Fifth Session – Forty-Second Legislature

of the

Legislative Assembly of Manitoba

Standing Committee on Legislative Affairs

Chairperson
Mr. Dennis Smook
Constituency of La Vérendrye

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MANITOBA LEGISLATIVE ASSEMBLY
Forty-Second Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS

Tuesday, May 9, 2023

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Dennis Smook (La Vérendrye)

VICE-CHAIRPERSON – Mr. Ian Wishart (Portage la Prairie)

ATTENDANCE – 6 QUORUM – 4

Members of the committee present:

Hon. Mr. Johnson, Hon. Ms. Squires.

Mr. Brar, MLA Fontaine, Messrs. Smook, Wishart

APPEARING:

Hon. Jon Gerrard, MLA for River Heights

PUBLIC PRESENTERS:

Bill 23–The Vulnerable Persons Living with a Mental Disability Amendment Act

Jessica Croy, People First of Manitoba
Tomas Ponzilius, private citizen
Sharon McIlraith, private citizen
Twila Richards, private citizen
Dale Kendel, private citizen
Debra Roach, Family Advocacy Network of Manitoba
Amy Shawcross, Community Living Manitoba

Bill 31–The Animal Care Amendment Act (2)

Brenna Mahoney, Keystone Agricultural Producers (by leave)
Cameron Dahl, Manitoba Pork Council (by leave)

Bill 32–An Act respecting Child and Family Services (Indigenous Jurisdiction and Related Amendments)

Doreen Moellenbeck-Dushnitsky, Dakota Ojibway Child and Family Services
Trudy Lavallee, Animikii Ozoson Child and Family Services Inc.
Sherry Gott, Manitoba Advocate for Children and Youth

WRITTEN SUBMISSIONS:

Bill 23–The Vulnerable Persons Living with a Mental Disability Amendment Act

Suzanne Swanton, Continuity Care Inc.

Bill 31–The Animal Care Amendment Act (2)

Kaitlyn Mitchell, Animal Justice

Bill 32–An Act respecting Child and Family Services (Indigenous Jurisdiction and Related Amendments)

Joshua Nepinak, private citizen
Bert Crocker, private citizen

MATTERS UNDER CONSIDERATION:

Bill 23–The Vulnerable Persons Living with a Mental Disability Amendment Act

Bill 31–The Animal Care Amendment Act (2)

Bill 32–An Act respecting Child and Family Services (Indigenous Jurisdiction and Related Amendments)

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Clerk Assistant (Ms. Katerina Tefft): Good evening. Will the Standing Committee on Legislative Affairs please come to order.

Before the committee can proceed with the business before it, it must elect a Chairperson.

Are there any nominations?

Hon. Derek Johnson (Minister of Agriculture): MLA Smook, please.

Clerk Assistant: Mr. Smook has been nominated.

Are there any other nominations?

Hearing no other nominations, Mr. Smook, will you please elect a Chair–take the Chair.

Mr. Chairperson: Our next item of business is the election of a Vice-Chairperson.

Are there any nominations?

Mr. Johnson: I would like to nominate MLA Wishart.

Mr. Chairperson: MLA Wishart has been nominated.

Are there any other nominations?

Hearing no other nominations, Mr. Wishart is elected Vice-Chairperson.

This meeting has been called to consider the following bills: Bill 23, The Vulnerable Persons Living with a Mental Disability Amendment Act; Bill 31, The Animal Care Amendment Act (2); Bill 32, An Act respecting Child and Family Services (Indigenous Jurisdiction and Related Amendments).

I would like to inform all in attendance of the provisions of our rules regarding the hour of adjournment. A standing committee meeting to consider a bill must not sit past midnight to hear public presentations, or to consider clause by clause of a bill, except by unanimous consent of the committee.

Written submissions. Written submissions from the following persons have been received and distributed to committee members: Suzanne Swanton, Continuity Care Inc., on Bill 23; Kaitlyn Mitchell, Animal Justice, on Bill 31; Joshua Nepinak, private citizen, on Bill 32.

Does the committee agree to have these documents appear in the Hansard transcript of this meeting? *[Agreed]*

Prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in a committee. In accordance with our rules, a time limit of 10 minutes has been allotted for presentations with another five minutes allowed for questions from committee members. Questions shall not exceed thirty seconds in length, with no time limit for answers. Questions may be addressed to presenters in the following rotation: first, the minister sponsoring the bill; second, a member of the official opposition; and third, an independent member.

If a presenter is not in attendance their name–when their name is called, they will be dropped to the bottom of the list. If a presenter is not in attendance when their name is called, they will be dropped to the bottom list–sorry, just read that. If the presenter is not in attendance when their name is called a second time, they will be removed from the presenters' list.

The proceedings of our meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it be an MLA, or a presenter, I first have to say the person's name. This is the signal for the Hansard recorder to turn the mics on and off.

Order of presentations. On the topic of determining the order of public presentations, I won't–note that we do have out-of-town presenters in attendance, marked with an asterisk on the list.

When–with these considerations in mind, then, in what order does the committee wish to hear the presenters?

Mr. Johnson: I would–if it's the will of the committee, we would listen to out-of-town, in-person representatives first–or, presenters.

Mr. Chairperson: Is that the will of the committee? *[Agreed]*

With the will of the committee, we'll then consider the out-of-town presentations first–oh, in person–out-of-town, in-person presentations first.

Thank you for your patience. We will now proceed with public presentations.

Bill 23–The Vulnerable Persons Living with a Mental Disability Amendment Act

Mr. Chairperson: I will now call Ms. Jessica Croy, People First of Manitoba. Is Jessica present?

Is it the will of the committee to recess for a few minutes 'til we bring those people up from the front door, or should we–

An Honourable Member: Could we continue on to out-of-town presenters? There's only three, so she'll get right back in there.

An Honourable Member: I would say let's just keep going.

Mr. Chairperson: Okay. It is the will of the committee that we keep going.

So, we will now move on to Mr. Dale–sorry.

Bill 32–An Act respecting Child and Family Services (Indigenous Jurisdiction and Related Amendments)

Mr. Chairperson: Would Doreen Moellenbeck-Dushnitsky from the Dakota Ojibway Child and Family Services be here?

Is Mr. Bert Crocker in the room?

Then we will go back to–that was the out-of-town presenters.

Bill 23–The Vulnerable Persons Living with a Mental Disability Amendment Act
(Continued)

Mr. Chairperson: We will now go back to Bill 23.

Mr. Dale Kendel. Is Mr. Dale Kendel available? Mr. Dale Kendel's name will be moved–okay. Mr. Dale Kendel is not here, so we will move him to the bottom of the list and then we will call him at a later time.

Ms. Debra Roach, Family Advocacy Network of Manitoba. Is Debra available? Ms. Roach is not available, so her name will be dropped to the bottom of the list.

Ms. Amy Shawcross. Is Amy Shawcross available? Ms. Amy Shawcross from Community Living Manitoba will be dropped to the bottom of the list.

Ms. Jessica Croy is not in the room yet–*[interjection]*–she's online? Ms. Croy, are you available?

Jessica Croy (People First of Manitoba): Here I am.

Mr. Chairperson: Ms. Croy, you may proceed with your presentation when you are ready.

J. Croy: Okay. Here we go.

Hi, my name is Jessica. Can you guys hear me?

Can you guys hear me?

Mr. Chairperson: Yes, we can hear you, Ms. Croy.

J. Croy: Okay.

My name is Jessica Croy, and I am here on behalf of People First of Manitoba. Thank you for the opportunity to let me speak.

We at People First agree that the–on the labels on the vulnerable persons act need to change.

***** (18:10)

People First has always stood by we are people first, and disability second. We–sorry. We believe that if People First–oh. People First believes that it should be called people labelled with an intellectual disability, instead of just intellectual disability.

Now I'm going to be talking about substitute decision makers. People First believes that people should have the right to make their own choices. We understand when there is certain circumstances where substitute decision makers should be brought in, but that should be the last resort, not the first–one of the first options. Supported decision making should be encouraged.

I think that's all I have. I believe that's all I have.

Mr. Chairperson: We thank you for your presentation, Ms. Croy.

We will now have–the honourable–*[interjection]* Oh, yes. We'll now move into a five minute of question period.

Hon. Rochelle Squires (Minister responsible for Accessibility): I just want to say thank you to Jessica for your presentation tonight.

It's–it takes a lot of bravery and courage to come to committee. We know that this is not an easy process, and I just admire your courage and your tenacity for continuously advocating on behalf of people with disabilities.

And I see so much of the work that you've done is now being reflected in legislative changes, in policy changes for the way the Manitoba government and all Manitobans regard people with disabilities. So I just want to once again thank you for your tenacity and your advocacy and for coming to committee tonight, for your bravery.

Mr. Chairperson: Did you have a response to that, Ms. Croy?

J. Croy: Thank you very much.

MLA Nahanni Fontaine (St. Johns): I just wanted to say–reiterate what the minister was speaking about, that it does take a lot of courage to come and present in front of a bunch of strangers in the Manitoba Legislative Assembly. And so I just want to say miigwech to you for your advocacy and for all of the work that you do.

Miigwech. Thank you.

Hon. Jon Gerrard (River Heights): Jessica, thank you very much for appearing tonight by Zoom, and managing it and making a really good presentation.

And you made an important point, that substitute decision makers shouldn't be the last resort. They should be the–only at the end, and the first option should be talking with people like yourself, who have a disability but who can make up their own minds about lots and lots of things.

So, thank you.

Mr. Chairperson: My apologies, Ms. Croy, I did not give you the opportunity to respond to MLA Fontaine, so you may respond to both now.

J. Croy: And again, I would just say thank you to both.

Mr. Chairperson: Are there any further questions?

Mr. Diljeet Brar (Burrows): Ms. Croy, I just wanted to say thank you for exercising your right, this democratic right. I appreciate you presenting today.

Thank you.

J. Croy: Again, thank you.

Mr. Chairperson: Are there any further questions?

Ms. Croy, we would like to thank you for your presentation.

And we will now move on to the next presenter. Mr. Tomas Ponzilius. Tomas?

Do you have any written material for the committee? Is–*[interjection]* Okay, you may proceed with your presentation whenever you are ready.

Tomas Ponzilius (Private Citizen): Good evening.

My name is Tomas Ponzilius. I am grateful for this opportunity today to speak to you about Bill 23, The Vulnerable Persons Living with a Mental Disability Amendment Act.

I'm here to present as someone with lived experience because I was born with certain specific learning disabilities. I was born with non-verbal learning disorder, auditory processing disorder and dysgraphia. I am also here to represent others with other specific learning disabilities such as dyslexia, dyscalculia, language processing disorder and visual perceptual disorder.

I would like to thank you for your dedication and hard work in developing this bill amendment. However, I feel tonight, while an accomplishment, is, in my opinion, a series of missed opportunities.

People with learning disabilities and community organizations that represent us consist of some of the largest communities in Canada. These statistics come from Stats Canada and the Ontario provincial government. I am not pulling from Manitoba's provincial government, because Manitoba has never independently assessed its own population.

The median measurement is approximately 8 per cent. This would then mean about 100,000 Manitobans have learning disabilities. If this is true, then this statement means that there are more people with learning disabilities in Manitoba than all other disabilities combined.

Again, this is not my opinion, but a combined assessment of multiple institutions. Yet we remain not consulted, with the only opportunity provided, this public session.

Now, when decisions are made, resources are often consulted. Well, resource distribution must consult the size of a population and its needs. Those are the two primary measurements. Had this been conducted, people with learning disabilities, since we are some of the–since we are the largest and some–and have some of the most complex needs, would have been consulted.

We may have then received an independent attention in the amendment, not lumped together with all other disabilities. Learning disabilities are very much their own separate neurological series of disorders. Again, a missed opportunity.

After careful review of the community groups consulted, it was of interest to note that the largest group that represents people with learning disabilities, the Learning Disabilities Association of Manitoba, was not consulted. While there were other groups, none of them specialize in this neurology that affects, again, about 100,000 Manitobans. A missed opportunity.

***** (18:20)

I am the sole person with learning disabilities with lived experience here. While I'm accomplished in my willingness to advocate and strive against systemic inequalities, these accomplishments come at a willingness to study complex neurology and be my own lawyer.

My expertise in law comes from having to study the Manitoba Human Rights Code and its various clauses and its relevant precedents, all on my own, without assistance. I'm someone who's struggling to learn, who's expected to learn things. There is an irony in this.

The norm, though, is very much more tragic than what I described for myself, though. The norm is a high drop-out rate in post-secondary and college. The norm is an above-average rate of incarceration. The norm is an above-average rate–an above-average suicide rate.

The norm is no public attention; not a single public awareness campaign–not one–goes to the

largest group. The norm is challenge–is the challenges in integrating in every major public institution.

The norm are parents of children left to be their own children's lawyers and neurologists, simultaneously while working full time. And then, their children are expected to do the same for the rest of their lives somehow.

The norm are adults with learning disabilities abandoned by society and left to the wolves, neither wanted by academia or employers, neither valued by the general public or the provincial government.

However, I feel that personal stories are an excellent way to highlight endemic, systemic problems. Local stories. I'd like to highlight some examples during the fall and winter terms of 2021 to 2022 at the University of Winnipeg.

I had one professor who insisted that I would be laughed at by my classroom–he was–he is tenured, has worked there for over a decade–because I would ask questions. This was not 50 years ago, this was in 2021.

Another professor believed he had the authority to instruct me not to go to disability services. My response? Well, fortunately, I knew that I was expected to be a lawyer, so I contacted the university's human rights lawyer and made it very clear that there were some serious breaches occurring.

The follow-up was, at least in one situation, a formal apology by my university. I have about five of them from just the last three years. These terms were not cherry-picked; it is about 20 per cent–one in five.

And this is not limited. Physicians? Well, I have–unless it's written down–so, unless a speech is written down like I have tonight, my thoughts, well, can be very disorganized. They can be, at times, really challenging to make sense of. So, physicians–well, since they have no training and no willingness to, I'm left to figure out, how do I–again, learn how to teach them complex neurology and then express health needs. I feel there is an irony somewhere hidden in there.

The only resolution, as I've said, that seems to work constantly is the Manitoba Human Rights Code, since there are no other enforcement mechanisms available. The norm in general is systemic. This is why I feel to not consult us was a missed opportunity.

We need procedures and policies that ensure that we can interact with every institution within the province of Manitoba. For example, we need professors to be mandated to comply with guidelines that were published, I believe, in 2012 by the Province of Manitoba but are not mandated. Therefore, professors can simply refuse, and there's nothing I can do about it. The answers are there, but not the policy.

We need our public health institutions to incorporate our challenges with learning to ensure that our need sets are met. What that could look like is having every physician be able to explain every condition two or three ways.

I'm entering hopefully, eventually, a graduate program in–a graduate program. I need to be able to explain things in multiple ways to different clients. This is an expectation, and shouldn't it be an expectation for our physicians? Our professors? Our teachers?

Other–we need–overall, though, if this isn't done, we see overall worse health outcomes, because they will not talk to you. They will simply not go to the doctor.

We need public education campaigns so that when I tell people I have learning disabilities, or what I've described to you today, people don't think it's a rare disease. It is not rare; 8 to 10 per cent is statistically significant. Significant starts at about 5 per cent and moves upwards. We are nearly–and some measurements place us double that. And yet, when I say these words, most don't know what I'm talking about. It is challenging; it is like I am a ghost that some don't believe even exists. Yes, I talk well, but try and teach me.

We need resources to stop only considering IQ as the primary measurement. This has been disregarded in academia for decades. We know executive function, which is the primary measurement that these resources should be considering, is not evaluated. IQ is irrelevant. IQ measurers IQ, and only IQ. It's very clearly defined.

But, well, what did I do? Fortunately, I had a parent who made an above-average income of nearly $100,000 to assist me. Let's keep in mind the median income in Manitoba is $50,000.

That would then include expanding programs like the Community Living disABILITY Services. IQ is wrong, it has been wrong for decades and it needs to stop being used.

But, what happens when we don't get our services met? Well, how do you go to work when you can't get to work on time? We're saying an hour worth of hiring someone, to get someone working full-time, could get

someone maybe making that median income of $50,000.

Why? Because our IQ is average–so, about 100–and higher. I have severe learning disabilities; I don't think any member of this room would think that I have a low IQ. But yet, they are moderate to severe when evaluated–

Mr. Chairperson: Unfortunately, Mr. Ponzilius, your 10 minutes for your presentation has expired. We'd like to thank you for your presentation and we will move on to questions.

Do members of the committee have questions?

Ms. Squires: First of all, I want to say thank you to Mr. Ponzilius for coming in and making your presentation, and it is very unfortunate that you've had some of the unfortunate experiences that you've had in your university, in your academic career and in society.

And it just really highlights the areas of opportunity and ways that we need to expand and move upon in ensuring that everybody can live equally and freely in the province of Manitoba.

This bill, specifically, was in–to address legislation that was brought in force 26 years ago called The Vulnerable Persons Living with a Mental Disability Act, and we had struck a task force–*[interjection]* Oh, okay.

Anyway, thank you for your presentation.

Mr. Chairperson: Mr. Ponzilius, did you wish to respond to the minister?

T. Ponzilius: Yes, I would.

The task force, while a valued effort, focused on IQ. This was–this is the crux of my criticism. In brief, if I might have 10 seconds to add something, to not–to make the claim that all disabilities are consulted, when the largest group is not–may I remind all party members it is a violation of The Human Rights Code.

It is, put simply, a false claim. Narrow the definition. Do not say it's all disabilities, because IQ is not us. We won't fall under an IQ–an assessment. It's a neurological assessment. They are–well, it's like, you know, civil law versus criminal law. They're just different categories.

I speak to you as knowing many of you are lawyers.

Thank you.

MLA Fontaine: Miigwech for your presentation tonight, Mr. Ponzilius.

I am curious, you've mentioned consultation a couple of times, and you did note that in respect of this particular legislation that we're talking about this evening, that there wasn't consultation with some of the biggest advocacy and agencies.

I'm interested from your perspective and your lived perspective: What kind of consultation would you like to see? Like, how would you like to see that unfold? Which would be the most meaningful for you?

Floor Comment: Yeah, I have 10 seconds to–

Mr. Chairperson: Yes, Mr. Ponzilius, you have time to respond, whatever it takes you to respond is fine.

***** (18:30)

T. Ponzilius: Ideally, if budget were not a concern, there are, and there have been, studies that show that things like executive function can be improved–multiple studies. You can teach these skills.

What did I do? So, I couldn't understand what I was reading. You can–and one of my–sorry, who would you consult? The Learning Disabilities Association of Canada? Learning Disabilities Association of Manitoba? Neurologists who specialize in this–because not all of them do, and many will make the–it–you know, so this is the other challenge. And then, likely, sociologists, to understand how we blend into those systems.

But I would say that one of the biggest challenges is that a lot of the accommodations I'm requesting are very minimal. I mean, if it comes down to it, I ask a professor: Can I ask more questions in class? Others are fine with it. My university says it's fine. He says no. What am I left to do? If he budges–he won't. I have to go to their lawyer because there's no other avenue.

Disability services isn't mandated to know about learning disabilities. So, essentially, we're simply unknown.

So, I'd say part–so one part of the solution: contact neurologists, sociologists and–who specialize. And those two organizations would be excellent examples. Speak to someone like me. Consider that if I am here, I am more than likely willing to be a willing and compassionate party to complex political mechanisms.

But one of the problems is that they're just weak enforcement mechanisms. It is like speeding. Imagine

if you sped, and the only way to stop a speeder is if another driver reported a speeder to the police. It's–this is what's left. I have gotten every accommodation. I've spent thousands of hours. Right now, I have accused the University of Winnipeg of systemic breaches. I've filed a human rights complaint in addition to the law school administration council. And this isn't new. What I–my accusations aren't novel. It appears that these are well sped–and well understood.

Did you know, for example, that the law schools many of you have come from do not recognize our laws in any province–in any? It shocked me, and I ask, how is that legal? Well, the law schools have replied, and their response was simply, well–

Mr. Chairperson: Unfortunately, Mr. Ponzilius, our five minutes for questions has expired.

We'd like to thank you very much for your presentation, and we will now move on to the next presenter. Thank you.

I will now call on Sharon McIlraith. I–if I'm not pronouncing your name right, please correct me. Sharon? Sharon McIlraith, are you online? Sharon McIlraith, are you there? If you could please turn on your camera and your sound, your audio.

Sharon McIlraith (Private Citizen): There we are.

Hello, can you hear me?

Mr. Chairperson: Yes, we can hear you.

You may proceed with your presentation as soon as you are ready to do so.

S. McIlraith: Thank you so much, Sir.

Good evening. My name is Sharon McIlraith. I am a parent of a neurodiverse individual.

Changing wording in the act to remove the terms vulnerable persons and mental disability with intellectual disability–the scope of the act is narrowed to limit its application to people with IQ 75 or lower. Intellectual disability is precisely defined in the DSM-5 and must include both deficits in intellectual functioning and deficits or impairments in adaptive functioning.

Intellectual disability is becoming an internationally recognized term. But, while the removal of the term mental disability has been recommended to reduce confusion with the term mental illness, its replacement with the term intellectual disability narrows the scope of the act to a population that comprise about 1 per cent of the population.

There are several problems with using intellectual disability as it is currently defined as a criterion for providing services to people who are vulnerable by virtue of their disability.

(1) Intellectual functioning is assessed based on IQ, usually a score under 70. IQ scores have a well-documented failing because they are an average number. Extreme deficits in some of its component indices are hidden.

(2) Some people cannot function in society without support if they are lacking intellectual functioning or adaptive functioning. Intellectual disability requires deficits in both.

(3) It assumes that the 1 per cent of the population diagnosed with an intellectual disability are the only people needing support. An entire population of people who are unable to function on their own practically or socially are not included in this bill and will now be further excluded by the use of the narrowly defined term intellectual disability. These people are now becoming known as neurodiverse people. People who have diagnosises of, for example, dyslexia, autism, ADHD, FASD, tic disorders, learning disorders and there are more.

Because many of these individuals have a high IQ, they are excluded by the term intellectual disability in this bill and other areas, including CLDS. Their high IQ does not mean they can function in life, since they are often lacking executive functioning. Executive functioning determines when a person can eat, sleep, cook, dress, problem-solve and much more–just live.

My child, of whom Dr. Gerrard has spoken, and who has a high IQ, spent a winter homeless due to his low executive functioning/adaptive functioning. He has been unable to keep a job, having lost three jobs to date, including a volunteering position. He often does not eat for days at a time, not showering and often not leaving his apartment for days. He has recently accidentally overdosed twice on his medication, and we have had several emergency room visits as a result. He then has gone several days without medication until the next batch is ready, making him volatile, depressed and totally non-functional. Recently, he did not eat for three days, and when we found him and got him to eat, he was violently ill for days because his stomach was unable to handle food.

His apartment is full of dirty dishes, and when he can no longer use the counter, sink or stove, he stops

eating, being too overwhelmed and anxious to clean up. Often, his toilet remains unflushed, dirty laundry accumulates everywhere, garbages overflowing and scattered, causing an outbreak of flies and who knows what else in his living space. Again, he is too overwhelmed to clean, and he spends his time in bed and retreats. He does not take care of his hygiene and often is dirty and smelly.

He has mismanaged his bank accounts to the point where we have had to go to his bank management to fix it. We get phone calls in the middle of the night and have to go help.

In short, we have become his support workers, having to help and guide him to do any task in life. Why? Because he does not count. Because he is thrown out. What happens when we die? He will again likely be homeless. That is our biggest fear as parents. The system has set him up to fail as an adult. Support was there throughout his childhood and through grade school. At 18, support completely disappeared. The system dumped him.

We fought to get him registered for EIA disability, as he could not get it himself. He cannot manage any appointments, including doctors and even picking up his own medication without help. Even on EIA disability, he must prove every two years that he still has a disability that he has had since birth.

Virtually every service and organization says that he must be eligible for CLDS. He is not, because he does not check the intellectual disability box. With support, he can take care of himself. Our son can function with help, as evidenced by what he has accomplished. With supports as a child, he sang in choirs, including nationally, graduated high school and raised over $70,000 for Winnipeg Harvest.

We as a family should not be his support worker. He needs help. As I mentioned, what happens when we die? He is a human being who deserves better.

It is good that we are updating the act in question. But words matter. Choosing words like intellectual disability with this incredibly narrow focus to replace outdated ones continues the dangerous trend of exclusion of individuals for support and services. This is the opposite of the oft-stated goal of inclusion.

I ask that you please consider ensuring that this act include neurodiverse people like my son, like many other sons, like many other daughters, like many other humans of families like ours, who would contribute so much to this society if they had the support that they needed.

Our son has goals and dreams like so many his age. His friends are on to jobs, further education and so could he, if he were given the chance.

* (18:40)

I thank you very much for your time today in hearing me and, as a family, we thank you. We have had this lived experience for many years now, and our son, as I said, spent his time homeless last–not last winter, the winter before, and we have been through every agency that there is in the city, and every agency has told us that he is not eligible for anything.

Right now, he is living on his own, in his own apartment, and he's not functioning. Without our support, he does not function. We have to go there and say to him, can we please do a dish? Can we please get you to the doctor? Can we please go pick up your medication? How about let's go get you some groceries?

If he were given the chance to have a worker that could come in there and help him do those, he could go to university. He is brilliant. He graduated high school with honours. He could, but he's not functional in life. Just because he has a really high IQ and he's brilliant does not mean he can function in life.

So, we ask that you please, please support families like ours, support us in helping him, support other people who need the help, because we all need the help.

Again, I'll go back to what I said in the beginning. Intellectual disability. The scope of the act is narrowed to limit its application to people with IQ 75 or lower. In my home province of Newfoundland and Labrador, they have gotten rid of that. They have recognized that people are people and they are human, and they deserve dignity and respect, and that is all we are asking. We are asking for people who are neurodiverse to be given the dignity and respect, to be treated as the human beings that they are.

Thank you.

Mr. Chairperson: We thank you for your presentation.

We will now move to questions.

Ms. Squires: So, I want to thank you very much for coming here and not only advocating for your family but for all neurodiverse individuals in the province of Manitoba. And, of course, we recognize that there is definitely more work to be done.

One thing I am very pleased to be able to inform you is that our government, as of April 1st, did change the qualifications for the disability income support program and certainly hopeful that, after April 1st, that your son will not need to come in and requalify for disability income support. *[interjection]*

Mr. Chairperson: Ms. McIlraith, did you have a response to the minister. *[interjection]* Ms.–yes, Ms. McIlraith, you may proceed now.

S. McIlraith: Thank you, Minister Squires, for your comment.

Unfortunately, he is not eligible. We do have that application right here at home, and it says that all the people on EIA who were CLDS were grandfathered in, and everyone else has to go through a medical assessment with no guarantee that he will be accepted.

Again, it is–seems to be dependent on IQ.

MLA Fontaine: Miigwech for your presentation.

I appreciate you sharing with the committee the journey that your family is going through. I know that that's not easy, and certainly everybody in the room can hear and feel the fear that you have. You've said it a couple of times, you know, what happens once you pass. So, I do want to say miigwech for that.

I am interested how old your son is, and you were saying that every resource that you've gone to has not been able to offer you any type of resource or support–

Mr. Chairperson: MLA Fontaine, sorry.

S. McIlraith: Yes, I would like to respond.

Miigwech, Ms. Fontaine, for your kind words.

He is 20. Oh, actually, he will be 20 on June 20th–June 14th.

And, yes, we have gone to every resource and every service and every agency, and we have all been denied because of his IQ.

Mr. Gerrard: Thanks so much, Sharon. You know, you've got quite a story with your son.

One of the things that people don't often understand is that when you have an IQ test, there are different sections. And so, somebody could score 160 on one and 20 on the other and they might be averaged out at 80, which is above 75.

But clearly, when somebody's so bad that they're 20 on part of the IQ test, that they really–the IQ test doesn't tell you what you really need to know.

S. McIlraith: Yes, I would like to respond.

Thank you, Dr. Gerrard, for your kind words.

Yes, he scored like 98 percentile on some parts of the IQ tests, which were like verbosity, intellect, academically, but when it came to functioning and executive functioning, adaptive functioning and life skills, he scored 6–I'll hold up my fingers–6 per cent. And because it's a mean average that's taken, then it put his average too high to be eligible for CLDS and that is the problem; the criteria takes a mean average.

And there's that term again, that intellectual disability. And the IQ 75 or lower.

Mr. Chairperson: Are there any further questions?

MLA Fontaine: I appreciate you mapping out for us in respect of all of the percentile and all of that.

I'm wondering: Have you personally reached out to the department or to the minister to see how to attempt to kind of rectify what clearly is a gap here because of the way that the system is set up? But are–have you been able to do that?

S. McIlraith: Yes. In the few seconds that I have left, we have met with a Cabinet minister for mental health, we have reached out to Minister Squires, and we've received letters saying that the criteria is not going to be changed.

Mr. Chairperson: We thank you for your presentation, Ms. McIlraith, and we will now move on to the next presenter.

I just wanted to inform the committee that it is 30 seconds for questions. I did read it out at the beginning when I was reading through the script. I've had this issue at a couple other committees where 30 seconds does not seem to be a lot of time, but that is nothing that I can do. I may have even given you guys a few extra seconds, but–my apologies, but there's–that's just what's happening here.

We will now move on to the next presenter, Ms. Twila Richards. Is Twila Richards present? Do you have any written material for the committee? Then you may proceed with your presentation when you are ready.

Twila, please proceed.

Twila Richards (Private Citizen): I'm Twila Richards from Right to Read Manitoba, and vice-president of Manitoba Teachers for Students with Learning Disabilities. I'm here to advocate for those who have learning disabilities, or LDs.

Under the Manitoba Human Rights Commission, or MB HRC, those who have LDs are protected. The following quote is how: Discrimination is treating a person differently to their disadvantage where it is not reasonable to do so on the basis of their mental disability. Discrimination demeans a person's individual worth and dignity and is prohibited in employment, services available to public, contracts and housing.

I believe in education, as it creates understanding and compassion. Please let me explain to you the term disability. It is a physical or mental condition that limits a person's movements, senses or activities. Synonyms include disorder and impairment. Disorder means state of confusion and impairment is a state or fact–or faculty or function being weakened or damaged.

I bring these terms up, as LDs are described as the following in the DCM-5 *[phonetic]*: specific learning disorder with impairment in reading, written expression and math, which are dyslexia, dysgraphia and dyscalculia, respectively.

We can't negate or ignore or put shame on the struggles of people who have LDs. Yes, they can learn; it will take time and they will always struggle, even when they become literate. Diagnosis is clinical, but treatment of LDs relies on having proper education best suited for their needs. I started Right to Read Manitoba by contacting the Manitoba–or, MB HRC, as I was tired as an individual, a parent and a teacher.

* (18:50)

For too long I have met many individuals, from youth to adults, with LDs who have fallen through the cracks. Those who are not taught properly are often functionally illiterate or even illiterate. These intelligent individuals are then expected to be productive members of society. But how can you get a good job if you can't keep up with the reading and writing?

I have no issues with the term disability, because I've seen many of my heroes of mine have disabilities. They struggled with an ability to do things; it didn't mean that they couldn't, but it–they had a hard time doing so. Terry Fox, for example, didn't let his disability stop him from running almost halfway across Canada.

My grandfather, having polio after World War II, still rigged up his van to be able to drive it around and climbed up onto a roof with his arms to help shingle. I also want to say he taught from his wheelchair.

My cousin is deaf, and I am always impressed that he can hear in a busy or loud room much better than I can, as he lip-reads so well.

Another cousin who is cognitively impaired, learned to read and spell with ease to me. Or my children who struggle to learn to read, spell, write and do math, create the best fantasy stories. All of my heroes have worked hard to be able to do things able people don't have to worry about.

There's no shame in having a disability; the shame comes from how those who have disabilities are treated. Discrimination needs to end. Students, there's no shame in having an LD. It's as–as every superpower has its kryptonite.

Let's understand why LDs are referred to as mental disabilities. Let's make one thing very clear right now from the start: most people with LDs are average to–or above average or even genius level IQ. Having a mental disability does not mean that you struggle with intellect.

Although those who have LDs do not have physical or cognitive disabilities, they do have neurological disabilities. From Dr. Shaywitz from Yale University: Dyslexics have exceptional learning needs, as this specific learning disorder is neurological in origin and is proven by FMRIs.

Please remember, at the start of my speech, the term disorder is a synonym for disability. Let me focus on dyslexia. The corpus callosum is different, causing the right and left lateral connections to travel further.

For example, the right side of the brain is great for problem solving, big-picture thinking, et cetera, which is strengths some dyslexics may have. However, since the corpus callosum is narrower, they have to think with the right side of the brain, then travel over to the right frontal lobe, to the left frontal lobe.

It's not just the corpus callosum; other sections of the left lateral lobes of the brain are different in a person with LDs than a typical learner. For instance, there's less grey matter in the left parietal temporal area, which causes problems with processing sounds of language.

There's also less white matter which influences reading skills in a challenging way. Being told, does that sound right or does that look right does not make sense to a dyslexic person. The DSM-5 states that dyslexia is an alternative term used to refer to a pattern of learning difficulties associated with problems with

accurate or fluent word recognition, poor decoding and poorer spelling abilities.

Those who have strokes could also have secondary acquired dyslexia. Dyslexia is often spoken more of than any other LDs, because if you cannot read or spell, it makes dysgraphia and dyscalculia more difficult.

Eighty per cent of people who have LDs have dyslexia. Dysgraphia is the difficulty with writing and putting your thoughts on paper. Dyscalculia is the math learning disability. Reading and spelling and writing and math are foundations for one's ability to learn.

These intelligent individuals struggle with learning literacy skills than the general population. Even with proper interventions and support, they will continue to struggle as the brain tires easier than the typical person.

We live in a literate society. If you're functionally literate your opportunities in life are more significant, as more doors are opened for you.

LDs are often called invisible, but if you take the time to speak to somebody, have them read, spell, write or do math in front of you, it becomes quite apparent as these people struggle with these abilities.

With brain scanning and brain images there are distinct areas of the brain that function distinctly and differently than the typical brain.

Please put yourself in the shoes of a person who has an LD. How would you feel if you struggled with literacy? What kind of life would you have? What would you do for work if you were illiterate?

Those who have LDs are often forgotten. There are many strengthens of having LD, but being functionally illiterate is no fun at all. I put some alarming statistics and information into my letter in writing to the MB HRC in 2020.

From Dr. Michael Ryan: Persons with dyslexia are more likely to report dramatically higher levels of stress, depression, anxiety and poor mental or physical health than the general population.

From Literacy and Policing in Canada: Low literacy in Canada is a personal, family, community and societal problem. And low literacy is a law enforcement problem. Those who have–like, how many of these people have LDs? LDs is a law enforcement problem, just because they're illiterate or functionally illiterate.

From Dr. Fuller-Thompson from the University of Toronto: Female adults with learning disabilities have a 46 per cent higher odds of attempting suicide, even when many potential confounders are considered.

Having a functionally literate society decreases poverty, mental illness, health issues, inmate expenses and unemployment.

Those who have learning disabilities are reliant on public education to teach them to become literate. With government funding cuts to public education, students with learning disabilities are still disadvantaged. Their literacy skills will be limited. This makes them a vulnerable person.

So I ask you: Why are people with learning disabilities excluded from Bill 23?

Mr. Chairperson: We thank you for your presentation, Ms. Richards.

We will now move on to questions.

Ms. Squires: Thank you, Ms. Richards, for your very informative presentation.

And I've learned many facts and have taken many notes during your presentation and certainly do recognize that when we struck the task force and they came back with 18 recommendations, which were in scope of the current legislation, we all recognized that there is much more work to do and certainly look forward to enhancing and expanding on that work based on your presentation.

T. Richards: I just want to say thank you.

MLA Fontaine: I just want to say miigwech, Ms. Richards, for your presentation today.

I really love that you framed throughout, in many respects, you said, you know, all of my heroes. And you really framed your discussion about Manitobans, you know, from a strength place, and so I really honour you for doing that tonight, and I say miigwech for sharing everything that you shared with us tonight.

Floor Comment: You're welcome.

Mr. Chairperson: Ms. Richards, sorry.

T. Richards: That's all right.

I want to say thank you and I also want to say I kind of was trying to hold back my emotions. I struggled to learn to read and spell and math. So, I came back as a kid presenting in front of–and I had huge anxiety of reading to you today.

Mr. Gerrard: Yes, thank you so much for coming here and presenting and pleading for those with learning disabilities.

You know, I think that, you know, what is striking, when you look at this, is people with learning disabilities like Winston Churchill and Picasso and Agatha Christie, you know, have achieved extraordinary things. But they have to be given a chance.

Maybe you'd comment.

Mr. Chairperson: Ms. Richards. Sorry, again.

T. Richards: That's okay, I'm getting used to this. Right near the end though.

I want to say I'm a Manitoba educator and I've tried for a long time to teach kids in a way that–manner that works for kids who have learning disabilities. I don't want to say I would own–endorse a program.

***** (19:00)

I want to make it very clear: every kid is individualized but what has been known to help kids with a learning disability has been known for a century, and there's only one thing that I would recommend. It's not a product, it's knowledge and methods 'besthined'–designed for kids with learning disabilities, specifically dyslexia and dysgraphia.

And its namesake is after two doctors, Dr. Orton and Dr. Gillingham, and Orton-Gillingham is the only thing I would recommend. It's knowledge, not a program, and it–you could incorporate other programs on top to help other kids, because not everybody struggles like kids with learning disabilities.

Mr. Chairperson: Are there any further questions?

We thank you very much for your presentation, Ms. Richards.

Bill 31–The Animal Care Amendment Act (2)

Mr. Chairperson: We will now move on to presentations from Bill 31.

We have received a request that the next two presenters, Brenna Mahoney of Keystone Agricultural Producers and Cameron Dahl of the Manitoba Pork Council, be allowed to give a joint presentation.

Is there leave of the committee for these presenters to give a joint presentation? *[Agreed]*

Ms. Mahoney and Mr. Dahl, you may proceed with your presentation when you are ready.

Brenna Mahoney (Keystone Agricultural Producers): I want to start off with saying hello.

I am Brenna Mahoney, I am the general manager at Keystone Agricultural Producers. I'd like to thank all the committee members for allowing me to speak this evening, as long as with my colleague, Cam Dahl, regarding Bill 31.

I am here today representing Keystone Agricultural Producers, also known as KAP, to express our strong support of Bill 31, the animal care amendment act. This bill aims to amend The Animal Care Act, specifically focusing on the processes of the Animal Care Appeal Board, as well as introducing changes to the Animal Care Regulation.

Firstly, let me provide you with some background information on KAP. We are Manitoba's general farm policy organization, serving as a unified voice for over 4,400 members, as well as 19 commodity associations, of which Manitoba Pork is a member. We represent the interests of a diverse range of agricultural producers in the province.

Manitoba boasts a vibrant agricultural sector with producers raising and caring for various animals, including dairy cows, hogs, chickens, turkeys, sheep, goats, elk, bison and beef cows. Bill 31 aligns with the needs of farmers and has–and this modernization has been long advocated for by producers in this province.

The Animal Care Act plays a vital role in ensuring that farm animals are treated with the acceptable level of care, and Manitoba producers strive to meet and exceed these standards in their daily operations.

Now let's just discuss the provisions of Bill 31. This bill seeks to streamline and modernize the process of the Animal Care Appeal Board. The proposed amendments allow for the extension of the time limit for appeals by the Animal Care Appeal Board. This change will provide greater flexibility to respondents in preparing and submitting their appeals.

Another significant aspect of this bill was the provision that empowers the appeal board to dismiss certain matters without a hearing, under specific circumstances. This amendment will help expedite the resolution of straightforward or unsubstantiated claims, saving valuable time and resources for all parties involved.

Furthermore, administrative amendments are proposed regarding the notice of appeals filed with the appeal board, ensuring smoother communication and efficient handling of appeals.

Additionally, the Animal Care Regulation will be amended to remove the daily and weekly reporting requirements for livestock markets and assembling stations. This change eliminates the burdensome paperwork associated with these reporting obligations, without compromising the overall welfare and care of the animals.

KAP firmly believes that Bill 31 will bring about much-needed efficiencies within The Animal Care Act. The proposed amendments will enhance the timelines, offer greater flexibility conducting hearings and introduce the option of virtual hearings, which will benefit all parties involved.

Moreover, the provision allowing the appeal board to reject frivolous or vexatious claims is commendable. This aligns The Animal Care Act with other relevant legislation, such as Workplace Health and Safety Act, and will prevent unrelated matters from overburdening the appeal board by reducing the number of such claims on–the board can concentrate its efforts on addressing more pertinent and substantial issues.

In conclusion, KAP wholeheartedly supports the amendments proposed in Bill 31. We are excited about the modernization of The Animal Care Act through this bill. It will ensure the act remains efficient and effectively serves the needs of all parties involved. We look forward to the swift passage of this important legislation.

Thank you for your attention, and I am happy to address any questions or concerns you may have.

Cameron Dahl (Manitoba Pork Council): And, members of the committee, thank you very much. And by doing this together, I think we'll save you about 15 minutes.

My name is Cam Dahl, and I'm the general manager of Manitoba Pork. And, of course, that's one of Manitoba's largest animal–farm animal organizations in the province. And we're also members of KAP, and so I'm here today to say that we support that position and felt it important to you to know that Manitoba's animal livestock sectors support the bill and support the changes.

But, further, I just want to emphasize as well that we very strongly support the–Manitoba's Animal Care Act, and Manitoba Pork Council and the farmers we represent recognize that proper animal care is essential to maintaining health and well-being of our pigs, as well as ensuring safe and high-quality food for consumers.

All Manitobans, including everyone in this room and around this table, can be proud of the record of animal care on Manitoba's hog farms and, in fact, in all of our livestock agriculture. Hog farmers take very seriously the responsibility for the animals under their care. Hog farmers in Manitoba adhere to strict animal care codes that are a combination of professional standards backed up by regulatory enforcement. And that regulatory enforcement is, of course, The Animal Care Act.

Every hog farmer in Manitoba is expected to follow the code of practice for the care and handling of pigs. Similar codes of practice exist for all other animal livestock enterprises in Manitoba.

The code is a result of rigorous development processes that uses the best science on health and welfare and has been compiled through independent, peer-reviewed processes. The code development committee includes independent scientists and representatives from non-governmental organizations involved in animal welfare.

Backing up the code of practice is legislation and regulation like The Animal Care Act. And, in fact, the code of practice–following the code of practice is embedded directly into Manitoba's legislation. Those who not–do not provide for the animals in their care with adequate food, water and ensure that they are kept in sanitary and safe conditions are subject to fines or imprisonment.

Animal care on a modern hog operation is further enhanced or assured by the Canadian Quality Assurance program and the Canadian Pork Excellence program that requires adherence to the code of practice. If they don't adhere to the code of practice and don't follow the strong recommendations, then they're not allowed to deliver to federally inspected processing plants. So there is both regulatory as well as commercial sanctions for not following the code.

Ms. Mahoney has outlined why we support adjusting the act, and so I won't go through that again. But I do want to emphasize that we continue to support The Animal Care Act. It is a tool that helps Manitoba farmers deliver world-class animal care and meet society's expectations. And we also support ongoing efforts to improve the act and its efficient delivery, and bill C-31 does just that.

Mr. Chairperson: We would like to thank you for your presentation.

Now we have a five-minute question period. Would you like to–whoever's going to be answering

the questions, put up their hand; then I could recognize them?

Okay, we will now move on to questions.

Hon. Derek Johnson (Minister of Agriculture): Yes, I want to thank KAP, or Keystone Ag Producers–I don't think that was actually said in your presentation–for bringing forward your voice today. And I know you went through a large list of organizations that you represent as KAP, including Manitoba Pork.

Would you have any idea how many voices that would hold with the–all your organizations together that you're here representing tonight?

B. Mahoney: Thank you.

You know, it's interesting. We have about 4,400 direct members with KAP specifically. We have 900 supporter members. And then, with our 19 commodity groups, there's about 15,000 producers in Manitoba, and we would represent about 90 per cent of them through those commodity group associations.

***** (19:10)

Mr. Diljeet Brar (Burrows): Thank you, Brenna and Cameron, for your presentation today. I appreciate that, and animal care is important.

I thank you both, and your members, for taking care of the animals, plants and taking care of the time today.

B. Mahoney: Thank you very much, and it is a pleasure to be here and work collaboratively with everybody regarding agriculture and its modernization.

Hon. Jon Gerrard (River Heights): Thank you for coming and presenting today, and much appreciate your remarks.

C. Dahl: So, it would be my turn to say thank you.

And yes, again, appreciate the collaboration across the aisle on again, ensuring that our world-class regulatory system remains up to date and modernized.

Mr. Johnson: Yes, just questions to Manitoba Pork, represented here by Cam Dahl here today.

And just if you could estimate how many producers you represent just with Manitoba Pork. I know it's inclusive of KAP's numbers.

But also, enlighten us–you said you represent the largest amount of animals. So, could you just enlighten us on how many animals are raised through Manitoba Pork? *[interjection]*

Mr. Chairperson: Mr. Dahl.

C. Dahl: I didn't wait for you.

Thank you. That's a really good question.

So, Manitoba farmers produce about 8 million pigs every year, and that contribution is almost $2 billion to the Manitoba economy, and we estimate about 14,000-plus jobs. So it is a really big segment of our economic machine in Manitoba.

And it's not just in small little rural towns. It's–you know, that corner of, what is it, Marion and Lagimodière, there's 3,000 people that work there. And every single one of them depends upon the pork industry.

And if you go through Neepawa, you know, this explosive growth that we've seen in Neepawa is being driven by the pork industry. And it's not just jobs. It's, you know, building community and, you know, access to schools and, you know, hospitals and all those other things.

So, it is a major driver of our economy.

Mr. Johnson: Yes, I just want to say thank you once again for coming in and making the time for us tonight.

Mr. Chairperson: We'd like to thank you for presentation.

We will now move on to our next bill.

Hon. Rochelle Squires (Minister of Families): I would like to ask leave to revert back to Bill 23 to hear presentations from three individuals on the list for Bill 23 who were present when their names were called but did not hear their names being called.

Mr. Chairperson: Okay, it has been brought to the committee to revert back to Bill 23 to listen to the three presenters that are left on that list, that their names were called but something happened, they didn't hear or whatever, so they were moved to the bottom of the list.

What is the will of the committee?

An Honourable Member: Allow leave.

Mr. Chairperson: Allow leave? Okay.

Bill 23–The Vulnerable Persons Living with a Mental Disability Amendment Act
(Continued)

Mr. Chairperson: We will now revert back to Bill 23 and the presenters for there. We will start with Mr. Dale Kendel. Is Dale Kendel available?

Mr. Kendel, you may proceed with your presentation when you are ready.

Dale Kendel (Private Citizen): Honourable members, it's just a great opportunity to be here.

I'm here as a private citizen with about five decades of experience in the field of intellectual disability. And we're going to talk tonight about how to improve the vulnerable persons act, living with a mental disability.

By way of background, the act was passed by the Legislature in 1993, proclaimed in 1996, reviewed in 2007 and then, most recently, reviewed by a nine-member task force in September of 2020 and issued a report called Pathways to Dignity: Rights, Safeguards, Planning and Decision Making. The report was submitted to Minister Rochelle Squires in May of 2021, made public in November of 2021. It includes 82 recommendations and 16 distinct theme areas that impact the lives of people with intellectual disabilities, families and agencies that support people in communities throughout Manitoba.

Over 7,500 people are impacted by the legislation and we regard it as important and meaningful.

The act is complicated. It covers rights, principles, protection, abuse reporting, investigation, criminal offences. It covers planning for individuals. It establishes a commissioner. It tells about various forms of decision making: supported and substitute. It establishes powers for personal care and health, and it establishes procedures to take away or limit rights and the role of the public guardian-trustee.

The proposed amendments that are being considered today are, in fact, the third set of amendments for this act. The first, approved in 2011, helped to establish the Adult Abuse Registry; then two–21 amendments to increase the renewal terms and length of term for a substitute decision maker; and today, the many amendments that are before you.

I wish to compliment the minister and her staff–many are here today–for their excellent support in moving ahead with the recommendations and implementation of Pathways to Dignity, and the recommendations that call for policy change and practice, as well as legislative amendment. It is the three–legislation, policy and practice–that are keys to making this successful.

I am pleased to see the establishment of the intellectual disability advisory council, a positive step that will continue to oversee implementation of Pathways to Dignity report and help direct the work in the future.

The proposed amendments are good ones and build on the framework of the original act. While they seem like good improvements, the work is not yet complete. Among the positive changes are:

(1) Changing the name of the act–adults living with an intellectual disability act. It is less labelling than the former Vulnerable Persons Act, but a more neutral name was desired, personally. Other groups and presenters may offer additional comments.

(2) I'm pleased with the updating of the principles No. 4 and adding the sixth principle to comply with the United Nations convention of rights of persons with disabilities, and the Canadian Charter of rights. That's positive.

(3) Improving and broadening the definition of abuse and improving the process for investigation of abuse is a major step forward.

(4) The abuse registry issues still require some work, and other groups may have some suggested changes and further thoughts.

(5) Establishing a five-year legislative review of the act is good. Regular reviews suggest–were suggested strongly in the committee hearings in this room in 1993, and I was part of that. They're not–they have not been included until now.

However, it is proposed that after a five-year review the reviews would be every 10 years thereafter. In my opinion, that's insufficient. The gap is too long, and it should be changed to a review every five years. More frequent reviews allow for important matters to be anticipated, planned for and researched.

The best practices and strengths of other provinces' approaches should be considered. Ongoing commitment to modernize and improve practices are important safeguards and are doable.

And please, don't forget that the first review of the act took place in 2007, 19 years after proclamation, and the next review in 2021 was completed 14 years after. Much had changed in terms of expectation, policy and practice.

(6) There will be a need for further amendments in the future, and I believe that these are going to be worked on. The legislation will need to enhance assisted decision making, create representation agreements, enhance the authority of the commissioner to monitor all substitute decision-maker situations, including the public guardian-trustee, establish appeal mechanisms, and perhaps changes in abuse reporting and investigation procedures, and changes to the adult abuse registry may be required.

Eligibility for the act might need be considered, and you've heard several presentations about that.

Seventh point: Monitoring. Although recommended on the pathways report on page 40 to 42 and 52, the department is not planning to proceed in this area. Monitoring of the public guardian trustee, who serves as a substitute decision maker for almost 1,200 individuals, has no monitoring by the commissioner of the act.

So, my question is, how do you know whether the first–the 'guardin' is acting in the best interests of the person?

* (19:20)

There are lots of stories and pieces that we haven't been able to resolve between the public guardian and the department. The act enables the commissioner to monitor families and community members who perform the same functions. This is seen as an inconsistency in the legislation and a practice that could be improved. On page 84 of the pathways report, we offered suggestions of how this could take place. And this may require an amendment to the powers of the commissioner.

(8) Policy and practice still needs improving and improvement. The most recent one-year update of the department indicates progress in most of the areas of the Pathways to Dignity report; this is very commendable. Things being worked on in the department include abuse investigation procedures, developing a comprehensive training plan, improving individual planning, consulting with Indigenous concerns, improving transition from adult–transition to adulthood, creating a working group with the public guardian trustee and strengthening the community capacity–all necessary and important areas of work to create greater stability and security of our system and support services for and with the individuals with intellectual disabilities.

My ninth point is that in the task force report we talked about acronyms and plain language. We wrote an entire 84-page report without the use of one acronym, and that we should encourage trying to eliminate or reduce the use of acronyms. Say the words for clarity and purpose; it's a symbol of respect for the people involved. Speak in plain language. We as part of the task force did in each section of the report, and included a full plain language section on page 72 to 75 of the report. And I think that you've heard from several people tonight that talked about more clarity and plain language.

So, I thank you for this opportunity to inform, suggest, congratulate and celebrate the changes ahead for improving the lives of people with intellectual disabilities in Manitoba.

I urge you all to continue to study the Pathways to Dignity: Rights, Safeguards, Planning and Decision Making report and all of the 82 recommendations, and follow the progress reports of the minister and the department on the status of implementation.

Congratulations on your fine work.

Mr. Chairperson: We thank you for your–Mr.–for your presentation, Mr. Kendel. We will now move on to our five minutes of questions.

Hon. Rochelle Squires (Minister responsible for Accessibility): Thank you very much, Mr. Kendel, for your work 26 years ago. Thank you very much for your work in the last few years in reviewing and amending this act.

And you brought up public trustees. And, of course, this is a conversation we've had many times. I want to thank you for your work on that pilot project that we had announced, the 120 Maryland Group.

We think that that's really important, and the government of Manitoba certainly does agree that the use of public trustees and substitute decision makers needs to be reduced overall in the province of Manitoba.

D. Kendel: I think the project–and there are people here tonight connected directly with the project.

I think that's a huge step forward and the goal to reduce the reliance on the public trustee, but I still would not underestimate the need and necessity for monitoring what the public guardian trustee is doing.

MLA Nahanni Fontaine (St. Johns): Miigwech for your presentation–very thorough presentation, and the bits of history there. And I'm sure that it's been a long time for you; as you said, five decades.

So, miigwech for all of your hard work and advocacy as well.

You did–said that you would've preferred a more neutral name. Can you share with the committee what that would've been?

D. Kendel: In my–again, my personal opinion, in the report, four names of the act were offered up, and my favourite–but we work by consensus and it wasn't the one. I don't think we really reached a consensus of what the name should be. But we suggested that the act be called: rights, safeguards, planning, decision making for adults living with an intellectual disability–putting it in the reverse order that the four major pillars of the Pathways Report would be put out in front.

That would be my personal choice of it. There are other suggestions, mind you, and I, you know, and every person–not every person–but many people that I speak to have another variation of what the name could be.

Hon. Jon Gerrard (River Heights): Thank you, Dale. Thank you so much for being here, for being such a big part of this–these changes.

Let me ask you to give us a little bit more detail about how you think the Public Guardian and Trustee could be best monitored, or the activity should be monitored, on a day-to-day or a month-by-month basis.

D. Kendel: That's tricky, you know.

I think there's two points I would make. One was that we didn't have an absolute final version of what was going to happen.

But during our discussions in the task force, the committee that was doing the work with Public Guardian and Trustee had a suggestion made by the Public Guardian and Trustee to establish a working group, to try and resolve–to be a forum to resolve multiple issues that had been brought forward and unresolved for many years, including the delegation agreement, in terms of frequency of making people–individuals that there's substitute decision maker, so that they know how much money they have.

And we have circumstances where it takes a long period of time to get a response in terms of vacations for people and the spending of the person's own money. And there was a list of about 12 items that were presented at that time, and we felt that the working group was going to be one of those really positive things.

And it's not. It's not easy to get. I would think it's been worked on, I know that. And I personally have been involved with the Public Guardian and Trustee for umpteen years, and I know that it's a difficult piece to maneuver.

Part of it is that it resides in a different department than Families. I think that's one of the reasons. It keeps moving around, over in consumers, it was in Finance, it was–been in I don't know what other departments, but it may be made easier if it was responsible to the Minister of Families (Ms. Squires) because those are the individuals that they're supporting.

Mr. Chairperson: Are there any other further questions?

Seeing as no further questions, thank you very much for your presentation, Mr. Kendel.

We will now move on to the next presenter. Ms. Debra Roach, Family Advocacy Network of Manitoba.

Ms. Roach, you have written information for the committee? *[interjection]* Supplementary notes?

You may proceed with your presentation when you are ready.

Debra Roach (Family Advocacy Network of Manitoba): Hello, my name is Debra Roach, and I am here today as sister to Chris *[phonetic]*, who was intellectually disabled. She died in 2020. She was a victim of substantiated neglect in her community home.

Thank you for the opportunity to share my thoughts on the proposed vulnerable persons act amendments which, while a step in the right direction, do not meet constitutional or international law.

I want to speak specifically to what would appear to be two separate standards for access to justice in Manitoba.

There is the access to justice that most people in this room have available to us. Should we be assaulted, we can pick up the phone and call the police, and they will investigate offences against us. Then there is a different standard for people living with intellectual disabilities, who would have the Department of Families personnel in the protection unit investigate an instant of abuse or neglect, when even the protection unit staff do not have the power to arrest or lay charges.

These facts would illustrate that people with intellectual disabilities do not have the same right to

have a police investigation for an assault that they may be victim of, or the opportunity for their case to be considered by Crown prosecutors for charges.

As a result, they do not have the same access to justice as the rest of us. The proposed law sets up a double standard, two parallel tracks that are unequal and unfair.

The United Nations Convention on the Rights of Persons with Disabilities–the UNCRPD–article 13 says State's Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including for the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.

The Canadian Charter of Rights and Freedoms reads: Every individual is equal before and under the law and has the right to equal protection, equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

***** (19:30)

The good news: Bill 23, which deals with the amendments to the vulnerable persons living with mental disability act, changes the definitions of abuse and neglect that were part of the 27-year-old legislation. The definitions of abuse and neglect in Bill 23 finally describe the serious nature of the offences that many Manitobans with intellectual disabilities suffer at the hands of others with little or no assistance to the support for which they are entitled to be able to contact police themselves or with the assistance of their support persons. That's the end of the good news.

The new definitions as described in Bill 23 warrant immediate police involvement if there is even a suspicious–suspicion that they occurred. And yet, here comes the bad news: Bill 23, section 25(1) indicates that an internal department investigation will take place in advance of any police investigation.

Only after the department investigation takes place will consideration be given to requesting an investigation by law enforcement, shown under section 25(1)(b), a decision made by the executive director, which process does not comply with the rule of law or the CRPD or the Charter.

Meaning no disrespect, but in my opinion, the department will be in a conflict of interest if permitted to operate under the proposed parallel system contrary to the rule of law.

The legislation reads as follows. If, after an investigation, the executive director believes that an adult living with an intellectual disability is or is likely to be abused or neglected, the executive director may take such action to protect the adult as the executive director considers appropriate, including the following: requesting an investigation by a law enforcement agency with jurisdiction respecting the matter.

Department of Families policy encourages an allegation review of a report of abuse or neglect by a person or persons who are not trained police investigators or have any training in forensic investigations. When an injury or suspicious marks happen to a person with an intellectual disability while supported in residential care, home share or day program, follow-up procedure dictates that an incident report is to be filled out in accordance with policy. It would follow that the incident reports could be filled out by the very person or persons responsible for the injuries or suspicious marks.

It has been heard by families that it is, at times, unknown how an injury or marks happened. A year before her death, my sister had a black eye and bruising on her forehead with a large bump. No one knew what happened. No departmental investigation took place for my sister. No police investigation took place for her, either, and she was not taken for a medical examination for a head injury. No reason was ever determined for this injury. There was no incident report done, either. The service provider would not supply myself or the department information that they retrieved through their own investigation.

My sister and others communicate in methods and means that are non-traditional, but communication they are. Because of history and bias and the parallel differential system set up for people like my sister, she and others have been unable to communicate what happens to them.

I cannot stress enough that, in my opinion, a formal police investigation may have uncovered the truth about what happened.

Policy on injuries and suspicious marks: Service providers are required to make a verbal report to the community service worker, or CSW, of injuries or suspicious marks within 24 hours of an incident or

occurrence. A written report should follow the verbal account within five calendar days. Information is to be documented on an incident report, body diagrams or within a written summary, all of which may be shared with the CSW–community service worker–via fax, email or postal mail.

This policy does not mention calling the police immediately. Why are suspicious marks or injuries being documented by someone who doesn't have police training? Why are there instructions to–why aren't there instructions to seek medical–immediate medical attention, as well?

Service providers and staff are not medical professionals or trained police officers. The timelines and policy do not involve police intervention and have serious potential to taint evidence that could be collected by trained police investigators as soon as possible.

Allegation review process, part one: In order to determine that information from an incident or concern is a potential allegation of abuse or neglect, the community service worker conducts the allegation review. There is an assessment of information gathered from the service provider, vulnerable person and maybe others to validate the authenticity of the concern. If the information supports the likelihood of mistreatment, abuse or neglect that has caused harm to a vulnerable person, the incident or concern meets the criteria to be considered an allegation.

In consultation with the CSW, the department will determine if the concern is an allegation of abuse or neglect that requires a formal protection but not police investigation.

There are three potential conclusions that can be made when reviewing an allegation, only one of which is that a protection, not a police investigation, is required. Someone who has no legal or police training is making decisions about whether or not a complete–a complaint is a criminal offence.

If it is decided that a protection investigation is required, then part 2 is brought into play. In general, departmental protection investigation should be completed within 60 days from the point in time that it was determined that a protection investigation was warranted.

At any time during the allegation review or investigation process, if it appears that the allegation of abuse or neglect may be criminal in nature, physical, sexual, financial abuse, departmental staff must contact law enforcement to request their involvement in a case, provide information for consultation on any matter that may be of a criminal nature, provide information on suspected violation of the Criminal Code, provide evidence of actual violations of the Criminal Code.

Waiting 60 or more days before police are brought into an investigation is nothing short of interfering in the course of justice. Waiting even one day before calling police is unacceptable.

Police believe that numerous interviews of a victim re-traumatizes that victim. Investigations are the public service for which police are paid to provide. Police are investigators, not consultants on matters that are of a criminal nature.

Police gather information or evidence on actual or suspected violations of the Criminal Code by investigating the complaints, and if the police are not called right away, evidence could be lost.

Protection policy procedure and guidelines: Any person who has reason to believe that the vulnerable person is or is likely to be abused or neglected must immediately report that belief, and the information upon which it is based, to the regional office with a written report to follow from the service provider if the person lives in residential care or is a day service participant. The licensing co-ordinator must also be advised.

This policy also states while reporting any suspicions of the abuse or neglect of a vulnerable person to the appropriate regional office is mandatory, they may also report to the police that the vulnerable person is a victim of a criminal offence.

The police will determine if further investigation is warranted under the Criminal Code. This must be reported to police, not may, must. If the person is a victim of a criminal offence, police will investigate. The word must, should replace may.

If the offence meets the standard for prosecution and there is a conviction, then the offender's name is automatically placed on the registry for 10 years, which brings me to my last point.

The vulnerable person's act and amendments will directly impact The Adult Abuse Registry Act. The determination of 10 years for a conviction of abuse or assault is an inappropriately low sentence for an adult offender.

Mr. Chairperson: Unfortunately, Ms. Roach, our 10 minutes for the presentation has expired. We will now move into questions.

Ms. Squires: Thank you very much, Ms. Roach, and we certainly do have a lot more work to do together.

I do just want to touch on three quick things in the 30 seconds that I'm allotted. This bill does ensure that family members and substitute decision makers, as well as the individual himself, are brought into information when an investigation is being conducted. That wasn't in the legislation before and family member substitute decision makers and individuals were not notified.

The amendments don't preclude a resident from accessing justice. And, in regards–

Mr. Chairperson: Unfortunately, your 30 seconds has expired.

Ms. Roach?

D. Roach: Thank you, Minister. Thank you very much.

I did–I just wanted to really emphasize that police investigations can be very, very helpful in a lot of circumstances. Thank you.

MLA Fontaine: Miigwech for your presentation and miigwech for sharing very personal details about your sister, and I'm very sorry for yourself and for your sister and for your whole family.

You did provide us with a little bit of supplementary information here. I am curious as to your interpretation of what you've provided us and what you see here that you think is important for the committee to know.

D. Roach: Thank you, Ms. Fontaine.

There is an explanation as to what I find is important about these statistics in the paper. It's just a little, I wouldn't say scattered, but maybe not directly behind it.

I hope that suffices.

***** (19:40)

Mr. Gerrard: Yes, just thank you very much. Very helpful, your presentation.

I'm concerned that we've got a–reports of alleged abuse and neglect going from 341 a few years ago to 945 last year. What's happened?

D. Roach: I don't rightly know.

I think that probably the pandemic and the–probably the diminished numbers of direct support workers probably influenced that. And what I also think is definitely required is standardized training for a lot of the people that–and–yes, that–with the diminished numbers.

Ms. Squires: I appreciate just another quick moment to give you an update in that our department will be undertaking a review of the protection unit that we have and the way abuse investigations are handled. And certainly the statistics you brought forward highlight the–and underscore the need for doing some of that work.

We'll be calling on you for further information and collaboration, and that is why we did just bring $104 million into the budget this year to stabilize the sector, so we can have better trained DS–direct service workers and a strengthened sector.

D. Roach: Thank you, Minister Squires.

Mr. Chairperson: Are there any further questions?

Hearing no further questions, we thank you very much for your presentation, and we will move on to the next presenter, Ms. Amy Shawcross, Community Living Manitoba.

Ms. Shawcross? Do you have any written material for the committee?

Amy Shawcross (Community Living Manitoba): No, I do not.

Mr. Chairperson: Then you may proceed with your presentation whenever you are ready.

A. Shawcross: My name is Amy Shawcross, and I am representing the Association for Community Living-Manitoba today.

I would like to take this opportunity to express my gratitude and thank you for offering this opportunity for Manitobans like me to share their contributions and consideration to Bill 23.

I would like to speak to four topics connected to the amendments to Bill 23.

I will start with the United Nations convention on the rights of disabilities. In keeping with the amendment of our commitment to uphold the principles of the Convention on the Rights of Persons with Disabilities, namely article 12, the right to legal capacity, we must consider our long game as we move toward full realization of this right for Manitobans labelled with an intellectual disability. In full realization, we are recognizing each Manitoban's right to personhood.

I don't believe as a society or as our legislative framework are ready for this yet, but I am hopeful we

will get there. And I believe it starts with this legislation. This is an important point I will come back to. And to understand this implication, we must first understand the difference in the definitions of legal capacity and mental capacity.

Legal capacity refers to the right to legal standing and legal agency. In review of the United Nations draft general comment on article 12 on equal recognition before the law, you can find the term legal capacity defined as the ability to hold rights and duties, legal standing, and to exercise these rights and duties, legal agency.

And the term mental capacity, defined as the decision-making skills of a person, which naturally vary from one person to another and may be different for a given person depending on many factors, including environmental and social factors.

If we can differentiate between these two terms, we can start to understand legal capacity's place in personhood as we draw from the historical parallels of the women's liberation movement and the civil rights movement. Any time we segregate a person based on presumed or proven differences or deficits for purpose of justifying the denial of legal capacity, we are in violation of article 12. However, we continue to amend legislation and support systems that validate this rights infraction.

However, we see our government being cautious in their steps forward, and we are hopeful that this means they are being thoughtful of a vision for a future where all Manitobans can be recognized under the law.

I use the Convention on the Rights of Persons with Disabilities as a preface to my other three considerations, as I believe each step forward needs to be carefully determined in consideration to article 12, and a final outcome where Manitobans labelled with an intellectual disability are finally recognized as persons before the law.

I'll start with language. I'm in full support of the recommendation to change the term vulnerable person to a more valued reference. I agree with the term intellectual disability; however, our community–namely People First, as Jessica Croy spoke to earlier, as well as People First of Canada–have asserted for almost two decades their preference for the term labelled with an intellectual disability, and are now accepting the term developmental disability where appropriate, either separately or in conjunction with intellectual disability.

I move to the title. Although I am in support of the amendment that supports more respectful language, I believe we need to take into consideration the bigger picture when contemplating the impact of this change to the title of the act. The suggestion of amending the title to reflect more respectful language unknowingly creates disruptive interference on the vision of full personhood for Manitobans labelled with an intellectual disability as our final outcome.

If we can first recognize People First's preference, to be separated from their label, when recommending the term labelled with an intellectual disability, we can use this as a guideline in our legislative framework. Within this framework, we recognize that a more respectful approach to the language of the act is not to use the label as the key identifier in the title of the act; rather, the action of the act.

We can make recommendations such as the safeguards and supported-decision-making act, similar to what Dale spoke of. Identifiers can be used throughout the act to establish who falls under the act, and this can be done using the updated and more respectful terminology.

I understand this leaves us with the conundrum of sticking with outdated, less respectful language while we play catch-up in the next review of the title. However, I believe it is worth considering, if it means we are not stuck with a title that does not fully reflect the values of a respectful language framework.

Representation agreements. Article 12 of the UN convention states: All adults are presumed to have capacity and are entitled to the decision-making support necessary to exercise capacity. Decisions made interdependently with family, friends and trusted others chosen by the individual will be recognized and legally validated. Perceived or actual deficits in mental capacity must not be used as justification for denying legal capacity.

I am hopeful that the continued work towards representation agreements reflects my belief that Manitoba is working towards a future where Manitobans labelled with an intellectual disability are no longer discriminated against based on their mental capacity. Rather, the future of Manitoba suggests a stronger legislation that encourages and upholds decision-making accommodations and supports. When done right, representation agreements allow for those with varying mental capacity to have their right to legal capacity be enjoyed and reaffirmed.

What we know about representation agreements, and its supporting legislation, is that it also opens the door to less discriminatory and segregating approaches and practices within our systems. They do not have a medical-model lens that places focus on the person and their deficits. Representation agreements come from the more updated and value-based social model, where we focus on environmental factors, accommodation and support.

This means we are no longer basing our legislation on a discriminatory and restrictive framework; rather, a supportive framework that opens the door to support and accommodation to all who can benefit.

* (19:50)

Representation agreements reflect the principles outlined in article 12: that all adults are presumed to have capacity, and are entitled to the decision-making support necessary to exercise capacity. This is why I would also like to come back to language, and recommend that we continue the use of the term supported decision making, rather than assisted decision making.

Although it may seem trivial to some, and the mincing of words, in definition of the right to legal capacity, we can see support infers we are not only assisting people to make informed decisions, but also respecting and supporting one's right to autonomy. That we are taking into account one's will and preferences, and supporting them in how they reach a decision. It is a supportive position, not just a supporting position. We could not use this same adjective comparison in assist.

This is why this language is important in legislation. All forms of support in the exercise of legal capacity, including more intensive forms of support, must be based on the will and preference of the person, not on what is perceived as being in his or her objective best interests. State's obligation to replace substitute decision-making regimes by supported decision making requires both the–sorry, abolition of substitute decision-making regimes and development of supported decision-making alternatives.

The development of supported decision-making systems, in parallel with the maintenance of substitute decision-making regimes, is not sufficient to comply with article 12 of the convention. Guardianship does not allow for this principle to be fully recognized.

I am hopeful that a slow and steady pace will one day get us to a place where guardianship is in Manitoba's past, alongside institutions. We have the opportunity now to make some intentional steps in the right direction, that builds a framework that will support this paradigm shift–

Mr. Chairperson: Unfortunately, Ms. Shawcross, the time for the presentation, 10 minutes, has expired. We will now move on to questions.

Ms. Squires: Thank you very much, Ms. Shawcross, for your words today and your advocacy.

And certainly our government does share that same vision where each individual will have autonomy, and respect for the autonomy of all individuals in the province is the goal. That is why we moved forward with that pilot, and we'll continue working towards that.

As well as closing the last developmental centre in the province of Manitoba, with the closure of Manitoba developmental disability–or, Manitoba developmental institution.

So, thank you very much for the work that you've done, and certainly more work to do together.

Mr. Chairperson: Ms. Shawcross, did you have a response for the minister? Please proceed.

A. Shawcross: Thank you Minister Squires.

I appreciate all the support that you have given us over the years–or, this year.

MLA Fontaine: Miigwech for your presentation this evening and all the information that you provided us. It was a lot to digest. And still certainly a lot of work yet to still be done.

But, what I really loved about your presentation was that, you know, you rounded it up with a sense of hope, and a sense of–that we can get to where we need to be in the province of Manitoba.

And so, I appreciate that, Miigwech.

Mr. Chairperson: Ms. Shawcross, do you have a response?

A. Shawcross: Yes, thank you very much.

I do very much see wonderful relationships between our community stakeholders and those in government that makes me very hopeful for these positive changes in the future.

Mr. Gerrard: Thank you so much.

Just so that I've got this right, I mean, I think that what you were saying is that this bill wouldn't meet

the standards of the United Nations declaration of the rights of persons with disabilities.

Is that correct?

A. Shawcross: When you look at where we started, with the vulnerable persons act, when it was first created–and it astounds me that we were so far ahead with the rights of persons with disabilities.

But you're correct. If we are to fully–if people with intellectual disabilities, labelled with an intellectual disability, are to have their right to legal capacity fully recognized as it is outlined in the Convention on the Rights of Persons with Disabilities, we have more work to do, one hundred per cent.

Mr. Chairperson: Are there any further questions?

We thank you very much for your presentation, Ms. Shawcross.

Bill 32–An Act respecting Child and Family Services (Indigenous Jurisdiction and Related Amendments)

(Continued)

Mr. Chairperson: We will now proceed on to presenters from Bill 32.

I will–I would like to call on Doreen Moellenbeck-Dushnitsky. And if I'm mispronouncing it, if she could correct my pronunciation.

I see you have written presentations for the committee as well.

And you may proceed with your presentation when you are ready.

Doreen Moellenbeck-Dushnitsky (Dakota Ojibway Child and Family Services): Thank you. I want to thank you for the opportunity to present today.

My name is Doreen Moellenbeck-Dushnitsky, and you said it correctly. So, thank you.

My member community is Shoal Lake 40 First Nation, so I just want to acknowledge and honour the members from Shoal Lake 40 and the water that we're drinking today and that we use for the City of Winnipeg also.

And, today I am honoured to present on behalf of Dakota Ojibway Child and Family Services. Dakota Ojibway Child and Family Services was the first Indigenous agency in Canada to receive a child-welfare mandate on July 1st of 1981.

This was after our member communities gathered to highlight and advocate for their children not to be removed and losing their children at high numbers off the community. Their advocacy was based on the love, care and genuine concern for their children and the disconnection created by their removal from their families and their children.

After comprehensive negotiations and collaboration with their founding grandfathers and grandmothers, they agreed to the–receive an interim provincial mandate only as an interim measure until the communities were able to obtain their own.

The agency's vision has been taking care of our own. During the last 41 years, the agency has remained steadfast to fulfilling this vision. With the changes occurring in child welfare in the last four decades, we have adopted and expanded our services to our community members in both urban and Indigenous community centres.

During this time, we have provided many opportunities, access to innovative service practice to support our families, children and their communities. However, we have also been disadvantaged with the lack of resources, funding and culturally appropriate services to address the needs of our children and our families.

As a result of these barriers, the DOCFS or Dakota Ojibway Child and Family Services board of directors, three members which are currently sitting in the audience–and if they could come up–is Elder Alvina Chaske from Canupawakpa; vice-chairperson, Councillor Esquash, from Swan Lake First Nation; and Councillor Henry from Roseau River Anishinabe First Nation.

Mr. Vice-Chairperson in the Chair

Today, we are advocating for seven recommendations to support our families, children and communities beyond jurisdiction.

The first recommendation is in addition to the section–to add a section entitled alternative dispute resolution. And the quote says: families and children are provided with an alternative dispute resolution meeting to address the child's protection, needs and concerns.

The act does not provide opportunities for an alternative dispute process when a child has been determined to be in the need of protection. Rather, the process is adversarial and requires the courts are then–other agreements that have just been created can shift

customary care or the voluntary placement agreement. It is based on the information presented by the agency workers and the caregivers.

Our suggestion is to incorporate a model like honouring our family voices, which is also a form of family group conferencing, a process the agency developed and would benefit the participants. Since they learn about the resilience, culture and history from the paternal and maternal figures, mothers, aunts, grandmothers, and others.

* (20:00)

The outcome of the adding this recommendation is to develop an alternative dispute resolution process meeting which includes input from caregivers and their support system, extended families and supportive resources.

As a result, when offering the alternative process, families and children will be empowered to address issues and concerns, increase support between families and their systems, their foster family connection and voices in the planning for themselves and their children.

This could also result in the family developing a collaborative plan to support the care in–the care for parents and children under a private arrangement, thus resulting in empowering families to taking care of their own.

Recommendation No. 2 is eliminating the appeal process. Section 51 permits the agency to remove a child from a foster home for–the amendments to the CFS act eliminated section 51(3), that a foster parent can appeal the removal, even though it has been determined in the child's best interest to–a child's best interest and creates an undue burden on the agency and could create delays in meeting that placement priority that's added within the current act.

The outcome of removing section 51 and the foster parent regulations–the regulations that go with that–will allow agencies to return children to their families when the protection concerns have been addressed and placed children with their extended family if they're not currently placed with families without delay.

The removal of the foster care parent appeals will support the children's lifelong connection to their family and their community and allow the agency to meet sections of the priority placement in a timely manner.

Reunification is recommendation No. 3, and it's one word, but the word is very, very powerful. The current CFS act has no–the current one and the one that's just being amended–has no reference to the term reunification or reunify. The only terms utilized is order is terminated or order–and enter into an agreement. As a result, the lack of usage of the term reunification and reunify highlights the tenets and the scope of the act, which is adversarial and does not support families regaining access to their children. And the suggested amendments add the following three words: preserve, sustain and restore.

So adding–the suggested amendment falls short of supporting reunification. Rather, it supports the adversarial relationship of determining placement and entering into different agreements, such as kinship, customary care, voluntary placement agreement, which are reviewed yearly without the premise of the child being reunified with the parent.

And the wording for the recommendation: Indigenous children are best cared for by their family, extended family and their community. Every effort must be made to reunify children to their family, extended family and community where possible and appropriate.

Mr. Chairperson in the Chair

The outcome of this one word, the current wording and restrictions of the child to be returned to their family, extended family and community highlights additional barriers for families in having their children return. This CFS act has strict timelines to seek orders and other agreements to care for children but is not lenient when children are returned to their families or utilize language supportive of having children returned to parents.

But this addition and this recommendation will add a supportive and positive outcome families and children seek. It will place–if they are placed away from each other, this will enhance the role in their family and extended family and the community to care for their children.

The next three recommendations is with regards to changes to the authorities act, which is outside of this act. The first one is lessen the role. Although the authority does not provide direct services to families and children and communities, the role, based upon the act, is arm-length in assistance support agencies and the delivery of service to agencies as the director within the CFS act in the child and youth division.

During the last two years, there's been a shift in the authority and moving towards an adversarial relationship with agencies and does not support the collaborative and supportive planning. Rather, the authority has significantly increased their control over agencies while the agency is required to do more with less money, resources and support.

Considering there is no new money to provide services to support families and communities, should not be at the backs of our–and at expense of our families and our children. Considering the whereas statements listed above–and that's within your packages–statements of the authorities act role need to shift to support agencies to deliver service priorities and the communities and leadership, this supporting innovating and community-based programs and services.

The recommendation for an addition to the authorities act, whereas the authority has an ongoing responsibility to support and advocate for community-led services and programs for children, family, youth, families, to meet their unique needs.

The authorities would be supportive of community-led programs and services to meet their needs. Every agency has quality assurance co-ordinators and monitor compliance. In this, the agencies, communities will be innovators to create life–long-lasting change for children and families and communities.

And I'm going straight to the end. Our children are our future. The changes we make today pave the way for them for the future. This–we need to support our families and communities, to support our children and their future and our future.

And the bears are for bear day tomorrow. So, please have your bear.

Mr. Chairperson: We thank you very kindly for your presentation.

We will now move on to question period.

Hon. Rochelle Squires (Minister of Families): Thank you very much for coming here and presenting at committee, and thanks to all the members of your community that have come to support you and the elders.

I am very interested and I was very pleased to hear some of your words in regards to the changing relationship between the authority and the agency. And I certainly do want to learn more from you from your perspective. I've been hearing some comments lately in that regard that need to be explored further. And this bill does have some of those initiatives it touched upon, whether it be foster parent appeals, use of voluntary agreements and–

Mr. Chairperson: Unfortunately, the minister's time has expired.

Ms. Dushnitsky, do you have a comment back to the minister?

D. Moellenbeck-Dushnitsky: Yes, we would look forward to having that collaborative meeting, on having that discussion with regards to the authorities act.

Thank you.

MLA Nahanni Fontaine (St. Johns): Well, I want to say miigwech to the board for everybody being here and for coming to present. And really, it's an act to bring our children home. And it shouldn't be lost on anybody in this room that here are Indigenous folks that are the experts on how we bring our children home appealing to, predominantly, other than myself and my colleague, but non-Indigenous folks here.

I am also curious. There has been quite a bit of things that I've heard in respect of the authorities and what seems to be a disconnect between the agencies. You do have some time, so I'm wondering if you might be–feel comfortable to share a little bit of the concern in respect of that disconnect between the authorities and agencies.

D. Moellenbeck-Dushnitsky: Yes, and I think that we've–within the presentation that I provided, there's additional information with regards to the authority and then developing even cultural standards.

There isn't any cultural standards but the–the way that the relationship has changed is that the director–within the act, the director–are the child and youth division has transferred their responsibilities to the authority, and then the authorities tell us. But we don't have a mechanism on if we have any concerns with regards to the directors or anything that may come down or the allocation of funding or lack thereof. We have no mechanism on going back up. So we are stuck, and we have no advocacy level at all.

And I think the relationship, we need to work on that in a way that would be collaborative. We're hoping that we'd be able to do that collaboratively as Indigenous peoples. And not having, no offence or anything, but having the director or the division being involved.

So, hopefully we're able to mediate that, and I think that's something with our board of directors and our elders can assist us with that piece.

So, hopefully that answers your question. Thank you.

Hon. Jon Gerrard (River Heights): Thank you very much for your detailed presentation.

* (20:10)

Just to–clarifying where you're talking about CFS act as strict timelines and you need some flexibility, I think. I was aware of a situation where the mother had committed suicide and it actually took the father several years to be fully prepared to look after the child–or, the children. And he had help at every stage along the way, so it has actually worked very well.

But it–you need that sort of flexibility, I think is what you're saying. Is that right?

D. Moellenbeck-Dushnitsky: Yes, thank you. We need the flexibility, but we also need an alternative.

I think family group conferencing that was provided by a service provider within the Winnipeg area has really good outcomes. And it supported families on having that voice and that plan in the beginning so then we wouldn't have the tragedies, and we wouldn't have the continued trauma that our babies are experiencing and our families are experiencing.

So, I think that if we can do something in the beginning to lessen the end–so we don't have the end. Because it's really–it's tragic when we have our mothers and our fathers and sometimes our children that will take their lives.

Mr. Chairperson: We'd like to thank you for your presentation, and we will now move on to the next presenter.

I will now call on Mr. Bert Crocket *[phonetic]*, private citizen.

Mr. Crocket *[phonetic]*, do you have written material for the committee? We will get that distributed and, as soon as you are ready, you may proceed with your–Crocker. Mr. Bert Crocker.

Mr. Crocker, yes, you may proceed with your presentation.

Bert Crocker (Private Citizen): Good evening, honourable Chairperson, Minister, committee members, and thank you for the opportunity to share my thoughts regarding this bill.

I wish to make it clear that I'm speaking as a private citizen, not on behalf of my employer or any other organization.

Owing to the complexity of the issues and the limited time for presenting, I will only be reading those parts of my written submission that appear in black ink. Those portions in blue are important for context, and I hope you have a chance to read them.

I therefore wish to request of the committee that there be a decision to include the entire document you have received in Hansard. Accordingly, I am requesting of the Chair that there be sought a motion for inclusion in black and white of this document in Hansard.

Mr. Chairperson, can you call the question? And please, stop the clock.

Mr. Chairperson: As per the rules of speaking in committee, you may do a verbal presentation or a written presentation, but not both.

So, I would ask you, like, if you're wanting to submit your written presentation or your verbal presentation.

B. Crocker: I wasn't aware that the rules had changed. I'm on record in Hansard in 2017 as having been approved to have both a written and an oral submission.

Mr. Chairperson: Unfortunately, those are the rules today. I was not here or present in 2017, so I couldn't answer that. But the committee rules today are one or the other; you may provide a written submission or you may do a verbal presentation. *[interjection]*

Mr. Chairperson: Sorry, I have to recognize you first, Mr. Crocker.

B. Crocker: Yes. Okay. Thank you, Mr. Chairman. My choice is that I will submit my written submission. I would urge all the members to read it.

The last page and a half has about half a dozen specific recommendations for changes–specific changes to the legislation that will bring this amendment in compliance with the charter, and I hope that members present will see fit to move and second and that the committee will send this back to legislation–whatever it is–for redrafting.

Thank you.

Mr. Chairperson: Is there leave of the committee to include Mr. Crocker's presentation in–written presentation in Hansard? *[Agreed]*

It's been agreed. So, yes, Mr. Crocker, your written submission will be included in Hansard.

We will now move on to question period, so we have–*[interjection]* Sorry. Because it's a written submission, there are no question period.

We thank you very much for your presentation. *[interjection]*

Mr. Chairperson: Mr. Crocker.

B. Crocker: –reference to this report. I'll leave a copy of this report with someone as well.

Mr. Chairperson: Thank you, Mr. Crocker.

We will now move on to Trudy Lavallee.

Ms. Lavallee, are you ready? You may start your presentation whenever you are ready.

Trudy Lavallee (Animikii Ozoson Child and Family Services Inc.): Good evening.

My name is Trudy Lavallee, and I'm the executive director of Animikii Ozoson Child and Family Services agency here in Winnipeg.

We fall under the Southern First Nations Network of Care, with 10 other child-welfare agencies. Our agency is primarily responsible for Ontario First Nation children who are–who interface with the system here, the CFS system here in Winnipeg.

Prior to our mandate, the Ontario children primarily were in care with Winnipeg child and family. During the–just shortly after the Aboriginal Justice Inquiry Child Welfare Initiative, we were mandated in 2005, and many of those children from Winnipeg transferred over to Animikii.

It's fair to say that I've most probably worn every hat around this table, except I'm not a minister or any political person in that respect. But I've also been witness to tremendous developments of–and evolution of First Nation child-welfare programming here in this province in regard to policies and legislation developments–actually, over the last 38 years. I am aging myself. And I was involved in the design of the devolved child-welfare system here, under the AJICWI.

I'm here today to talk to you about the new provincial Bill 32, an act respecting Child and Family Services (Indigenous jurisdiction and other amendments). As an ED of a First Nation child-welfare agency, we have been advised by family services officials that Bill 32 has been established by the Province of Manitoba to incorporate national standards from the federal Bill C-92, a.k.a. C-92. The goals of the new provincial Bill 32 is to bring the Manitoba CFS act in line with the federal law, apply standards that are best practice for all families while emphasizing the necessity of preventing any further assimilation of Indigenous children and drive practice change within the provincial system.

Bill 32 has put forward priority amendment areas and new agreements that provide enhanced voluntary supports and placements. The bill recognizes kinship and customary care agreements that can be used even when there are child-protection concerns, which is not permitted under the current act. I kindly remind the government that this is not a new concept and that all of us Indigenous agencies have developed practices, keeping within provincial standards, whereby children are placed in kinship homes and homes that have Indigenous caregivers.

The latter is now being identified as an element of a newly developed customary care agreement by this government. For years, our agencies have endeavoured, as best as we can, to keep children with family members or in suitable Indigenous foster homes and connected with their communities in times when, unfortunately, biological parents are unable to provide that care.

Basically, these new arrangements will no longer identify these as children in care. This is a good thing for sure for most–especially the ongoing legacy of a child's trajectory in life of not having that label of being a child in care. However, I am concerned that these legislative changes will not address the ongoing and, in many cases, the lifelong special needs of disadvantaged and vulnerable children, regardless of label changes.

Agencies will still be required to be involved in many of these children's lives but not as a child in care. Therefore, we will not have to obtain legal orders of guardianship.

This is a good thing but there will still be involvement, if not significant involvement, of–expected of mandated agencies in many situations, and that's fine. However, while the significance of–sorry, however, while I see the significance of Bill 32 and its many aspects, I also foresee risks associated with legislative changes at the same time, ignoring the ongoing and possibly lifelong struggles in face–faced by many of these children and the need for the children to still have ongoing supports, such as

therapy to address their trauma and mental health ailments, disabilities and a multitude of special needs.

* (20:20)

These special high–special and high needs children will not disappear because there is a new label espoused upon them or that they now live with their aunt or uncle or grandparent. Agencies will still be providing services to children in need, even though they are placed with extended family or an Indigenous foster parent. I'm hoping that the Province is not changing the labels of the children as a means to reduce funding supports for children. Extended family rates may be reduced, thus moving backwards to a time where the Province in the past once spoke of this.

We are advised that the data will change within CFSIS–which is the Child and Family Services Information System; it's our database–whereby these children will not be counted as a child in care. What will this mean at the Estimates Treasury Board stage, when the Minister of Families (Ms. Squires) applies for Treasury Board authorities to fund these services to cover child welfare? What is the intention of the department in moving forward in this regard?

As agencies, we are in the lurch on this front. Again, there's no doubt to my mind that many of these provincially funded Indigenous children will or may require ongoing lifelong supports in the system that their caregivers will not be able to afford going forward. What will happen if there is no funding from the government of Manitoba to ensure the children receive the supports to help with their trauma and navigate their lives as they grow up to address these challenges?

We know what will happen: something will likely break down and require child-welfare protection intervention. The writing's on the wall.

I don't want to see the system going backwards to start–and start depriving children again. This will be counter-productive to meaningfully addressing the well-being and best interests of children.

It's imperative we keep our children with their families and cultural connections. This can be done, but certainly not within the guise of a misguided intent to lower the numbers of children in care, reduce funding and further displace vulnerable children, who will be denied opportunity to realize their potential.

If the Province can provide stranger-based foster homes with adequate funding to support vulnerable children, then the Province can provide those equitable funds to kinship and customary care parents at the same level of funding and protection of funding to support the same children.

Bill 32 praises the key change of this new proposed legislation on the principle of substantive equality and primacy of prevention and placement priority. Appropriate and stable funding must both follow and be applied to children in need. The–Manitobans will expect no less.

When disadvantaged and vulnerable children suffer in our community, repercussions within the community produce multi-folded consequences: in health outcomes, education outcomes, civil disobedience outcomes, criminal outcomes, poverty outcomes, further safety risks to other citizens, but most importantly, the needless suffering of a child.

When I was involved with the AJI changes in Manitoba, our chief stated that the province-wide mandates given–being given to First Nation agencies and their communities were an interim measures of jurisdictional changes and that First Nations would continue to exercise their right towards full, inherent jurisdiction.

The new federal law, in conjunction with current First Nation child-welfare laws, has moved towards this milestone. This is a success, but it still does not fully erase nor ignore the current suffering and plight of Indigenous children and families impacted by past intrusive colonial laws and policies and the ongoing need for these children to access appropriate supports, therapeutic supports.

Our agencies were established incrementally throughout the early '80s, and all our communities are now served by their respective agencies. And now, with band representatives and 'advotcate' programs introduced under the federal Bill C-92, with one First Nation community exercising all control under their own law, significant strides have been made in knowledge and education and training. New practices and capacity building within our First Nation communities to better provide child-end supports to those who need those supports.

I caution that this new law will not impede these successful developments by again reducing funding and formulating policies and practice entrenched under provincial law that will restrict the ability of agencies and the caregivers to appropriately support children and families in need.

We need to celebrate our families and children's momentum towards progress. We don't want to see the voices of children and youth impeded. I would be remiss if I didn't address the following matter.

So, in closing, I share a very significant concern in, while that the current new federal legislation is positive in that our Indigenous communities have reclaimed inherent right to care for and make decisions on behalf of their children and families, the federal legislation–and now in conjunction with these new provincial amendments–in some cases have proven to have negative impacts on a growing Indigenous child demographic of displaced Indigenous children.

I am seeing these displaced Indigenous children directly through the lens of the unintended consequences resulting from the implementation of the federal legislation. There is a growing segment of Indigenous children that do not fall under the criteria of First Nations status recognized by the federal government's Indian status rules.

These children are at risk of not being represented by their affiliated Indigenous communities. We've already experienced some of the numbers of this demographic right here in Manitoba as a result of First Nation drawdown–law drawdown. These children look in the mirror every day, and they see their beautiful brown face looking back at them. They see an Indigenous child.

I'm not here to contest any First Nations decision. In fact, I celebrate these successes–

Mr. Chairperson: Unfortunately, Ms. Lavallee, it's–time for presentation has expired.

We will now move on to questions.

Ms. Squires: Thank you so much, Ms. Lavallee.

And I agree that you and I could chat, and I'm sure the committee would love to hear more from you. But I thank you very much for succinctly and quickly putting your comments on the record. Lots of information there to–a lot of food for thought.

I did want to mention that this year, our government did increase the allocation: $27 million more to CFS agencies and authorities for inflation, wages, retro payments and for the implementation of those national standards, and we do agree that much needs to be done to reform the CFS system.

Mr. Chairperson: Ms. Lavallee, did you have a comment back for the minister?

T. Lavallee: Yes, thank you. Yes, we've–I've–I just want to reiterate what Doreen talked about in regard to some of the issues with the authority. As agencies under the south, we haven't seen some of those dollars.

Mr. Diljeet Brar (Burrows): Ms. Lavallee, I appreciate you taking time to share your thoughts today.

Thank you so much.

Mr. Chairperson: Ms. Lavallee, did you have a response?

T. Lavallee: Thank you very much. It's been a pleasure.

Mr. Gerrard: Thank you very much for your carefully considered remarks.

There's sort of been an assumption that the First Nation kids will all fall under the federal government, but what you're making clear is that a significant proportion–what kind of proportion, really–will continue to stay under the provincial government and will need to continue to have strong supports from the Province.

T. Lavallee: Thank you, Dr. Gerrard. You are correct. In fact, right now, most probably amongst most of our First Nation agencies, 65 to 70 per cent of the children they have in care are funded through the Province–by the Province.

Mr. Chairperson: Are there any further questions?

Mr. Gerrard: Given the critical role of the Province and that this is adjusting and bringing things into line with the federal act, is this bill going to be workable, or does it need to have some adjustments and changes?

T. Lavallee: I would say there needs to be more clarity, and there would have to be some adjustments. Like, I spoke earlier about the customary care and kinship placements; we haven't–like, half of our children right now at Animikii are placed in customary care/kinship types of placements with Indigenous families, and I would not want to see their long-term ongoing-need supports unfunded.

Mr. Chairperson: Are there any further questions? Seeing as no further questions, we thank you very much for your presentation, Ms. Lavallee.

We will now move on to our next presenter: Mrs. Sherry Gott, Manitoba Advocate for Children and Youth.

Mrs. Gott, do you have any written submission for the committee?

Sherry Gott (Manitoba Advocate for Children and Youth): No, I don't.

Mr. Chairperson: Then you may proceed with your presentation.

***** (20:30)

S. Gott: Tansi, kinanâskomitinawaw. Good evening.

My name is Sherry Gott, and I'm the Manitoba Advocate for Children and Youth. I'm here today to speak about Bill 32, an act respecting children and services (Indigenous Jurisdiction and Related Amendments).

Pursuant to my responsibility under section 11(a)(ii) of The Advocate for Children and Youth Act, our governing legislation, I am here to represent the rights, interests and viewpoints of children, youth and young adults and to advocate on their behalf.

First, I want to congratulate and thank the many people inside and outside of this room that have pushed for a better child-welfare system in Manitoba, one that acknowledges the harms our colonial system has caused, focuses on keeping families together, ensuring Indigenous legal traditions are valued. It is a long time; it is long past time for a change.

An Act respecting First Nations, Inuit and Métis children, youth and families, which I, from now on, refer as the federal act, creates a tremendous opportunity to improve the CFS system in Manitoba. MACY is excited that the Indigenous communities will finally have more autonomy to care for their own children, and we are eager to support and collaborate with Indigenous governing bodies in any way they see fit.

I would also like to take this opportunity to voice my concerns over the absence of a child rights lens within bill C-32. Specifically, my office has heard numerous concerns from relevant stakeholders and communities throughout Manitoba, as well as the federal–at the federal level, that there is no objective ombudsperson or mechanism to ensure the rights and well-being of children are upheld. We regularly field calls and emails from individuals and organizations who share this concern.

One concern my office has heard last week was that of children falling through cracks. Nations going independent have, for example, cut kids unable to establish their status due to being in care. This runs counter to the intent of the legislation, which is to bring children home.

Just like in provincial systems, children cared for within the CFS systems of IGBs must be protected and their voices must be heard. If a child or a youth is not receiving adequate services from CFS from an IGB, it is critical there be an objective, impartial third-party body, individual or a mechanism that a youth can go to. There must be a place that children can share their concerns and have their voices heard.

The changes stemming from the federal act and, consequently, legislation passed by IB–IGBs themselves will impact this province and Canada as a whole in many complex and intersecting ways. As we navigate this new world, which is specifically designed to promote the well-being and safety of young Indigenous people, it is imperative that those same young people are not left behind.

My office is committing to serving, protecting and uplifting youth. It is always our goal to amplify and centre the voices of children. Consequently, I urge Manitoba to explicitly provide MACY with the legislative ability to enter into agreements with willing IGBs to provide services and perform functions of–under The Advocate for Children and Youth Act. When children and families encounter issues within the system itself, MACY wants to be there to help them navigate those issues, to provide an objective assessment of the situation and to ensure, above all else, that the rights and needs of children are met. A system is only successful when it adequately serves its most vulnerable populations. As the office in charge of ensuring service providers meet the needs of children and their families in Manitoba, I know first-hand that a system without checks and balances cannot do this.

I'd like to reiterate that MACY is excited that the child-welfare system in Manitoba is changing and Indigenous communities will finally have more autonomy over caring for their own children. My office is eager to embark on this journey and partner with IGBs to whatever they see fit–to however they see fit. We are keen to enter into agreements with interested IGBs so we can continue providing support to children in care and their families. Several nations have already approached us to enter into an MOU with them, and we hope to work with many more IGBs.

As my responsibility is to first and foremost the children of Manitoba, I must advocate for this new system to include checks and balances, and as–and a way for youth and families to have their complaints heard and issues addressed by an impartial third party.

A new way of doing things is important. Child welfare needs to change in this country. As an Indigenous woman, I know this all too well. I am happy to see nations finally getting–finally gaining the ability to care for their own children, but many relevant actors in a new legal landscape–IGBs, the Government of Manitoba and service providers–need to work together to make sure this new way of doing things is equipped with the proper infrastructure to ensure it is the right way of doing things with youth voices at the centre.

I must say to you that, you know, imagine a world where–Phoenix Sinclair didn't have a voice. So, we all know what happened there.

Those are my comments on bill C-32. Thank you for your attention and consideration.

Mr. Chairperson: We thank you for your presentation, Mrs. Gott.

We will now move on to questions.

Ms. Squires: You've raised many good points, and we are very pleased that MACY can enter into those agreements with Indigenous governing bodies to provide oversight. And we certainly do share your concerns.

We have advocated at the federal level that there be legislation for an advocacy for IGBs. That would have to come from the federal government. And I certainly do–will continue to advocate for that and would certainly love to have further dialogue with you on what your vision for–but if you wouldn't mind expanding a little bit what you would think that third-party oversight could look like in this new child-welfare system.

S. Gott: One of the things that we know in BC–our legislation that we have in Manitoba mirrors BC–and they have entered into agreements with IGBs there, so I would think that we would follow that process considering–and try to consider the landscape in Manitoba.

Mr. Brar: Mrs. Gott, thanks for your presentation.

S. Gott: Thank you.

Mr. Gerrard: Yes, just trying to get a clear understanding here. I think that you're saying there really must be some changes to the bill as it is now to ensure that kids are not going to fall through the cracks, and that one of those changes is a clear statement in the bill that you can do these arrangements, third-party arrangements.

S. Gott: Yes, we would sure hope that that would be considered. We know that, you know, many children have–fall through the cracks in the system, and we want to make sure that they're provided the services that they need and to ensure that their voices are amplified for their–for services.

Mr. Chairperson: Are there any further questions for Mrs. Gott?

Seeing as no further questions, we thank you very much for your presentation. And we will now move on.

That concludes the list of presenters I have before me.

* * *

Mr. Chairperson: In what order does the committee wish to proceed with clause-by-clause consideration of these bills?

Hon. Derek Johnson (Minister of Agriculture): Global, numerical? Which one? Numerical.

Mr. Chairperson: Numerical? We will now proceed–is it agreed that we will go numerical? *[Agreed]*

Bill 23–The Vulnerable Persons Living with a Mental Disability Amendment Act

(Continued)

Mr. Chairperson: We will now proceed with clause by clause of Bill 23.

Does the minister responsible for Bill 23 have an opening statement?

Hon. Rochelle Squires (Minister responsible for Accessibility): I do.

So, thank you very much for allowing me to bring Bill 23 to this committee. It does address many of the recommendations made by the vulnerable person task force, which was appointed in September of 2020. And we heard from a number of those members tonight. I want to thank them for their work and dedication to ensuring the rights for people with disabilities in the province of Manitoba are advanced and upheld.

So, this bill will modernize the act, particularly when it comes to the language we use when talking about a disability. It updates our approach to abuse and neglect, aligning the act with best practices in other jurisdictions and reducing the threshold in which abuse and neglect can be substantiated.

As well, it will provide victims and their support network with more information through the investigative process.

I want to start by thanking the members that came here tonight, particularly Mr. Kendel, who has been a tireless advocate.

* (20:40)

The Department of Families had targeted discussions with a number of groups that informed the development of this bill, including families and self-advocates, advocacy organizations, service delivery organizations, and of course our protection and investigation unit and Community Living disABILITY Services.

I assure you that the Department of Families is exploring further options as we move forward, including tools to bolster assisted decision making, and we will be following up as future work continues.

In Budget '23-24, we were pleased to introduce $21.4 million in new funding to expand the capacity of Community Living disABILITY Services to support new entrants.

Then, we also invested an additional $82 million to increase the funded wage for frontline workers to $19 per hour, and $8 million to launch the support– launch the Manitoba supports program in order to better serve the needs of Manitobans living with severe and prolonged disabilities.

We are confident that these investments, alongside with these proposed amendments will help improve the lives of adults living with an intellectual disability and those who support them.

I'm pleased to see that we have presenters registered tonight, and I thank them for their comments and collaboration in regard to this bill.

Mr. Chairperson: We thank the minister for those comments.

Does the critic from the official opposition have an opening statement?

Mr. Brar, you may proceed.

Mr. Diljeet Brar (Burrows): Using language that is inclusive and respectful of people with disabilities is crucial to reducing the stigma surrounding disabilities and promoting awareness and acceptance of disabilities.

Bill 23 makes a number of changes to terminology, including replacing vulnerable person with adult living with an intellectual disability.

This is an important change, and there are many other important changes like it in Bill 23. Bill 23 also expands the definitions of neglect and abuse. The definition of abuse is expanded to include physical, emotional, psychological, sexual, or property abuse, even if it does not cause serious physical or psychological harm.

The definition of neglect now includes acts of omission that cause physical or psychological harm, even if the harm is not defined as serious. However, it's clear from the speakers we have heard from tonight that this bill doesn't go far enough.

We have heard how the definition of intellectual disabilities doesn't include neurodiverse Manitobans who have been diagnosed with disabilities like autism, dyslexia, ADHD and many learning disabilities.

It's clear that using IQ to determine who qualifies for supports is leaving thousands of Manitobans to fall through the cracks, as many people who have a learning disability also have high IQs.

We've heard how the system in Manitoba has failed these Manitobans and has left them to fend for themselves, often with terrible impacts. It's clear we need to do more to support these Manitobans and I would urge the minister to sit down with these presenters and talk with them.

Undertake real consultations so that we can build a Manitoba that supports all Manitobans and that sees people as people first, and disabilities second.

Thank you, Mr. Chair.

Mr. Chairperson: We thank the member for those words.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions, or amendments to propose.

Is that agreed? *[Agreed]*

Clauses 1 through 3–pass; clause 4–pass; clauses 5 through 8–pass; clauses 9 through 11–pass; clauses 12 and 13–pass; clause 14–pass; clauses 15 through 17–pass; clauses 18 and 19–pass; clauses 20 through 25–pass; clauses 26 through 28–pass; clause 29–pass; clause 30–pass; clauses 31 through 33–pass; clause 34–pass; clauses 35 and 36–pass; clauses 37 through 41–pass; clauses 42 and 43–pass; clauses 44 through 46–pass; clauses 47 through 49–pass; clause 50–pass; clauses 51 through 55–pass; clauses 56 through 58–pass; clauses 59 and 60–pass; clauses 61 and 62–pass; clauses 63 through 67–pass; clauses 68 and 69–pass; clauses 70 through 72–pass; clause 73–pass; clauses 74 and 75–pass; clause 76–pass; clauses 77 through 79–pass; clause 80–pass; clause 81–pass; clauses 82 through 86–pass; clauses 87 through 89–pass; clauses 90 and 91–pass; clauses 92 through 95–pass; clauses 96 through 99–pass; clauses 100 and 101–pass; clauses 102 through 105–pass; clauses 106 through 111–pass; clauses 112 through 115–pass; clause 116–pass; schedule–pass; enacting clause–pass; title–pass. Bill be reported.

* (20:50)

Bill 31–The Animal Care Amendment Act (2)

(Continued)

Mr. Chairperson: We will now proceed with clause by clause of Bill 31.

Does the minister responsible for Bill 31 have an opening statement?

Hon. Derek Johnson (Minister of Agriculture): Thank you, Mr. Chair and committee members, and members of the public, on behalf of Manitoba Agriculture. I am very pleased to speak on Bill 31, the animal care amendment act.

I want to thank the presenters, the Keystone Ag Producers along with Manitoba Pork, for their interest today, who spoke about the proposed amendments. I heard your comments on the Animal Care Appeal Board, an independent appeal board for civilians who come into contact with The Animal Care Act.

Prior to 2009, animal care appeals were made directly to the minister. The proposed legislative amendment supports Manitoba Agriculture's ongoing mandate on animal welfare. Bill 31 is an important part of ensuring regular and timely review of appeals by the Animal Care Appeal Board. The proposed animal care amendment act introduces some operational changes to the Animal Care Appeal Board.

The proposed animal care amendment act streamlines the Animal Care Appeal Board procedures and powers to ensure animal care and welfare. The bill introduces greater efficiency for the Animal Care Appeal Board in adjudicating appeals for citizens who have come into contact with The Animal Care Act. The proposed amendments will modernize The Animal Care Act with respect to the Animal Care Appeal Board.

In summary, Bill 31 introduces enhancements to the process and facilitates citizens' ability to present to the Animal Care Appeal Board. The bill streamlines board procedures and powers, and introduces greater flexibility and efficiency to support animal care and welfare.

Thank you, Mr. Chair.

Mr. Chairperson: We thank the minister for those words.

Does the critic from the official opposition have an opening statement?

Mr. Diljeet Brar (Burrows): I thank the attendees, presenters and written submissions today. Treating animals ethically is very important and there must be repercussions for those who fail to do so.

Bill 31 would change how the animal care board hears and processes appeals to make the process more flexible. Under Bill 31, the time limit for an appeal may be extended by the board. The appeal board may also dismiss a matter without a hearing in certain circumstances.

In addition, Bill 31 will enhance the hearing process by introducing electronic submissions of appeals, as well as allowing hearings to be held by telephone or other electronic means. The proposed amendment will bring greater clarity to The Animal Care Act, introducing a more efficient way of adjudicating appeals brought before the Animal Care Appeal Board.

Thank you, Mr. Chair.

Mr. Chairperson: We thank the member for those comments.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Clause 1–pass; clause 2–pass; clause 3–pass; clause 4–pass; clause 5–pass; clause 6–pass; clause 7–pass; enacting clause–pass; title–pass. Bill be reported.

Bill 32–An Act respecting Child and Family Services (Indigenous Jurisdiction and Related Amendments)
(Continued)

Mr. Chairperson: We will now move on to clause by clause of Bill 32.

Does the minister responsible for Bill 32 have an opening statement?

Hon. Rochelle Squires (Minister of Families): I do.

I'm pleased to bring forward Bill 32, An Act respecting Child and Family Services (Indigenous Jurisdiction and Related Amendments), to this committee today.

Bill 32 amends 11 provincial acts to recognize Indigenous jurisdiction, support implementation of the federal CFS act and provide provincial CFS agencies with more tools to better support all children and families.

These changes respond to many recommendations made by Indigenous leadership and reflect long-requested changes from our CFS partner authorities and agencies.

Changes to temporary orders will allow judges to grant and extend these orders until a child reaches the age of majority. This will reduce the need to sever parental ties due to arbitrary timelines. These changes will lead to better outcomes for children and youth as they support the continuous work to reunify children with their parents.

A new set of agreements will be introduced to create a supportive pathway for children when they cannot safely stay with one of their parents. These agreements will provide support to meet the ongoing needs of a child and their family and take place outside of a court process. Through these agreements, parents can retain guardianship of their children even if they are not in a place to provide them with the day-to-day care.

Kinship care and customer-care agreements will reflect placement priorities as outlined in the federal CFS act by emphasizing the importance of placing children with family or community members. These new agreements take into account the customs and traditions of Indigenous people and acknowledge the importance of extended family in caring for children.

A revised voluntary placement agreement, called a voluntary care agreement, may now be used if a child is in need of protection. This agreement will only be used after all other options have been explored for a child to live with family, kin or community.

Caregivers who are responsible for the day-to-day care of children will be able to access information and make decisions for these children, reducing barriers for such individuals when accessing provincial services on behalf of a child in their care.

The Court of King's Bench and Provincial Court family division's jurisdiction is confirmed and expanded to include matters arising under Indigenous law over child and family services. This is only possible when enabled within government Indigenous law. This means that if an Indigenous governing body does not want to have matters decided through a provincial court, it does not have to.

For the benefit of committee members and those from the public who've joined us, I would like to use this opportunity to respond to some of the questions that we have heard in response to this proposed bill.

A question was raised about how Bill 32 will align with the federal CFS act. These amendments align Manitoba laws and practices with the federal CFS act. National service-delivery principles for the provision of CFS services for Indigenous children will be embedded within provincial law to support agencies in realizing these goals. The amendments help to remove barriers for Indigenous governing–governments enacting CFS laws. They also support children and families who receive services under emergent Indigenous CFS laws.

Another important question relates to the jurisdiction of the Manitoba Advocate for Children and Youth, and I thank the advocate for her presentation earlier. I want to clarify that these proposed amendments outline that the advocate is not authorized to review a serious injury or death of a child or young adult if an Indigenous law governed the provision of the CFS services in relation to that child or young adult at the time of injury or death. This change is consistent with respecting Indigenous jurisdiction for the delivery of CFS once an Indigenous government has enacted its own CFS law.

However, the advocate may review a serious injury or death if the Indigenous governing body that made the Indigenous law agrees to review and wishes to work collaboratively with the provincial advocate.

And I'd like to point out that this did receive the support of the many people that were consulted on the development of this bill, including the Indigenous leaders in community.

* (21:00)

These were also a few questions about jurisdictional concerns when one parent is Indigenous and one parent is non-Indigenous, or in situations where parents are from different Indigenous communities. Such issues will be addressed either by how community members are defined under Indigenous law or through discussions between Indigenous nations and their service providers.

That said, it is important to note the following: that these amendments align with the federal CFS act by first supporting the principles of the best interests of the child, which the–which must be a primary consideration when CFS agencies make decisions.

And secondly, the principle of substantive equality is reflected in the understanding that a child, a child's family member and the Indigenous governing body to which the child belongs must have their views considered without discrimination.

Jurisdictional disputes must not result in a gap in services in the Child and Family Services provisions that–in relation to Indigenous children.

Lastly, these amendments recognize the principle of Indigenous cultural continuity, which is essential to the well-being of Indigenous children, their families and the Indigenous group, community or people. These include the transmissions of languages, cultures, practices, customs, traditions, ceremonies and knowledge of the Indigenous group, community or people to which the child belongs.

The Department of Families engaged with a number of First Nations, Métis and government partners during the development of this bill. I thank the leadership, their expert officials and our authority and agency partners who participated in these engagements.

This bill is a significant step toward over–addressing the over-representation of Indigenous children and families in the child-welfare system, while enhancing services to all families in need of CFS supports.

Thank you, Mr. Chair.

Mr. Chairperson: We thank the minister for those comments.

Does the critic from the official opposition have an opening statement?

Mr. Diljeet Brar (Burrows): I want to say thank you to the attendees, presenters and Manitobans who submitted a write-up today.

The PC government does not have a good track record of giving Indigenous children in care what they need. The changes made in Bill 32 are a positive step forward, but procedural matters need to be addressed to ensure proper record-keeping across systems, as well as for transfer arrangements of children across systems.

We affirm the right of First Nations, Inuit and Métis people to exercise jurisdiction over Child and Family Services. We also recognize that there is more that the provincial government can do to support First Nations and Child and Family Services.

We want children to grow up in safe and loving homes with the supports they need to get a strong start, a good education and good jobs. We want to see real action to reunify families and reduce the number of children in care, and we recognize that children who age out of CFS care need additional supports so they can transition to independent living. We know far too many people are being cut off from supports and are struggling as a result.

Unfortunately, the government has not been open and forthcoming with the information regarding this bill with First Nations. This must change. First Nations need to be included in every step of the process.

Thank you.

Mr. Chairperson: We thank the member for those comments.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose.

Is that agreed? *[Agreed]*

Clauses 1 and 2–pass; clause 3–pass; clauses 4 and 5–pass; clauses 6 through 9–pass; clauses 10 and 11–pass; clause 12–pass; clauses 13 through 17–pass; clauses 18 through 21–pass; clauses 22 and 23–pass; clause 24–pass; clauses 25 through 27–pass; clauses 28 through 30–pass; clauses 31 and 32–pass; clauses 33 through 36–pass; clause 37 through 41–pass; clause 42–pass; clauses 43 through 45–pass; clause 46–pass; clauses 47 and 48–pass; clauses 49 through 51–pass; clauses 52 and 53–pass; clauses 54 and 55–pass; clauses 56 and 57–pass; clauses 58 and 59–pass; clause 60–pass; clauses 61 and 62–pass; clauses 63 through 65–pass; clause 66–pass; clause 67–pass; clause 68–pass; clauses 69 and 70–pass; clauses 71 and 72–pass; clause 73–pass; clause 74–pass; enacting clause–pass; title–pass. Bill be reported.

The hour being 9:09, what is the will of the committee?

Some Honourable Members: Rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: *9:09 p.m.*

WRITTEN SUBMISSIONS

Re: Bill 23

Thank you for the opportunity to provide my feedback on Bill 23 and the proposed amendments to the Vulnerable Persons Living with a Mental Disability Act.

My name is Suzanne Swanton and I am the Executive Director of Continuity Care and I am representing this organization and our members, who are families across Manitoba who have a child or family member with an intellectual disability.

I would like to first recognize the work of the Vulnerable Persons Act Task Force members who took on the huge job of reviewing the VPA, consulting with stakeholders and writing the report entitled "Pathways to Dignity: Rights, Safeguards, Planning and Decision Making which included their 16 recommendations which was released in December 2021. When I read the title of the report, I think that every word is so important and is what we want to see reflected in this legislation.

Next, I would also like to acknowledge the Minister of Families, Assistant Deputy Ministers – Catherine Gates and Heidi Wurmann and their team of policy analysts for their positive and timely response to the report and their commitment to address the recommendations with their lofty implementation plan. We have appreciated the level of engagement and the opportunities to be a part of the consultation with the many stakeholder groups and look forward to continuing to be a part of this process going forward.

In terms of the amendments that are being proposed at this time under Bill 23, I would like to focus my submission on the following items:

1) Updating the wording and language of the Act

- Language is very important and has the power to shift people's perceptions and attitudes, biases and therefore their behavior and actions.

- The current wording and terminology used in the Act is outdated, unclear and does not reflect the principles and values of inclusion, dignity and respect for the people whom the Act is intended.

A) The term "Vulnerable Person" is unclear and could refer to many people or groups of people who are vulnerable for a variety of different reasons and therefore causes confusion about who the Act applies to.

- The proposed change is to "adult living with an intellectual disability" is an improvement as it is more specific and is more current.

- The parents and family members who I consulted with agreed with this change.

- We wanted the opinion of people with disabilities therefore asked representatives from People First of Canada and Manitoba what language they prefer and are currently using and their response was "people labelled with and intellectual or developmental disability."

- When asked about what they thought about the wording "adults living with an intellectual disability", some of their comments were "we live with- all sorts of things, conditions and circumstances" – so perhaps the word "living" is not needed

B) Replacing the term "mental disability" with "intellectual disability"

- This change is also an improvement as the term "mental disability" is also unclear and causes confusion as it doesn't distinguish from mental disorders and psychiatric conditions.

- Having a clear definition of who falls under the Act is important.

- The term "intellectual disability" is also consistent with the definition used in the DSM 5, which is the most current version.

C) With respect to changing the title of the Act – this is an important decision and may require further discussion.

- In conversations with advocates and stakeholders, it was suggested that the action and intent of the legislation should be the focus of the title; which is the promotion of rights, decision making and protection.

- Leaving out who the Act is for can be stated in the definitions and body of the Act. An example of this would be the Inclusive Education Act or the Accessibility for Manitobans Act.

- Keeping the title short and avoiding additional wording is preferred. It may also allow for longevity of the title and not having to revisit that in another 5 years when the terminology and languages changes, which we expect to happen.

D) Changing the title of the Vulnerable Persons Commissioner

- Perhaps just the word Commissioner is all that is needed

- A change in name of that Office should be consistent with the title of the Act.

2) Updates to the Principles of the Act

- I am in support of this amendment as it is important that this Act upholds and refers to the UN Convention on the Rights of Persons with Disabilities and other related Acts, such Canadian Charter of Rights and Freedoms and the Manitoba Human Rights Code.

- Canada had ratified the UN Convention therefore as a country, each province has an obligation to fulfill the requirements under this legislation.

3) Mandatory legislative review of the Act

- The proposed amendment is to include a legislatively mandated review process that is to be within 5 years and every 10 years after that.

- I am in agreement with including a requirement for legislative review in the Act

- Given what we have observed with other provincial legislations, such as the Accessibility For Manitobans Act – 5 years may not be a long enough time period – as these processes take longer than expected. 10 years is too long. Therefore we thought that every 7-8 years would be more reasonable and attainable.

4) I will not be addressing the amendments regarding the definitions of abuse, the Adult Abuse registry and the Protection for Persons in Care Act – as I am aware that others with more experience and expertise will be addressing those items in their presentations.

5) As a final note, I would like to comment on some of the recommendations that are not being included as amendments at this time.

- Representation Agreements – which is a tool that is being used in BC as an alternative to substitute decision making.

- I support the recommendation that more work needs to be done in Manitoba in the area of supported decision making to make this a more viable and recognized option.

- Continuity Care is one of the partners in the 120 Maryland group who is part of the Community Based Assisted Decision Making Project.

- This is a two year pilot project and one of the outcomes is to research and develop a framework for supported or assisted decision making in Manitoba.

- This is a huge undertaking, and we are excited to be a part of this important work which needs tobe done in consultation with the many stakeholder groups, including community and government.

- I am pleased that process is not being rushed and included in this round of amendments.

Respectfully submitted,

Suzanne Swanton, B.A., B.S.W., R.S.W.
Executive Director
Continuity Care Inc.

Re: Bill 31

Dear Standing Committee Members,

Re: Bill 31, The Animal Care Amendment Act (2)

Please accept the enclosed comments submitted on behalf of Animal Justice – Canada's leading national animal law organization – regarding Bill 31, The Animal Care Amendment Act (2). As an organization focused on strengthening legal protections for animals, we commend Manitoba for introducing this Bill. However, as set out below we have several suggestions in terms of ways to strengthen the Bill to protect animals as well as promote transparency and public accountability.

Animal Care Appeal Board procedures

During second reading of Bill 31, Minister Johnson explained that a main purpose of the Bill is to streamline Animal Care Appeal Board procedures and powers to "ensure animal care and welfare." Animal Justice agrees that efficiency in Board proceedings is important.

The Bill will amend sections 33.6, 33.12, and 33.13 of the Act. We recommend additional amendments to these sections to improve public transparency and, where warranted, participation in Board proceedings. We note that there is no opportunity for individuals other than the appellant (who is appealing an order issued against them) and Chief Veterinary Office representative to participate in appeals to the Board. The health and well-being of animals is a matter of increasing importance to Manitobans. In proceedings involving matters of public interest, or where important legal questions are at issue which have implications for the interpretation and application of the Act more generally, it would be beneficial to allow interested groups or individuals to participate in Board proceedings. Yet unlike other jurisdictions, there is no apparent means by which interested persons can participate in an appeal (see, e.g. Rule 3.6 of Ontario's Animal Care Review Board). This could be accomplished by amending the new s 33.12 as follows:

Hearings

(2) The appeal board may add a person as a party to the proceeding if the person has a significant interest in the proceeding.

Animal Justice Canada

Similarly, Animal Justice supports the proposed enhancements to Board hearing processes via the introduction of electronic submissions and allowing for virtual hearings. However, we recommend further improvements to facilitate public transparency. Indeed, it appears virtually impossible for members of the public to even watch Board hearings at this time as there is no website for the Board or public list of appeals before the Board.

This is counter to important principles of accessibility in tribunal hearings. We recommend that the Board be directed to make the list of appeals before it public so that interested members of the public can know which matters are before the board, request documents pertaining to those appeals, and attend and observe (whether in person or virtually in the case of electronic hearings) hearings of interest.

Costs of caring for animals

Amending the Act to enable the director to register with the court the debt owed by an individual who has caused an animal to be in distress and whose animal has thus been seized is an important means to ensure that the costs of caring for and treating animals who suffer due to abuse or neglect are not borne by the public purse but rather those who caused their suffering. This may also serve an important deterrence function.

The Bill will amend section 24 of the Act. In future amendments to the Act, we would recommend clarifying that costs recoverable under this part include not only costs of caring for seized animals but also the costs of transporting those animals to relieve their distress where it is necessary to provide them with adequate shelter and/or care. At present, section 21 provides that owners are liable for the costs of "care" when an animal is seized or taken into custody, but "care" is defined as "the provision of food, water, shelter and medical attention." In order to provide abused or neglected animals with the food, water, shelter and/or medical attention that they need it is often necessary to transport them.

This is an issue that has arisen in other jurisdictions where transport costs have been significant (e.g. where a large number of animals has been seized or where the animals requiring transport are large cattle) and individuals have challenged (often successfully) bills of costs issued against them on the grounds that costs of transportation cannot be included in costs of care and are thus not recoverable by the government. Additional clarity on this point in the Act could avoid unnecessary litigation costs in the future.

Conclusion

We thank the Committee for its consideration of Bill 31 and the above-noted recommended reforms to the Bill. We note that during second reading MLA Brar asked Minister Johnson which groups had been consulted on this Bill and all of the groups named by the Minister were representatives of the agriculture industry, such as Manitoba Beef, Manitoba Chicken Producers, and Manitoba Pork. To our knowledge, no animal protection groups were consulted. In the future we, along with groups such as the Winnipeg Humane Society, would appreciate the opportunity to be consulted on amendments to the Animal Care Act and other laws with significant animal welfare implications. While those in animal use industries may be stakeholders with an interest in such amendments, so too are the animals themselves and the views of

animal protection groups should also be taken into account.

While we are generally in support of the amendments proposed through Bill 31, we remain concerned that Manitoba Agriculture is also proposing to amend the Animal Care Regulation 126/98 in a manner that will put animals – including captive wild animals held at zoos in particular – at significant risk.1 While we appreciate that those regulatory amendments are not before this Committee through Bill 31, we enclose the April 3, 2023 comments of Animal Justice and the Winnipeg Humane Society on those regulatory amendments here for your information.

Please do not hesitate to contact me at kmitchell@animaljustice.ca should you have any questions regarding the above comments.

Yours truly,

Kaitlyn Mitchell
Director of Legal Advocacy
Animal Justice

Re: Bill 32

Manitoba Legislative Committee,

I'm here today to discuss section 9 of Bill 32: An Act Respecting Child and Family Services - specifically to bring attention to the CHRT orders and subsequent orders that allow for youth to be extended to 25 years old . This order is not implemented in Bill 32 Section 9 where it defines "young adult".

As a First Nations citizen, I'm overwhelmingly familiar with the consequences of exclusionary policy and legislation. Bill 32 presents an opportunity to work together – Nation-to-Nation – in the best interest of First Nations children, youth and young adults. In its present state, Bill 32 and its processes are mandated to protect children, youth and young adults up to 21-years-old.

It is with this in mind, I am requesting the definition of "youth", as it relates to Bill 32 and subsequent orders, be extended to include individuals up to, and including, 25-years-old. Committee members: it's time for policy and legislation to include and meet the needs of First Nations. Committee Members: this government has a historically binding fiduciary duty to First Nations people. It is unwise to expect a child who has endured the child-welfare system be appropriately equipped to manage their affairs at 21-years-old. Canada's hard-lined approach to age cut-offs presents a narrow understanding of its fiduciary duty to First Nations. It's understood that Bill 32 is supposed to protect and perform in the best interest of First Nations

First Nations often dominate the most unenviable statistics this country has to offer. We know First Nations children and youth are disproportionately overrepresented in the child and family services system. Canada's historical practice of taking a narrow view of its fiduciary duty to First Nations has created spaces where young people are able to be exploited and often have no where to turn.

How can we, as members of society, allow this to happen, especially to our most disadvantaged, vulnerable members of society?

As stated by the Honourable Rosalie Silberman Abella.

"As the curtain opens wider and wider on the history of Canada's relationship with its indigenous peoples, inequities are increasingly revealed, and remedies are urgently sought. Many revelations have resulted in good faith policy and legislative responses, but the list of disadvantages remain robust. This case represents another chapter in the pursuit of reconciliation and redress in that relationship."

-Abella J.

Young First Nations peoples involved in the Child Welfare System are disadvantaged. First Nations communities are disadvantaged. The disruption of cultural transmission, identity transmission, and familial transmissions are all proponent factors as to why these groups are disadvantaged from this system. With approximately 9000 Indigenous youth in the Manitoba Child and Family Services system we owe the youth the due diligence to extend services and let them know that if reunification does not happen this system has got them and will not only look after their childhood needs but also their adult needs.

In the age of reconciliation how can we give allowances to our young first nations to develop in time and process into functional adults in the already present 36-month timeframe? How can we give these young people any assurances of life after the agency? How can we continue to have high numbers of Indigenous representation on Income Assistance, involvement in the Justice system and other socially servicing systems.

We must extend the age of services to create equitability that further allows for these youth to fully

develop into adults. We must take the necessary approaches to consider the development of the adult. A study done by the University of Rochester Medical Centre states: "It doesn't matter how smart teens are… Good Judgement isn't something they can excel in, at least not yet. The rational part of a teens brain isn't fully developed and won't be until age 25 or so." We must take the necessary steps to develop our children and mold them into members of society so that we can continue to strive and prosper as Nations conglomerated under one Manitoban society.

I am advocating for young people to have 48 more months of extended services with their agency. This extended service should be added to the already 36 months this government provides. In total this will allow for the young adult to develop as there will be 84 months provided in total of supports.

Lastly, this request of amendment is not a handout by any regard to our most vulnerable members but instead is a hand up, this amendment will allow for our government to follow the sciences of developing adults, as well align with the federal mandates and aid them out of this system accordingly. This amendment also aligns and follows the spirit of reconciliation and aids in the historical age that we live in.

Miigwetch - Thank you.

Joshua Nepinak

Re: Bill 32

Dear Madam / Mr. Chairperson,

Re: Bill 32 - An Act Respecting Child and Family Services

(Indigenous Jurisdiction and Related Amendments)

Introduction and General Comments

[1] Good Evening Honourable Chairperson, Minister, and Committee Members, and thank you for the opportunity to share my thoughts regarding this Bill. I wish to make it clear that I am speaking tonight as a private citizen, and not on behalf of my employer or any other organization.

[2] Owing to the complexity of some of the issues, and the limited time for presentations, I will only be reading those parts of my written submission that appear in black ink; those portions in blue ink are important for context, and I hope you will have a chance to read them. I therefore wish to request of the Committee that there be a decision to include the entire document you have received in Hansard. Accordingly I am requesting of the Chair that there be a motion for inclusion (all in black ink) of this document in Hansard.

[3] I have been involved in child welfare in Manitoba almost continuously since the fall of 1969, and (among many other things) have had the privilege of assisting former children in care and who have become young adults view their old Child in Care (CIC) files, files that have been 'closed and sealed' in accordance with the provisions of s. 76(14) of The CFS Act. As a person whose employment since 1981 has been with Indigenous child welfare organizations, I have had considerable experience in working with families to identify and utilize extended family resources of various types, now to be called Kinship Care Agreements (the subject of s. 13.2), Customary Care Agreements (the subject of s. 13.3), and Voluntary Care Agreements (the subject of s. 13.4). When Bill 32 becomes law, all three of these categories of resources will replace the former Voluntary Placement Agreement category (V.P.A.), currently the subject of s. 14 of The CFS Act, and the records of those arrangements should receive the same protection, a theme we will return to later. I support those portions of the Bill that seek to bring the legislation into compliance with the spirit and intent of the Indigenous family laws that have been produced and that are under development.

[4] I wish to speak this evening about five aspects of these proposed changes:

1. A recommendation to include some transitional provisions related to the repeal of s. 14 in the text of the amended Act that now would appear only in the amending Bill. This will reduce confusion on the part of future users of the legislation. This will also necessitate a re-numbering of s. 46 (Transitional Provisions);

2. Clarifying the protection of the confidentiality of records under s. 14, and protecting records under new sections 13.2, 13.3 and 13.4 [i.e., better wording in the amended s. 76(14)];

3. Enhancing the provisions around potential financial contributions;

4. Enhanced protection for CFS agency staff, including staff that are identifying and developing the types of resources that will be used through the provisions of the 13.x sections, and staff involved in the confirmation of decision-making responsibilities in accordance with s. 15.1 (confirming decision-

making responsibilities for those not parents or guardians);

5. The restoration of an option covered by s. 38(1); in clause (b); the option of another CFS agency (a corporate "person") becoming the guardian.

Continuation of VPAs

[5] In section 46 of the Bill, there are three aspects of the CFS Act that are mentioned in the context of transitional provisions. Two of them will have lasting impacts on how services are provided to some individuals, and are transitional in only a strictly legal sense of the term. For example, a voluntary placement agreement (VPA) initiated on the day before the amendments take effect could be continued for up to a year, even though s. 14 is repealed. A front line worker in an agency, with a caseload significantly higher than that recommended by Commissioner Hughes in the final report of the Phoenix Sinclair inquiry, will not have time to go through the details of this Bill to discover the so-called transitional provisions in s. 46(2) of the Bill to realize that there is no problem. It would be appropriate for the Bill to insert wording near the repealed s. 14 to ensure that the 'transitional' provisions are easily accessible by front line staff, on short notice.

[6] This provides an opportunity for this 42nd Legislature to provide assistance, just as an earlier legislature built transitional provisions into the (then) new CFS Act, to ensure that future generations would understand the details of the transition away from the former Child Welfare Act, of which the subsection below is one example;

Transitional provision
87(2) Notwithstanding subsection (1), where prior to the coming into force of this Act any action, proceeding or matter was taken or commenced under The Child Welfare Act, it shall be continued and completed in accordance with the provisions of that Act and regulations made thereunder, as if this Act had not been enacted.

[7] To facilitate the transformation away from Voluntary Placement Agreements (s. 14), I am proposing that the following [which borrows heavily from the wording of s. 46(2) of the Bill] be added to the Bill;

22.1 The following is added just above section 15:

14.1 A voluntary placement agreement under the former section 14 that is made before the repeal of that section continues to be in force according to its terms.

Regarding Section 76(14)

[8] Similarly, there is a need to document within the CFS Act (as opposed to merely including it in the amending legislation) the continued protections accorded to records of former placements involving VPAs. Currently, this aspect of transitional planning is covered only at s. 46(4) of the Bill, which will not become text in the amended CFS Act. Even thirty or forty years from now, there will be some people attempting to review those records, with help from staff. Staff in those organizations tasked with assisting those applicants will need guidance from the legislation, and not from an obscure amending Act, to sort out how they can be of assistance in response to those requests. The numbers will not be high enough so that these will be routine procedures, but they will be very important to the affected individuals.

[9] As it reads now, s. 76(14) of The Act states that files of all children in the care of agencies will be closed and sealed when the child reaches majority as per the following;

76(14) Where a ward, or a child placed under an agreement referred to in section 14, has reached the age of majority and the record of the wardship or placement has been closed, the record shall be sealed in a separate file and stored in a safe depository, and information from the record shall not be disclosed to any person except

(a) by order of a court; or

(b) subject to subsection (8), to the subject of the record, but in the case of a record made before this section comes into force, the information shall be in the form of an excerpted summary; or

(c) subject to subsection (15), with the consent of the person who is the subject of the record; or

(d) in accordance with subsection (16); or

(e) by the director in the course of carrying out searches of the post-adoption registry under The Adoption Act; or

(f) where disclosure is necessary for the safety, health or well-being of a person; or

(g) where disclosure is necessary for the purpose of allowing a person to receive a benefit.

[10] The protections provided to those records by clauses (a) through (g) are significant; and that is because they contain pretty significant private information. The yellow-highlighted words, above, are to be struck out by s. 42(3) of the Bill. Subsection

46(4), one of the transitional provision sections, states that those provisions will still be applicable in situations that involved VPAs. For the reasons mentioned above, it would be beneficial if there could be continued mention of s. 14 records within s. 76(14). In addition, neither the wording in the amended subsection 76(14) of The CFS Act nor the transitional provisions in s.46(4) of the Bill address the question of the treatment of records of children who are the subject of arrangements through the new sections 13.2, 13.3 and 13.4. Those 13.x records will not have the same protection as ward files, although they will contain the same types of sensitive information. This needlessly creates a double standard, and contravenes s. 15(1) of the Charter;

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

[11] To reflect both the transitional needs addressed by s.46(4) and the on-going protections necessary for records pursuant to sections 13.2, 13.3 and 13.4, I am recommending that the wording at the beginning of s. 76(14) should be changed to keep the reference to s. 14, and add references to sections 13.2, 13.3 and 13.4;

76(14) Where a ward, a child placed under an agreement referred to in the former section 14, or a child who is the subject of a kinship care, customary care or voluntary care agreement has reached the age of majority and the resulting record has been closed, the record shall be sealed in a separate file and stored in a safe depository, and information from the record shall not be disclosed to any person except

[12] Based on the above, I am therefore proposing that s. 42(3) of the Bill be replaced with the following;

42(3) Subsection 76(14) is amended, in the part before clause (a), by striking out everything before "the record shall be sealed" and replacing it with the following:

Where a ward, a child placed under an agreement referred to in the former section 14, or a child who is the subject of a kinship care, customary care or voluntary care agreement has reached the age of majority and the resulting record has been closed,

[13] If this suggestion is adopted, the resulting introductory portion of s. 76(14) would read as set out in Paragraph [11], above, and there would be no need for the (a) and (b) clauses in the original s. 42(3) of the Bill.

[14] There remains only a single transitional issue in s. 46, covering current foster parent appeals. By definition, this is a short-term issue. I am therefore proposing that s. 46 of the Bill be amended by deleting subsections 46(2) and 46(4), and renumbering s. 46(3) as s. 46(2), so it would appear as follows;

Definition
46(1) In this section, "former Act" means The Child and Family Services Act as it read immediately before the coming into force of this Act.

Independent appeal by foster parent
46(2) A foster parent is entitled to an independent appeal under subsection 51(5) of the former Act only if the foster parent had asked the appropriate authority to reconsider the matter under subsection 51(4) of the former Act before the coming into force of section 41 of this Act.

The Possibility of Financial Contributions

[15] Although generally, families whose children come into care cannot afford to contribute financially, there are exceptions. Although there are not many, there will be some situations where a family with a child in care through a VPA and who is contributing financially will want to (and should be expected to) continue to contribute financially. There will also be situations where arrangements under the 13.x sections could include financial contributions. Within s. 23(4) of the Bill, only clause (b) would require alteration. The earlier portions are included only for administrative convenience. The following suggested replacement of s. 23(4) of the Bill will facilitate the transitional provisions regarding s. 14 and allow for financial contributions in the 13.x regime;

23(4) Subsection 15(3.5) is amended

(a) by striking out "section 12," and substituting "section 12 or"; and

(b) by replacing the period after "section 14" with a comma, and adding "or the date of placement of the child under any of sections 13.2, 13.3 or 13.4."

Better Protections for CFS Staff

[16] The process of developing resources to enable arrangements under the 13.x sections will be a process that, in many cases, will be driven by an immediate need. Some of the potential candidates will have 'attributes' that will require careful consideration, as case managers and extended family members work

together to find a plan that is in the best interests of children. In some of those situations, the potential liability exposures will be greater than zero.

[17] In September of 2018, the Manitoba government took receipt of a legislative review report dealing with changes to the CFS Act, entitled, "Transforming Child Welfare Legislation in Manitoba: Opportunities to Improve Outcomes for Children and Youth".

[18] On p. 34 of that report, appeared the following;

Protection from Liability for Child Protection Workers

All child protection workers should be granted protection from liability for anything done or omitted in good faith, while exercising their powers, duties or functions. That a provision [sic] on protection from liability, similar to the provision found in British Columbia's legislation, be adopted in Manitoba (see Appendix B for an excerpt).

[19] Appendix B, on p. 38 of that report, contained an excerpt from s. 101 of B.C.'s Child, Family and Community Services Act;

Protection from liability
101 No person is personally liable for anything done or omitted in good faith in the exercise or performance or intended exercise or performance of

(a) a power, duty or function conferred under this Act, or

(b) a power, duty or function on behalf of or under the direction of a person on whom the power, duty or function is conferred under this Act.

[20] As it turns out, Manitoba's CFS Act had a similar provision until November of 2003, when subsection 6(11) was removed. The wording as it then was;

6(11) Neither the president, nor any officer or director of an agency, nor any person acting under the instructions of any of them or under the authority of this Act or the Adoption Act is personally liable or answerable for any

(a) debt, liability or obligation of an agency or in respect of any act, error or omission of an agency or any of its officers, employees or agents; or

(b) loss or damage suffered by any person by reason of anything in good faith and without negligence, done or omitted to be done, or caused, permitted, or authorized to be done or omitted to be done, pursuant to, or in exercise of, or supposed exercise of, the powers given by this or any other Act of the Legislature.

[21] In short, since November 23, 2003, while CFS workers in government Regional Offices have enjoyed protection through the Civil Service Act, CFS workers in Manitoba's non-share corporation agencies have been working 'without a net' for a generation. I am advised that the removal of s. 6(11) was accidental, but the accidental nature of its removal seems to have had no effect on its restoration. What the 37th Legislature took away in 2003, apparently by accident, this 42nd Legislature should restore. It is to those dedicated front line staff who are more than willing to assist in the transition to services being provided by Indigenous Service Providers that we owe that restoration.

[22] Accordingly, I am proposing that s. 6 of the Bill be re-structured, such that the original wording would become s. 6(1), which would be followed by a s. 6(2), as follows;

6(1) Clause 4.1(5)(b) of the English version is amended by striking out "his or her" and substituting "the director's", and

6(2) Restoring the former section 6(11) from its status as "repealed", so that it reads as follows:

6(11) Neither the president, nor any officer or director of an agency, nor any person acting under the instructions of any of them or under the authority of this Act or the Adoption Act is personally liable or answerable for any

(a) debt, liability or obligation of an agency or in respect of any act, error or omission of an agency or any of its officers, employees or agents; or

(b) loss or damage suffered by any person by reason of anything in good faith and without negligence, done or omitted to be done, or caused, permitted, or authorized to be done or omitted to be done, pursuant to, or in exercise of, or supposed exercise of, the powers given by this or any other Act of the Legislature.

The Restrictions Coming to S. 38(1)

[23] Section 36(1) of the Bill proposes the yellow-highlighted additions to s. 38(1)(b);

(b) that the child be placed with a person other than an agency that the judge considers best able to care for the child, with or without transfer of guardianship to that person, and subject to the conditions and for the period the judge considers necessary; or

[24] Although it is very rare, there have been situations where it was deemed appropriate by the presiding judge to make an order in favour of an agency other than the one putting in the case. An example can be found in the case of ACFS v. D.M.O. and N.A.O., file number CP90-01-03482, originally cited in 82 Man R (2d) 232, and available online through CanLii at 1992 CanLII 13140 (MB KB) | Anishinaabe Child and Family Services Inc. v. D.M.O. and N.A.O. | CanLII .

[25] It would be unfortunate if a judge was prevented from making an order that was in the best interests of a child because of a response to an apparent concern about narrowing the definition of "person" to exclude the concept of a "corporate" person.

[26] Just as we expect CFS workers and the families and children they work with to be able to make the correct decision, based on a number of possibilities, so should we expect judges to do the same. If that expectation is somehow unfulfilled, opportunities for better outcomes will have been abandoned unnecessarily.

[27] Accordingly, I am proposing that s. 36(1) of the Bill be replaced by wording that would retain the provisions of s. 38(1)(b), as shown below. It would continue to replace the wording for clause (c) as originally set out in Bill 32, and repeal clauses (d) and (e);

36(1) Subsection 38(1) is amended

(a) by replacing clause (c) with the following:

(c) that the agency be appointed the temporary guardian of a child for a period not exceeding 24 months; or

(b) by repealing clauses (d) and (e).

Conclusions

[28] With respect to procedural conclusions, and subject to the call of the Chair, I am requesting that when the relevant clauses come up for consideration, a mover and seconder of this Committee propose the amendments set out in yellow highlighting, below.

[29(a)] (From Paragraph 22, above): That section 6 of Bill 32 be replaced by subsections 6(1) and 6(2) that will read as follows;

6(1) Clause 4.1(5)(b) of the English version is amended by striking out "his or her" and substituting "the director's", and by

6(2) Restoring the former section 6(11) from its status as "repealed", so that it reads as follows:

6(11) Neither the president, nor any officer or director of an agency, nor any person acting under the instructions of any of them or under the authority of this Act or the Adoption Act is personally liable or answerable for any

(a) debt, liability or obligation of an agency or in respect of any act, error or omission of an agency or any of its officers, employees or agents; or

(b) loss or damage suffered by any person by reason of anything in good faith and without negligence, done or omitted to be done, or caused, permitted, or authorized to be done or omitted to be done, pursuant to, or in exercise of, or supposed exercise of, the powers given by this or any other Act of the Legislature.

[29(b)] (From Paragraph 7, above) That a section 22.1 be added to Bill 32 to provide transitional clarity, as follows;

22.1 The following is added just above section 15:

14.1A voluntary placement agreement under the former section 14 that is made before the repeal of that section continues to be in force according to its terms.

[29(c)] (From Paragraph 15, above): That subsection 23(4) of Bill 32 be replaced by;

23(4) Subsection 15(3.5) is amended

(a) by striking out "section 12," and substituting "section 12 or"; and

(b) by replacing the period after "section 14" with a comma, and adding "or the date of placement of the child under any of sections 13.2, 13.3 or 13.4."

[29(d)] (From Paragraph 27, above) That subsection 36(1) of Bill 32 be replaced by;

36(1) Subsection 38(1) is amended

(a) by replacing clause (c) with the following:

(c) that the agency be appointed the temporary guardian of a child for a period not exceeding 24 months; or

(b) by repealing clauses (d) and (e).

[29(e)] (From Paragraph 12, above) That subsection 42(3) of Bill 32 be replaced by;

42(3) Subsection 76(14) is amended, in the part before clause (a), by striking out everything before "the record shall be sealed" and replacing it with the following:

Where a ward, a child placed under an agreement referred to in the former section 14, or a child who is

the subject of a kinship care, customary care or voluntary care agreement has reached the age of majority and the resulting record has been closed,

[29(f)] (From Paragraph 14, above) That section 46 of Bill 32 be amended by leaving subsection 46(1) unchanged, deleting subsections 46(2) and 46(4), and renumbering s. 46(3) as s. 46(2), so it would appear as follows;

Definition
46(1) In this section, "former Act" means The Child and Family Services Act as it read immediately before the coming into force of this Act.

Independent appeal by foster parent
46(2) A foster parent is entitled to an independent appeal under subsection 51(5) of the former Act only if the foster parent had asked the appropriate authority to reconsider the matter under subsection 51(4) of the former Act before the coming into force of section 41 of this Act.

[30] With respect to a more general conclusion, I thank all the Committee members, and express the hope that these very practical suggestions will have the effect of streamlining Manitoba's transition towards more complete congruence with Indigenous Family Laws pursuant to the federal, "An Act respecting First Nations, Inuit and Métis children, youth and families".

Respectfully submitted,

Bert Crocker, M.S.W.