.

Unfortunately, I have to rule the amendment out of order.

Ms. Elizabeth May: Of course, I accept your ruling.

The Chair: Thank you very much.

[*Translation*]

We now move to amendment NDP-1.

Ms. Sansoucy, the floor is yours.

Ms. Brigitte Sansoucy: I feel that it is important for any form of violence against women to be included in the notion of family violence.

[*English*]

The Chair: Just for everybody, because I should be keeping everybody on track, we're on NDP-1, on page 3, or line 20 on page 4, whichever anybody prefers.

Does anyone else wish to comment on this amendment?

Mr. McKinnon.

Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.): While I appreciate the intent to clearly specify that, this bill is gender-neutral in all respects. That adds gender non-neutrality to this, so I'm going to vote against the amendment on that basis.

The Chair: Ms. May.

Ms. Elizabeth May: The amendment that the NDP has put forward at this point is quite similar to my second amendment. The chair hasn't decided that there's any reason the passage or defeat of Madame Sansoucy's amendment—

The Chair: Since you're adding it after line 20, it doesn't impact PV-2, or I would have said so.

Ms. Elizabeth May: That's right. Thank you very much, Mr. Chair.

The Chair: No problem.

I have a question for the department. Amendment NDP-1 says:

> (1.1) For greater certainty, the definition family violence in subsection (1) includes all forms of violence perpetrated against women.

That's understandable. Could that create any confusion that it would not then include all forms of violence perpetrated against men or others?

Ms. Claire Farid (Senior Counsel, Department of Justice): What we can say about the definition of "family violence" is that it is gender-neutral. It would apply to intimate partner violence, which can happen between different genders or the same gender, but it also includes violence that can happen to children. It's a broad definition and it would include violence committed against whatever gender, as long as it falls within the broad definition of conduct that's covered by that definition.

The Chair: Of course, but I'm asking whether this could create confusion when you specify one group and say it includes all violence against one group. Could that then create confusion for the court that the legislators didn't intend to include all forms of violence against other groups?

Ms. Claire Farid: I can't comment on whether it will cause confusion for the court, but certainly the way it is drafted now it would be clear that any type of violence by one gender to another would be included.

The Chair: Thank you.

Are there any further interventions?

[*Translation*]

Let's proceed to a vote on amendment NDP-1.

(Amendment negatived on division.)

The Chair: We now move to amendment PV-2.

Ms. May, the floor is yours.

[*English*]

Ms. Elizabeth May: Thank you, Mr. Chair.

The long definition section that deals with all the definitions that relate to family violence and other forms of threats is amended by my proposal, which remains gender-neutral. I want to stress that.

What it does is import to the legislation the understanding that threats of violence can include threats made through cyberspace or on Facebook pages. A number of witnesses we've heard here have made the point that cyber-violence is actually one of the main forms of family violence now. To make that explicit, threats on Facebook, threats through texting, threats of sending intimate photos, and so on, are an important area of psychological violence and can lead people to suicide. It's a real threat, but it's much less personal than our conventional understanding of threats of violence, so I would urge the committee to consider this amendment favourably.

● (1640)

The Chair: Ms. Khalid.

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): Thank you, Chair.

I hold a bit different view. The definition as it is in the bill is still quite broad. Although it's important to address it and necessary to acknowledge that this type of violence exists, I don't think codifying it by including language such as this is the right approach.

As "family violence" is determined on a case-by-case basis in the courts, the application of these kinds of threats should also be made on a case-by-case basis. My fear is that by adding this type of language, we're actually narrowing the scope of what "family violence" could mean, so I will not be supporting this.

The Chair: Are there any other interventions?

Ms. May.

Ms. Elizabeth May: Iqra, with all due respect, I can't see how that makes sense. This is just for greater certainty and furthers the definition. This just ensures that it is included. It doesn't create confusion. It doesn't diminish any other interpretative, judicial or prosecutorial understandings of family violence. It merely makes explicit something that could be seen as somewhat in the virtual realm. It clarifies it, in a way, but it takes nothing away from the existing broad definition found within the act.

It is a positive and helpful addition. As you'll remember, of course, in the evidence, the South Asian Legal Clinic of Ontario was the specific witness that called for this change.

The Chair: Thanks.

Mr. Cooper.

Mr. Michael Cooper: Thank you, Mr. Chair.

I wonder whether the Department of Justice officials have any comments.

Ms. Claire Farid: The minister has already indicated that the definition of "family violence" is a very broad one. The examples given in the list are non-exhaustive, so it doesn't preclude other types of family violence from being considered if they fall within the general, broad definition.

The other issue I would raise is with respect to the terminology of Internet and digital networks and the extent to which that terminology might or might not be reflected in other federal legislation.

Mr. Michael Cooper: Thank you.

The Chair: Ms. Khalid.

Ms. Iqra Khalid: This might be a really minute point, but I'll say it anyway.

We're writing this legislation for the long term. While digital communications might still be a little fresh now, I imagine 20 years from now, going back to this act and seeing how that would impact the definition of "family violence". I really think we should keep it as broad as we can, which is the way it is currently written.

The Chair: Thank you.

Is there any further discussion? If not, I'll go to a vote on PV-2.

(Amendment negatived [*See Minutes of Proceedings*])

(Clause 1 agreed to)

The Chair: There are no amendments proposed to clauses 2 to 7.

Colleagues, can we do them as a group?

Some hon. members: Agreed.

(Clauses 2 to 7 inclusive agreed to)

(On clause 8)

The Chair: We will move to clause 8, which starts with amendment LIB-1. If amendment LIB-1 is adopted, amendment PV-3 cannot be moved, because there is a line conflict.

I believe amendment LIB-1 was Mr. McKinnon's. I don't know whether you're continuing with this one or are withdrawing it.

Mr. Ron McKinnon: I have a number of amendments, of course, which I submitted in consequence to witness testimony, wanting to make sure they were on the table for us to consider. I've been persuaded, however, in talking to legal people who know the act and know the legislation much better, that this is not necessary. I'm withdrawing it at this point.

The Chair: That means we will go to amendment PV-3.

Ms. May.

● (1645)

Ms. Elizabeth May: I can see that there is opposition to this amendment, but I was really pleased when I saw that you had proposed to move this measure, Mr. McKinnon.

The evidence here came—as many of my amendments did, by the way—from Luke's Place and the National Association of Women and the Law. While we want to see diversity and dispute resolution processes, we want to give parties a chance to sort things out and make informed choices. We need to pay attention to situations in which alternative dispute resolutions processes provide abusers with ongoing contact with the spouse who has been abused. The additional language here is just as a reminder. It doesn't cut off that option.

It is just a reminder that:

> To the extent that it is appropriate to do so, especially with regard to the risks that ongoing contact between the parties may pose in cases of family violence,

It continues on page 10, that the parties:

> shall try to resolve the matters that may be the subject of an order under this Act through a family dispute resolution process.

It just is a reminder that this may not be appropriate in all cases.

The Chair: Thank you very much.

Mr. McKinnon.

Mr. Ron McKinnon: I think Ms. May and I were cribbing from the same testimony. When I first saw this, I liked it, but I now see that it is not necessary and on that basis I will oppose this.

The Chair: Does anyone else wish to intervene?

Mr. Cooper.

Mr. Michael Cooper: I don't have a problem with the current language in the bill, because it states very clearly that it is "to the extent that it is appropriate to do so", and clearly, in the case of family or domestic violence it wouldn't be appropriate to do so, and of course there could be other circumstances in which it's not appropriate to do so.

I think it's redundant and doesn't add.

The Chair: Thank you.

Are there any other comments?

[*Translation*]

Hearing none, we will proceed to a vote on amendment PV-3.

[*English*]

(Amendment negatived [*See Minutes of Proceedings*])

The Chair: We will move to amendment PV-4. If it is adopted, amendment LIB-2 cannot be moved.

Mr. McKinnon, are you withdrawing amendment LIB-2 also?

Mr. Ron McKinnon: Yes, I am, on the same basis as I did before.

The Chair: Okay.

We are on amendment PV-4.

Ms. May.

Ms. Elizabeth May: This is to the same concern—ensuring that people involved with the family law system have a duty to prevent violence against women and children. It also extends to advice that is given.

Having an accredited family violence screening tool to assess the extent to which family violence may adversely affect the safety of the person of a family member and the ability of a person to negotiate a fair agreement, to have full information—those provisions—will be included, as you can see, following the existing requirements of the "Duty to discuss and inform".

The Chair: Let me ask the department for their feedback on this one. We all, I think, believe in family violence screening. There is a question, though, whether there are tools available now in every province.

Could you let us know?

Ms. Claire Farid: Certainly the issue of family violence screening is an important one and it was raised by witnesses. The important issue to underline is that there's a jurisdictional issue here in terms of the implementation of any screening approach. Family violence screening requires training of those who would use any screening tool. The training for family law practitioners falls within the mandate of provincial law societies, so it's not something that can be done by the federal government on its own in federal legislation.

The Chair: Are there any other comments?

Mr. McKinnon.

Mr. Ron McKinnon: I actually like this amendment better than mine, so I would have withdrawn mine anyway.

Certainly based on what the officials have said, I don't believe there is an accredited family violence screening tool at this point in any event. I shall oppose this amendment.

The Chair: Are there any other comments?

Ms. May.

Ms. Elizabeth May: I would think the common-sense understanding of "accredited family violence screening tool" is the work of those who are court appointed to assess the suitability of family arrangements.

There are a lot of screening tools used in the courts to determine whether there's a risk, particularly when assessing custody. While we haven't defined that term, there's a common-sense understanding of what it is. That's why I used it in this amendment.

● (1650)

The Chair: Okay, that's understood.

Are there any other interventions?

(Amendment negatived [*See Minutes of Proceedings*])

The Chair: LIB-2 has been withdrawn, so we'll now move to LIB-3. Who is going to put that forward?

Ms. Khalid.

Ms. Iqra Khalid: I'm sorry. It's the art of multi-tasking at this point.

The Chair: I totally understand.

While she's finding her place, I'll just say LIB-3 is basically to clarify "to inform the person of the parties' duties under this Act." People were confused that it might be the lawyers' duties as opposed to the parties', so some witnesses had asked us to clarify that. That's why LIB-3 was drafted.

Ms. Khalid, I'll turn it back to you now.

Ms. Iqra Khalid: Chair, it's exactly what you said.

[*Translation*]

The Chair: Does anyone want to speak to LIB-3? If no one wants to comment, we will call the question.

[*English*]

(Amendment agreed to [*See Minutes of Proceedings*])

(Clause 8 as amended agreed to)

The Chair: There are no amendments to clauses 9, 10 or 11. May I group them?

Some hon. members: Agreed.

(Clauses 9 to 11 inclusive agreed to)

(On clause 12)

[*Translation*]

The Chair: We are now on clause 12 and we will start with amendment NDP-2.

Ms. Sansoucy, the floor is yours.

Ms. Brigitte Sansoucy: Thank you, Mr. Chair.

A number of witnesses have told us that it would be in all our interests to include, in a clause of Bill C-78, a reference to the preamble of the Convention on the Rights of the Child, passed by the United Nations General Assembly on November 20, 1989. That is why I am asking that we add a reference to the Convention on the Rights of the Child to clause 12 of the bill.

[*English*]

The Chair: Mr. McKinnon.

Mr. Ron McKinnon: I have an amendment similar to this later on.

It is my understanding that the treaties and commitments such as the Convention on the Rights of the Child are already fundamentally incorporated into Canadian law, so the judges are expected and required to follow them anyway. In that case, it's not needed and it's not good practice to incorporate references of that kind.

On that basis, I will oppose this amendment, just as I will withdraw my later amendment that references the same thing.

[*Translation*]

The Chair: I would like to ask for a clarification from the officials from the department. Is there not a convention that we do not name international treaties in our legislation? At least, that's what I thought I understood. Is that the case?

[*English*]

Ms. Elissa Lieff: What we tend to do in legislation is to incorporate the principles that are in a convention and see that they're reflected in what is done in the federal legislation. For example, here there's the focus on the best interests of the child, but there's no need to incorporate directly the language that's in the convention, or allude to it, or refer to it specifically in the legislation.

As you've stated, Canada is a party to the Convention on the Rights of the Child, for example, so we are required to bear that in mind when we—or actually you—enact legislation at the federal level.

The Chair: Are there any other interventions?

[*Translation*]

Ms. Sansoucy, the floor is yours.

Ms. Brigitte Sansoucy: Allow me to insist. Actually, it is all very well for us to have signed that convention, but, each year, the United Nations rapporteurs allude to the improvements that we should make in order to keep faith with our commitments. A number of witnesses have indicated that, if it is not explicitly stated, the UN rapporteurs will report negatively about us once more.

[*English*]

The Chair: I just want to be precise in my clarification, because I really want to understand. I know this was discussed.

My understanding is that there is a convention in Canadian laws not to name international treaties inside a bill. There can be references to international treaties in the preamble, but not in the bill itself. Am I correct that this is a convention in Canadian legislation?

● (1655)

Ms. Elissa Lieff: Yes.

The Chair: Okay.

[*Translation*]

I believe that is the real reason.

You have the perfect right to disagree, but I am satisfied by that answer to my question.

[*English*]

Are there any other interventions?

[*Translation*]

Let's vote on amendment NDP-2.

(Amendment negatived on division.)

[*English*]

The Chair: Now we'll go to PV-5.

Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

This amendment builds on the considerations for determining what is in the best interests of a child. On the basis of a lot of testimony, and of course, how we all feel as individual members of Parliament, we're well aware that indigenous children are apprehended at an alarming rate. I know this is also looking at family law issues, but just to put it in context, we have more indigenous children apprehended now by social services than used to be in residential schools. Therefore, we have an ongoing concern that when decisions are made about what's in the best interests of the child, if that child is an indigenous child, there are other considerations that should be taken into account.

The amendment I'm putting forward here as PV-5 deals with strengthening the determinations of what's in the best interests of the child by adding that, in the case of an indigenous child, the importance of preserving the child's cultural identity, connection to community and rights of indigenous people to raise children in accordance with culture, heritage and traditions be a positive and required consideration. Otherwise, there's no additional lens for the best interests of the child when it's an indigenous child.

The Chair: Mr. McKinnon.

Mr. Ron McKinnon: Once again, I have to oppose this. This is already dealt with later on the same page. In proposed paragraph 16 (3)(f), "the child's cultural, linguistic, religious and spiritual upbringing and heritage, including Indigenous upbringing and heritage" must be considered as well. Therefore, I see this as redundant and unnecessary.

The Chair: Ms. May.

Ms. Elizabeth May: Maybe I should have amended that section, but I felt it was at the level of primary consideration, and as an umbrella clause, it was a better place to put it. However, while this throws in the idea of "cultural, linguistic, religious and spiritual upbringing and heritage, including Indigenous upbringing and heritage", it doesn't speak to the rights of indigenous people to raise their children in accordance with their rights, culture, heritage and traditions, and the importance of preserving a child's cultural identity.

In the existing proposed paragraph 16(3)(f), it just says this is a factor for consideration in the circumstances of that child. It doesn't speak to any particular higher order of concern when the child is indigenous.

It's related, but not redundant at all.

The Chair: Can I ask a question? Given that this amendment would presume to create a primary consideration of culture and heritage solely for indigenous Canadian children and not for Canadian children of other traditions, heritage and culture, could that not be seen as discriminatory in the sense that other people might say, "Why is my heritage, culture and tradition not as important to the child as the indigenous heritage, culture and tradition?"

Ms. Claire Farid: Certainly it would be identifying only one aspect of culture. If you look at the criteria in proposed paragraph 16 (3)(f), you'll note that there's a more general reference to cultural, linguistic, and religious heritage, but indigenous heritage is included as one example of that.

The other aspect as well is that the ideas of indigenous upbringing and heritage would also capture the concepts of cultural identity and connection to community.

The Chair: We'll have Ms. May, and then Ms. Khalid.

Ms. Elizabeth May: Thank you, Mr. Chair.

I would answer your question by pointing out that I'm Anglican. I'd love in any separation issue to have a hypothetical child raised Anglican. I don't have any constitutionally enshrined rights about my ability to exercise rights in that sense.

Section 35 of the Constitution recognizes that indigenous peoples are not in the same category as other groups. They are not stakeholders we're dealing with. We're also dealing with a marginalized population where we know we have been separating indigenous children from their families over and over again, first with the residential school system and now through the actions of provincial governments in terms of social services. If our family law fails to take account of this, we are putting indigenous culture in the same pot with a factor to be considered.

Yes, we'd like them to be raised with their family that came here from Scotland, or we'd like them to be raised....

This is very specific. This is *sui generis*. Indigenous status in this country is not like the others. It's constitutionally protected but has been more deeply abused than others.

● (1700)

The Chair: Mr. McKinnon.

Mr. Ron McKinnon: The other thing I have a problem with in regard to this amendment is that the whole focus or the primary foundation of this act is the consideration of the best interests of the child, and here and now, suddenly we're talking about the rights of the people, the rights of the parents, basically, which I fear will derogate from that principle of the best interests of the child. The rights of the child have to be paramount and I feel that this does derogate from that.

The Chair: I understand what you're saying and I don't disagree that indigenous Canadians have been mistreated in greater numbers and have higher incarceration rates and higher rates in foster care. There's no doubt of that. However, linguistic rights of the English and French communities are constitutionally protected. Multiculturalism rights are constitutionally protected. I'm just concerned about singling one out in a primary consideration when everything else is a secondary factor to be considered. That's why I raised that question.

Ms. Elizabeth May: I have a feeling that this amendment will not receive support, but I would just say that in adding it to primary consideration, it has no impact whatsoever in determining the best interests of the child if the child is not indigenous.

You'd have to look at our family law system. Our social services system over generations has been a whole lot of non-indigenous people deciding to take the children of indigenous people away from them. As an experiment, it hasn't worked well for indigenous children, indigenous parents or society as a whole. This is an effort to remedy that.

The Chair: Understood.

Is there any further discussion on this one? If not, let's proceed to a vote on PV-5.

(Amendment negatived [*See Minutes of Proceedings*])

The Chair: Mr. McKinnon, I would just note that I assume, based on what you said earlier, you're withdrawing LIB-14 because it is in a different place but similar to the construction of PV-6.

Mr. Ron McKinnon: Yes, I will be withdrawing LIB-14.

The Chair: I would note as well that if PV-6 is supported, CPC-3 proposes the contrary. CPC-3, when we get there, would then not work because it actually is saying exactly the opposite. However, PV-6 is perfectly in order to be proposed at this point in the bill.

Ms. May, you have the floor on PV-6.

Ms. Elizabeth May: Thank you.

This comes from evidence presented by Shaun O'Brien and the language here is based on the B.C. Family Law Act.

I've had lots of visits from family law lawyers in B.C., because we see it as a model act. The B.C. Family Law Act has been extremely well received and has really helped with sorting out issues in parenting orders and making sure that parental time, when it's in the best interests of the child and there's isn't a threat of violence, and so on.... It's very clear that sharing parental responsibilities has worked extremely well for the best interests of the child and also for the health of the family unit altogether. The family unit may be split, but it is still, in many ways, a unit, and the way that the British Columbia Family Law Act has worked has been very positive.

That's why I hope you'll consider this amendment.

The Chair: Thank you very much.

Are there any further interventions on amendment PV-6?

Mr. McKinnon.

Mr. Ron McKinnon: Once again, I heard this testimony and I was very taken by it, but this act studiously stays away from presumptions. It's based on the fundamental principle of the best interests of the child, and there are no presumptions.

Here, we're trying to add negative presumptions and I think that's a mistake. That's why I'm withdrawing amendment LIB-14 as well.

● (1705)

The Chair: Ms. May.

Ms. Elizabeth May: When you look at these things in the abstract as the leader of the Green Party and you think that the Liberals are moving this anyway, you don't think it's Ron by himself and that he's about to withdraw it. I was sure these were all going in.

In any case, I accept that you've been dissuaded from this. I still think it's the right way to go. It makes for happier families.

Mr. Ron McKinnon: I'm going to play the “I'm not a lawyer” card. When I hear this stuff.... I wanted to submit it, but I certainly take very well the advice of more scholarly legal opinions.

Thank you.

The Chair: Is there any further discussion on amendment PV-6?

(Amendment negatived [*See Minutes of Proceedings*])

The Chair: Mr. McKinnon, are you withdrawing amendment LIB-5?

Mr. Ron McKinnon: Yes, for the same reasons brought up for—

The Chair: Then what I'm going to do is ask Mr. Cooper to move to the chair, and we'll start amendment PV-7.

Then, Ms. May, I think that gives you a gap after you finish amendment PV-8 to run over to the event too.

Ms. Elizabeth May: That's sweet of you. Thank you.

Happy Hanukkah. I'll be there soon.

The Chair: I'll be back shortly.

Thank you, everyone.

Ms. Elizabeth May: Thank you, new Chair.

You'll remember the testimony around this. The existing legislative language speaks to the “nature and strength of the child's relationship” with each parent, or in its language, “with each spouse”, with “the child's siblings” and so on.

The question was whether “nature and strength” is the right language. What if there's a very strong and controlling parent—a situation that does not actually represent a healthy relationship—but the relationship is very strong; in other words, the child is scared to death of one of the parents?

I know what they're trying to get at with “nature and strength” in that legislative language. I'm suggesting that the “quality” of the child's relationship is more neutral language and more encompassing of what's healthy, in distinction from the use of the word “strength”.

The Vice-Chair (Mr. Michael Cooper (St. Albert—Edmonton, CPC)): Does anyone wish to comment?

Mr. Ron McKinnon: I'd like to ask the officials a question. There's a difference here between using the words “nature and strength” versus using “quality”. Could you tell me what the significance of it is? My understanding is that “nature and strength” is consistent with usage elsewhere in the act, and “quality” is perhaps not as well defined.

Ms. Claire Farid: The terminology “nature and strength” is used in other family law legislation. For example, it's used in the B.C. Family Law Act, and no concerns have been raised with respect to the use of that terminology in that legislation.

The term “quality” is much broader than the concept of “nature”, which has you look at different aspects of the relationship, and “strength”, which asks about whether there is a close relationship, a good relationship—those types of issues.

Mr. Ron McKinnon: Thank you.

The Vice-Chair (Mr. Michael Cooper): Are there any more comments?

Mr. Fraser.

Mr. Colin Fraser: Thank you, Chair. I'd just like to ask the officials a question.

How long has the B.C. Family Law Act been in effect with the language “nature and strength”? When you say there's been no difficulty with it, I assume you mean in case law or in any litigation surrounding that terminology. Is that correct?

Ms. Claire Farid: Yes. I'm not going to say that I know the exact date when it came into force, but it has been in force—

Mr. Colin Fraser: It's not very recent.

Ms. Claire Farid: It's been in force for several years now, and we're not aware of any case law that has identified any problems with the use of the term “nature and strength”.

Mr. Colin Fraser: Thanks.

The Vice-Chair (Mr. Michael Cooper): I think we're ready to proceed to a vote.

(Amendment negatived [*See Minutes of Proceedings*])

The Vice Chair (Mr. Michael Cooper): We're now moving to amendment LIB-6.

Mr. McKinnon.

Mr. Ron McKinnon: I'm withdrawing this.

● (1710)

The Vice-Chair (Mr. Michael Cooper): We move on to amendment PV-8. If this amendment is adopted, amendments LIB-7 and LIB-9 cannot be moved.

Ms. May.

A voice: She's not here.

The Vice-Chair (Mr. Michael Cooper): I'm going to give Ms. May the benefit of....

We will open debate and we'll proceed with the vote.

Seeing that no one wishes to speak, we'll move to a vote.

(Amendment negatived [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): Moving on to amendment LIB-7, Mr. McKinnon, it should be noted that it's identical to part (a) of amendment PV-8, which was defeated.

Mr. Ron McKinnon: I'll withdraw this amendment, as well as amendment LIB-8.

The Vice-Chair (Mr. Michael Cooper): Okay.

Mrs. Mona Fortier: Amendment LIB-8 is still there. I'm going to talk about it.

Mr. Ron McKinnon: Are you?

I'm only withdrawing amendment LIB-7.

The Vice-Chair (Mr. Michael Cooper): We move on to amendment CPC-2.

Mr. Carrie.

Mr. Colin Carrie (Oshawa, CPC): Thank you, Mr. Chair.

I want to applaud you for making this proposed amendment. I've been working with stakeholders who are working towards having more recognition of equal parenting. I think everyone around the table realizes that it's in the best interests of a child to have a good relationship with both parents. This is a great starting point, and I believe it's consistent with the Senate report of 1998. I hope, therefore, that colleagues around the table will be supportive of this amendment.

The Vice-Chair (Mr. Michael Cooper): Are there any other comments?

Mr. Fraser.

Mr. Colin Fraser: I'd like to hear from the officials on this one in particular and then make comment.

My understanding is that this is going some way towards adding a presumption. It appears as though it's making a preference over some of the factors and considerations that go into the overall paramountcy of the best interests of the child by adding certain elements and ranking them as to how these things are balanced and factored.

I'd like to hear the officials' thoughts on whether or not that is an accurate assessment of this amendment.

Ms. Elissa Lieff: I'm not sure I understand specifically what your question is. I can just comment on what the minister has indicated as the focus in this bill. First of all, she said when she appeared before this committee that there are no presumptions being presented in this legislation and that the focus is on the best interests of the child, so that the parties who are involved with each other in looking to make a decision, arrangement or agreement—or family justice professionals, service providers or judges—would be looking at each case individually, without starting on the basis of a presumption, to see what is in the best interests of a particular child in particular circumstances.

Mr. Colin Fraser: My point was, from looking at this amendment, that it would appear as though it creates a presumption, or goes some way towards creating a presumption, of equal parenting time. If that's the case, it detracts from the overall purpose of not having presumptions and leaving the best interests of the child as the overall consideration.

Is that fair?

Ms. Elissa Lieff: Yes.

Mr. Colin Fraser: Thank you.

Based on that—and I know we heard testimony from individuals who wanted to say that the best interests of the child is a wonderful thing, but that we should identify certain factors, such as equal parenting time, as primary considerations that go into the factor—I think this erodes the basic premise, about which we heard from many witnesses, that the only consideration should be the best interests of the child.

Since this amendment erodes that overall paramountcy of best interests of the child, I can't support the amendment.

● (1715)

The Vice-Chair (Mr. Michael Cooper): Does anyone else wish to speak to the amendment?

(Amendment negatived [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): Amendment LIB-8 has not been withdrawn.

Ms. Fortier.

Mrs. Mona Fortier: Thank you, Chair.

This is a motion that would improve consistency between the wording of this provision and similar provisions in provincial and territorial laws. It's to remove the word "by". It doesn't change the meaning of the provision.

The Vice-Chair (Mr. Michael Cooper): I should note, before we proceed to further discussion on this amendment, that if amendment LIB-8 is adopted, amendment NDP-3, Madame Sansoucy, cannot be moved because of a line conflict.

Does any member wish to speak?

Madame Sansoucy.

[*Translation*]

Ms. Brigitte Sansoucy: I want to make sure I fully understand. Does that mean we are not changing anything in the French version?

Mrs. Mona Fortier: No, the amendment is just to the English version. I spoke in English, I am sorry.

Ms. Brigitte Sansoucy: Thank you for the clarification.

[*English*]

The Vice-Chair (Mr. Michael Cooper): Seeing no one else waiting to speak, I'll proceed to a vote.

(Amendment agreed to [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): Amendment NDP-3 now cannot be moved, in light of the passage of amendment LIB-8.

We will now move to amendment NDP-4.

Madame Sansoucy.

[*Translation*]

Ms. Brigitte Sansoucy: Thank you, Mr. Chair.

This is basically the same argument I made earlier.

Training on the way to consider the interest of the child in family court proceedings must be based on the 2007 Convention and on current best practices in Canada and other countries. It would therefore be worthwhile to add: "based on the 2007 Convention, the 1996 Convention, and current best practices in Canada and other countries."

[*English*]

The Vice-Chair (Mr. Michael Cooper): Does anyone else wish to speak?

Mr. McKinnon.

Mr. Ron McKinnon: The courts already have to interpret family law statutes in a manner consistent with relevant international statutes and treaties that are in force in Canada. This amendment is unnecessary.

The Vice-Chair (Mr. Michael Cooper): Does any other member wish to speak?

(Amendment negatived [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): We'll now move on to amendment NDP-5.

Madame Sansoucy.

[*Translation*]

Ms. Brigitte Sansoucy: It is important for the rights, culture, religion, and language of indigenous children to be recognized. Representatives of UNICEF Canada recommended that our committee amend paragraph 12(3)(f) to more closely resemble article 30 of the convention, which recognizes the right of an indigenous child, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language. That emphasizes the importance of cultural continuity and identity preservation, which are also recognized in the convention. We therefore propose the addition of the words "the child's rights" at the start of paragraph 12(3)(f).

[*English*]

The Vice-Chair (Mr. Michael Cooper): Thank you.

Does any member wish to speak?

Mr. Ehsassi.

Mr. Ali Ehsassi (Willowdale, Lib.): Thank you, Mr. Chair.

I would submit that this particular change would be unnecessary, and I would say so given what we heard from the officials earlier today, as well as the fact that courts are supposed to interpret provisions in a manner that is consistent with international statutes and international treaties. It would appear to me that this wouldn't make much of a difference.

The Vice-Chair (Mr. Michael Cooper): Thank you, Mr. Ehsassi.

Does any other member wish to speak?

(Amendment negatived [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): We'll now proceed to amendment LIB-9.

Mr. McKinnon.

● (1720)

Mr. Ron McKinnon: That is withdrawn.

The Vice-Chair (Mr. Michael Cooper): Moving along, we have amendment LIB-10, Mr. McKinnon.

I should note that if it is adopted, then amendment PV-9 cannot be moved due to a line conflict.

Mr. Ron McKinnon: That is also withdrawn.

The Vice-Chair (Mr. Michael Cooper): Okay. We will now proceed to amendment PV-9.

(Amendment negatived [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): We move now to amendment PV-10. It should be noted that if PV-10 is adopted, amendment LIB-11 cannot be moved due to a line conflict. Does anyone wishing to speak on PV-10?

(Amendment negatived [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): We now move to amendment LIB-11.

Mr. McKinnon.

Mr. Ron McKinnon: This is also withdrawn.

The Vice-Chair (Mr. Michael Cooper): On amendment LIB-12, go ahead, Mr. McKinnon.

Mr. Ron McKinnon: I'm on a roll, so I'll withdraw this one as well.

The Vice-Chair (Mr. Michael Cooper): On amendment PV-11, does any member wish to speak?

(Amendment negatived [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): We will move to amendment LIB-13.

Mr. Fraser.

Mr. Colin Fraser: Thanks, Mr. Chair.

The effect of this amendment is in changing clause 12. It would be moving proposed subsection 16.2(1) of the bill, the provision for maximum parenting time, into another part of section 16 that deals with the best interests of the child. This amendment clarifies, somewhat related to what I was speaking to earlier about another amendment, both that a child's relationship with each parent is important and that considering the best interests of the child is the only test to be applied in making parenting arrangements, while having regard for the fact that having both parents as part of a child's life is important to the child.

The Vice-Chair (Mr. Michael Cooper): Does any member wish to speak to this?

(Amendment agreed to [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): We'll now move to amendment CPC-3. I should note that if CPC-3 is adopted then amendment LIB-14 cannot be voted on.

Although, Mr. McKinnon, did you withdraw LIB-14 officially?

Mr. Ron McKinnon: Yes.

The Vice-Chair (Mr. Michael Cooper): Sorry, that's my mistake. You did. That takes care of that. We'll now go to discussion on amendment CPC-3.

Mr. Carrie.

Mr. Colin Carrie: Thank you very much, Mr. Chair.

Again I think this is a great amendment to consider, and I ask my colleagues to think about how important it is for kids. Really it is in the best interests of kids to have a good relationship with both parents. If you look at proposed subsection (8) it says:

> The presumptions set out in subsection (7) are rebutted if it is established that the best interests of the child would be substantially enhanced by allocating parenting time or decision-making responsibility other than equally.

I think it would take into account my other Liberal colleagues' challenge with the other amendment. I think this is consistent with the Senate report of 1998 and it is a great starting point during these situations.

The Vice-Chair (Mr. Michael Cooper): Thank you.

Does any member wish to speak?

Mr. Fraser.

Mr. Colin Fraser: I understand where this is coming from; however, I go back to the point about the fact that adding presumptions into what is a wholesome view of what is in the best interests of the child can be dangerous.

I note that the courts already take into account the fact that a shared parenting arrangement or maximum parenting time—all of these things—are often weighed already in determining what is in the best interests of the child.

Putting parenting presumptions in the Divorce Act would likely detract from courts focusing on the specific needs of each individual child. I think we've heard plenty of testimony to indicate that these should be considered case by case, and adding presumptions detracts from the overall best interests of the child test.

Therefore, I won't be supporting this amendment.

● (1725)

The Vice-Chair (Mr. Michael Cooper): Is there any other member wishing to speak?

(Amendment negatived [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): Liberal-14, as I indicated, is withdrawn.

We'll now move to Liberal-15. It should be noted that if Liberal-15 is adopted, Green Party-12, Liberal-16 and Liberal-17 cannot be moved due to a line conflict.

Ms. Khalid.

Ms. Iqra Khalid: Thank you, Chair. It's great to see you in that chair.

This is basically a technical amendment. It simply renumbers the proposed subsections of proposed new section 16.2, which is required as a result of the removal of the maximum parenting time provision from this section.

The Vice-Chair (Mr. Michael Cooper): Are there any other members wishing to speak?

(Amendment agreed to [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): PV-12 cannot be moved. The same goes for Liberal-16 as well as Liberal-17.

We'll now move to PV-13.

Is there any discussion?

(Amendment negatived [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): We'll now move to Liberal-18.

Mr. McKinnon.

Mr. Ron McKinnon: That is withdrawn.

The Vice-Chair (Mr. Michael Cooper): Okay, now we'll move to PV-14.

Is there any member wishing to speak?

(Amendment negatived [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): We'll now move to Liberal-19.

Mr. McKinnon.

Mr. Ron McKinnon: This is a technical amendment.

There are circumstances in which requiring notice of an application for exemption from notice requirements would not be appropriate. For example, where a change in residence is sought by someone fleeing family violence, providing notice to other parties, including a perpetrator of family violence, may create a serious risk.

Therefore, explicitly providing that applications for exemptions from notice requirements may be made without notice to other parties is an amendment worthy of support in my view.

The Vice-Chair (Mr. Michael Cooper): Thank you for that.

Is there any other member wishing to speak?

(Amendment agreed to [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper) We'll move to Liberal amendment 20. It should be noted that if this amendment is adopted, CPC-4 and Green Party-15 cannot be moved, as well as Liberal-21.

Is there any member wishing to speak?

Mr. Ehsassi.

Mr. Ali Ehsassi: I think this is a welcomed amendment. I think the use of prescribed forms is something that we should all welcome, in the sense that it brings clarity and consistency for people who are involved in these types of cases. That would also make it consistent with the manner in which we deal with a change in residence.

I think this is a very positive amendment.

● (1730)

The Vice-Chair (Mr. Michael Cooper): Does any other member wish to speak to LIB-20?

I want to ask the officials if there is any basis for the 60-day timeline. Is there a technical issue as to why it's 60 days?

Perhaps, Mr. Ehsassi...?

Mr. Ali Ehsassi: I can't speak to that issue.

Ms. Claire Farid: If there's a technical issue as to why notice is 60 days long...?

The Vice-Chair (Mr. Michael Cooper): Yes. I'm sorry. I should have been clearer.

Ms. Claire Farid: Certainly it's intended to provide sufficient time for someone to consider whether there's a need to provide objections to the notice and to allow for enough time for negotiations in order to prevent, if not necessary, a court application.

The Vice-Chair (Mr. Michael Cooper): Yes. I raised the question because there had been some testimony before the committee about whether that was sufficient time. I just wanted to get clarification as to whether there was a specific basis for that number, or whether that number was arrived at on a policy basis as opposed to some other technical case.

Ms. Claire Farid: It's a policy decision, yes.

The Vice-Chair (Mr. Michael Cooper): Thank you.

Is there anyone else wishing to speak?

(Amendment agreed to [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): As a result, CPC-4 cannot be moved, as well as PV-15 and LIB-21, and that leaves us with CPC-5.

Mr. Dave MacKenzie (Oxford, CPC): Mr. Chair, I think this is somewhat self-explanatory. If someone doesn't receive any written notice, it would deem to be that notice had been given and that consent was then deemed for the relocation.

The Vice-Chair (Mr. Michael Cooper): Is there anyone who wishes to speak?

Mr. Fraser.

Mr. Colin Fraser: I would like to ask the officials if on application a person could ask the court for an extension of the time period in order to have an opportunity to respond to the request to move. Is that something that is possible? If there were a situation where there was a time problem or a delay in getting into court, could they ask a judge to extend the time in those appropriate cases?

Ms. Claire Farid: Certainly because this relates to the best interests of the child, if the court is concerned that sufficient time has not elapsed for the application to be brought, they would certainly have discretion in a particular case to nonetheless hear an application with respect to an objection to notice.

Mr. Colin Fraser: If I may, Mr. Chair, on the 60-day time frame, that notice period, it's my understanding that it's consistent with the notice period in existing provincial schemes that deal with relocation issues for the children. Is that correct?

Ms. Claire Farid: That's correct. In B.C. and Nova Scotia, there are 60 days to provide notice and 30 days to provide an objection by way of application.

Mr. Colin Fraser: Based on what the officials have said, knowing that it's always a balancing act between a parent wanting to move and having the ability to have that adjudicated in a reasonable time frame, knowing that in provinces it's well established that it's a 60-day notice period, and also knowing that there would be an opportunity in those appropriate cases for a judge to extend the time, I think there are enough factors there to persuade me that the 60-day notice period is probably sufficient. Therefore, I'd be voting against the amendment.

The Vice-Chair (Mr. Michael Cooper): Is there any other member wishing to speak?

(Amendment negatived [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): Again, we've dealt with PV-13 as well as LIB-21. We'll now move to amendment LIB-22. If it's adopted, CPC-6 and CPC-7 cannot be moved.

Does any member wish to speak on LIB-22?

● (1735)

Mr. Ali Ehsassi: Thank you, Mr. Chair.

I think this is a very good amendment in the sense that this will permit non-relocating parents the option of responding. It certainly saves them the trouble and expense of having to go to court. Again, this would be by a prescribed form, which I'm very much in favour of, as you know.

I think this is the type of amendment that promotes fairness and access to justice. For that reason, I think it should be supported.

The Vice-Chair (Mr. Michael Cooper): Is any other member wishing to speak on LIB-22?

(Amendment agreed to [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): As a result of the passage of LIB-22, CPC-6 and CPC-7 cannot be moved.

That brings us to LIB-23.

Mr. McKinnon.

Mr. Ron McKinnon: It's withdrawn.

The Vice-Chair (Mr. Michael Cooper): Now we'll move to PV-16.

Is anyone wishing to speak to PV-16?

(Amendment negatived [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): It should be noted that LIB-24 is substantively similar to PV-16.

Is anyone wishing to speak to LIB-24?

Mr. Ron McKinnon: It's withdrawn.

The Vice-Chair (Mr. Michael Cooper): Thank you.

We're now on LIB-25.

Mr. Fraser.

Mr. Colin Fraser: Thank you, Mr. Chair.

This amendment deals with the issue of the double-bind question we heard about from a couple of different witnesses. When a parent is looking to relocate, the act prohibits asking whether or not the person who intends to relocate with the child would relocate without the child. This would make it so that both sides of that question are covered. It appears as though the legislation now is not entirely clear that it would not be barred from asking if the person would either relocate or not relocate without the child.

To cover both sides of that question, this amendment is put forward.

The Vice-Chair (Mr. Michael Cooper): Thank you.

Is any other member wishing to speak?

Mr. McKinnon.

Mr. Ron McKinnon: I have a bit of concern about the wording here. The phrase “if the child's relocation was prohibited” seems a little bit incoherent to me. I'm wondering whether we should change “was” to “were” or else “were to be”. To me, that would clarify the meaning.

I guess I'm asking for any comments on that suggestion.

Ms. Claire Farid: I would say it's an issue of tenses. “Was” assumes that the move has been prohibited, and then the court can't ask, if that were to happen, whether the person would move or not move. “Were to be” is just more forward-looking. It's a tense issue.

Mr. Ron McKinnon: You just said if that “were” to happen, which is my point. This is a conditional query, basically, instead of a definite past tense, as this is currently written.

Let's say I moved an amendment to change “was” to “were”. Would that be a problem in terms of the law in any way? It would make me happy, but I'm just wondering about the law.

Ms. Claire Farid: I would say that the language contained here is standard drafting language. It's a difference in tenses.

Mr. Ron McKinnon: I will move an amendment to change the word “was” to “were” and see if I can sell it here.

The Vice-Chair (Mr. Michael Cooper): Is there any discussion on Mr. McKinnon's subamendment to change “was” to “were”?

Mr. Fraser.

● (1740)

Mr. Colin Fraser: I have nothing but the greatest of respect for my colleague and friend, but I think we should probably stick with the standard drafting language as alluded to by the officials.

The Vice-Chair (Mr. Michael Cooper): Is anyone else wishing to speak to Mr. McKinnon's subamendment?

(Subamendment negatived)

The Vice-Chair (Mr. Michael Cooper): Is there any further discussion on LIB-25?

(Amendment agreed to [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): We'll now proceed to CPC-8.

Mr. MacKenzie.

Mr. Dave MacKenzie: I'll try to get this as clear as I can from the proposer of the amendment. Basically it is to put the responsibility on the person who wishes to make the amendment. The burden is on them to prove that the relocation would be in the best interests of the child. It's all about what's in the best interests of the child, and the person who wants to make the relocation is going to have to make that case to the court that it's in the best interests of the child.

The Vice-Chair (Mr. Michael Cooper): That's correct, and maybe just to elaborate on the intent of the amendment, it's intended to simplify the process with respect to relocation. Under the bill as it is currently drafted, there would be a three-way test. Where there is a shared-parenting relationship, the burden would fall on the parent proposing the move. Where there is an unequal relationship and the child spends very little time with one parent, the burden would fall on the parent who does not spend time with the child to justify why the move should not occur. Then there would be the case of both parties having the burden if there is some sort of arrangement in between, something between a shared-parenting relationship and something on the upper end of the spectrum. It's really intended simply to simplify that, as a general rule, the burden should fall on the parent who is proposing the move except where that parent does not have a real relationship or a significant relationship with the child.

Is there anyone else wishing to speak to that?

Mr. Colin Fraser: Can I just ask the officials?

The Vice-Chair (Mr. Michael Cooper): Yes, Mr. Fraser.

Mr. Colin Fraser: It can get a little bit complicated. I know we heard from witnesses on the burden of proof. Could you just help clarify the burden of proof as it is currently in the bill and what the effect of this amendment would be, please?

Ms. Claire Farid: The burdens as laid out in the bill, the framework, are very similar to what is in the legislation in Nova Scotia. There are three different situations. There's a situation where there's substantially equal time, and in that case the burden is on the person proposing to move. There's the situation where one parent has the vast majority of the time, so there's a clear primary caregiver. In that case the person who is opposing the move has the burden of proof. In those cases in between that are not the clear cases on either end of the spectrum, both parents have the burden to show what's in the best interests of the child.

Mr. Colin Fraser: Thank you.

Is this alluded to in the Gordon v. Goertz case as far as burden goes, or is that totally separate and apart? I'm just wondering, because I know the bill is legislating or codifying the principles from Gordon v. Goertz, but does it talk to burden at all?

Ms. Claire Farid: No, the legislative approach in the bill actually is not consistent with the approach in Gordon v. Goertz. It actually legislates more guidelines than there are in Gordon v. Goertz.

Mr. Colin Fraser: I see. Okay.

Thank you very much.

The Vice-Chair (Mr. Michael Cooper): Thank you.

I should note that if amendment CPC-8 is adopted, amendment LIB-26 by Mr. McKinnon could not be moved.

(Amendment negatived [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): We're on amendment LIB-26.

Mr. McKinnon.

● (1745)

Mr. Ron McKinnon: It's withdrawn.

The Vice-Chair (Mr. Michael Cooper): We're on amendment LIB-27.

Mr. McKinnon.

Mr. Ron McKinnon: This amendment is intended to provide for a prescribed form for notice in the case where a person with contact is proposing a move that would have a significant impact on the child's relationship with that person. Requiring a use of a form prescribed by the regulations would promote clarity by prompting individuals to provide all necessary information in a consistent manner. This is identical to the amendments that were previously made with respect to notice requirements regarding change of residence and location. It would expressly provide that applications for modifications of or exemption from the notice requirements may be made on an *ex parte* basis.

The Vice-Chair (Mr. Michael Cooper): Thank you, Mr. McKinnon.

Does any other member wish to speak?

(Amendment agreed to [*See Minutes of Proceedings*])

(Clause 12 as amended agreed to)

(Clause 13 agreed to)

(On clause 14)

The Vice-Chair (Mr. Michael Cooper): We'll move now to Liberal amendment 28 on clause 14.

Madame Fortier.

Mrs. Mona Fortier: This is just to correctly spell the word "reside" in the English version.

The Vice-Chair (Mr. Michael Cooper): Is there any debate?

(Amendment agreed to [*See Minutes of Proceedings*])

(Clause 14 as amended agreed to)

(Clauses 15 to 21 inclusive agreed to)

The Vice-Chair (Mr. Michael Cooper): Clause 22 and Liberal-28.1 has already been adopted, moved by Mr. Housefather.

(Clauses 23 to 30 inclusive agreed to)

(On clause 31)

The Vice-Chair (Mr. Michael Cooper): We move to clause 31 and we have Liberal amendment 29.

Mr. Ali Ehsassi: Thank you, Mr. Chair.

That is merely a housekeeping matter. It's not a substantive change. Anyone who reads the previous version will note that it was missing a verb, so I think it would do us good to support this.

The Vice-Chair (Mr. Michael Cooper): Thank you, Mr. Ehsassi.

(Amendment agreed to [*See Minutes of Proceedings*])

(Clause 31 as amended agreed to)

(Clauses 32 to 45 inclusive agreed to)

(On clause 46)

The Vice-Chair (Mr. Michael Cooper): There is Liberal amendment 30.

Ms. Khalid.

● (1750)

Ms. Iqra Khalid: Thank you, Chair.

This is basically a technical amendment that would ensure that the correct word is used by changing "subparagraph" to "paragraph", just for the sake of clarity.

(Amendment agreed to [*See Minutes of Proceedings*])

The Vice-Chair (Mr. Michael Cooper): We will now proceed to Liberal-31.

Ms. Khalid.

Ms. Iqra Khalid: Again, this is a technical amendment. This amendment would ensure that the punctuation is consistent among the relevant subparagraphs, as noted.

(Amendment agreed to [*See Minutes of Proceedings*])

(Clause 46 as amended agreed to)

(Clauses 47 to 64 inclusive agreed to)

(On clause 65)

The Vice-Chair (Mr. Michael Cooper): Now we are on clause 65 and we have Liberal amendment 32.

Mr. McKinnon.

Mr. Ron McKinnon: Thank you, Chair.

This amendment ensures compatibility with similar provisions in the harmonization initiative. It adds the word "or" and a comma, and doesn't change the meaning of the provision. It's just a technical amendment.

The Vice-Chair (Mr. Michael Cooper): Is there any discussion on LIB-32?

(Amendment agreed to [*See Minutes of Proceedings*])

(Clause 65 as amended agreed to)

(Clause 66 agreed to)

(On clause 67)

The Vice-Chair (Mr. Michael Cooper): We have Liberal amendment 33.

Mr. Fraser.

Mr. Colin Fraser: I'll speak to it, but it's pretty well the same change that was made a moment ago on LIB-32 by adding consistency with the harmonization initiative. It's a technical amendment.

The Vice-Chair (Mr. Michael Cooper): Thank you.

Is there any discussion on LIB-33?

(Amendment agreed to [*See Minutes of Proceedings*])

(Clause 67 as amended agreed to)

(Clauses 68 to 88 inclusive agreed to)

(On clause 89)

The Vice-Chair (Mr. Michael Cooper): We have Liberal amendment 34.

Madame Fortier.

Mrs. Mona Fortier: Thank you very much.

This also would ensure compatibility with a similar provision in the harmonization initiative.

The Vice-Chair (Mr. Michael Cooper): Is there any discussion on Liberal-34?

(Amendment agreed to [*See Minutes of Proceedings*])

(Clause 89 as amended agreed to)

(Clauses 90 to 97 inclusive agreed to)

(On clause 98)

The Vice-Chair (Mr. Michael Cooper): We will now proceed to clause 98 where we have Liberal amendment 35.

Mr. Ehsassi.

Mr. Ali Ehsassi: Mr. Chair, thank you for allowing me to speak to that.

Much like the previous amendment, this is a compatibility amendment as well. In this particular instance it's to ensure that the provisions on the recovery of an overpayment are compatible with similar provisions in the harmonization initiative.

If you look at those changes, adding the word "or" or the comma that follows will not change the meaning of the provision.

● (1755)

The Vice-Chair (Mr. Michael Cooper): Thank you.

Is there any discussion?

(Amendment agreed to [*See Minutes of Proceedings*])

(Clause 98 as amended agreed to)

(Clauses 99 to 113 inclusive agreed to)

(On clause 114)

The Vice-Chair (Mr. Michael Cooper): We have one amendment, Liberal-36.

Mr. McKinnon.

Mr. Ron McKinnon: Again, this is a technical amendment to do with the harmonization initiative.

The Vice-Chair (Mr. Michael Cooper): Is there any discussion?

(Amendment agreed to [*See Minutes of Proceedings*])

(Clause 114 as amended agreed to)

(Clauses 115 to 125 inclusive agreed to)

(On clause 126)

The Vice-Chair (Mr. Michael Cooper): We have one amendment, Liberal-37.

Mrs. Mona Fortier: We need to pause for a second.

Mr. Arif Virani (Parkdale—High Park, Lib.): Could we get some clarification? What is LIB-37?

Ms. Elissa Lieff: It's the coming into force provision for Liberal amendment 28.1.

Mrs. Mona Fortier: I'll move it.

The Vice-Chair (Mr. Michael Cooper): Okay.

Is there any discussion?

Madam Fortier, would you like to speak to it?

Mrs. Mona Fortier: I think it's pretty clear already. We spoke to it at the beginning.

Mr. Colin Fraser: We've already heard about the coming into force in the different jurisdictions.

Mrs. Mona Fortier: Exactly.

The Vice-Chair (Mr. Michael Cooper): Is there any further discussion?

(Amendment agreed to [*See Minutes of Proceedings*])

(Clause 126 as amended agreed to)

(Schedules 1 and 2 agreed to)

The Vice-Chair (Mr. Michael Cooper): Shall the title of the bill carry?

Some hon. members: Agreed.

The Vice-Chair (Mr. Michael Cooper): Shall the bill as amended carry?

Some hon. members: Agreed.

The Vice-Chair (Mr. Michael Cooper): Shall the chair report the bill as amended to the House?

Some hon. members: Agreed.

The Vice-Chair (Mr. Michael Cooper: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Vice-Chair (Mr. Michael Cooper): That's a good idea.

With that, the meeting is adjourned.