

**Fifth Session - Fortieth Legislature**  
**of the**  
**Legislative Assembly of Manitoba**  
**Standing Committee**  
**on**  
**Justice**

*Chairperson*  
*Ms. Jennifer Howard*  
*Constituency of Fort Rouge*

**Vol. LXVIII No. 1 - 6 p.m., Thursday, February 18, 2016**

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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Fortieth Legislature**

<b>Member</b>	<b>Constituency</b>	<b>Political Affiliation</b>
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ALLUM, James, Hon.	Fort Garry-Riverview	NDP
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<i>Vacant</i>	Southdale	—

**LEGISLATIVE ASSEMBLY OF MANITOBA  
THE STANDING COMMITTEE ON JUSTICE**

**Thursday, February 18, 2016**

**TIME – 6 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Ms. Jennifer Howard (Fort Rouge)**

**VICE-CHAIRPERSON – Mr. Ted Marcelino (Tyndall Park)**

**ATTENDANCE – 11 QUORUM – 6**

*Members of the Committee present:*

*Hon. Ms. Braun, Hon. Messrs. Chomiak, Mackintosh, Hon. Ms. Marcelino*

*Messrs. Goertzen, Graydon, Ms. Howard, Messrs. Marcelino, Smook, Swan, Wishart*

**APPEARING:**

*Hon. Jon Gerrard, MLA for River Heights  
Mr. David Wright, Legislative Counsel*

**PUBLIC PRESENTERS:**

*Bill 300–The Mount Carmel Clinic Amendment Act*

*Mr. Chad Smith, Mount Carmel Clinic*

*Bill 8–The Employment Standards Code Amendment Act (Leave for Victims of Domestic Violence, Leave for Serious Injury or Illness and Extension of Compassionate Care Leave)*

*Mr. Kevin Rebeck, Manitoba Federation of Labour*

*Ms. Charlene Matheson, private citizen*

*Ms. Barbara Byers, Canadian Labour Congress*

*Ms. Michelle Gawronsky, Manitoba Government and General Employees Union*

*Mr. William Gardner, Manitoba Employers Council*

*Ms. Gloria Kelly, Public Service Alliance of Canada*

*Mr. Dave Sauer, private citizen*

*Ms. Charlotte Cameron, Winnipeg Labour Council*

*Ms. Carmen Neufeld, private citizen*

*Ms. Gina Smoke, Unifor*

*Ms. Leanne Sookram, private citizen*

*Ms. Carmen LeDarney, private citizen*

*Ms. Pamela McLeod, Willow Place*

*Ms. Beatrice Bruske, United Food and Commercial Workers*

*Bill 11–The Domestic Violence and Stalking Amendment Act*

*Ms. Jane Ursel, private citizen*

*Ms. Kim Storch, A Woman's Place, Norwest Co-op Community Health Centre*

*Bill 33–The Family Law Reform Act (Putting Children First)*

*Mr. Lawrence Pinsky, Manitoba Bar Association*

*Mr. Trent Tait, private citizen*

**WRITTEN SUBMISSIONS:**

*Bill 11–The Domestic Violence and Stalking Amendment Act*

*Maddie Laberge, private citizen*

*Trudy L. Lavallee, Ikwe Widdjiitiwin, Inc.*

*Bill 33–The Family Law Reform Act (Putting Children First)*

*Nicholas Bala, Faculty of Law, Queen's University*

**MATTERS UNDER CONSIDERATION:**

*Bill 8–The Employment Standards Code Amendment Act (Leave for Victims of Domestic Violence, Leave for Serious Injury or Illness and Extension of Compassionate Care Leave)*

*Bill 11–The Domestic Violence and Stalking Amendment Act*

*Bill 33–The Family Law Reform Act (Putting Children First)*

*Bill 300–The Mount Carmel Clinic Amendment Act*

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**Clerk Assistant (Mr. Andrea Signorelli):** Good evening. Will the Standing Committee of Justice please come to order.

Before the committee can proceed with the business before it, it must elect a new Chairperson. Are there any nominations for this position?

**Mr. Andrew Swan (Minto):** I'd like to nominate Ms. Howard.

**Clerk Assistant:** Ms. Howard has been nominated. Are there any other nominations?

Hearing no other nominations, Ms. Howard, will you please take the Chair.

**Madam Chairperson:** Our next item of business is the election of a Vice-Chairperson. Are there any nominations?

**Mr. Swan:** I nominate Mr. Marcelino from Tyndall Park.

**Madam Chairperson:** Mr. Marcelino has been nominated. Are there any other nominations?

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

This meeting has been called to consider the following bills: Bill 8, The Employment Standards Code Amendment Act (Leave for Victims of Domestic Violence, Leave for Serious Injury or Illness and Extension of Compassionate Care Leave); Bill 11, The Domestic Violence and Stalking Amendment Act; Bill 33, The Family Law Reform Act (Putting Children First); and Bill 300, The Mount Carmel Clinic Amendment Act.

I would like to inform all in attendance of the provisions in our rules regarding the hour of adjournment. Except by unanimous consent, a standing committee meeting to consider a bill in the evening must not sit past midnight to hear presentations, unless fewer than 20 presenters are registered to speak to all bills being considered when the committee meets at 6 p.m. As of 6 o'clock this evening, there were 22 persons registered to speak, as noted on the list of presenters before you. Therefore, according to our rules, this committee may not sit past midnight to hear presentations.

I would also add that it was previously announced that the Standing Committee on Social and Economic Development would meet, if necessary, on Monday, February 22nd and on Tuesday, February 23rd, 2016 at 6 p.m. to continue consideration of the bills on tonight's agenda.

Therefore, how late does the committee wish to sit this evening?

**Mr. Kelvin Goertzen (Steinbach):** Madam Chairperson, I'd suggest we review at 11:30 p.m.

**Madam Chairperson:** It's been suggested that we review at 11:30. Is that acceptable to the committee? *[Agreed]*

On the topic of determining the order of public presentations, I will note that we have out-of-town presenters in attendance, marked with an asterisk on your list. With that consideration in mind, in what order does the committee wish to hear the presentations?

**Mr. Swan:** Yes, I would agree hearing the out-of-town presenters first with one exception. I note there's only one presenter for Bill 300, The Mount Carmel Clinic Amendment Act who I see is present right now. I'd ask that that one person be allowed to present and then we move on to the out-of-town guests.

**Madam Chairperson:** So it's been suggested that we start with the one presenter to Bill 300, and then we move through the list with out-of-town presenters going first. Is that acceptable to the committee? *[Agreed]*

Written submissions from the following persons have been received and distributed to committee members: Maddie Laberge on Bill 11; Trudy L. Lavallee from Ikwe Widdjiitiwin, Inc. on Bill 11; and Nicholas Bala from the Faculty of Law, Queen's University, on Bill 33.

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

So we have agreed to have those documents appear in the Hansard transcript.

This just in. We have another presenter, Pamela McLeod, Willow—is that correct? From Willow Place. We're going to add her to the list for Bill 8, and Kevin Rebeck has let us know that he's from out of town, so he will be considered an out-of-town presenter.

Before we proceed with presentations, we do have a number of other items and points of information to consider. First of all, if there's anyone else in the audience who would like to make a presentation this evening, please register with the staff at the entrance to the room at the back of the room. Also, for the information of all presenters, while written versions of your presentations are not required, if you are going to accompany your presentation with written materials, we ask that you provide 20 copies. If you need help with

photocopying, please speak with our staff at the back of the room.

As well, 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. If a presenter is not in attendance when their name is called, they will be dropped to the bottom of the list, and if the presenter is not in attendance when their name is called a second time, they will be removed from the presenters' list.

Prior to proceeding with public presentations, I'd like to advise members of the public regarding the process for speaking in committee. 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.

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

### **Bill 300—The Mount Carmel Clinic Amendment Act**

**Madam Chairperson:** So, as previously agreed, I will now call on Chad Smith, board chair of the Mount Carmel Clinic, to present to Bill 300.

Welcome, Chad. Do you have a written presentation?

**Mr. Chad Smith (Mount Carmel Clinic):** No, just an oral presentation.

**Madam Chairperson:** Great. Please proceed.

**Mr. Smith:** Thank you. Thank you, everyone, for taking the time to consider the changes that we are requesting. Mount Carmel Clinic is the oldest community health clinic in Canada, as well as the largest in Winnipeg. Our mission statement is that Mount Carmel Clinic is a unique community health centre, and we exist to work together with people, families, and communities to enhance lifelong health and well-being. Our vision statement is seeing healthy, strong children, youth, adults, elders and communities. We operate from a harm-reduction, non-judgmental approach to work to serve the clients, patients and the different communities that we are part of and that access our services.

\* (18:10)

This year, we are approaching our 90th anniversary of service delivery, and Mount Carmel Clinic first started operations in 1926. Over the past 90 years, we've changed and responded to the needs of our clients, patients and the community, and we continue to do so. We have connections with over 100,000 clients and community members and participants every year through a variety of services that includes primary health, dental, chiropractic, counselling, outreach work with social work services, X-ray, the Anne Ross Day Nursery, midwifery, foot care, teen clinics, the Multicultural Wellness program, the Mothering Project, Sage House. We deliver responsible and ethical pharmacy services, diabetes care and provide HOUSINGFirst and working with the homeless population through the Assertive Community Treatment program, to name just a few of the programs and the services that we offer.

Currently, The Mount Carmel Clinic Act requires the clinic to have a board of directors of 25 individuals. When the clinic was first formed this would've been standard practice and made sense at that time. Nowadays, best practice informs us that a board size of 12 to 15 is appropriate for the board to be best able to work with the executive director in an accountable, responsible and ethical engagement way.

With this in mind, we're pleased that we are at this stage and we're appreciative of the support of all the members of this committee for your support in the revision.

Thank you.

**Madam Chairperson:** Thanks very much, Chad.

**Mr. Andrew Swan (Minto):** Well, Mr. Smith, thank you for coming down. I understand you're the chairman of—chairperson of the board, and I thank you for taking on that role. I know you've been involved in a number of good works in the city and the province, and maybe this is a bit of a new challenge.

It's been a real pleasure for me to get to know more about what Mount Carmel Clinic does. I've always known where it existed on Main Street. I've always known some of the programs, but it's been a great experience to learn more about the work that's being done, and, hopefully, with these common-sense changes we'll pave the way for at least another 90 successful years for Mount Carmel Clinic.

Thank you.

**Hon. Jon Gerrard (River Heights):** Thank you for coming down.

And I was at one of your recent annual meetings and appreciate all the work that you do on behalf of many people, so thank you.

**Mr. Kelvin Goertzen (Steinbach):** Thank you as well for spending a little bit of time here this evening, maybe not as long as everybody else will be, but we certainly have every reason to believe this bill will pass in the upcoming session in the next couple of weeks, and thank you for your good work.

**Madam Chairperson:** Thank you very much. Thank you for coming.

**Bill 8—The Employment Standards Code  
Amendment Act**

**(Leave for Victims of Domestic Violence, Leave  
for Serious Injury or Illness and Extension of  
Compassionate Care Leave)**

**Madam Chairperson:** We will now proceed to Bill 8, The Employment Standards Code Amendment Act (Leave for Victims of Domestic Violence, Leave for Serious Injury or Illness and Extension of Compassionate Care Leave). And we will start with Kevin Rebeck from the Manitoba Federation of Labour.

Welcome, Mr. Rebeck. Do you have written presentations?

**Mr. Kevin Rebeck (Manitoba Federation of Labour):** I do, and they're being distributed.

**Madam Chairperson:** Okay. Thank you very much. I see them behind you. You can start whenever you're ready.

**Mr. Rebeck:** Great.

Thank you, and good evening, committee Chair, Minister Braun, members of the Legislative Assembly, sisters and brothers.

I'm Kevin Rebeck, president of the Manitoba Federation of Labour. The MFL is Manitoba's central labour body. We're chartered by the Canadian Labour Congress to represent the interests of affiliated unions representing over a 100,000 working men and women in Manitoba.

I'm very pleased to be here tonight to put on the record our strong support for Bill 8 and the creation of domestic-violence employment leave in Manitoba.

Before I begin, I want to mention that there are a number of Federation of Labour executive council

members and MFL women's committee members here in the room tonight, and I want to thank them for their commitment and advocacy on this very important issue.

On behalf of the Federation of Labour, I also want to recognize and say thank you to Sister Barb Byers of the Canadian Labour Congress, who is also with us in Winnipeg tonight. Sister Byers has led much of the charge on this issue in Ottawa, both for more research into the impacts of domestic violence in the workplace and, of course, for more action to prevent violence and protect victims, including innovative workplace solutions like guaranteed employment leave. We're thrilled that she could be here this evening to share more about the results of the CLC's groundbreaking research in this area.

I also want to acknowledge and commend the pioneering work of unions within Canada and internationally in winning collective agreements that guarantee job leave for victims of domestic violence, and in so doing it helped to change the political landscape to normalize these gains and to set the stage for legislation like Bill 8 to extend these important protections to all workers.

We're proud that Manitoba is the first province to be taking this kind of significant legislative action to help put an end to domestic violence, and we hope Bill 8 meets with the unanimous support of our Legislature and that other provinces are quick to follow suit.

I know this standing committee will be discussing other bills tonight that also aim to strengthen protection for the victims of domestic violence. Domestic violence has often been overlooked as a workplace issue, but we know that people in crisis don't leave their abusive situations at home when they shut the door and leave for work each day.

The profound impact of domestic violence travels beyond the home, following people to their jobs and impacting their ability to work and earn a decent living. These facts are proven out in their-proven out in the research undertaken by the CLC in a first-of-its-kind, pan-Canadian survey into the effects of domestic violence in the workplace. Not surprisingly, the research confirms that domestic violence remains stubbornly prevalent in our society, that both women and men experience domestic violence, but women far more frequently; that vulnerable groups experience much higher rates of domestic violence; that domestic violence is often

experienced at or near the workplace, victimizing targets and impacting co-workers and the entire workplace; and that domestic violence interferes with job performance, reduces income and threatens financial security. Bill 8 recognizes these workplace realities and creates provisions for victims to take time away from work, including a limited number of days with pay when it's necessary, whether it's to get help from family, seek legal support, make reports to the police or make plans to relocate for protection.

Bill 8's groundbreaking legislation, a Canadian first in providing job protection specifically for victims of domestic violence and a Manitoba first in providing paid employment leave in recognition of the importance of income security to empowering victims to break free of domestic violence. Specifically, the bill provides for up to 10 days for victims to use, intermittently or consecutively, including five days paid and an additional 17 weeks to be used consecutively for longer term requirements.

Having access to paid employment leave will take some pressure off of victims. It'll mean one less thing to worry about during an already stressful and trying time. There are already so many other barriers to escaping domestic violence; fearing for your job shouldn't be another one. We do acknowledge that paid leave protection may result in a modest cost for employers, but it's important to understand that employers already bear significant costs as a result of domestic violence: increased absenteeism, higher replacement, recruitment and training costs, reduced productivity, higher employer health expenses, lower employee morale and strained co-worker relationships—relationships and potential harm when violent abusers approach or enter the workplace. Justice Canada has put those costs as high as \$78 million annually. Many employers already try hard to provide meaningful support to employees affected by domestic violence. Paid leave provides another tool to help build healthier workplaces.

I would note as well that Bill 8 includes two updates to The Employment Standards Code to align Manitoba leave provisions with benefits already available under the Canadian employment insurance system. Bill 8 extends compassionate care leave from eight to 28 weeks and establishes leave protection for workers who are seriously injured or ill, for up to 17 weeks. Without these amendments, a worker could find herself in the preserve—perverse situation of qualifying for EI benefits to be away from work but not being permitted to take leave from

her job in Manitoba. Job protection is a necessary companion of income protection if such benefits are to have their intended value. These are positive updates and alignments with federal law.

I note that the bill specifies an April 1st coming into force for two of these provisions but the rest of the act is to come into force upon proclamation. We understand that it's government's intention to consult on regulations, particularly related to what sort of documentation will be required in order to access the new leaves prior to proclaiming the act. We think it's really important that domestic violence victims and service providers and others are consulted carefully to ensure that the requirements to access these leaves are workable and don't create further obstacles. We are a bit concerned, however, about a totally open-ended proclamation time frame. Given how important the provisions of this bill are, it's important that we operationalize these new leaves promptly. We wonder if it might not be more prudent to fix a specific coming-into-force date in legislation, ensuring it's one that allows for proper consultation to take place.

Before I conclude I also want to make a remark about the process leading up to the introduction on the bill, and on this point I believe the government could and should have done it better, and I hope will do so in the future. There's a long-standing tradition in Manitoba of having the Labour Management Review Committee, or LMRC, review and provide advice on any and all proposed amendments or changes to labour-related legislation, such as The Employment Standards Code we're discussing tonight.

\* (18:20)

The committee is composed of an equal number of labour and employer representatives and is co-chaired by Mr. Gardner and myself. I'm proud to say, with the exception of advice on annual minimum wage increases, the LMRC has provided government with consensus recommendations on all issues we've been asked to examine. An LMRC review is a constructive process, one in which labour and employer representatives roll up their sleeves and work together to find positive ground. In the case of Bill 8, the LMRC was only given a single brief opportunity to discuss the intent of the bill, insufficient time for careful review and discussion. So we—while the Manitoba Federation of Labour strongly supports this bill, we'd urge the government to ensure that regular time frames and processes for

LMRC review and recommendations are respected and followed prior to introducing bills.

Before I conclude, I'd like to share two personal stories, and they aren't in the written submission. And when I entered the workforce as a young man and started working, I had a co-worker who was a good friend of mine, and we had a lot of fun at work and talked about everything together, one of my best friends. And I was home one evening and my phone rang, and she called me in tears, and she said, Kevin, can you come get me? And my answer, of course, was yes, and I asked if she wanted to talk a bit more, and she didn't.

So I got in my car and I went to her house, and she was at her door with her two infant children and a couple of suitcases, and we loaded them into the car. And she told me she couldn't take him hitting her anymore and that she was fearful for her children. And I drove her to her cousin's, and we spent a long time talking and a long time crying. And she had been saving up secretly, because she couldn't save up openly, so that she could have a first and last month's down payment to be able to leave him and have a place to go that was safe. And she was worried and planning and figuring out how she would make new child-care arrangements and worried and planning on how she'd figure out how to go to work because I drove her across town to her cousin's place. And I seriously believe a bill like the one we're talking about tonight would have made a serious difference in her life and allowed her to leave sooner.

And then I have another friend. Her name's Shannon. I met Shannon at a union school. She was taking a course, introduction to shop stewarding. She was bright and keen, inquisitive, and she was very passionate about learning to stand up and give voice to people who had trouble finding their voice. And I was excited about her being involved in the labour movement, and she was excited about coming to her first convention in a month's time. And at that convention I was chairing the convention, and I was looking for her in the hall as things came to order. I didn't spot her, but it's a large crowd and I hoped to find her later. And she wasn't at convention, and at noon I learned why. It's because the night before she and her live-in boyfriend got in an argument. And he ended the argument like he usually did, we found out later, through violence; only this time he picked up a hammer and he took her life. So she never made it to her first convention. And I can't help but wonder if there was a law like this in place—was she saving up

to leave? And how close did she get before she was ready to make that move?

A law like this will save lives. No one should have to live in terror at home, and no one should have to die at the hands of a loved one.

Thank you for the opportunity to speak on the bill. I think that now is a critical time for political leaders to take a stand on this important issue because whether we're directly affected or not, everyone is hurt by domestic violence. I urge you to pass this bill. Thank you.

**Madam Chairperson:** Thank you very much, Mr. Rebeck.

**Hon. Erna Braun (Minister of Labour and Immigration):** Thank you very much, Kevin, for your passionate presentation, and the items that you've indicated to us, we'll certainly be looking at and taking under advisement. So I appreciate your advocacy and the work that your membership does. Thank you.

**Mr. Dennis Smook (La Verendrye):** Thank you, Mr. Rebeck, for your presentation. I'm sure we all—everybody in this room would like to do as much as we can to get rid of domestic violence, and it's an important issue.

You had mentioned about the LMRC. Is it something that—is it still possible for the LMRC to help with the rest of this bill?

**Mr. Rebeck:** I'm sure the LMRC could continue some discussions to provide some further guidance.

**Hon. Jon Gerrard (River Heights):** I just want to say thank you for coming in and presenting and telling the moving stories that you did. Thank you.

**Madam Chairperson:** Seeing no other questions, thank you very much, Mr. Rebeck.

Next, I'll call Charlene Matheson.

Thank you very much, you can proceed.

**Ms. Charlene Matheson (Private Citizen):** Good evening, committee Chair, Minister Braun, members of the Legislative Assembly, sisters and brothers.

My name is Charlene Matheson. I'm a Unifor member and I'm co-chair of the women's committee on the Federation of Labour.

It is my pleasure to be here this evening along with the MFL's president Kevin Rebeck and several members of our women's committee behind me to

express our strong support for Bill 8, The Employment Standards Code Amendment Act (Leave for Victims of Domestic Violence, Leave for Serious Injury or Illness and Extension of Compassionate Care Leave).

The labour movement has advocated for this type of guaranteed job and income protection for victims of domestic violence for some time, and we're very proud that Manitoba is the first jurisdiction in Canada to bring this forward.

I also want to thank sister Barb Byers, secretary treasurer of the Canadian Labour Congress, a dear friend of the MFL women's committee, who had made a special trip in from Ottawa today just to present to this committee. Barb was one of the driving forces behind the CLC's groundbreaking research into the effects of domestic violence in the workplace, which has helped to shape innovative policy responses like those reflected in Bill 8.

We believe that passing Bill 8 will significantly improve the health, safety and well-being of working families who are affected by domestic violence both at home and in the workplace. This is especially true for working women as women continue to make up the majority of domestic violence victims and are also more likely than men to be the victims of severe forms of abuse. Bill 8 will help put a stop to the domestic violence by affording workers greater flexibility to take time away from work when they need to do in—need to be in order to take—deal with—to deal with their abusive situations. This bill is about keeping workers safe at home and at work and about promoting gender equality, fairness and compassion.

We commend the government for taking a principled stand on these critical issues and bringing forward this important legislation. We hope this committee will send a strong message in opposition to domestic violence and support this bill unanimously.

The CLC's research has helped to confirm that workers and unions have long known that the severe impacts of domestic violence follow people to work and can hurt their job performance, impact their co-workers and make their jobs and income more precarious. We know that women trapped in domestic-violence situations tend to have more disrupted work histories due to their injuries and other challenges straining their incomes and creating more financial insecurity. These are important consequences to consider because having a job and a

decent income are essential foundations for women to be able to leave an abusive situation and maintain a decent standard of living for themselves and their children.

That's why the MFL women's committee is proud to support Bill 8 because it provides for a suite of leave protections that will address a broad range of circumstances, both short and long term. That may require victims of domestic violence to take time off work to deal with their situations. Job protection will make it easier for victims of domestic violence to take time away to seek medical treatment or counselling, apply for a protection order or appear before court, speak with police or legal counsel, relocate to a new home or move into a shelter. In doing so, Bill 8 will open more doors for victims of domestic violence to escape abuse.

Of particular importance is the bill's provision for up to five days of paid leave, which will allow victims to take time off without leaving—without having to sacrifice their income. Financial stability is a critical, empowering consideration for victims of domestic violence and can make the difference between leaving a violent relationship or staying. This is especially true when children are involved and need to be provided for. The value of job protection is seriously undermined without commensurate income protection, so these—so this feature of the legislation is absolutely essential.

We also note and commend Bill 8's attention to confidentiality of information and restrictions on further disclosure of information related to a victim's abuse or circumstances. It is critically important that victims are assured that their disclosure of domestic violence circumstances to access leave protection will be kept confidential and not to be used in any way that could worsen their situation or serve as a deterrent from taking steps to escape abuse.

\*(18:30)

Bill 8 proposes that regulations will be developed to specify the types of verification that may be used to access domestic violence leave, and this is reasonable. We encourage government to consult broadly with victims of domestic violence, caregivers and service providers to determine appropriate forms of verification. It will be important to ensure that verification documentation is easily accessible to victims and does not add to their stress and hardship. Regulations should be enabling and empowering, not restrictive.

Lastly, we would note that while Bill 8 represents a major step forward in the fight against domestic violence, much more remains to be done, and we encourage government to also take steps to provide more support for shelters as safe refuges for victims of violence and their families, including better facilities and more training and fair wages for support workers to provide quality family violence services and to promote gender equality and fighting homophobia as a key component of violence protection and strengthen processes around protection orders, prevention orders and peace bonds for victims of stalking and domestic violence and to invest in specialized programming for vulnerable populations, including transgendered, Aboriginal and the LGBTQ individuals, as well as persons with disabilities, and to ensure legal aid services are available for family law matters and invest in broader social issues affecting victims such as housing, child care and addictions services.

In conclusion, I want to reiterate our appreciation to Erna Braun, Minister of Labour, for sponsoring this bill, Kerri Irvin-Ross, Minister responsible for the Status of Women, who has also championed this effort, and Jennifer Howard, the MLA for Fort Rouge, who initiated this bill and didn't give up until it became a reality.

Thank you very much for allowing me to speak.

**Madam Chairperson:** Thank you very much, Charlene.

**Ms. Braun:** Thank you for coming this evening and sharing your insights and the work that you do on behalf of women. Thank you.

**Mr. Smook:** Thank you very much, Charlene, for coming out tonight and giving us your views on this bill. It's greatly appreciated for your time to come out. Thank you.

**Ms. Matheson:** Thank you.

**Mr. Gerrard:** I just want to thank you for your advocacy and your work on behalf of people who are victims of domestic violence and all the recommendations you've got in terms of how we can do better to improve the situation and prevent domestic violence. Thank you.

**Ms. Matheson:** Thank you.

**Madam Chairperson:** Seeing no other questions, thank you very much, Ms. Matheson.

Next I'll call Barbara Byers, Canadian Labour Congress.

I can see your written material being distributed, so I'll let you begin whenever you're ready.

**Ms. Barbara Byers (Canadian Labour Congress):** Thank you very much for the opportunity to be here. My name is Barbara Byers. I'm the secretary-treasurer of the Canadian Labour Congress. Bonjour and merci beaucoup.

The Canadian Labour Congress is a national voice of 3.3 million workers in Canada. We bring together Canada's national and international unions, along with provincial and territorial federations of labour and 130 district labour councils whose members work in virtually all sectors of the Canadian economy, in all occupations and in all parts of Canada. We are here tonight to strongly support Bill 8, The Employment Standards Code Amendment Act, and in particular the provisions for paid domestic violence leave. This legislation, when passed, will be a model for other jurisdictions in Canada, and it's an important component of ensuring that workers who experience violence at home are safe and supported at work.

In 2014, the CLC and Western University Centre for Research & Education on Violence Against Women & Children conducted the first ever pan-Canadian survey on the impact of domestic violence at work. We got the idea, by the way, from Australia, which I'm going to be referring to later, but we went pan-Canadian in ours.

The online survey launched on December 6, 2013, and was open for six months until June 6, 2014. The survey was open to women and men 15 years of age and older, whether or not they had directly experienced domestic violence or knew someone who had. Participants were recruited via the networks of the labour movement and through a broad reach in communities across the country. You did not have to be a union member to participate.

The survey consisted of over 60 questions focused on people's experiences with domestic violence and the workplace, including questions about whether they were personally experiencing domestic violence. Those with personal experience were asked additional questions, such as how the domestic violence impacted their work and co-workers, whether they discussed the violence with anyone at work and what types of workplace supports they received.

The questions were reviewed and approved by Western University's Research Ethics Board, and Western University was the group that received all the survey results.

The first results of the survey were released on December 6, 2014, and you have copies of those initial findings: 8,429 people across Canada responded to our survey. And you'll see many highlights in that report, but I want to touch on a few of them.

We identified one in three workers who had experienced domestic violence, and one in three know of co-workers who have. This is even when you look at the idea that 60 per cent of people don't talk to anyone at work about the violence that they're experiencing.

We also confirmed domestic violence follows people to work. Over half of the respondents who said they had experienced violence indicated that the violence occurred at or near their workplace, and 82 per cent stated it affected their productivity; 38 per cent reported that they'd been prevented from going to work; and more than 8 per cent lost a job. You'll see in the survey that 75 per cent of the people that responded support paid leaves and safety policies on the issues of domestic violence.

So all of those results should be a wake-up call for unions, for employers and for governments. Clearly, domestic violence is a significant issue for Canadian workers, and it affects everyone.

As you've heard, security of employment is a key pathway to leaving a violent relationship. By providing paid leave and job protection, this legislation would ensure that people who experience violence at home are able to do what they need to do to keep themselves and their children safe without worrying about their job, whether that's seeking counselling, dealing with law enforcement, seeking legal advice or making safety or relocation arrangements.

Now, while the notion of domestic violence leave is relatively new in Canada, it has become a standard collective agreement provision in Australia, where almost 2 million workers have access to domestic violence provisions. A recent survey of Australian employers' experiences with paid domestic leave in the workplace has revealed overwhelmingly positive results for companies and their employees. The research has shown that paid

domestic leave requests are modest, and leave can be delivered at minimal cost and inconvenience.

The survey conducted by the Gendered Violence Research Network and the University of New South Wales found that one third of respondents reported at least one domestic violence leave request in the past 12 months. Of those employees who requested domestic leave, 92 per cent were women. The typical amount of leave taken was two to three days. One quarter of employers had received requests for alternate work arrangements, such as differing starting times, alternate car parking and change in phone numbers to improve their safety. Employers reported highly positive outcomes with raised workplace morale and employees feeling safe, supported and free from losing their jobs.

And I should say that initially employers in Australia were hesitant to do this. They thought that maybe the leaves would be, as they said, abused. What they found was that that was not the case. The leaves that were taken were the ones that were necessary.

\* (18:40)

So, although the experience in Australia shows that the average leave taken is short and certainly within the five days paid leave proposed in Manitoba's Bill 8, we support the additional possibility of longer, unpaid leave if an individual's situation warrants it. We must realize that each case is different and workers who may be in extremely difficult or risky situations may need additional time. The job protection this legislation affords is fundamental to their security and their safety and, unfortunately, as we've done our work since we started this survey, that the stories that you heard from Kevin Rebeck earlier are the stories that people come up regularly and tell us about, either publicly in conventions and meetings or out in the hallway, saying, this is my experience as well.

We've asked the federal government to convene a round table of employers in the federal sector, unions, governments and service providers to continue this discussion and get work moving at the federal level. And we know that improving the workplace response to domestic violence will require a multi-pronged approach by legislators such as yourselves, employers, unions and advocates to protect and support victims and assist perpetrators in changing their behaviour.

Ultimately, preventing violence and its consequences is a collective social challenge, so one place where that can-change can happen for victims, offenders and employers is the workplace. This legislation provides an important source of support and protection for workers in Manitoba. The Canadian Labour Congress encourages members of this Legislative Assembly to support the bill.

I've also provided to you a small leaflet about a resource centre that we've just recently launched on our website that provides some resources. It is a living website in the sense that it provides ideas, new information coming in about leave provisions. Certainly we're highlighting Manitoba as well, and I do want to close by saying that next month in New York there is the United Nations commission on status of women, which is held every year around that time, and they deal with a variety of topics. The question of violence against women and girls is always a piece of the discussion we have there.

The Canadian government will be hosting an official side event on the question of the effects of domestic violence and work, and you have three people here from the trade union movement in Manitoba that are going to be at the UNCSW. You also have a lot of community allies that are in your community-based organizations that will be there. I know that if you could pass this legislation before we get there, they would be jubilant. But I'm sure that they would be jubilant if we were all in New York and they heard that the Manitoba government had passed this legislation and we could celebrate it with people not just from across Canada but around the world about the groundbreaking work that you are doing here.

Thanks very much.

**Madam Chairperson:** Thank you very much, Ms. Byers.

**Ms. Braun:** Thank you very much, Barbara, for sharing the information. I've had the opportunity to hear your presentation before and the work that was done to bring this research to our attention. So I really appreciate this and thank you for coming from a distance to be here this evening.

**Ms. Byers:** It's always good to be home on the prairies. I'm a Saskatchewan gal.

**Ms. Braun:** I'll just note that for the record that Ms. Byers is from Saskatchewan. We would not want that to go unnoted.

**Mr. Kelvin Goertzen (Steinbach):** From Saskatchewan but cheering for the Bombers, I'm sure.

**Ms. Byers:** Okay, we're not going there.

**Mr. Goertzen:** We'll be here all night.

On the—thank you very much for sharing the statistics and the experience from Australia. Has this—have any of the provisions within the bill been collectively bargained within Canada that we could have some experience of what that has been like, if it's been part of collective agreements within Canada? *[interjection]*

**Madam Chairperson:** Ms. Byers.

**Ms. Byers:** Oh, sorry.

**Madam Chairperson:** That's okay.

**Ms. Byers:** Sorry. I was ready to jump in—

**Madam Chairperson:** I know.

**Ms. Byers:** There is one place in Canada that does have collective bargaining language, which is the Yukon. The Yukon Teachers' Association has five days of paid leave and, again, with some provisions to expand that where required. There is a—since we've started doing this work there are other unions that are taking this to the bargaining table. There is one post-secondary centre in Ontario that has taken it and bargained leave with their employers.

So it's certainly gathering steam as we go along in terms of that experience. But they—we relied a lot on our friends in Australia and the work that was done there, but they're also relying on us, because the Canadian labour movement and our allies in the community have really taken up the issue of the education that needs to be done. We're looking at doing—developing programs that every workplace can offer: a one-hour presentation to all employees. We're looking at developing specialized education for people to be able to deal with this issue. We're calling on all employers to have—and that includes, by the way, unions as employers—to have safety provisions in their workplaces and not just when an incident is known about.

So, in terms of collective bargaining, we're actually doing a lot of catch-up right now, but we're moving at a very fast speed.

**Mr. Gerrard:** Thank you for your presentation and for the important findings that you've brought forward.

Are there any other countries beside Australia which have moved in this direction? *[interjection]*

**Madam Chairperson:** Ms. Byers.

**Ms. Byers:** Oops, sorry.

**Madam Chairperson:** That's okay. It's an awkward thing and we'll all get used to it as the night goes on.

**Ms. Byers:** We are part of a international domestic violence at work gathering that—so there are some other countries that are moving on this as well. There are some in Europe that are—have moved on it, again, in different ways, but Australia is probably our closest comparison of what we're doing. But there are some, certainly as part of our network, not as far advanced as Australia is, and once Manitoba passes this, not as far advanced as Manitoba's going to be.

**Madam Chairperson:** Thank you, Ms. Byers. Thank you for your presentation.

I do just want to let the committee know that we've had another person register to speak on Bill 8, John Callahan, from the Amalgamated Transit Union. So he's been added to the list.

Now we'll move to Michelle Gawronsky from the MGEU—president of the MGEU. Do you have a written presentation?

**Ms. Michelle Gawronsky (Manitoba Government and General Employees' Union):** I do.

**Madam Chairperson:** Okay.

You can start whenever you're ready.

**Ms. Gawronsky:** Thank you very much. Good evening, everyone. My name, again, is Michelle Gawronsky and I'm the president of the Manitoba Government and General Employees' Union, MGEU.

It is truly my pleasure to be here to speak on this in support of Bill 8, The Employment Standards Code Amendment Act (Leave for Victims of Domestic Violence, Leave for Serious Injury or Illness and Extension of Compassionate Care Leave). This legislation embodies the key factor that is so desperately missing in a respectful and compassionate workplace. Victims of domestic violence struggle with its effect in every aspect of their life, and those issues follow victims to their jobs every single day.

As president of the MGEU, I've sadly seen first-hand how domestic violence affects our members in their workplaces. I've dealt with issues where employers are docking someone's pay because they didn't show up for work again today. Meanwhile, that employee was too scared to go back to work with a black eye or other physical injuries and have their co-workers know what is really going on at home. Or, when that employee had to pick everything up and fled to a shelter to seek refuge. Going to work the next day, trying to bottle up those emotions, that is not something any domestic violence survivor should ever have to do.

The only way to heal properly is to talk about those emotions and those feelings. But right now, in the current workplace climate, we don't have that level of understanding. We are victimizing the victims. Getting out of an abusive relationship isn't even remotely easy, and when you are fearing for your job on top of that because you've had to miss a day of work, that only adds to the stress and makes leaving even harder.

Throughout the course of this evening, I have no doubt that you have heard—and you're going to hear some more—very startling statistics and facts about the effects of domestic violence in the workplace, how it affects other employees or what it does to the company's bottom line. But what I'm here to talk about tonight, on behalf of working families and all our MGEU members, is how domestic violence affects a working parent. This story is very personal but it's one that I want to share. It's one that I want you all to remember when you consider your vote on this legislation. This is a story of two women and their struggles as domestic violence victims.

\* (18:50)

The first woman I want to tell you about is Kathy. Kathy was one heck of a hard worker. She was a devoted loving mother of 10—yes, I said 10. She was a farmer's wife and took care of everything in the house from meals to household chores and also helped out on the farm. On top of that, Kathy worked in the public school system. She helped care for special-needs children, which is something she was extremely proud of. She loved telling stories of how she helped different children. She loved making them smile, and little did she know the kids helped her as much as she helped them.

Kathy had a secret. Kathy's husband was very abusive, both physically and mentally. The beatings happened regularly, and many of the couple's

children witnessed these brutal acts of violence. One day, though, Kathy worked up the strength and left. At the time, five of the 10 children were still of school age, living at home. The youngest was only eight. She gathered up her kids with just the clothes on their backs and fled for safety to a women's shelter in Winnipeg.

That night, the first night in the shelter away from her home, Kathy was scared. But she also felt so liberated at that time. She was unsure of what the future meant for herself and her children, but she knew that the path she had chosen was the right one and she vowed to never go back to that violent life ever again. Kathy knew she had to call her boss and reveal her deepest secret about the violence in her home. She had to tell him why she wouldn't be at work for the next few days as she tried to sort out her life and where her and her kids would go. It wasn't an easy call by any means, and what made it even harder is after Kathy told her boss what had happened, he responded to her with, well, you'd better be back at work in 48 hours or you will be terminated. Needless to say, Kathy chose her family's safety and she lost her job because of it.

The next woman I want to talk about is one of Kathy's daughters. We all know it's very common for the cycle of abuse to follow victims and their families throughout their lives, and that's exactly what happened to Kathy's daughter. This woman worked in health-care industry, and for years and years, like her mother, she suffered physical and mental abuse from her husband. But one day, just like her mother, she stood up to the man that continued to knock her down. She stood up for her safety and her children's safety and she, too, grabbed her kids and headed to Winnipeg.

Fortunately, when she told her employer about the situation, her boss was understanding and compassionate. She told her to take as many days as she needed and to come back when it was safe for her and her family. Kathy's daughter did exactly that, using up sick time to take care of legal matters, arranging counselling and just coming to terms with the new path ahead. This woman was able to put her family back together again. Everyone, including her husband and four children, went through years of counselling, and because of their love for their children and one another, they were able to rebuild a foundation of trust and love for one another.

It's a shame that I've heard so many people say how lucky Kathy's daughter was in that her employer

understood her situation. It shouldn't be like this. Employers shouldn't question a domestic violence victim, further demoralizing them and thus leaving their jobs hanging in the balance. Employers need to be leaders in helping their employees who are victims of domestic violence, and collectively we all need to advocate for this. Kathy and her daughter lived through many of the same challenges, but their outcomes were far different.

I know these two women too very well. Kathy was my mother, and I am her daughter. And it's for these reasons I stand here today, strongly urging all MLAs to support this legislation unanimously. Let's send a powerful message to all victims of domestic violence that we are on their side. I commend this government for taking on this issue and putting this legislation together. Let's act as leaders for the rest of this country. Please join me in supporting this bill. Survivors have so much to contribute to society.

Thank you.

**Madam Chairperson:** Thank you very much, Ms. Gawronsky.

**Ms. Braun:** Thank you for sharing your story, Michelle.

**Ms. Gawronsky:** Thank you.

**Ms. Braun:** I—enough was said. Thank you.

**Mr. Smook:** Thank you, Michelle. It's a very difficult situation to tell a story like that. I want to give you credit for coming out and being able to speak about it. Thank you.

**Mr. Cliff Graydon (Emerson):** I'd also like to thank you, Michelle. As I was your mom's neighbour, I'm well aware that this story is very accurate.

**Madam Chairperson:** Thank you, Mr. Graydon.

**Mr. Gerrard:** I just want to say thank you for having the courage to come forward and talk about it, and it was very timely.

**Madam Chairperson:** Any other questions?

Thank you very much, Ms. Gawronsky. Thank you for being here tonight.

I think that's it for out-of-town presenters, if I'm right.

Okay, so next we will proceed to William Gardner from the Manitoba—chair of the Manitoba Employers Council. Welcome, Mr. Gardner.

Do you have a written presentation?

**Mr. William Gardner (Manitoba Employers Council):** Strictly oral, Madam Chairperson.

**Madam Chairperson:** All right, that's the way we like it. Okay.

You can proceed whenever you're ready.

**Mr. Gardner:** Thank you Madam Chairperson, honourable members.

As indicated, I'm here on behalf of the Manitoba Employers Council, which is the largest collective of individual employers and employer organizations in the province. And I want to say, by way of introduction, that the members of MEC understand that domestic violence is a serious societal problem and we join with the rest of society and the members of this House in strongly condemning the perpetrators of domestic violence.

I get that. What I don't get is legislation that treats employers as the offender. I understand that domestic violence results in costs to employers. I'm not sure I understand why that justifies legislation to increase those costs. I get that domestic violence leads to absenteeism. I don't understand why that justifies legislation to enshrine it, but more on that later.

My presentation to you tonight can be divided into two broad categories, terms of our concerns. One is procedural and the other is substantive. With respect to our procedural concerns, I echo what my friend and fellow LMRC member Kevin Rebeck had to say to you, and I note that Kevin recalled advice that I got many years ago, which is to always say nice things about speakers who are going to come after you. So I'll say this in return: Kevin and I disagree on the odd thing from time to time, particularly in our opening positions but, more often than not, as he said, we have succeeded on LMRC in reaching consensus. And, in fact, when you talk about legislated leaves, we've succeeded spectacularly.

We've succeeded on every single potential leave that this legislature has given to us when we had a full chance. We agreed to family leave and sick leave and bereavement leave. If you want to hear the full story about that, go take Nancy Allan out to lunch. Then we agreed to establishing compassionate care leave, which fit in with what the federal government was doing at the time. Later, and I may not get this list in its entirety, we agreed to reservist leave; we agreed to organ donor leave; we agreed to citizenship ceremony leave; we agreed to leave for the parents of

critically ill or missing and murdered children and, most recently—and these are part of Bill 8—we agreed to extended compassionate care leave and long-term leave for serious illness or injury.

Now, that is starting to be a big list, and one of our concerns is that it tends to have, at least potentially, a cumulative effect. However meritorious on an individual basis the reasons for these leaves are, they can seriously affect employers, particularly the smaller employers, if the number of the leaves, or a number of employees on one of these leaves coincide. Regardless of that, however, LMRC did not have a fair chance to consider this particular legislation on domestic violence leave. And that's probably the one individual situation where we should have had the biggest chance, because it is breaking new ground.

\* (19:00)

We didn't have that chance, and so we've lost all of the advantages that would have come from a consensus had it been reached. The fact that proposed legislation has been vetted through stakeholders who, after all of the speeches and the very genuinely sympathetic sentiments are done, have to put things into actual effect in the workplace. And we've lost the buy-in that you get when there is a consensus behind legislation.

Now, over on to the area of substantive concerns, as you might imagine, I have a major concern about legislation which requires employers to pay as if they're the source of the problem. I don't get that. But I also note that the balance of the leave after five days is unpaid. And I don't really understand that either. Why should a victim have to lose any wages or suffer any costs as a result of domestic violence? And I say this to you tonight clearly: If you really want to reduce the incidence of domestic violence in the province, you will focus on legislation that makes it easy for the victim to make the offender pay. Find a way that's easier than the court process that exists now so that a victim can recover, from the offender, lost wages, other costs, damages. If you do that, if you hit the offender in the pocketbook, you will get results fast.

But, as soon as you go to a legislative leave that has pay, you're introducing the possibility of adverse effects. And it's for no small reason that every single leave that we have dealt with through LMRC is unpaid. As a result, it tends, at least on a broad-brush

approach, to be self-regulating. As soon as you bring in paid leave, you bring in the possibility of abuse. And I'm not talking about the genuine situations where someone really needs to take some time off. There are always going to be people who will try to game the system. And as soon as the leave is paid, you bring that possibility in, which is a segue to my next point.

There's no evidence of any mischief that needs to be cured by legislation. There's no evidence of any Manitoba employer not responding appropriately to a genuine need for time off for someone who's been the victim of domestic violence. No one will suggest that legislation is capable of reproducing the individualized, fact-based, realistic solutions that are possible between a willing employee and a sympathetic employer. This legislation, by definition, is aimed at employers who would not do this voluntarily. And no one can tell me that they exist in Manitoba because no research has been done, which leads me to my next point.

One of the principles that has worked so well for LMRC is to try and position Manitoba in the mainstream when it comes to employment and labour legislation, neither lagging behind nor leading. That allows us to learn from the efforts of other jurisdictions and their mistakes. In this case, we're the ones who are sticking our necks out, and that segues back into my point about procedure. This is the time when LMRC really should have had a chance to take a look at this.

So, because we are delving into the unknown, we've got the risk of unintended adverse consequences. And no one knows whether this legislation may end up costing more jobs than it saves, because there's no experience to go by.

**Madam Chairperson:** I'll have to ask you to wrap up, Mr. Gardner.

**Mr. Gardner:** Right, I understand.

So, in conclusion, the process is flawed, the legislation is ill conceived, it targets the wrong persons and it may actually harm the individuals that it is designed to protect because focusing on time off work goes against an emerging body of occupational health thought which suggests that the reverse is best for employees: Stay at work as much as possible; reduce absences to the greatest extent possible.

And those are my respectful submissions.

**Madam Chairperson:** Thank you, Mr. Gardner.

**Ms. Braun:** Thank you, Bill, for coming this evening and sharing your perspectives, and thank you for the work you do with the Employers Council and LMRC. Thank you.

**Mr. Goertzen:** I just want to make sure that I get the point. You made the point well, but I want to make sure I got it because sometimes I miss the point.

The—you're saying that the issue is not money, the issue is—sorry, the issue is not time, the issue is money, so that employers aren't concerned with providing time, but how that compensation happens in terms of money is the issue, and if there was another way—and I'll just use it as an example, we have something called the proceeds of crime legislation, we have compensation for victims of crime, if there was another fund that could be used to ensure that those who are victims of domestic violence would be able to have the time off, that the money would be provided from another source, would that alleviate some of the issues?

**Mr. Gardner:** Yes, that would help. Although, I—my main point is don't dip into a fund, dip into the offender's pocket.

**Mr. Gerrard:** Yes, I hear your message, and—but I—you said one thing which I'm not sure that I followed, and that was right at the very end.

You said that your impression was that when somebody gets into a domestic violence situation that they're better off staying at work instead of having a break and sorting out the—what the issues are with the domestic violence. Is that right?

**Mr. Gardner:** Yes, that's exactly right. And there's an emerging body of occupational health thought that suggests that time off work can be detrimental to employees, and that the best approach is to eliminate or minimize time off work. And this legislation, which seems to suggest that the solution is to be away from work, may go a hundred and eighty degrees in the wrong direction. And I can provide you with details of this literature if you'd like.

**Madam Chairperson:** Any other questions?

Thank you very much, Mr. Gardner.

Next I'll call on Beatrice Bruske from the United Food and Commercial Workers. I know that she was potentially going to be late, so we'll drop her to the bottom of the list.

And then next I'll call on Gloria Kelly from the Public Service Alliance of Canada.

I see you have provided your written submission. It's being distributed, so you can start whenever you're ready.

\*(19:10)

**Ms. Gloria Kelly (Public Service Alliance of Canada):** Good evening, Madam Chair, Minister Braun, members of committee. On behalf of the Public Service Alliance of Canada, the prairie region, I'm pleased to speak to this committee this evening in support of Bill 8, The Employment Standards Code Amendment Act (Leave for Victims of Domestic Violence, Leave for Serious Injury or Illness and Extension of Compassionate Care Leave). It is our belief that Bill 8 represents another important step forward in Manitoba's Multi-Year Domestic Violence Prevention Strategy, which I believe was first introduced in 2012.

Now, you may wonder why PSAC is appearing here before you this evening. Most people consider us a federal government union. In fact, our union represents a growing number of private sector non-government workers, some of whom may well benefit significantly from this progressive piece of legislation. PSAC takes the position that domestic violence in all its forms is a threat to the health, safety, and well-being of all persons, male and female. We view domestic violence as a societal issue. Although we readily recognize the vast majority of victims are women, domestic violence affects everyone in all communities. But Aboriginal women, women living with a disability, and transgender women are particularly vulnerable.

We consider Bill 8 to be progressive, ground-breaking legislation, with Manitoba the first Canadian jurisdiction to move forward, providing employment protection for victims of domestic violence.

By providing paid leave, this legislation recognizes the importance of income security, a critical factor in supporting many victims to break free of their current circumstances and move forward to a safer and more stable life for they and their children.

When broken down to its bare bones, this bill is about the fundamental right of working Manitobans to be safe at home and in the workplace. It is also about gender equality and about plain old-fashioned compassion. PSAC commends the government of Manitoba for its stand on the issue of domestic

violence and encourages this committee to move the legislation forward with the most possible speed.

Make no mistake, domestic violence spills outside the home and impacts employers, their workplaces and their other employees. For far too long, the attitude has been what happens at home should stay at home. I would suggest to you a progressive workplace with progressive management would look with favour on this legislation and understand the benefits it can have and will bring to them.

Before I joined the federal public service, I worked for many years in the private sector as a middle manager. I have seen first-hand how domestic violence can impact the workplace. My employer at the time was not what one would consider progressive. Thus, the means I used to support my staff member were more or less covert, although by necessity, had to involve the support of the other members of our team. Had this legislation been in place in that jurisdiction at the time, I would have had a tool at my disposal to actively support that individual and their family. A big plus would have been the knowledge to the person that the support that was forthcoming was enshrined in legislation and not something that could be denied or snatched away by another manager should I have left the position that I was in.

Often you will find the threat of loss of income is one of the biggest factors in delaying an individual from leaving a domestic violence situation. Income security can never be downplayed. It is, in fact, critical to continued health and safety once one decides to leave a violent situation.

There is a significant lack of research into the impact of domestic violence on the workplace. The two resources that speak to this are estimates compiled by Justice Canada and a ground-breaking study done by the Canadian Labour Congress in conjunction with researchers at the University of Western Ontario that you have heard about already this evening.

Justice Canada has estimated that Canadian employers lose \$77.9 million each year as a result of the direct and indirect impacts of domestic violence on employees in the workplace. That's through lost days of work, reduced productivity, administrative costs. This is a significant cost that one would think employers would be looking to reduce. The Public Service Alliance believes Bill 8 will provide a tool to

help reduce Manitoba's share of this abysmal number.

The CLC did not undertake its ground-breaking study simply for something to do. They set out to validate what everyone suspected but really had no factual data to support. They recognized that there had to be significant financial costs of domestic violence to employers but that those costs paled in comparison to the price being paid by individuals, primarily women and families caught up in a cycle of domestic violence.

The CLC study confirmed what I would suggest many of us already knew: that significant numbers of workers experience violence, that violence comes along with them to work, and there is a negative spillover to co-workers. Among the findings of the CLC survey were that women and men both reported experienced domestic violence but women in much larger numbers. Many workers suffer from domestic violence, with one third of the survey respondents reported experienced domestic violence at some point in their lives, and more than a third reported having at least one co-worker they knew or believed was experiencing or previously experienced domestic violence.

According to the survey, 37.6 experienced domestic violence at least once in their lives, and every year, 7 per cent are victims of domestic violence. That's every year. Different groups are especially 'vulnerable.' Domestic violence was reported to be significantly more prevalent among transgender, Aboriginal and LGBT respondents as well as respondents with disabilities. Domestic violence interferes with work and job security. Of those who reported experienced domestic violence, 38 per cent indicated that it impacted their ability to go to work and arrive on time, and 8.5 per cent reported losing their job because of it.

Additionally, more than half of domestic violence victims reported some form of abusive act occurred at or near the workplace, while 37 per cent reported spillover effects on their co-workers, especially stressing concern for their welfare. If you have a co-worker who is a victim of domestic violence, whether you suspect or whether you know, there is going to be an impact. Believe me, I've lived with it for a long time, and I'm dealing with it in my own workplace right now. Perpetrators who extend their abuse to the work setting are increasing the number of domains in which they control their partners. By harassing, stalking and threatening the

target at work, offenders may succeed in getting the victim fired and thereby increasing the victim's dependence.

The CLC findings suggest it's time to look for innovative solutions, recognizing the workplace has a role to play in stopping domestic violence. It's not hard to determine that individuals trapped in domestic violence situations have work histories that are interrupted, and I would suggest, for managers, disruptive to their work environment as they strive to deal with everything from injury to psychological abuse. The US advocacy group, Legal Momentum, suggests victims of domestic violence miss an average of 137 hours of work a year. That's about 17 full-time days. As a result of interrupted work, victims of domestic violence tend to have lower personal incomes, to change jobs more frequently, losing benefits and seniority, and are more likely to hold precarious casual and part-time jobs than women who live in stable home situations.

The job protection envisioned in this legislation will make it easier for victims of violence to take time away from work they need, to quite simply, get their life in order. Being employed is a key pathway for women to leave a violent relationship. The financial security that employment offers helps prevent women becoming trapped in isolated and violent and abusive relationships, and it helps them to maintain their home and standard of living. In short, Bill 8 will help victims escape abuse. Of particular importance is the bill's provision for up to five days of paid leave available for intermittent use that will allow victims to take time off without having to sacrifice their income. As I referenced before, this financial stability is a critical, empowering consideration for victims of domestic violence. It could actually determine if one stays or one goes.

Now, we all recognize this legislation will have a cost to employers, but when that cost is weighed against the cost employers are already bearing as a result of domestic violence, the balance sheet should come out close to neutral. The provisions of this legislation give employers a positive tool to use in supporting all their employees. In Bill 8, there is a proposal that regulations to accompany the legislation will be developed to determine what verification will be necessary to access domestic violence leave. PSAC strongly encourages the government of Manitoba to consult broadly when developing these regulations and to not make verification so stringent as to create an additional

burden or level of stress on a victim so that she or he do not make a move.

The last piece of this legislation I would like to speak to—excuse me—involves the 17 weeks of unpaid leave that may be required for those needing a longer period to undertake life-altering changes.

\* (19:20)

**Madam Chairperson:** I'm sorry, Ms. Kelly. I just have to ask you to wrap up.

**Ms. Kelly:** Okay. In conclusion, when all is said and done, this legislation benefits both victims of domestic violence and their employers. It provides for job security for those who are victims of domestic violence, and it provides employers with a tool, if used properly, should enhance their workplace.

Thank you for the opportunity to appear before you this evening on behalf of the Public Service Alliance.

**Madam Chairperson:** Thank you very much, Ms. Kelly.

**Ms. Braun:** Thank you very much for sharing your thoughts and your perspectives today. We really appreciate your presentation today.

**Mr. Smook:** Yes, thank you very much for coming out tonight and sharing your thoughts and your views on domestic violence with us. It's greatly appreciated and we thank you for coming out.

**Mr. Gerrard:** Thank you for coming.

Now the presenter who presented before you, Mr. William Gardner, said that it was better for people to stay working instead of to take the leave, which would be paid leave or unpaid leave if it was longer. I would like your comments and your views on that from your own experience or from research that you're aware of.

**Ms. Kelly:** Yes, I do not disagree that it is better to stay at work and work as one can, but in many situations of domestic violence, the victim needs a few days—sometimes it's just a few hours; sometimes it's a few days—to actually get their life in order so that they can work as a productive member of society and as a productive member of their workforce. They need the time to get their children settled, to get police reports done, to get whatever orders that may be necessary, and we all know that government agencies basically work 9 to 5. So if you're working during those work hours, you cannot get that

documentation and that support that you need. So this short a period of time, and it says intermittently, it doesn't mean that someone will take five days at once. It could just be a day that somebody needs. But, yes, I agree if you can go to work and continue to work, by far it supports your family, yes.

**Mr. Goertzen:** Thank you for your presentation. Do you know, has PSAC been involved with bargaining with anything like this in any of the different employers that it deals with, and particularly on the issue of when the leave is granted, if leave is granted? You're right, sometimes people just need a few hours to sort of get their life together, but sometimes they return and not much has changed. And what can happen in the interim to ensure that somebody is getting actual support so that if they're away for a day or two—it's just not being away for a day or two but something is positively happening in a victim's life.

**Ms. Kelly:** We are just starting to get into this realm in bargaining, but in our federal collective agreement, we now have paid time off to deal with legal issues. We have—in my collective agreement, I have one of my five family days that I can use specifically for dealing with legal or health issues to deal with the family, and we don't have to explain out in long detail why we need that day, but we are beginning to look more and more at the whole issue, especially in our—the people we represent who are not federal public servants, and they are a growing number.

**Madam Chairperson:** Thank you. Seeing no further questions, thank you very much, Ms. Kelly.

Next, I'll call Elliot Sims from the Canadian Federation of Independent Business. Seeing Mr. Sims is not here, his name will drop to the bottom of the list.

Next, I'll call on Dave Sauer. Do you have a written presentation for us, Mr. Sauer?

**Mr. Dave Sauer (Private Citizen):** No, I don't, just oral.

**Madam Chairperson:** Thank you very much. You can begin now whenever you're ready.

**Mr. Sauer:** So first I'd like to offer my thanks to the members of the committee for the opportunity to speak on Bill 8, The Employment Standards Code Amendment Act (Leave for Victims of Domestic Violence, Leave for Serious Injury or Illness and Extension of Compassionate Care Leave).

As a private citizen, I'm here to speak in favour of this legislation.

I'd like to begin by sharing a story with the committee. This is a story about two individuals, Johnny and Rose [phonetic] Niesner. Johnny was born in 1923 in St. Paul, Minnesota. As a young boy, he and his family moved around a lot as their father, Andrew Niesner, searched for work. Life was hard for Johnny growing up as his father was an abusive alcoholic who took his anger out on his wife and children. As the eldest son, Johnny took the bulk of this abuse. When he was seven, his mother took the children and moved back to be with her family in Canada.

At the age of 10, Johnny was kidnapped by his father and taken back to the United States where the abuse continued. After numerous attempts to flee and reunite with his mother, Andrew finally allowed his son to return home. Johnny's new life in southern Saskatchewan was not much better. He grew up on a farm in poverty and had an unhealthy relationship with his new stepfather. He worked on the cattle farm, was reputed to have taken part in bootlegging and, at one time, was a rodeo rider who was featured on the front page of the Regina Leader-Post.

But Johnny was lost. He drifted a lot and rode the rail lines on-across Western Canada. In 1944, he joined the Canadian army and served one day in World War II as his unit landed in England a day after Nazi Germany had surrendered.

Back in Canada, he continued to drift and worked odd jobs where he could find them. While working on the development of an aluminum smelter in Kitimat, BC, he met Rose [phonetic]. Rose [phonetic] was born in 1935 and was the—was a farm girl who descended from the first homesteaders in northern BC around Moricetown. Shortly after their encounter, they were married in 1954. The young couple moved around a lot and eventually settled in Terrace, BC. Their first child was born in 1955. They went on to have five more children. Rose [phonetic] took care of the children while Johnny worked odd jobs as a carpenter, a mechanic, a logging truck driver and eventually became the owner of a trailer park near Terrace, BC.

Despite these positive developments, Johnny always battled with the demons of his childhood. He suffered from serious mental health issues and frequently turned to alcohol. At the age of 55, Johnny began to display the symptoms—or the early symptoms of onset—early symptoms of early onset

Alzheimer's disease: moodiness, extreme anger, depression, melancholy and, at times, violence against Rose [phonetic]. He forgot how to use a screwdriver or a hammer, things that he had known through his work as a carpenter. He would wander the rural roads in bare feet, unaware of his surroundings, usually in the middle of the night. He sometimes wouldn't recognize his own adult children or any interactions he had with them.

Family life became very difficult for Rose [phonetic]. She would worry about where he was when she was working at her own job. She would come home to a house of violence and destruction. She kept him home or away from friends, family and the community on his bad days. On the good days, she would take him to town or host friends at their home. They lived a life of uncertainty, instability and violence. The domestic situation was kept hidden from other members of the community. There were no evident community supports, and even if there were, Rose [phonetic] likely wouldn't have accessed them because mental illness was a taboo issue at that time.

In 1981, while Johnny and Rose [phonetic] were repairing the water system on one of their rental homes, one of his violent outbursts occurred and he struck Rose [phonetic] repeatedly with a hammer and killed her. When he emerged from his rage, he may have realized what he had done. He placed her body beneath the rental home. He then left the property, drove to the Skeena River near their home and committed suicide by jumping off a bridge. Rose's [phonetic] body was discovered a few days later after an extensive search by police. Johnny's body was recovered three months later in the river.

Johnny and Rose [phonetic] Niesner are—were—my maternal grandparents. I never knew them. They both died before I was born. My mother was 26 years old when she lost her parents to domestic violence.

I'm certain this story is hard to hear. It's even harder to share. The good news is we're here today. We're talking about positive solutions for the future.

I have two nieces and two—and a nephew, and I really hope one day I can come here and tell you a wonderful story about my family. I remember a few years ago I was here talking about the PST and people were throwing the word communism around, and I felt it necessary to share the stories of my dad's family, who'd had great-uncles executed in the Great Purge under Stalin. But we see there's a problem; we needed to deal with it.

In speaking with my mother about this tragedy—and she fully encouraged me to come here tonight and share this story—she had these words to share: protective measures and appropriate education and information made available for families in these kinds of situations can make a difference.

\* (19:30)

When we educate people through supportive measures, they see hope; they see options for their future; they see opportunities for change in their lives. Domestic violence affects families for generations. For most of my life I've had to work at using appropriate strategies in dealing with my anger. I will always need to be aware of these consequences of what violence does to families. I've also needed to model appropriate behaviours for my children so they do not fall into these kinds of situations as well.

Truth telling, telling the stories, also releases the anxiety of what we've experienced. It helps us make different decisions about how our—how to lead our lives, but it also helps us develop a better sense of who we are so that our identity is not all wrapped up in a story of domestic violence.

In closing, I hope this bill can be passed unanimously in the Legislature so that all victims of domestic violence can seek help and support before it's too late. Thank you.

**Madam Chairperson:** Thank you very much, Mr. Sauer.

**Ms. Braun:** Thank you for coming this evening, Dave, and sharing your very personal story. That was not easy, and thank you for being here.

**Mr. Smook:** Thank you, Dave, for coming out tonight. Again, too, we—these stories are difficult to share with other people, so we want to thank you very much for being able to share it with us. And thank you for coming out tonight.

**Mr. Gerrard:** Thank you for—

**Madam Chairperson:** Dr. Gerrard, sorry, I didn't turn the mic on. So, Dr. Gerrard.

**Mr. Gerrard:** Oh, okay, thank you.

Thank you for coming, and thank you for having the courage to come forward and to share your family story in this venue. I think it is a story which will have a significant impact.

**Madam Chairperson:** Thank you very much, Mr. Sauer.

Next I'll call Charlotte Cameron, Winnipeg, from the Winnipeg Labour Council.

Do you have a written presentation, Ms. Cameron?

**Ms. Charlotte Cameron (Winnipeg Labour Council):** I do not.

**Madam Chairperson:** Okay, proceed when you're ready.

**Ms. Cameron:** I was just saying I don't want to follow Dave, so thank you very much.

My name is Charlotte Cameron, and it is my pleasure to be here as second vice-president of the Winnipeg Labour Council to speak on behalf of Bill 8, The Employment Standards Code Amendment Act, leave for victims of domestic violence, serious injury or illness and extension of compassionate care leave.

Now, I wrote this whole presentation and I realized I'm not terribly comfortable with the term victim—definitely, people living with domestic violence, instead of victims. I think we often lose sight of the fact that people who are being victimized every day at home where they should be safe exhibit incredible strength just in getting out of bed and going through their day. Just putting that out there.

I am proud to stand here, though, and say that I've been an active part of this city's labour movement for almost 15 years now. And I'd like to talk a little bit about why these social justice issues are so near and dear to my heart.

Now, I grew up in Manitoba Housing in the suburbs here in Winnipeg. As a child, some of my friends would disappear for a few days, a couple weeks. And I didn't know what apprehended meant, but I did understand that there were some friends whose homes I was not allowed to go play in. As I look back on it as an adult, I can understand that it was anger and hurt and the possibility that we could witness violence as young, impressionable children.

The kids I spent my time with would whisper about how important it was to avoid the one who lived behind me because his dad beat up his mom and now she beats him up, and that was just part of our normal childhood mantra. It was something that we lived with every day and we were just aware of. We didn't play with him very often for fear he would

lash out. Walking to school one day with a neighbour, he jumped out from behind a tree, pulled her to the ground and kicked and punched her for as long as it took me, scared little eight-year-old, to run to the school and get a teacher for help.

These are situations that could have been avoided. The last time I saw this former neighbour, 1996, I think, he was panhandling in Osborne Village. What types of supports could his mother have accessed if she could have had this kind of leave as an option to support her in her journey forward? There are things that we just didn't talk about, and as an adult I'm here because I understand this is a very dangerous silence for us to be maintaining.

My son was three when he was assaulted by his father. He should have been perfectly safe but he was not. I wasn't a union member yet. I wasn't an activist, although I was a little bit loud; I can't even try and deny it; I'm not going to try and deny it. But I was a 21-year-old single parent working shift work and I was so scared. I took maybe three days unpaid from work to deal with this one isolated incident. I took him to a child psychologist. He was checked by our family doctor. I spoke to my lawyer because I was fighting for custody at the time. This leave would have been amazingly helpful, because let me tell you, scared 21-year-old single parents don't make so much money that they can afford to take three or four days unpaid. That just does not happen in the real world, or at least not my real world.

The labour movement has been talking about domestic violence, and violence against women, for years—for decades, let's be honest. We've created informational pamphlets, we've 'pushed'—passed motions for increased funding to community support. Every year, we honour and remember the women who have died violently in our province. With these kinds of supports in place, we could look at a future where, one year, we may have to change our annual memorial luncheon because in the 12-month period leading up to it, no women in Manitoba died. That would be an amazing gift, and it would be directly because of choices made here today.

I'd like to urge the committee to pass this unanimously and continue with our province's proud progressive history of supporting.

Thank you.

**Madam Chairperson:** Thank you very much, Ms. Cameron.

**Ms. Braun:** Charlotte, thank you very much for being here. I'm very proud of you.

**Mr. Smook:** Thank you, Ms. Cameron, for being here tonight and sharing your stories with us. It's great to have you come out tonight. Thank you.

**Mr. Gerrard:** Thank you for coming and talking about your situation. You know, we've had a little bit of discussion on the one hand that it's better for somebody to be working and on the other hand that it's vital that single mothers in these circumstances need a break from work. Maybe you could comment and help us see the situation more clearly.

**Ms. Cameron:** Well, without wanting to speak on behalf of every single scared 21-year-old single parent in the province, definitely I found that both were beneficial. But having the time to go to lawyers' appointments, to meet with the lawyer, who was intimidating enough as it was, to take him to appointments. My doctor is 8 'til 4, Monday to Friday. I worked all over the week, so some appointments just cannot be made during working hours—or outside of working hours, pardon me. So I think that it needs to be a mixture but also that communication with your manager and trusting that they will have something to back them up if they want to support you but can't for some reason. Thank you.

**Madam Chairperson:** Thank you very much, Ms. Cameron. Thank you.

Next, I'll call Carmen Neufeld. Welcome. Do you have any written presentations?

**Ms. Carmen Neufeld (Private Citizen):** I don't. Just an oral presentation.

**Madam Chairperson:** Okay. Just proceed whenever you're ready.

**Ms. Neufeld:** My name is Carmen Neufeld, and I speak to you today as a business owner of 27 years. I have been a member of the Winnipeg Chamber of Commerce for 25, the founding chair of the Women's Enterprise Centre of Manitoba and the former president of Women Business Owners of Manitoba. I consider myself a successful entrepreneur, a mentor to other business owners and a community activist for a number of charities. I'm also a former board member of Child and Family Services of eastern Manitoba, a former board member of Osborne House and someone who has witnessed first-hand the horror of domestic violence.

I have known, and know presently, of family and friends, both male and female, who've faced varying degrees of physical or emotional abuse at the hands or manipulative minds of their partners. I also speak to you today as someone who is very much in support of this new legislation and the fact that this will be one more life preserver for women and men who are in domestic violence situations, one more building block to help them transition to a new life and a tool to encourage them when they have very little hope, when they feel locked into their situation because of their financial need.

Individuals in abusive situations have often been isolated from their friends and families and look to their workplace as a safe haven, even if for a few hours each day. While they may not openly share the horror that they face at home, they do need to know that there is a safe place to land if and when they are able to take the first step in escaping the abuse. They can also be so distracted by their life situation that it becomes a workplace health and safety issue for themselves and for their coworkers.

What they need is support, guidance and help. They don't need to be further victimized by an unsympathetic employer who cares little for anything except the bottom line or getting the job done at all costs. It's incredibly difficult to admit that you're being abused. It is embarrassing to face others and say that you have stayed in the situation. It's a monumental task to walk away from the abuser because that is the life you have known for so long, and without a financial safety net, it's terrifying to think of what awaits you.

\* (19:40)

Study after study has shown that the first few days after leaving the abusive situation are the most critical, where the victims and often their children feel compelled to return to the abuser because they have no money, no independence and no support system to help them through. So the cycle of abuse and victimization continues over and over and over again.

With this legislation, not only are we as employers supporting our employees in escaping and rebuilding their lives, but we are confirming with them that we value them and the work they do for us each and every day. We're confirming that they and their children have a place in our organization and they are valued greatly.

Think about this: If an employee is a victim of a car accident, a violent break-in at their homes or a slip and fall of any kind or any kind of medical emergency, we as employers are compassionate, understanding, supportive and concerned. So why should we be any less so if an employee comes forward with the courage to share their story of domestic violence? If anything, we should be even more compassionate and supportive because domestic violence affects all of us.

The children who grow up in an abusive environment often go on to be abusers themselves. Victims may turn to drugs, alcohol, self-injury when the pain becomes just too great. The longer the abuse continues, the deeper the lifelong impact for the individuals, the family and society as a whole. The financial implications and stress on an already overtaxed system grows daily as the victims of domestic violence can turn to violence themselves because they're so broken and hopeless.

Have we as a society become so selfish that we cannot consider giving the victim and his or her children the peace of mind to know that while they rebuild their lives they have no fear of losing their jobs which may be their only source of income? Is five days of paid leave too great a price for us as employers to pay to help a valued employee get into a safe place, find peace of mind and begin rebuilding their lives? I would hope not.

These brave women and men who find the courage to come forward are not looking for a handout. They may not even want a hand up. They want the peace of mind to know that while they have taken the first step towards a much better way of life, they'll have no fear of losing their jobs, their income, their independence and their security.

Manitoba has often been a leader in employment standards, and it makes me very proud to know that this proposed first-in-Canada legislation would ensure that victims of domestic violence have financial security, job protection and flexibility to take time away from work to recover from violence. I would encourage all members of the Legislature and all business owners in this province to get behind this bill and give it your full support.

Is it not incumbent on all of us to help those who are in the least position to help themselves? Is it not incumbent on all of us to say to these victims, let me help you; to say, know that you are a valued employee, and your safety and the safety of your children is important to me; and to say, take the time

you need to begin rebuilding your security and we will welcome your return.

And in closing, I want to say I'm a survivor.

**Madam Chairperson:** Thank you very much, Ms. Neufeld. Thank you for your presentation.

**Ms. Braun:** Thank you very much, Carmen, for sharing your perspective as an employer and your personal story as well. Thank you.

**Mr. Smook:** Thank you, Ms. Neufeld. It—I know it must be difficult for you to get up there and speak to us. But one question I'd like to ask is: Is there—is five days enough? Should we be looking at some other way of providing a longer benefit, like whether it be through the government or through unemployment insurance because, really, if a person wants to leave somebody like that, is five days enough? *[interjection]*

**Madam Chairperson:** Ms. Neufeld.

**Ms. Neufeld:** Sorry.

It's a really good start compared to not having anything at all, and I would like to think that a compassionate employer would look at that as a minimum but not necessarily what they would be prepared to offer to that employer.

So I think there's, you know, lots of different systematic changes that perhaps could help, you know, being able to get individuals help outside of the workplace as well as inside of the workplace, but I think this is a really good start. And my understanding is that this does fall in also with unemployment insurance. But it—for me, it would be knowing that you can take 17 weeks, or however many weeks you'd be allowed, and know your job is there, you know, to come back for that and not have to worry about that.

So in answer, no, five days isn't enough, but it's a pretty good start compared to the fact that there really is nothing in place across Canada like this.

**Mr. Gerrard:** Now, I—you said something that I think is quite important. You mentioned women and men who've been abused. And you're an employer—the preponderance, clearly, is women who are being abused, but the fact that there are some who are men who are being abused. But the people who have come to me have basically faced situations where people say, well, you're a man; we don't believe you, right? I mean, as an employer, how do you deal

effectively with situation—who are men in this situation.

**Ms. Neufeld:** First time I've actually appeared before a committee in this format, so I'm—have to be reminded of the rules.

I've seen firsthand where a male family member of my family was being abused at the hands of his spouse. And, you know, fortunately, on his third visit to the emergency room with a very lame explanation, the doctor in charge said to him, I just don't believe anymore that this—these are just accidents that are happening. I think you happen to be in an abusive situation.

And it was that ability to identify which led him to leave—it was actually my sister who was the abuser. So for him to find the strength—and I think that, again, you know, your coworkers and an employer should always be on the lookout for the health and safety of their employees, not just in, you know, on the day-to-day, because you can tell. When you work with people for a long time, you can start to tell if there's issues that are weighing heavy on them. And I think if you give them the opportunity to know that they do have a safe place to land at work, that they may be more willing to come forward.

But I—it is much more difficult, I believe, for men to come forward, because, like you said, it's perceived that it's women that are always being abused and not men, and men have a—there's a different kind of pride level, I guess, that disallows them to come forward and feel safe to do that, so, yes.

**An Honourable Member:** Thank you.

**Ms. Neufeld:** You're welcome.

**Madam Chairperson:** Thank you very much, Ms. Neufeld.

Next I'll call Gina Smoke from Unifor.

Welcome, Ms. Smoke. Do you have a written presentation for us?

**Ms. Gina Smoke (Unifor):** I do.

**Madam Chairperson:** Oh, great. We'll make sure those get distributed and you can begin whenever you're ready.

**Ms. Smoke:** Hi, I'm Gina Smoke from Unifor and I thank you for the opportunity to provide input into Bill 8, amendments to The Employment Standards

Code including leave for victims of domestic violence.

This submission is being made on behalf of Unifor. Unifor is Canada's largest private sector union with over 310,000 members across Canada. Our members work in every sector of the economy and include over 100,000 women.

We have a long history of activism on the issue of gender-based violence. Our work has resulted in a ground-breaking program called Women's Advocate. We bargained our first Women's Advocate in 1993, and today we have over 300 advocates across the country. A Woman's Advocate is a workplace representative that assists women in dealing with domestic violence. Unifor runs a 40-hour training program for new advocates and a 3-day update for experienced advocates. The advocate is support and referral resource in the workplace and helps women across the community services they require. She works with the employer on safety planning when necessary.

Women have this—women who have helped have this to say: She was like a snowplow clearing the way. I still had to drive my car in a storm, but she moved barriers to help keep the vehicle moving. Because of the support and quick referral to counselling, I was strong enough to carry on in a hard time of my life. Being at work was the only place of sanity and safety. After what happened, I wanted to curl into a little ball and die. The advocate at my work site was supportive and linked me to someone trained to help. She was a lifesaver.

Our work has been recognized at the United Nations including the International Labour Organization. Through this program, we've gained a great understanding of the practical supports needed by workers dealing with intimate partner violence.

\* (19:50)

We welcome the introduction of a workplace leave for workers who are experiencing domestic violence. The rates of violence against women remain shockingly high.

We know that domestic violence occurs across all ages, cultures and socioeconomic groups, but we also know some women are more vulnerable and less able to leave violent relationships based on factors such as age, immigration status, location, disability, ethnicity and English language ability. We are particularly sensitive to the vulnerability experienced by Aboriginal women and girls.

Employment and financial autonomy are key indicators to whether a worker will be successful in leaving a violent partner. We will be using the pronoun she in this submission to describe workers able to take this leave; although we know that men experience domestic violence as well, the statistics confirm that it is women who are overwhelmingly the victims of male violence.

Key features of this section are the understanding that leave needs to be available in intermittent and continuous periods. We support the bill's coverage of both physical and psychological injuries. There are many common features to situations of domestic violence, but many different individual impacts and needs. Allowing for flexibility around when leave time is taken is vital to success. In Australia, where domestic leave provisions have been in many collective agreements for a while now, the average time off is two to three days. This is not a large burden on the employer.

We also want to stress that the provisions around confidentiality are crucial. There is still a high stigma and shame that surrounds domestic violence. Having a guarantee of confidentiality and no reprisal for seeking a leave are extremely important features of this bill.

While we are pleased that this bill is a step in the right direction, we have some suggestions on improvements.

(1) The legislation should make the leave an addition to bargain benefit. For example, many of our collective agreements already have a leave provision for attending court. Another example is sick leave; many of our collective agreements contain a sick-leave provision that would cover an injury-related absence. These new leave provisions should be in addition to these existing rights.

(2) For non-union workers, there should be a clear and simple adjudication route if leave is denied.

(3) The legislation deemed part of a day to equal a full day. Many employers are able to provide for part-day leaves. It should be up to the worker to decide whether a full- or half-day is required.

(4) We submit that the legislation would be greatly improved by providing mandatory training for managers, supervisors and workers on domestic violence in the workplace.

(5) Under this bill, a worker must verify the necessity of the leave. The acceptable verification

will be specified in regulations. We urge the government to engage in—engage workers in domestic violence and shelter movement to assist in drafting these regulations. Without understanding the situation of women in violent relationships, the legislation could put unnecessary barriers in the way of using this helpful new leave provision.

And, in conclusion, intimate partner violence has been in the news more often than ever. Public consciousness is being raised about its prevalence and the need for action at all levels. We commend the Manitoba government for taking concrete steps to assist workers in freeing themselves from violent relationships and we hope this will spread to other jurisdictions.

**Ms. Braun:** Thank you very much for coming this evening.

I appreciate your presentation. The Women's Advocate section was of great interest. And I also appreciate the improvements that you're suggesting, and we'll certainly look at those. Thank you.

**Mr. Smook:** Thank you, Ms. Smoke, for your presentation.

It's very interesting, some of the things you brought up, but hopefully everybody can take it in and get something better done with it. Thank you.

**Mr. Gerrard:** Yes, thank you for contributing to the discussion we've had today.

**Madam Chairperson:** Thank you very much, Ms. Smoke.

Next I'll call on Leanne Sookram. Is Leanne Sookram here? Oh, yes, thank you.

Do you have a written presentation for us?

**Ms. Leanne Sookram (Private Citizen):** Just oral, these are my notes.

**Madam Chairperson:** Okay, thank you very much. You can proceed when you're ready.

**Ms. Sookram:** Good evening. I'd like to thank you all for allowing me to come and speak this evening. My name is Leanne Sookram. I'm an employee of Air Canada. I've been there for going on 22 years, which also means that I am a Unifor member, formerly known as CAW, now Unifor Local 2002. More importantly, I am a survivor of domestic violence.

I think that we, as a society—sometimes we stereotype what a victim of domestic violence looks

like and what an abuser looks like, their history, their lifestyles, their jobs, race, culture, et cetera. But domestic violence doesn't discriminate. It can be anyone at any time. This is me, and my abuser was an educated male who actually worked for the province in Corrections. You don't know who's going to be abusing who and who is being abused.

It was a difficult 10 years of my life trying to cope and understand what was happening to me and why, all that time trying to go to work and care for two small children. There were days that I was up all night and I could make it to work, and then there were days when I just couldn't take anymore and I couldn't function, but I needed money to keep caring for my children and I always—couldn't always find the strength to go to work and pretend that I was okay. Some days it was better to be there, to be surrounded by your friends and know that you're doing something that you're good at, and some days you just couldn't do it anymore.

I knew my employer was not happy with my absenteeism and I—couldn't understand why I was calling in sick frequently, so one day I decided that I needed to come out with the truth, and I brought him a letter from a counsellor from a sexual assault program that I was attending. I sat in his office while I read it, embarrassed, humiliated, and scared. His response was, I am so sorry this happened to you. I have two young daughters. How are we going to stop this violence from going on?

Thankfully, my union believed in domestic violence and making everyone aware of it. They believed that it was a very serious issue and they worked hard to get Air Canada on board with this view. Finally, one women's advocate was negotiated for my local and I felt like I was no longer alone—I had support. Domestic violence was recognized by my union, by my employer, and more people were becoming aware and educated. It helped a great deal knowing that my job was protected. However, understanding that, it wasn't enough to pay the bills and to support my children while trying to help myself. I wasn't paid for any of the missed time, nor could I afford to take a leave to try to get the help to leave the situation safely. I, eventually, had to declare personal bankruptcy.

I did eventually get free. I survived and I realized that I needed the help of others—sorry—I got free and I realized I needed to help others in similar situations. When the opportunity arose Unifor negotiated five women's advocates across the

country and I was appointed the women's advocate for Western Region. I work hard every day to help men and women who request my assistance and I work hard to educate my managers and my colleagues about the effects of domestic violence and how it affects in one's ability to work and cope.

It doesn't end here. We have to continue educating everyone more and more on this matter, but in the meantime we have to help the victims maintain their jobs, their self-respect and support them. I strongly urge you to please pass this bill unanimously. Thank you.

**Madam Chairperson:** Thank you very much, Ms. Sookram. Thank you for being here.

**Ms. Braun:** Thank you, indeed, for being here and thank you for sharing your story and for being a woman's advocate and helping others. Thank you very much.

**Mr. Smook:** Yes. We'd like to thank you very much for appearing tonight and sharing your story with us. I know it's very difficult to get up there and do that, but thank you very much for being an advocate for women's rights. Thank you very much.

**Ms. Sookram:** Can I say something?

**Madam Chairperson:** Certainly, go ahead, Ms. Sookram.

**Ms. Sookram:** Being an advocate has empowered me, and if something bad had to happen in order for me to be able to help other people, then that's what needs to be done, and I feel good doing that.

\* (20:00)

**Mr. Gerrard:** Thank you for sharing your story and for what you're doing now as an advocate. Question I have for you is this. The bill has got five days of paid leave and up to 17 that would be unpaid. Have we got the balance right in this bill in terms of what's paid and what's unpaid and what's needed in terms of support?

**Ms. Sookram:** No. Five days is a very, very good start. I don't think five days is going to get someone out of a situation safely. It also depends on the situation. Everyone's situation, their circumstances are different. There's cases with children; there's cases with no children. I think we need to look at different situations. For myself, five days would have been a good start. It might have been able to help me say I don't have to worry about money for right now; let me get the help that I need and go from there. So,

like some other speakers have said, I do think it's a good start, but we would have to look at different situations, I believe. Thank you.

**Madam Chairperson:** Thank you very much. Any other questions?

Thank you very much, Ms. Sookram.

Next, I'll call on Carmen LeDarney—or LeDarney?

Thank you, Carmen. Come forward. Thank you. Welcome.

**Ms. Carmen LeDarney (Private Citizen):** You're welcome. Thank you.

**Madam Chairperson:** Do you have a written presentation?

**Ms. LeDarney:** I do not. It's just oral.

**Madam Chairperson:** Then proceed whenever you're ready.

**Ms. LeDarney:** Thank you. Thank you for listening to me. I'm speaking today as a private citizen. I'm a member of Unifor. I sit on the Prairie Regional Council Women's Committee on the executive. I also sit on the executive of my local union. And I'm here just as—just to provide support and stand in support of this legislation. I'm not a direct—I haven't been directly affected by domestic violence. However, as a young child, my mother's sister was abused by her husband, and he was actually very open in doing so and did it in front of me at the age of five years old. Forty years later, that vision is still in my head as clear as all of you are here to me today. So, the impact that domestic violence will have, even indirectly, will last forever.

This bill will assist—and being in the workplace myself—this bill will assist a lot of the victims in—within the workplace to get the help they need, be able to come forward without any embarrassment, which is a huge factor. Coming to work with bruises and—is something that most of them choose not to do, which affects their absenteeism, which also affects their attendance record which implicates so many different things within the workplace that is happening today: attendance management issues, et cetera. So, this domestic violence language will be huge towards that.

Having said all that, I'm just here to say that this is a great direction that this bill is, and I stand in support of the legislation, and I hope that there's a unanimous vote in getting it in. Thank you.

**Madam Chairperson:** Thanks very much.

**Ms. Braun:** Thank you so much for coming this evening and showing your support for friends and family.

**Mr. Smook:** Thank you, Ms. LeDarney, for coming out tonight and expressing your views on this bill to us. It's greatly appreciated. Thank you.

**Mr. Gerrard:** Thank you for coming. Thank you for sharing your own family story as well as your feelings about the bill. Thank you.

**Madam Chairperson:** Thank you very much for coming tonight.

Next, I'll call Pamela McLeod from Willow Place. [*interjection*] Pamela McLeod, yes. She was an addition to the list.

Do you have a written presentation for us, Ms. McLeod?

**Ms. Pamela McLeod (Willow Place):** No.

**Madam Chairperson:** Okay. Proceed whenever you're ready.

**Ms. McLeod:** Thank you, Madam Chair and members of the committee. I'm representing Willow Place Shelter. Thank you for the opportunity to speak to you regarding Bill 8. We are in essential agreement with the proposed legislation, and I applaud the government and Minister Braun for bringing this forward for the people of Manitoba and as an example for other jurisdictions.

There are many reasons why victims of domestic violence may need the option of taking a leave of absence in the short or longer term as they and their families recover, and I will try to avoid reviewing details of the bill which have already been described. But we would like to add our voice in support.

In the immediate aftermath of domestic violence, victims may need to leave their family home along with children and be temporarily out of their neighbourhoods and out of their usual patterns including going to work every day and often without transportation. There are challenges to maintaining the daily routine of going to work, but they are probably short term. Victims should be free to take themselves out of unsafe domestic situations without fear that the action will put employment in jeopardy especially at a time when the family's financial situation may already be strained by domestic breakdown.

At Willow Place Shelter, for example, clients stay an average of eight days and during that period supports and resources are put in place and a return to the regular routine of work is often possible, even within that time when the client is at the shelter. However, it is unrealistic to think that no work will be missed, and this legislation acknowledges that reality.

Victims may need to find and arrange services and supports during normal working hours, forcing them to choose between attending their own job or accessing services. And up to now this choice may have meant jeopardizing employment or jeopardizing their family's access to resources even though they might only be absent for a day or even half a day for an appointment. This legislation will allow victims to invest time in putting themselves and their families back on track for better lives.

About 50 per cent of Willow Place clients have children. They may have been displaced also and may have been witnesses or been aware of violence in the home. They may be temporarily unable to cope with school or going to child care, and they may need time with their parent during what would otherwise be that parent's normal working day. Ignoring that immediate need may contribute to greater problems later in children's lives. Parents and children may simply need intense time together in the immediate aftermath of the crisis similar to a period of mourning when we all need to draw close to others who share our situation.

I appreciate the fact that there is flexibility in this legislation to allow victims to take leave several days at a time or to use it periodically as needed. As their recovery continues, families may need time to respond to their own or their children's needs, as is the case in—after any family trauma, and they are in the best position to judge what they need and take the time as they see fit.

The protocol to support this legislation will require great insight and sensitivity. I strongly encourage the government to ensure that the process for claiming leave is efficient and simple and clear to employees and employers; that there are no delays for victims who are dealing with so many other challenges at this time—at such a time; that it is not intrusive, that it respects the privacy of the whole family; and simply that it causes no further anxiety and is no more onerous than making use of other types of leave that are available to employees.

I'm confident that the government will want to protect the victim's rights to limit the extent to which they must disclose information to employers. Safeguards for confidentiality should be firmly in place and thoroughly understood by all personnel who may be involved in the administration of the leave at every level. Accessing paid leave and job protection should not be contingent upon the victim making a formal declaration such as by going to a shelter or filling out a police report—filing a police report.

Shelters provide an invaluable service to well over 1,000 people in Manitoba each year. However, there are many people who choose to go to friends or family. Many people access resource centres without ever coming to a shelter. The fact that they access supports independently should not inadvertently impact their option to make use of this new provision. And likewise accessing leave should not be contingent upon a police report having been filed. It's generally understood that the majority of victims of domestic violence don't file police reports, and we wouldn't ever want a victim to be restricted from other supports and services because they were not filing a report and this should not be any different.

Many statistical support—sources, rather, suggest—and this is conservatively—that over 80 per cent of reported domestic violence is actually repeat violence, a pattern that typically accelerates.

\* (20:10)

The fear of income and job loss should—may be part of the reason why victims remain in increasingly dangerous situations. This legislation may contribute to freeing victims and their children from remaining at risk and, thereby, you would be helping to prevent further violence and destruction, including circumstances that lead to apprehension of children.

The potential cost to employers of up to five days' pay seems modest compared to the costs of losing an employee. And this has already been reviewed by others before me. I believe that employers understand that leave to recover from domestic violence is just as critical as sick leave or bereavement leave or family leave and will contribute to the well-being in their workplace. Employers, after all, are members of families and they are not immune to domestic violence themselves.

So to conclude, this legislation sends a real message to victims, to violent partners and to their

watching children, that Manitoba is working in concrete, tangible ways to end domestic violence. We are all responsible for ending violence, for victims and their children, who are our children. How we govern ourselves tells the world who we are and that we do not tolerate domestic violence.

Thank you.

**Madam Chairperson:** Thank you very much, Ms. McLeod.

**Ms. Braun:** Thank you very much for sharing your experiences—what you've had at Willow Place, especially the importance of the leave when it comes to children and making sure that the children have an opportunity to heal as well. So, thank you.

**Mr. Smook:** Thank you, Ms. McLeod, and your input into this bill, it's interesting to hear, like the children are an important part and that we have to focus on them a lot more because they're a very important part of the relationships. So, just thank you for your input.

**Ms. McLeod:** Well, indeed, children are a very important part, and we often focus on the victims, while the victims are focusing on their children and becoming more victimized because of that.

**Mr. Gerrard:** You talked about the parameters of how leave should be obtained. Perhaps you could describe the process that you would see as optimum. If a woman is a victim of violence, what would you say is the ideal process?

**Ms. McLeod:** I don't believe that anyone wants to claim dishonestly that they have been the victim of domestic violence. I don't believe any of us wants to claim that we are victims of domestic violence at all. And that is why people are so reluctant to do so. There is, still, a very uncivilized aura of shame around being the victim of domestic violence.

So the likelihood that someone is going to claim domestic violence on a whim seems ludicrous to me. So why there would need to be anything more onerous than the same process that one uses to claim sick time, I don't know. So something parallel to that. It's not as if five days is an enormous amount of time.

**Madam Chairperson:** Thank you very much. Thank you, Ms. McLeod.

**Ms. McLeod:** Thank you. Thanks, all.

**Madam Chairperson:** Next I'm going to call John Callahan. I understand he's been called away but I'm

going to call him anyways. So he'll drop to the bottom of the list.

I know there are others who were on the list who weren't here when I called them, and now their name is on the very bottom of the list, so we're going to go through some other people and then you—you're still on the list, so we will call you.

I do want to say, before we move on to the next bill, looking around the committee, how much we have appreciated the presentations so far tonight. They've been tremendously moving, especially those of you who have shared your personal stories of survival. At its best, this Legislature is a place exactly where those stories should be told, and we as legislators should hear them. So I want to thank you for the courage that you've shown in sharing those stories with us tonight.

### **Bill 11—The Domestic Violence and Stalking Amendment Act**

**Madam Chairperson:** Now we're going to move on to Bill 11, The Domestic Violence and Stalking Amendment Act.

And we're going to start with Jane Ursel. Welcome. Do you have a written presentation?

**Ms. Jane Ursel (Private Citizen):** I do.

**Madam Chairperson:** I'll ask our staff to distribute it for you. And you can begin whenever you're ready.

**Ms. Ursel:** Thank you very much, honourable Chairwoman and honourable members of the committee, for this opportunity to speak to this very important bill.

As a background, I have for some time been concerned with the process of application for protection orders and with the consequences this has for applicants. My concerns are based on research I conducted back in 2003 that raised a number of issues. Anticipating your first question which will be, what did I do with this information 12 years ago, I just want to say that I did present this to the court officials who administer protection orders and the staff who provide for protection orders who hear—who listen to the hearings.

At the time that I raised these concerns, the Department of Justice was in a process of moving from magistrates to JJPs and to increase the training involved in that—in the selection and the move to JJPs. It certainly was the hope and the expectation at that time that this move in training and new

personnel would address the concerns that I had identified.

Unfortunately, it took the murder of two women this past year in our community to make it abundantly clear that while training is very important, we really did need amendments to the legislation. There were impediments embedded in the legislation, and I'm very pleased to come and speak about what I see as the previous impediments to successful application for protection order, and how I believe that the proposed amendments will address those impediments.

My research indicated that there was extreme variation in outcomes for applicants depending on the JJP—or at that time, magistrate—that the applicant appeared before, and this raised concerns about training and the application of standardized criteria for granting orders. Further, I was concerned that JJPs only hear about the appropriateness of their decision to grant or to deny if their order is overturned—if their order to grant is overturned by a Court of Queen's Bench judge on review.

I have been concerned that this negative feedback loop—you only hear the consequences if the order is overturned—could have a chilling effect on JJPs' willingness to grant an order. And, indeed, we have found over time that the percentage of orders granted has declined substantially. While some of these concerns can only be addressed with training, which I do understand is under way, these concerns also require amendments to the act, and I'm pleased to have the opportunity to speak to these amendments and how I believe they address the above issues.

To begin, I would like to speak to amendments in section 6(1) of the proposed provision, which I believe provide much clearer criteria of what information a JJP must consider, inquire about and what information should not undermine an applicant's eligibility. These amendments help to provide more standardized clear criteria that all JJPs need to apply in their deliberations.

Briefly, item—section 6.1(1) identifies a series of risk factors which a JJP must consider in assessing an application for an order. These risk factors are well documented in the research conducted by domestic violence death review committees across North America and should be given serious consideration by the JJPs.

\* (20:20)

Section 6.1(2), this provision requires JJPs to become aware of any concurrent court or other legal proceedings which may be relevant to the application. Again, the literature on domestic violence indicates that domestic violence cases are complex legal and social cases which frequently result in multiple concurrent legal issues. Activities in other courts may serve to heighten the applicants' risk and may provide critical information for the JJP.

And items—section 6.1(3). This provision outlines factors which have been invoked in the past by JJPs as considerations which result in denying the order. This section of the act clarifies the listed factors from (a) to (f) that should not make an applicant ineligible for protection orders. For example, these factors include whether the respondent is incarcerated at the time of the application or if the applicant is residing in a shelter at the time of application. Many of the circumstances covered in the clause speak to the imminence or immediacy of risk. Service providers reports and my research indicate that imminence and immediacy were being interpreted far too rigidly by many JJPs. Even if their partner was in jail at the time of the application, the applicant may have been motivated to provide for a protection order because he was about to be released. So this section, in combination with the very important deletion of the terms imminent and immediate from section 6.1, will provide a clearer and more standardized set of criteria for all JJPs to consider in their deliberations.

A second point that I would like to comment on is the concern about the absolute importance of applicants having a supporter with them at the time of the application, whether it is a protection order designate, a service provider or a family member. Such supporters provide a calm second sight on the information required, either in the paper application or in the hearing. Service providers have reported that in the past, JJPs have arbitrarily denied permission to supporters to attend the hearing with the applicant and, in other cases, granted it. The new clause in section 4(5) clarifies that the applicant's supporter may accompany them in the hearing. This clause is important in asserting the right of the applicant to have a supporter present during the hearing.

Finally, and importantly, clause 7.1—section 7.1 makes it mandatory for a respondent, when an order is granted, to surrender firearms, ammunition and/or other specified weapons to a peace officer. Further, the JJP must arrange for the chief firearms officer to

get a copy of any protection order that is granted. Thus, if there's doubt about whether the respondent has firearms, the chief firearms officer can determine if firearms are in the possession of the respondent and act accordingly.

To conclude, I believe that these amendments are crucial in enhancing the security of persons at risk in circumstances of domestic violence and respond effectively to the concerns that I was identifying in my research a number of years ago.

Thank you.

**Madam Chairperson:** Thank you very much.

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** Thank you very much, Ms. Ursel, for your research and your analysis and your advice. And for members of the committee, Ms. Ursel is now starting work on identifying the barriers for victims of sexual violence coming forward, and we look forward to drilling down and getting to the bottom of that. It's a longstanding concern across the modern world.

So thank you very much for all of your work over many, many years. It's really appreciated, I'm sure, by members on all sides of the House. Thank you.

**Mr. Kelvin Goertzen (Steinbach):** Thank you, Ms. Ursel, for being here this evening and as well for your previous research. And, like you, I share the regret that it took the tragedy of two lost lives for this to be here tonight. But it is important that it's here tonight, and it's important that you're here tonight. And we only are going to be sitting for 11 more days prior to the April 19th election. I think we've heard about that. But we certainly feel this is important, and I think we have a commitment to work with members opposite, even in those short few days, to try to ensure that this bill becomes law because it is important, and it's important that you were here tonight, and thank you very much for your presentation.

**Madam Chairperson:** Thank you.

**Hon. Jon Gerrard (River Heights):** Thank you for your presentation, and thank you for the—all the research that you've done to enable this. You know, I was recently reviewing some other work on, you know, the risk of violence in—not in this situation but in other ones, and the conclusion of much of that was that it was really important to use the science as a basis for decision making rather than expert opinions

because the science was actually much more reliable than the expert opinions.

Now, in looking at the risk factors that you document and that are listed, one of those is any mental health concerns involving the respondent. And can you help us to, as committee members, to understand what kind of mental health concerns you are looking for, that this is not a matter of stigmatizing people, but, you know, how is this going to play a role?

**Ms. Ursel:** There have been numerous domestic violence death review committees who have reviewed all of the circumstances surrounding a murder, a domestic homicide. And frequently they are identifying a history of a mental health concern, often that was not diagnosed but was identified by the victim's family or possibly the perpetrator's family. There's no specific mental illness that's been identified, but there's been a series across North America of death reviews that indicate that it is one of a variety of factors that could heighten the risk for a homicide or a severe assault.

**Mr. Gerrard:** In the material that I was reviewing, which was, again, not domestic violence specifically, but it was suggested that there were certain types of mental illness, psychopathy, for example, which was a very considerable concern, but that there were other types of mental illness where the risk was actually not elevated in terms of violence. And I'm a little bit concerned about the potential for stigmatizing people with any mental illness or mental health concern. *[interjection]*

**Madam Chairperson:** Sorry, Ms. Ursel, go ahead.

**Ms. Ursel:** Sorry.

**Madam Chairperson:** That's okay. Go ahead.

**Ms. Ursel:** I appreciate your concerns. And I believe that it's typically a pattern of risk factors. Frequently, when a mental health concern is identified, there is also a concern with suicide ideation. And this can substantially increase the risk to the victim and also potentially to the accused. Unfortunately, in cases of female domestic homicide, there are cases where they are homicide-suicides. So I don't have—I'm sorry, I didn't prepare or go through the list of all of the various mental conditions that have been studied across North America, but I could subsequently provide that if that would be helpful.

\* (20:30)

**Madam Chairperson:** Thank you very much, Ms. Ursel. Thank you.

Our next presenter has asked for an accessibility accommodation to sit while she makes a presentation, so we're going to have her seated at the end of the table next to Mr. Marcelino and she will use that microphone. I'm sure I don't have to ask the committee for leave for that, we're going to just do that.

So I'm going to call Ms. Kim Streshaw from A Woman's Place, Norwest Co-op Community Health.

Do you have a written presentation, Ms. Streshaw? Okay, you can start whenever you're ready.

**Ms. Kim Streshaw (A Woman's Place, Norwest Co-op Community Health Centre):** Thank you.

As stated, my name is Kim Streshaw and I'm the director of A Woman's Place, a program with Norwest Co-op Community Health Centre. I want to start by saying that I am a victim of domestic violence. It was quite severe and that's why I'm sitting here today. I am suffering the after effects after 30 years.

It is with great anticipation, as a director and frontline worker, that I look forward to the proposed changes in legislation that will speak to the safety of the citizens of Manitoba. Specifically our most vulnerable: women and children.

Currently, the focus in determining a protection order is based on immediate and imminent danger. Under the new legislation, the history of domestic violence must be taken into account. We must look at past incidents of domestic violence, we must look at the cycle of violence and how this violence is escalating. For example, the escalation of abuse that has—the past—has led to a violent incident must be taken account.

I often hear women who are denied protection orders state: Do I have to be killed, do I have to be hurt, does something have to happen? Women leave the courtroom in tears. I often accompany them. They are sobbing. They feel like they have not been believed, they have not been validated, and very often will say I do no longer have faith in the justice system. For myself, I find this devastating. For the client it's more than devastating. I can't speak enough to how she is affected.

Clients, once again, in speaking to them, believe that the Justice of the Peaces need to be trained in the

dynamics of domestic violence, as well as the cycle of violence. Currently, in my experience—and this is in the 20 years I've been doing this work—I've seen many Justice of the Peaces interpreting the legislation in different ways.

For example, one JP might say, well, the abuse occurred three weeks ago, I'm granting the abuse. Another JP might say, well it's only been—it's been five days, and so there hasn't been imminent danger. So there's inconsistency in how Justice of the Peaces interpret the legislation. Under the new—proposed legislation, this would eliminate this confusion.

The proposed legislation will eliminate the situations where women are denied based on false assumptions that a woman is safe because she's in shelter, she no longer resides with her partner, and because charges have been laid. She may be in shelter but she's going to leave shelter. She may have come to a service such as ours, but that doesn't mean that she's safe. The new legislation clearly requires that firearms be seized. In the case of Camille Runke, she did everything to protect herself. Unfortunately, a firearm was not seized. We will never know if the seizure of that firearm would have saved her life.

As we advance in technology the Internet has been used to undermine the integrity of protection orders. Communicating directly and indirectly through the Internet is a tool designed to intimidate the victor—victim further and inflict abuse.

I cannot tell you strongly how much children are affected when protection orders are not granted. We do know that there's a cycle of violence. These children are living in these abusive relationships. We must remember children are involved as well. In Manitoba a woman may apply for a protection order on behalf of her children. Unfortunately, the courts, the Justice of the Peaces, take into consideration that there may or may not be court proceedings in place. For example, she may have seen a lawyer and the lawyer says it's going to take probably six months to get a prevention order. She applies for the protection order, and because there are court proceedings she's denied.

Our service has a family law lawyer that defends protection orders where they have been denied. I can't tell you how busy we are and how much we need extra services. We are currently full. We receive referrals from Justice, from shelters. This is an area that—we are working with the highest risk women in Manitoba. If a woman comes to our

service and the protection order seems frivolous, so, for example, if a woman comes to our service and she says he got a protection order against me; I'm going to get one against him; I'm ticked off, and so I need your assistance, we will not assist her.

There are cases where women should not be eligible for protection orders. I can tell you that in my experience, and actually it's over 20 years I've been working with the same agency for 20 years, that is not usually the case. It's a very daunting task when a woman applies for a protection order. No woman wants to go into a courtroom and be challenged and be questioned. It is a terrible experience, especially when you're denied.

Your partner can find out if you're denied and then she is subject to laughter; she's subject to: See, you can't be protected—there is nothing that can protect you.

I'm very, very pleased to sit here today, and I'm telling you from a personal experience and from a client's experience what is happening within our court system. This legislation is very exciting to me, and I've spoken to some clients since November about the proposed legislation, and they are thrilled and hoping that it does pass.

I've said this before and I will say it again: Manitoba has proven that we are at the forefront within Canada at providing comprehensive services. I am begging for the women that we service that this legislation passes, and I thank you very much for listening to me.

**Madam Chairperson:** Thank you very much, Ms. Storeshaw.

**Mr. Mackintosh:** Thanks very much, Ms. Storeshaw.

You've always, in my mind, been heroic—indeed very strong, and as a result of us hearing your story tonight I believe I see an even stronger person in front of me, so thank you very much—your advice as well; I trust that your hands are all over this bill. I hope they are as they are, hopefully, from Ms. Ursel, but we are relying on people that are so strong on the front lines like you and are listening to those who are surviving to make sure we get the legislation right and, clearly, we'll have to always continue to make sure that you have the resources as well, because the protection order regime, indeed, will be made stronger by this legislation and your role will certainly become, I think, even more important.

So thank you very much and to all your team at A Woman's Place. It really is providing great leadership, and we met your legal expert at the announcement and we're very pleased to see the insights that you bring to bear. So thank you very much and we're going to continue to listen to you folks.

**Ms. Storeshaw:** Thank you so much for hearing me.

**Mr. Goertzen:** Thank you very much for coming tonight, and I appreciate the fact that you mentioned by name Camille Runke, and I had the opportunity to sit with a member of her family and hear that very difficult story. And you are right—from everything that I heard, she did everything that the system would say she should do, and it didn't work—the system didn't work. So hopefully, this bill, whether it could have prevented that tragedy we don't know and we might never know, but I do think it will make a difference. We support it. We would like to see it pass in the very brief time that we have and work to do that.

\* (20:40)

I know that there's only a couple of people who are presenting to this bill, but because of the nature of the bill, I think it's difficult for people to come forward and to speak about their stories the way you have, so I think that you and the previous presenter are representing hundreds of people who might not otherwise feel comfortable coming here, so thank you for doing that. And we look forward to the bill passing, as well.

**Mr. Gerrard:** Thank you for your efforts and for coming here today. You said, as part of your presentation, that you feel that the Internet has undermined protection orders. Does this bill adequately address that? Or does more have to be done in that respect? *[interjection]*

**Madam Chairperson:** Sorry, sorry, I have to recognize you so they turn your mic on.

Ms. Storeshaw, go ahead.

**Ms. Storeshaw:** Sorry.

**Madam Chairperson:** No, I have to say your name before you answer so that you—they turn your microphone on and we can read your words for the next 100 years.

So, Ms. Storeshaw, go ahead and answer the question.

**Ms. Storeshaw:** I do believe that this bill does address that. Currently, when abusers are using the Internet to further stalk their victims, police do not always lay charges. It can be quite difficult for them to prove that it is indeed the abuser. I am hoping that with this legislation it will make it more—it'll make it easier for police, but also I think that we need further assistance with the Winnipeg police force to, in terms of technical support, to be able to prove that these women are being stalked by their partners.

I'll give you one example where it was clear that a partner breached his order, and what he said in his defence was, well, I was at a party and anyone could have picked up my cellphone and texted her, which is true. But there are those cases where it's clear that it is the offender, and they use various ways of stalking their victim. For example, they can go through a card game; they can—Facebook, for example—and they can be very vague threats, but they're definitely threats. And it further terrorizes women. One case in particular, just today, he's used 100 Facebook accounts to stalk his victim.

**Madam Chairperson:** Thank you, Ms. Storeshaw.

**Ms. Storeshaw:** I hope that answered your question.

Thank you very much for having me.

**Madam Chairperson:** Thank you.

*Mr. Vice-Chairperson in the Chair*

### **Bill 33—The Family Law Reform Act (Putting Children First)**

**Mr. Vice-Chairperson:** I will now call on Mr. Lawrence Pinsky, regarding Bill 33.

Do you have any written materials for distribution to the committee, Mr. Pinsky?

**Mr. Lawrence Pinsky (Manitoba Bar Association):** My presentation is oral.

Good evening, almost good night. I'm here in several capacities: first, I'm honoured to speak here on behalf of Brad Regehr, who's the president of the Manitoba Bar Association; second, I'm speaking as the past chair of the family law section of the Manitoba Bar Association; as the chair of its legislative changes subcommittee and as a member of the executive of the national family law section of the Canadian Bar Association; and, as well, in my own capacity.

On behalf of the president of the Manitoba Bar Association, I can advise you that the Manitoba Bar

Association is a branch of the Canadian Bar Association and is the voice of the legal profession in Manitoba. It represents and promotes the interests of approximately 1,400 members. We are an association of legal professionals, including lawyers, judges, law professors, articling students and law students. We have the mandate of promoting equality in the profession and improving the administration of justice and the law.

Lawyers have been at the forefront of making improvements to the legal system, as evident from our presence here tonight, and in many other capacities. Family law lawyers, in particular, have a unique challenge dealing with difficult personal situations and often see people in very stressful times, perhaps at the very worst times of their lives. And you've heard, of course, presentation on other bills that talk about some of those times.

Family lawyers are often called upon to advocate strongly on behalf of their clients, but we also propose and are part of making legislative changes intended to benefit all Manitobans. On behalf of the president of the Manitoba Bar Association, the bar association wishes to thank the government and the other parties for introducing and, we hope, supporting this bill. The Manitoba Bar Association is pleased to support the bill and believes that the legislation will benefit all Manitobans.

Now, in my other capacities, I can inform you that one aspect of the proposed legislation that's so very important is that which deals with the relocation of children. Relocation can be a very vexing problem for families, for lawyers, and for judges. Most importantly, the effects of relocation on children can be tremendous and, not uncommonly but not always, for ill.

There's been little guidance or predictability in facing relocation issues. There have been more than one case in Manitoba and across our country where judges pray for biblical-rooted wisdom to help them determine the issue. They commonly say, if only I had the wisdom of Solomon, as they struggle through their decision, really, one that could go either way without much guidance.

In 1996 the Supreme Court of Canada had rendered its decision in *Gordon and Goertz* that addressed the issue of relocation. Over the last 20 years, the Supreme Court has refused to revisit that issue while lower courts have struggled over and over with the very same issues, families have faced uncertain and expensive proceedings, and academics

have been critical of the variable results that flow from the reasoning.

Well, there can't be a one—a perfect one-size-fits-all approach, we certainly can do better by reducing expensive litigation in some cases, and by providing Manitoba families with some predictability and certainty, and also, and perhaps most importantly, by creating a child-focused structure in which these decisions can be made based on the leading psychological studies and thinking in the area. I think one member of the committee earlier tonight talked about the importance of focusing on the science—or the social science; that's exactly what this bill does.

And, to be clear, this problem isn't just a Manitoba problem. It's a major concern nationally and internationally. In August of 2015, the Canadian Bar Association at the Canadian Legal Conference passed a resolution urging provincial governments to enact a legislation to provide harmonized, more effective, speedy, certain processes to assist families and courts in determining the issue of relocation consistent with the best interests of each individual child. Once again here there can't be a one-size-fits-all. It can't be a presumption. It's about individual children with their individual temperaments, and individual connections in their families.

The bar association passed for that resolution, recognizing the difficulties that families and the judicial system have had historically in dealing with issues of relocation. Beyond Canada there have been various declarations in major forums over the years, the Washington forum and others, addressing the need for legislative reform in this area, which is so critical to the welfare of children and families.

In Manitoba, we formed a group to study the issue. Our group consisted of a psychologist, a legal scholar, lawyers, and social workers. I believe you have before you in a written form the submission of Professor Bala, one of the leading national and international experts. He was on our committee. Beyond him, we consulted with Rollie Thompson, another international leading figure in this issue, and many others. All volunteered their time, many, many hours trying to develop the best approach to deal with this issue for Manitoba's—for Manitobans in a child-focused, non-partisan manner among other recommendations.

We reviewed the law in the area as well as the social sciences. We consulted with the family law bar and had input from other people involved in this issue. Ultimately, it was recommended that particular

legislative changes should be enacted that would put Manitoba at the leading edge in confronting this vexing problem.

Manitoba isn't alone in legislating in this area. Manitoba now joins British Columbia, albeit in my private view, with a more blunter and less effective form of dealing with this problem, and Nova Scotia, that has moved as well—actually, they did that subsequent to the legislation here, although theirs, I believe, has been passed, though not proclaimed, which, in principle, in concert with the relocation legislation proposed here in Manitoba.

\* (20:50)

*Madam Chairperson in the Chair*

One aspect of the Manitoba approach that's worthy of note and comment is that it's generally consistent with the social sciences and balances at the same time existent legal patterns and specificity so that there can be predictability and consistency. I'll give you an example. In the Nova Scotia legislation, there's a generalized term of substantial connection. In Manitoba, there's actually precise time frames involved so we can much more clearly tell families, will it be a go, will it not be a go in many types of situations. So, in my view, it's very much a step forward.

Manitoba's—a proposal in this area mandates a notice as does the British Columbia-Nova Scotia model and sets standards and onuses that are firmly rooted in the best interests of children in addition to the—what I would call—state-of-the-art analysis of the social sciences. Manitoba's proposal should assist families here when facing the daunting problem of relocation. We may not have achieved perfection and, of course, in family law you can't really because it's always a moving target. Society evolves, our knowledge in the area grows, families are different, children are different, but undoubtedly the proposed legislation constitutes a giant step forward for all Manitobans.

In conclusion, on behalf of the Manitoba Bar Association, on behalf of the legislative changes sub-committee of the MBA, as a lawyer myself, as a—and as a Manitoban, I'm grateful for the opportunity to speak here in favour of the bill and look forward to its implementation.

**Madam Chairperson:** Thank you very much, Mr. Pinsky.

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** Mr. Pinsky, thanks so much for your advice, your work on this, and if you can pass on to the Manitoba Bar Association as well, I think what should be a hearty congratulations on a partnership with the bar. I think that really is reflected in how this bill came together, and I know Minister Swan, my predecessor, worked hard on this as well. So I want to commend those that work with families and try to get these matters settled, and we look forward to this now being implemented.

There's some minor amendments that we're going to put forward, and I understand some of them have been suggested by the bar and some by the bench and so we're going to make sure that this big tome is as tuned and as sandpapered as best we can get it.

So thank you for coming tonight and for staying with us this evening. Thank you.

**Mr. Pinsky:** Yes, it's my pleasure. I just want to say we did this in a non-partisan fashion. There were people on every side of the political spectrum working on this. We came together in that way and we actually called it the Manitoba miracle because so many other provinces are so jealous of what we can do in terms of talking to government, talking to both sides, to all sides and moving forward with this type of advance. So thank you.

**Mr. Mackintosh:** And I hate to break the view—the perception of Manitobans but actually over 90 per cent of our legislation and resolutions are agreed to unanimously. I know the media wouldn't want to report on that one; that wouldn't sell any papers, but that's the good Manitoba miracle at work also in this building, little known.

**Madam Chairperson:** Mr. Goertzen, for more love and pixie dust.

**Mr. Kelvin Goertzen (Steinbach):** It's tough to follow the Manitoba miracle, you know. I don't want to be a downer about this.

It's a wide-ranging bill, and certainly the portion regarding location of children is an important part of it and one I think that's well done and well written.

There are other parts of the bill we talked about, particularly the need to encourage alternative dispute resolution in family matters, which I think is very important, and I think that many people and certainly the members of the bar feel it is very important. I know that the bill sets out sort of an aspirational goal

of encouraging more alternative dispute resolution. Are there specifics that could be added to the bill that would result in far greater alternative dispute resolution mechanisms as opposed to what I think everyone agrees is generally a relatively messy process when it goes before the courts not because of anything that the bar is doing but just the nature of the process itself?

**Mr. Pinsky:** Unfortunately, it takes one person—one personality disorder, one personality disordered person to create a ginormous disaster in a family law file, and commonly that's what one sees on those enormous, horrible, terrible files. Sometimes it's more than one person with that personality so you can't legislate any resolution to that problem. Alternative dispute of resolution systems are critical. We have, as you probably know, mediation services. Other jurisdictions are jealous of what we have in terms of that. We have family conciliation. Other jurisdictions are jealous of term—in terms of that. We have the collaborative law system. What happens in other provinces that we don't have here so much, but it's starting, is arbitration in family law to keep it entirely out of the system. This bill shouldn't be held up for that. There are issues in Ontario; for example, there's a section of the arbitration act that deals with family law arbitration, something that perhaps might be looked at at some point, not to take away at all from this act, but some other thing that could develop over time.

You know, you can lead a person to water, but you can't make him think, and sometimes there's a problem that people have disastrous files, but, overall, the system is designed for that. The case conference system is designed for early intervention. Historically, the rules have changed a bit now in terms of early intervention by a judge, not on a contested basis, on a settlement type of context. So I'm not sure that more could be done here, and I wouldn't want anything to stand in the way, frankly, of the giant leap forward that this is. It's hard fought for, hard worked, hard thought of love, not merely love, that exists in terms of this act.

**Mr. Goertzen:** Has the bar association taken any position on the Ontario model of family arbitration?

**Mr. Pinsky:** The Manitoba Bar Association, per se, I don't believe, has. I can tell you that the family law section and the legislative changes subcommittee of the section has looked at that issue, and we've made certain presentations with respect to that.

**Hon. Jon Gerrard (River Heights):** Thank you for your presentation and all the work that you've done.

Your comments with regard to, you know, relocation of children, I think, apply specifically to when a parent is relocating to another site. And your comments in terms of the upheaval or potential trauma to children is clearly very important. We have in Manitoba a rather widespread form of relocation, which is the apprehension of children and putting in another home, in a foster-care home or another placement. Some of the same circumstances or cautions that you raise are important in terms of continuity of care and continuity of relationships, and some of the same trauma comes up. So my question for you is, will this bill have any implications with regard to situations where children may be apprehended to reduce the relocation of children that were under those circumstances?

**Mr. Pinsky:** If the question pertains to child protection proceedings, in a word, the answer is no.

**Madam Chairperson:** Thank you very much, Mr. Pinsky. Thank you for your presentation.

Next, I'll call on Trent Tait.

Welcome, Mr. Tait. Do you have a written presentation?

**Mr. Trent Tait (Private Citizen):** No, I don't.

**Madam Chairperson:** Okay. Proceed when ready.

**Mr. Tait:** It's kind of hard standing here as a father with no legal background. After tonight, one might look at the timing of all the presentations as a bit political. As a father who owes support, who has been denied custody on many times as per his final order, it's very difficult when I look at final orders, and I look at lawyers and I look at everything that happens. A final order is a final order, whether it's child support, whether it's custody. That final order should be kept to the max. Parents, dads that have custody rights, should be given those custody rights along with the child support. You can't have one without the other. You can't have a reduced violence by backing men into a corner who don't have their children, who don't have a job. You're after their driver's licence. You're after their pilot's licence. There's people opting out of your system because your system's broken.

\* (21:00)

I read CBC had an article where your Deputy Minister Ross, who is in charge of the department,

stated to the media that settling a dispute between two agreeing parents would take from her ability to take in more money. To me that doesn't work. That builds dissension. That builds the type of incidents that we've heard about here tonight. And, when I get down to the timing, I've sat here and heard about every bad apple in the cart. I hear about the guy that does the domestic violence. I hear about the person that's beating up on his wife. There are a lot of men out there that aren't as educated as their partner, don't make as much as their partner. They're having their driver's licence taken. They're having their bank accounts seized, and these are things that are driving your forward—or, your first three bills tonight. People without supports of family, brothers, sisters, people that can come up with the extra \$2,000, \$3,000 to keep you employed because you're a class 2 driver that delivers meat. You're a paramedic that's got to keep a clean criminal record.

Since my divorce, I've had 72 different jobs. I've had nine garnishments in nine probationary periods. So you want to sit back and you want to say, oh, we don't know what's driving violence, and my 'learned' friend before me, if I'd counted his time, would have cost me more than my child support for a month, for that ten minutes. So we have to get a balance in our law making, too. What powers are we going to give workers across the street under regulation? Sure, you can appeal it in 30 days, but there's a section in this new bill that says, while it's being appealed that 30 days, you have to go with their decisions regardless of the lumps it causes you. There's got to be an advocate.

I'll solve the problem for you: 33, 33, 33 in property values. Take 33 per cent of the property values that are there, put them in trust for the maintenance support, and make people actually accountable for why you're drawing that money out. Not a trip to Hawaii, not a trip to Florida, but for actual school, books, clothing, boots, warm winter clothing. These are ways that you can deal with the law. These are ways when you're separating family assets. If there is assets, put 33 per cent away for the child. It'll end the fight pretty quick.

I just sit back and I look at it. Yes, there are people that abuse. Yes, there are people that hit. And, yes, there are people without the supports of family, moms, dads, churches that care. But stop kicking the feet from under people before they get started.

Legal's not cheap, amendments isn't cheap, going to court—I was blessed with the ability to read

a law and know enough how to defend myself. I also sat with a member of this Legislature as their executive assistant. And it's difficult when you look at this and it's all, how we going to—the only way you're going to do it is to come up with a system to reduce the violence in the first place. And by reducing the violence, if you're going to put children first, put them first. Take 33 per cent of the assets and make everybody apply and prove what they're going to use it for because marital breakup comes because mom and dad disagree. That's the main thing.

Having dad wait 60 days—I don't know when I'm going to get a job. I don't know where I'm going to get a job. If I need to give 60 days' notice before I leave Manitoba because I'm going to a mine to be a paramedic, there's not too many jobs that will hold for 60 days to get there for you to give notice. I mean, there should be the ability to go in and say to somebody: I have a chance for a job. This is going to be my address; this is my bank; this is where I'm getting paid. Here's my financial statement. This is how I'm dealing with this. I'm not hiding anything.

There was one time, and I'm not going—I had to sit across the street at 4:11, and there's a police report about it. I walked in, I had \$4 in my bank account, and I gave them \$2, and she wouldn't take it. That was 50 per cent of the money I had. And, lucky for me, I knew the security guards couldn't remove me for trespass, so I sat in the middle of the floor and said, you're going to have to call the Winnipeg police department, and I'm going to have to get an incident number before I'm leaving. And, at 5:05, two constables arrived, and I got an incident number. Yes, I took up Winnipeg police's time. I took up people's time, the security's time. I wasn't a risk, but I knew enough how to advocate for myself without spending money.

And it's time that people around the table here start thinking of the cases that way. How do we reduce cost to everyone, because if you drive a parent to welfare, they don't have to pay child support because they're under the level of income?

Thank you.

**Madam Chairperson:** Thank you very much. There may be a few comments or questions for you.

**Mr. Mackintosh:** I just wanted to say thanks for sharing your views with the committee.

**Mr. Goertzen:** Yes, thanks. And it goes a bit to the point earlier about how do we keep some of these,

more of these, out of the courts, and I think that that is critical because what we have now is aspirations, and though it's good to have aspirations, but far too many things are going to court that could probably be solved in a far less adversarial way. And, yes, thank you. *[interjection]*

**Madam Chairperson:** Mr. Tait, go ahead.

**Mr. Tait:** Sorry.

**Madam Chairperson:** That's okay.

**Mr. Tait:** I'm looking at Bill 8, and I don't know if I can do this, speak to Bill 8 while I'm on Bill 11. We talk about, what about the father that has no resources, that walks into his employer and says, look, I'm ready to lose it. I'm ready to throw the Christmas tree through the front window. It's three weeks before Christmas, I've got no money, and I mean, I just feel pushed to the wall. Does he qualify under that bill to take the five days? Where do you draw the line? Where do you draw—who does it encompass? What are we doing to reduce—we're here about family service, family—what are we doing to reduce it in the first place?

Do we have an emergency counselling service for the guy that's just burnin' 'er 12 hours, sitting in the gravel truck right now plowing snow? And do you think that on a snow day he's going to go sit in some office, even though he needs it? No, he's got to pay, and he knows the hammer's down and he's got problems to deal with. Like, we're not just numbers. Dads aren't numbers. We're not just 14,000 cases that aren't paying child support. We're not just 10 per cent or 5 per cent of the population that are getting violent. We're people.

You're backing us against the wall; you say support's separate from custody. Well, you're paying for something you never see. And you're working your rear end off, and you sit back and say you want to do that? Make custody 50-50. Allow a divorced father the same amount of money that you're allowed to set up an apartment when you're an MLA from out of town. That would solve a lot of problems for the one that's pushed against the wall. I'm not saying we can afford it.

But, when you come down to reality and you're looking at two cans of tomato soup and french fries for a weekend visitation, and you've got somebody calling you, saying, hey, when are you going to play your biweekly support? I mean, that's where you're driving most of your issues from. It's not because they're not good people.

\* (21:10)

It's not because they're not good people; it's because they're pushed to the brink. There's no 24-hour counselling service that's well advertised for these people. There's no help system. There's no—you're under pressure; that's normal. Life has its pressures. Seasons have its pressures. Come and talk; there's no shame.

I mean, I'm in a profession where the—one of the largest worker suicides is happening right now across Canada. And we're sitting here going, how do we protect our paramedics? And we just had a guy in Alberta who lost his job because he claimed he had PTSD. Thankfully, it's protected here, that if you admit, you're safe. But there are a lot of people out there that, if you just could touch and say, hey, you need to draw back, you need to talk, we can get you somebody, not tomorrow, not at 9 o'clock, not when you're supposed to be on shift, but right now. Right now.

And I look here. The other thing is social work. If you take the case per worker caseload in this province, how many minutes does a social worker get with a client? I'm not talking hours; I'm talking minutes. And I bet you it's under 15. I bet you their caseload would give them about 5 to 7 minutes or less with everybody on their list.

**Madam Chairperson:** Thank you very much, Mr. Tait. Thank you.

Our time for questions is up. Thank you very much.

Next I'll call Steve Rauh—or Rauh. Not sure I'm saying that right. Steve Rauh—R-a-u-h. Okay, we'll drop him to the bottom of the list.

Next I'd like to call Kristine Barr. Kristine Barr will drop to the bottom of the list.

**Bill 8—The Employment Standards Code  
Amendment Act  
(Leave for Victims of Domestic Violence, Leave  
for Serious Injury or Illness and Extension of  
Compassionate Care Leave)**

*(Continued)*

**Madam Chairperson:** Now I'm going to start going through the people at the bottom of the list. I'd like to call Bea Bruske.

Welcome, Ms. Bruske. Do you have a written presentation?

**Ms. Beatrice Bruske (United Food and Commercial Workers):** No, I'm sorry. I do not. I just have a verbal presentation.

**Madam Chairperson:** That's okay, just go right ahead.

**Ms. Bruske:** So thank you for providing me with an opportunity to speak on this important bill. I'm speaking on Bill 8, on the domestic leave changes.

My name is Beatrice Bruske, and I represent the United Food and Commercial Workers, Local 832, the largest private sector province in Manitoba. We represent 17,000 members working in a variety of sectors, including retail, security, food processing, warehousing, health care, et cetera, as well as the workers that work at the Ikwe Women's Shelter here in Winnipeg. And I'm also here on behalf of the Manitoba Federation of Labour as the co-chair of the Women's Committee.

We recognize that domestic violence does not discriminate. It affects women, men, and children. However, as per the Province of Manitoba's domestic violence prevention strategy, released in 2012, we do know that women constitute the majority of the victims. Most of these women are young women and have children. We know that domestic violence doesn't just impact the two people that are in that relationship; it impacts the children who witness the violence and, subsequently, often have behavioural or emotional issues.

Often the cycle of violence within the family is not resolved the first time. It is much more difficult for children growing up who are exposed to this to have healthy relationships as adults. As Global News reported yesterday, of the 82 intimate partner homicides that took place in 2014, 11 of those occurred in Manitoba, and, quite frankly, one is too many. We all have an obligation to work towards prevention.

However, rather than focusing on statistics, I want to speak to you about my own personal experience as a union servicing representative dealing with workplace issues with members who are having issues in the workplace, whether it's attending work on a regular basis or having been disciplined at work because they're not able to fully fulfill their job capacity or their job functions.

Many times when an employee is having issues at work it is because that employee is having discipline—having problems in her personal and/or

home life, and, obviously, those issues follow you into the workplace. Domestic violence issues absolutely affect the employees and, many times, their coworkers. There can be stalking issues. We've had members who've had partners stalk them in the workplace or watch their comings and goings in the workplace, and we've had to alert management to those issues, coworkers to those issues, and those are very scary situations all around. Many women wanting to leave a violent domestic situation are not able to do so immediately. Many of our members deal with these issues for years and years and years. We are aware of those issues; we've dealt with those issues; we've provided them resource counselling, different places to go to get help. However, it's very difficult to do that on a first-time basis, or even on a second-time basis.

When a woman finally gains the courage to leave the abusive relationship, she faces significant challenges. We heard earlier today that in Manitoba the 30 days of crisis day is usually approximately eight days when women stay in a shelter. That's the approximate average. At Ikwe, it seems to be 12 days, a little bit longer. Those days are very, very busy days if you actually manage to get out. Either you are dealing with emotional and physical healing, you're dealing with medical and counselling appointments, you're trying to make new living arrangements, you're filing protection orders, attending court appearances, meeting with legal counsel, filing police reports. And, when your children are involved, you're also dealing with potentially school meetings with the school, additional counselling for your children and medical needs of your children.

Many of those issues have to be dealt with in the immediate aftermath after leaving the home, while others can take some time to sort out, obviously. Managing all of these issues is stressful. At the same time managing those very tremendous personal issues, you're also dealing with the issue of leaving a primary relationship, leaving your home and your familiar surroundings for an unknown future when you do finally make that decision and you have that courage to finally leave.

We all know the stress of moving from one household to another. Imagine leaving your home in the middle of the night with the clothing on your back, your children in tow, and that is the reality for some of the women escaping these very violent domestic situations.

Then imagine having to attend work in the following days and being able to function at work and being able to be fully present and having that ability to do your job. It's not possible. It's even more challenging for some of our members that we've dealt with that live in very remote communities: Lynn Lake, Leaf Rapids, Gillam, all of those types of places, and places closer to Winnipeg even. Leaving your home community, your extended family behind is very difficult.

For us, what we have found is that it's imperative that when workers are struggling with these issues, in order to be successful in breaking free, it's important that that worker has the ability to maintain their job and maintain their ability to support themselves and their children when they do finally get out of that situation.

The likelihood of being able to decisively leave a situation depends upon being able to maintain your employment and maintain that dignity that you have in the workplace. Now, some of the critics of this particular bill have raised with us as a union the issue of people frivolously making these kinds of complaints to get some time off work. I can tell you, having been a servicing rep for over 10 years, when I was doing that type of work, there has never been a time when a woman has come to say frivolously I need to take some time off work because I'm being abused at home. There is a significant stigma that still surrounds this particular issue. It's fraught with embarrassment and shame and all of those kinds of issues. That is not something that people easily say to their co-workers, to their supervisor, or even their close friends and family. As I indicated earlier, it's many times years and years before somebody actually deals with the courage to be able to say to someone else close to them: I'm having this issue at home; please help me.

Bill 8, by mending the Employment Standards Code, will assist in helping women leave abusive situations. Being able to take leave for up to 10 days to deal with those many issues is absolutely crucial. It will allow that employee the time and attention to deal with her and her children's needs and to make those appointments and make those changes that she needs. I'm really proud that Manitoba would be the first province to pass this type of legislation. It shows that we value our families and want to support where we can in order to make that successful and have healthy communities, and, quite frankly, we were the

first in Canada to begin the right to vote for women and I think we can do this, too, and this is just as groundbreaking.

Thank you.

**Madam Chairperson:** Thank you very much, Ms. Bruske.

**Hon. Erna Braun (Minister of Labour and Immigration):** Thank you very much for coming this evening and waiting this long to be able to present and thank you for sharing your perspective and comments. Thank you.

**Mr. Dennis Smook (La Verendrye):** Thank you, Ms. Bruske, for attending tonight and sharing your perspective on this bill and your comments. We really appreciate you attending tonight and being patient to wait 'til this hour. Thank you very much.

**Madam Chairperson:** Thank you very much, and thank you for your patience.

Now, calling again Elliot Sims. Elliot Sims? Elliot Sims will be dropped from the list.

John Callahan? John Callahan will be dropped from the list.

Steve Rauh. Steve Rauh will be dropped from the list.

And Kristine Barr? Kristine Barr will be dropped from the list.

That completes the list of presenters.

Is there anyone else in the room tonight who wishes to make a presentation?

Seeing none, we will conclude public presentations and we'll move on to consideration of the bills before us.

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**Madam Chairperson:** What order would people like to review these bills?

**Mr. Kelvin Goertzen (Steinbach):** As listed, under matters of consideration.

**Madam Chairperson:** As listed? Does that seem agreeable? *[Agreed]*

\* (21:20)

**Bill 8—The Employment Standards Code  
Amendment Act  
(Leave for Victims of Domestic Violence, Leave  
for Serious Injury or Illness and Extension of  
Compassionate Care Leave)  
(Continued)**

**Madam Chairperson:** All right, so then we will begin with consideration of Bill 8, The Employment Standards Amendment—right. We'll begin with Bill 8, and I'm going to read the—just remind us all of the procedure when we're reviewing bills.

During the consideration of a bill, the table of contents, the preamble, 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, I 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]*

And we'll now proceed to clause-by-clause consideration of this bill. And, again, we're on Bill 8.

Does the minister responsible for Bill 8 have an opening statement?

**Hon. Erna Braun (Minister of Labour and Immigration):** Yes, I do.

This evening has been a very emotional time, and we've heard personal stories of violence and abuse from many of our presenters this evening. And I can't say strongly enough how courageous they have all been, and how their experiences certainly underline the importance of Bill 8.

Leaving an abusive relationship is extremely complex, and our government believes that victims of domestic violence should not have to worry about holding on to their jobs as they work out to rebuild their lives. This proposed first-in-Canada legislation will ensure victims of domestic violence have the financial security, the job protection and also the flexibility to take time away from work in order to recover from the violence.

I'd like to extend my thank you to Barb Byers and coming all this way and the work of the Canadian Labour Congress in their study along with the researchers of the Winnipeg—pardon me, the University of Western Ontario. We've heard 'extensily' this evening from the presenters on the research of the CLC and certainly have seen that the financial impact, but also the human cost of domestic

violence is great. And everyone's life has been affected by it, and it certainly is life altering.

The proposed legislation builds on Manitoba's Multi-year Domestic Violence Prevention Strategy, which we introduced in 2012, and it recognizes the importance of using a comprehensive approach to ending domestic violence. And, as many of the presenters have said today, this is—legislation is well placed and that we have taken the first steps in this process.

The proposed legislation also will provide leave for employees to deal with long-term illness or injury and extend compassionate leave to anyone who needs to care for a loved one. Both of these proposed changes allow eligible workers to access corresponding federal employment insurance benefits.

One other area of the bill that we heard from presenters this evening and how critical it was to dealing with domestic violence is the requirement to protect the confidentiality of employees who take any protective leave, including the domestic violence leave.

I would urge all members of this Legislature to support this important piece of legislation. We've heard a lot of stories this evening that certainly affected us, but we also probably all each know someone who is trying to escape violence from their home and to find safety and support. This bill will help them take that critical step by ensuring that they will have job protection and an income. It may very well, from what we've heard from a number of people, save their lives.

I would like to thank all the presenters this evening who had the courage to share their experiences and present on this important issue. I'd also like to thank my colleague Jennifer Howard for starting this on the road that we—brought us here tonight, so thank you, Jennifer.

**Madam Chairperson:** We thank the minister.

Would the critic from the official opposition like to make an opening statement?

**Mr. Dennis Smook (La Verendrye):** Yes, I'd just like to thank all the presenters who came out and presented tonight.

We heard a lot of stories that were very personal to everybody, and it takes a lot of courage to come out and repeat those stories. And domestic violence is something that none of us want to see happening, and as legislators I think it's very important that we

do whatever we can to prevent it, but we have to make sure that when we're creating a bill that we listen to all the different areas that we can get advice from.

So I hope in doing the regulations—the rest of the regulations for this bill, there is information taken from everybody. We had heard from a couple of presenters that really there wasn't a lot of consultation with some of them and I just hope that the consultation is done properly.

Thank you.

**Madam Chairperson:** We thank the member.

We're now going to move on to consideration of the bill.

Clauses 1 through 4—pass; clauses 5 and 6—pass; clause 7—pass.

Shall clauses 8 and 9 pass?

Mr. Goertzen.

**Mr. Kelvin Goertzen (Steinbach):** Yes, simply a comment I think more than anything on the duty that employers have, and I think it's important—we've talked a little bit about, you know, proactive duty and what position that puts employers in, but there's a different part of it that concerns me and that I think when somebody is eligible for leave and they take leave, one would hope that they would then do the sort of things that would improve the situation that they're in for them and their families. The bill doesn't speak to that, it sort of hopes that that time away from work will allow a victim to go forward and make the right choices, and so that when they return to work, they might be in a better situation than when they left work.

I guess I would—I'd hope that there might be some consideration either now or in the future to do something maybe more proactively for victims so that when they've, I guess, identified themselves to an employer and they decide to leave work, what's being done to support that individual so that they have more than just time away, but that it's time away that makes a meaningful change in their life circumstances and in their home environment, and the bill doesn't speak to that. And speaking with a lot of junior representatives, I know this isn't something that they really collectively bargained for in the past, so there's not a lot of experience with it. I guess my hope was that if this bill does become law that it—that that time away will be more than just sort of a safe time and—but also something that it'll put those

victims onto a path that's something better for their lives in a more proactive sort of way.

**Madam Chairperson:** Any other comments, questions?

Clauses 8 and 9—pass; clauses 10 through 13—pass; clause 14—pass; enacting clause—pass; title—pass. Bill be reported.

**Bill 11—The Domestic Violence and Stalking  
Amendment Act  
(Continued)**

**Madam Chairperson:** Next we'll move on to Bill 11, The Domestic Violence and Stalking Amendment Act.

Does the minister responsible have an opening statement?

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** We had some presenters here tonight, Ms. Ursel and Ms. Storeshaw, who in no small way were a part of the effort. There were so many others as well, and I don't want to make a list, but I think what I should do is just thank the departmental staff, we really pushed hard on this one, and this was really a labour of love for so many people here. As you can see, I think every division in the department is represented. We really—I think we did this in about four weeks and—which is really extraordinary.

There were two tragedies that really spurred this effort, and Selena Rose Keeper began that and that's when we launched a request to the shelter and service community and survivors in particular to give us ideas of how we can make protection orders work better.

\* (21:30)

The morning of that announcement I was told on coming in the door that Camille Runke's tragedy had occurred, and that was the—it was a very different set of circumstances, that was where a protection order was granted. So it is so unfortunate, but I hope that those lives have lent themselves to a stronger regime, and we really have the latest thinking here in terms of both the social science, the understanding of the dynamics of domestic violence, but I think as well we've been able to, for the first time in Canada, have a mandatory firearms ban. And I hope that that will catch on in other jurisdictions in Canada.

So, and we've got some other unique pieces to the legislation that I think the staff, in particular, and

the survivors that have provided their comments and the service workers have to take full credit for. So I want to just give a speech of thanks.

**Madam Chairperson:** We thank the minister.

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

**Mr. Kelvin Goertzen (Steinbach):** I also want to thank the staff who've been involved in putting this legislation together. It's—I think it's good legislation. It's good work on behalf of the department. It's perhaps come from tragedy. But I also don't think it'll be the final word on legislation like this. Things change. And this legislation, I think, will be a much better position than we're in now, but there'll be other things that'll come up. We will find that it can be improved upon, and I think there'll be a willingness from the staff to work on improvements as they see fit to make those improvements.

The minister mentioned the two most recent cases from which this legislation was brought forward from. I know that there were many others, far too many to name now, and, hopefully, the families of those victims will look upon this legislation as something meaningful that's come forward and something important that's come forward from the 'tragedies'—tragedies and the difficult situations that they've lived through.

And I think that the staff of the department can take some credit for that, and they should be able to take some pride that you've made a difference, I think, for people who might be living in these circumstances in the future, but also for those families who remain, who've been families of victims in the past, that I think you may have made their lives a little better as well because you've made these changes.

So I think this is important legislation. We are going to do our best to ensure that it is passed in the short time we have. It's a difficult circumstance with only 11 days before the election, and we know that there is other things, economic updates or such things, or whatever they're called, which is fairly unique in Manitoba, and a few other things that'll be dealt with in the short 11 days, but certainly I think that this is one of the bills that we hope will be a priority and that will find its way through third reading before the House rises on or about March 15th.

**Madam Chairperson:** We thank the member.

**An Honourable Member:** Can I have some latitude?

**Madam Chairperson:** I'm going to give you some latitude, there, Minister Mackintosh, since it may be the last time either of us does this, so what could they do to us? Nothing. So go ahead. Go ahead.

**Mr. Mackintosh:** They can't fire you now.

**Madam Chairperson:** No, that's true.

**Mr. Mackintosh:** But I believe there was a plot to fire me by the staff.

But I did want to add, and not as a footnote, that the work of Legislative Counsel, and Con Law as well, was absolutely instrumental in this effort.

**Madam Chairperson:** Hear, hear.

Now we're going to move to clause-by-clause consideration of the bill.

Clauses 1 and 2—pass; clauses 3 through 5—pass; clause 6—pass; clause 7—pass; clauses 8 and 9—pass; clauses 10 and 11—pass; clauses 12 through 14—pass; enacting clause—pass; title—pass. Bill be reported.

**Bill 33—The Family Law Reform Act  
(Putting Children First)  
(Continued)**

**Madam Chairperson:** Moving on to Bill 33, The Family Law Reform Act.

Does the minister responsible for Bill 33 have an opening statement?

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** The—I first just want to thank my predecessor, Swan, for working hard on this one and for the great work of departmental staff. I think this has engaged everyone in the Family Law and, of course, Legislative Counsel and beyond, and the bar association has been very helpful. We also then drilled down on the child support area, and that was sort of a late bloomer on the rose here, but this is really a tremendous effort on behalf of the government. I'd like to thank the departmental staff once again for pulling this together.

I will just add, perhaps, as a—so I don't have to upset things, I think it's quite clear, however, that, you know, despite the presentation of Mr. Tait, this government has been resolute in refusing to link custody with child support. That must not happen. Child support is owing. People do not divorce their children. They have that as an essential obligation. Parental responsibility has to be an underpinning of

family life in Manitoba, whether you're separated, divorced or not. And so that's why we are proceeding the way we are.

**Madam Chairperson:** We thank the minister.

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

**Mr. Kelvin Goertzen (Steinbach):** Just briefly, or briefly for me, anyway, I know that the minister has several amendments, and so we'll move to those so that we can proceed with that. And it's a fairly large bill, so it'll take some time for the clause-by-clause consideration.

You know, as I mentioned during the presentations, and I think one of the most common concerns that we hear in family law, other than obviously the very, you know, personal and difficult situations people find themselves in when they're involved in family law is the desire to move things away from the courts. And I appreciated the approach and the comments by the Manitoba Bar Association. I look forward, perhaps, to hearing more about some of their thoughts and presentations on arbitration as it's been used in other jurisdictions.

It does seem to me that whether it's that model or another model, that while the bill speaks in aspirational tones about alternative dispute resolution and alternative methods, it doesn't give specifics to it. And I don't know that it'll change much in terms of diverting people away from the courts and from sometimes a very difficult, obviously very expensive, but a system that isn't always, I don't think, in the best interests of those who are working through that system. That doesn't mean that everybody can always be diverted from the system, but I think we need to have far more people who would be eligible for that, to be moved away from the legal system.

And that's not simply about removing stress from the legal system, although that's important too, and in a time when it is under stress, but it is, in some ways, about removing stress from those who are involved in the system itself. And, while there's many good things about this bill, and I—particular, the points about the relocation of children is important, and, you know, I think that those are very good additions to the bill, I do have concerns that it doesn't address in a fulsome way moving towards a system that diverts people away who are appropriate to be diverted away from a very adversarial and a difficult system.

How that gets dealt with in terms of a legislative process, you know, if there are portions of the bill that could move through in the very short period of time we have or not, I mean, those are discussions I can have perhaps with the minister and the Government House Leader (Mr. Chomiak), but I do think it would be important to ensure that there is something specific, something meaningful and something measurable in terms of diverting people away from a system that I don't always think works well for them or for their families in the short or the long term.

\* (21:40)

So, with those comments, I think we'll move through the bill, and we can perhaps have further discussions either inside the House or outside the House about how the bill gets dealt with in a legislative fashion in the very short period of time we have remaining before the general election.

**Madam Chairperson:** We thank the member.

So this is a big bill, so due to the structure of it I'm going to propose that we consider it in the following way. We're going to provide copies of the outline for all of you, and with the understanding that we may stop at any point where members have questions or wish to propose amendments, I propose we call the bill in the following order: schedule A, which will be parts 1 through 8 of schedule A, pages 9 through 108, called in blocks conforming to the parts; then the table of contents of schedule A, pages 3 through 8; schedule B, parts 1 through 6 of schedule B, pages 115 through 192, called in blocks conforming to the parts; and the table of contents of schedule B, pages 109 through 113; and then schedule C, pages 193 and 194, called in blocks conforming to the pages; the bill's clauses on page 1, the enacting clause on page 1; and the bill title.

And then, as I said, if, as we're going through, people have questions or amendments or if we're going too fast and then you want to revert to an amendment, we'll make it work. It's a big, big bill and we want people to have adequate time to consider it.

Is it agreed that that's the way that we're going to consider this bill? *[Agreed]*

So we'll begin with schedule A, parts 1 through 8, pages 9 through 108, with part 1, pages 9 to 12.

Shall clauses 1 through 6 pass?

**Mr. Mackintosh:** I move that—

**Madam Chairperson:** Oh, we have an amendment. So the amendment is at clause 5, right? So let's-let's see if we can pass clauses 1 through 4.

Clauses 1 through 4—pass.

Now we'll move to clause 5, Minister Mackintosh.

Shall clause 5 pass?

**Mr. Mackintosh:** I move

*THAT Clause 5(2) of Schedule A of the Bill be amended by striking out " , unless it is someone" and substituting "unless he or she conducted an earlier evaluation of them or is someone".*

**Motion presented.**

**Madam Chairperson:** The amendment is in order and the floor is open for questions.

**Mr. Mackintosh:** This deals with the appointment of an evaluator to determine a child's best interest. The current section—actually, it's been pointed out could lead to shopping for evaluators. We think it's important that there could be the ability to have an evaluator that was previously appointed again. That person, in fact, may save costs and may have insights that would be of importance to the court.

So it's a minor amendment, but it could be very useful in moving things along.

**Madam Chairperson:** Are there any other questions or comments on this amendment? Seeing none, is the committee ready for the question?

**Some Honourable Members:** Question.

**Madam Chairperson:** Amendment—pass; clause 5 as amended—pass.

Shall clause 6 pass?

**Mr. Mackintosh:** Well, we're going deal with dispute resolution. I move

*THAT Clause 6 of Schedule A of the Bill and the centred heading before the Clause be replaced with the following:*

#### DISPUTE RESOLUTION

##### **Dispute resolution by the parties**

**6** The parties to a dispute must act in a way that strives

- (a) to minimize conflict;
- (b) to promote co-operation;

(c) to meet the best interests of any child involved in the dispute; and

(d) to the extent the parties consider it appropriate to do so, to resolve the dispute by reaching an agreement through negotiation or another dispute resolution process.

**Motion presented.**

**Madam Chairperson:** The amendment is in order. The floor is open for questions.

**Mr. Mackintosh:** Well, I was very pleased to hear the sentiment of the critic. It absolutely is necessary to move matters out of the court system. In so many ways, the courts have evolved in a way that is not helpful for the resolution of many kinds of disputes. Most notably, I think, family law disputes in many cases, and I wouldn't say all. But—so we agree on that point. And what this bill does, actually, by schedule C, is do just that.

This establishes, for the first time in Manitoba, a new administrative process to get matters out of the courts that shouldn't be there in the first place. The—that new part of the family law process will be in place in the coming fiscal year, in '16-17, and we've been able to engage with the federal government, as well, for help in this regard. This is leading edge. It's called the simplified family justice pilot project, so that certain kinds of court applications can be made and decided very quickly and simply, and certainly more cheaply for families. And a Family Division hearing officer is the way that that will be delivered.

That is on top of, of course, Mr. Pinsky's list of the alternatives to the traditional court that are already in place in Manitoba. In fact, the member for Minto (Mr. Swan) and I worked on an additional approach there a few years ago that was added to the array of alternative dispute resolution processes.

Now, the question arises, should there be some mandatory process that, before the family law is accessed, that the families pursue an alternative dispute resolution process? That is a question that deserves full debate. But our analysis so far is that that could be very dangerous in a situation, perhaps, where there's domestic violence, and there are uneven strengths for the parties where, for example, mediation could be detrimental to one of the parties.

So I think—I know there's some different approaches. I think British Columbia has some approaches; Saskatchewan is trying some different approaches with mediation for non-family, though.

We've heard from Mr. Pinsky, and I'm interested to hear more about that, about the use of arbitration, for example. I was asking staff and we don't have a lot of information on that one. But I think that's something I could pursue with Mr. Pinsky.

So that is sort of the state of thinking around alternative disputes. So it's in here, but at the same time this section is being amended so that the court is not going to—it's a risk, that the court will not require that the parties have pursued an alternative dispute resolution process and require that evidence. That may not always be in the best interest of a child, certainly, and perhaps not in the interest of a survivor of domestic violence.

So that's what this does. It makes sure that, because there was some concern from, I believe, some judges—or justices—that this section could be interpreted to have required the parties to go elsewhere first.

**Madam Chairperson:** We thank the minister.

The honourable critic, Mr. Goertzen.

**Mr. Goertzen:** I appreciate the minister's sentiments. I really do. And I think that mine and his heart are actually aligned in this. We might have some different views about how hard it should be pursued at this time.

I appreciate the fact you'll have discussions with Mr. Pinsky and perhaps others. But we're all under a time frame, and his is a little shorter than the rest of ours, maybe. Well, maybe not all of ours. But he's got, sort of, 30 days to do this, and we've heard lots about miracles today and, perhaps, another miracle can happen. I'm not—ever want to rule that possibility out.

\* (21:50)

The amendment, however, I think it's largely aspirational in terms of when it talks to dispute resolutions. It talks about—to the extent that parties consider appropriate, which, I imagine, is still essentially—is the case now, where—do we have an update on the Jets score?

I imagine that's essentially the case now, that to the extent parties consider appropriate they'll determine whether or not they want to go to a turn of dispute resolution.

Now, and the minister talks about potential cases where there's power imbalance, and I don't dispute that, and I don't dispute or try to prejudge that there

won't be situations where it may not be appropriate, and I think that in every piece of legislation that I've seen, or almost every piece, there's almost always exceptions to the rule, and the exceptions are written in to deal with those exceptional situations.

And I just simply think that we, in a review this comprehensive, to me, one of the largest differences that could be made would be to ensure far more cases that are appropriate would be going to another form of dispute resolution.

So I think that actually the minister and I agree philosophically. We maybe just differ practically in terms of how it would happen, but I don't think we're miles apart. But we aren't exactly in accord either, so with this amendment I'm—it certainly is fine to pass. I just don't think it achieves what the minister perhaps suggested it did.

**Madam Chairperson:** Were there any other comments or questions on this amendment?

Is the committee ready for the question?

**Some Honourable Members:** Question.

**Madam Chairperson:** Amendment—pass; clause 6 as amended—pass.

Part 2, pages 13 through 30, clauses 7-29—pass.

Part 3, pages 31-45, shall clauses 30-47 pass?

**Mr. Mackintosh:** I have an amendment to 33(2).

**Madam Chairperson:** Okay. So let's see if we can pass clauses 30-32.

Clauses 30-32—pass.

**Mr. Mackintosh:** I move

*THAT Clause 33(2) of Schedule A of the Bill be replaced with the following:*

**Person in loco parentis may apply**

**33(2)** A person in loco parentis to a child may also apply for

(a) custody of the child, if there is leave of the court; or

(b) access to the child;

if the child's parents are notified of the application.

**Motion presented.**

**Madam Chairperson:** The amendment is in order.

**Mr. Mackintosh:** This was an unintentional wording that, if allowed to stand, would require that you show

in loco parentis to obtain access, and that would be an additional burden over and above what the current law is.

We're actually—have been working and have introduced legislation recently to enhance access by, for example, grandparents. So in loco parentis should only be required for custody and not for access. That's why the change is put in here.

**Madam Chairperson:** Are there any other contributions on this amendment?

Seeing none, is the committee ready for the question?

**An Honourable Member:** Question.

**Madam Chairperson:** Amendment—pass; clause 33 as amended—pass.

Shall clauses 34-47 pass?

**Mr. Mackintosh:** Madam Chair, 40.

**Madam Chairperson:** Okay.

Clauses 34-39—pass.

Mr. Mackintosh, are you on clause 40?

**Mr. Mackintosh:** This is the last amendment:

*THAT Clause 40(4) of Schedule A of the Bill be replaced with the following:*

**Variation of order for access**

**40(4)** The court may, on application, vary or terminate an order for access if the court is satisfied that the child's needs or circumstances have changed since the original order was made or last varied. The provisions of this section apply in relation to that application.

*Motion presented.*

**Madam Chairperson:** The amendment is in order.

**Mr. Mackintosh:** This is to be consistent with other provisions. The court needs guidance, and the public or grandparents who need guidance in terms of what the test is for getting a variation or a termination. And the test is that there's been a change in the child's needs or circumstances.

**Madam Chairperson:** Any other contributions on this amendment?

Seeing none, is the committee ready for the question?

**Some Honourable Members:** Question.

**Madam Chairperson:** Amendment—pass; clause 40 as amended—pass; clauses 41 through 47—pass.

Part 4, pages 46 through 69, clauses 48 through 78—pass.

Part 5, pages 70 through 72, clauses 79 through 83—pass.

Part 6, pages 73 through 79, clauses 84 through 95—pass.

Part 7, pages 80 and 81, clauses 96 through 99—pass.

Part 8, pages 82 through 108, clauses 100 through 132—pass.

We will now consider the table of contents of schedule A, pages 3 through 8. Table of contents of schedule A—pass.

We will now consider schedule B, parts 1 through 6, pages 115 through 192.

Part 1, pages 115 through 119, clauses 1 through 3—pass.

Part 2, page 120, clauses 4 through 6—pass.

Part 3, pages 121 through 170, clauses 7 through 67—pass.

Part 4, pages 171 through 176, clauses 68 through 80—pass.

Part 5, pages 177 through 191, clauses 81 through 93—pass.

Part 6, page 192, clauses 94 through 96—pass.

We'll now consider the table of contents of schedule B, pages 109 through 113. Table of contents of schedule B—pass.

We'll now consider schedule C, pages 193 and 194. Clauses 1 through 3—pass; clauses 4 through 7—pass.

We'll now consider the remaining clauses of the bill, page 1. Clauses 1 through 4—pass.

We'll now consider the remaining items in the bill, page 1. Enacting clause—pass; title—pass. Bill as amended be reported.

\* (22:00)

**Bill 300—The Mount Carmel Clinic  
Amendment Act  
(Continued)**

**Madam Chairperson:** Moving on to Bill 300.

On Bill 300, we will first hear a report on the bill from David Wright, Legislative Counsel, in accordance with rule 151(1). Go ahead.

**Mr. David Wright (Legislative Counsel):** Thank you. As the committee is well aware or is likely aware, rule 155(1) requires that for a committee to consider a private bill that the law officer submit a report confirming that the law officer has examined the bill and has noted any section in the bill that requests—or provides for exceptional powers or requires special consideration.

So I can distribute it—and I ought to have done it by now—distribute it in my report that confirms I have reviewed the bill and that there are no exceptional powers sought or any other provision requiring special consideration.

**Madam Chairperson:** We thank Legislative Counsel for that report.

Does the bill sponsor, the honourable member for Minto, have an opening statement?

**Mr. Andrew Swan (Minto):** Madam Chairperson, I just want to recognize the board members, the executive and the staff of Mount Carmel Clinic. I want to thank Chad Smith, the chair of the board for coming out to present tonight. This incredible not-for-profit community health centre has gone about its mission of helping families to healthier lives for, as we heard tonight, almost 90 years.

This bill will modernize the legislation by reducing the minimum number of direct—or maximum—minimum number of directors from 25 to 15, and it will also update the language respecting their relationship with Manitoba Health.

At Mount Carmel Clinic, they say that we meet you where you're at, no judgment here, and it sounds like this committee can meet Mount Carmel Clinic where they're at tonight. Thank you.

**Madam Chairperson:** We thank the member.

Would any other member wish to make an opening statement on Bill 300?

Seeing none, we'll move to clause-by-clause consideration.

Clauses 1 and 2—pass; clause 3—pass; preamble—pass; enacting clause—pass; title—pass. Bill be reported.

**Mr. Swan:** Yes, as is often the case when a bill passes, I'd like to make a motion, and I'd move that

this committee recommends that the fees paid with respect to Bill 300, The Mount Carmel Clinic Amendment Act; Loi modifiant la Loi sur la « Mount Carmel Clinic », be refunded less the cost of printing.

**Madam Chairperson:** We thank the member for that.

*Motion presented.*

**Madam Chairperson:** The motion is in order. The floor is open for questions.

**An Honourable Member:** Question.

**Madam Chairperson:** Question's been called.

Shall the motion pass?

**Some Honourable Members:** Pass.

**Madam Chairperson:** Agreed, the motion is accordingly passed.

I believe that concludes the business before this committee.

What is the will of the committee?

**Some Honourable Members:** Committee rise.

**Madam Chairperson:** The hour being—oh, the hour being 10:05, what is the will of the committee?

**Some Honourable Members:** Committee rise.

**Madam Chairperson:** Committee rise.

*COMMITTEE ROSE AT: 10:05 p.m.*

#### WRITTEN SUBMISSIONS

Re: Bill 11

To the Members of the Legislative Assembly,

My sister, Camille, was shot and killed outside of her workplace at point blank range by her husband Kevin Runke. It happened the morning of October 30, 2015, one day before Halloween—her favourite holiday.

Kevin had been stalking her for several months after their separation. Kevin had a documented history of this behaviour and Camille became scared after several incidences had occurred, including her vehicle's brake lines being cut. She was able to obtain a protection order that she believed would protect her. It did not protect her, it was a piece of paper that did nothing. We all know that these protection orders (if you are even able to obtain one) are not always enough. She had made over 22

incident calls to police during those months before her death as Kevin continued to harass and scare her. Kevin continued to vandalize her home and workplace, slashing her tires, and breaking her windows, just to name a few incidences. Coincidentally, our 70 year old mother also has two slashed tires and a broken window during this time.

The morning Camille died, she had plans to meet up with our mom. Camille wanted company that day as she looked forward to getting her last named changed back to her maiden name, but she never got the chance. My mom arrived to see emergency vehicles and yellow tape surrounding the area; she was told her daughter was deceased. Before Camille was able to enter her workplace, Kevin came out of the shadows and shot her to death. He used the shotgun he legally owned. At this point, Camille was so worn down that she barely weighed 110 lbs. Kevin took her happiness, her strength, her freedom, and finally, her life.

As her sister, I believed he could do this and felt absolutely helpless as I had to watch it all unfold. The police were not able to stop Kevin, and our family was told that Kevin was very good at hiding his steps. We were not able to track him even though everyone knew he was behind it all. He had practiced this behaviour with other women, so he became smart about it.

So now I have to live the rest of my life without my sister. When you grieve, everyone imagines how sad you are. They do not think of the physical pain and sickness you endure when going through such a tragedy. They cannot imagine the anger that manifests in your body. You live with a heaviness in your heart and in your stomach, you experience headaches, and back pain. Friends do not know the ongoing nightmares you wake up from or the bloody flashbacks that hit you during the day. They do not know the exhaustion that you must push through, the counselling of re-living it, to one day get to the other side of this grief. Let me be clear, I do not want anyone's pity. I want change. Now is the time.

I feel the need to speak for Camille and other women that are living a similar nightmare. I am told that the fine ladies and gentleman in this room today have the ability to change the laws and create powerful solutions. Let us help those who are living in fear to once again sleep soundly at night. I miss my sister Camille so much. But she is gone. Let us use her experience to help save lives.

Thank you for your time,  
Maddie Laberge

Re: Bill 11

Good evening Ladies and gentlemen. It is my pleasure to provide a written submission to Committee regarding the Domestic Violence and Stalking Amendment Act. I have been the Executive Director of Ikwe Widdjiitiwin for 2 years. Ikwe is a woman's domestic/family violence shelter located in the city of Winnipeg. Ikwe has been operational since 1984. We are a large shelter that has 32 crisis beds and 6 Interim Housing units. Our residential shelter provides residential, counselling and support services to women and their children escaping domestic and family violence. Women can reside in crisis for 30 days and Interim up to a year. The majority of our residents are Aboriginal but all women and their children requiring safety and shelter can access the services of Ikwe. We pride our shelter on the ability, knowledge and experience in providing a safe and culturally appropriate trauma-informed service to empower women as they deal with their crises and addressing the stresses in their lives to live a life free from violence. We assist women as they navigate through a very sometimes convoluted system of basic services available in society. This process, in itself, can be very overwhelming and frustrating to the woman as she is also dealing with the physical and psychological trauma of abuse. In addition, the mother is dealing with the trauma being experienced by their child(ren). We aim to advocate on behalf of the woman and facilitate external systemic and program services in a least intrusive manner to ensure, to our best ability, a seamless continuum of services available for the family.

When women and children first enter our shelter they are fearful, overwhelmed, distraught, to name a few, of emotions. Many decisions have to be met "from the hop". One of those critical decisions is the application of a Protection Order.

As women employees of Ikwe and being women, we were greatly saddened and disheartened by the recent murders of Camille Runke and Selena Keeper. We were disheartened in part that the deaths of these women may have had a correlation to the processes of Protection Orders.

As a Domestic Violence Crisis Shelter, we are very encouraged about the changes and amendments to

the Domestic Violence/Stalking Act, particularly as it pertains to the provision of Protection Orders (PO). These changes, I believe, will help ensure that all women and children, who are escaping violence, do not “fall through the cracks” by not accessing or being denied safety and protection. We are pleased to see changes that will ensure women will experience an easier and more non-threatening process in the application process of protection orders. I believe that the changes/amendments being introduced in this legislation will increase safety for victims of violence seeking a Protection Order. The changes will address mechanisms in place to allow easier access to get a Protection Order. Far too often, in the past, Ikwe has seen women being denied a Protection Order. This has been very discouraging for women and we have seen women lose hope and “give up” on the system, a system they sought help from. Many of the women that come to Ikwe may not be able to satisfactorily articulate herself to a JP when answering questions. She is answering questions articulated within a western-based mainstream wording and format. This process, itself, is foreign to many and quite nerve-wracking and intimidating. The negative outcomes pose too much risk. This has great impact on the final decision of the JP due to wording and strict/final criteria as it pertains to making a decision on granting an order.

The changes in the legislation will address such stringent criteria, remove wording such as “imminent” and “immediate”, etc., and lessen intimidation felt by the woman, thereby, ensuring a more user-friendly process to obtain orders. We are pleased that the Protection Order process will allow for “supports” to accompany an applicant. Moral supports are critical for a woman when she is applying for a PO. In the myriad of other life changing events of an abused woman, additional and improved supports for a woman seeking a Protection Order, will enhance safety and security and provide assurance and psychological well-being to the victims. We are pleased that the amended legislation will no longer be penalizing to a repeated victim of violence. Leaving an abusive relationship and life of violence for good does not happen “over-night”. It’s a process and journey within a time of recovery towards resiliency.

One specific area I would like to highlight is the challenges First Nation women face when living in violence in First Nation communities. Far too often, abused First Nation women’s rights are denied living on reserve as it pertains to safety, security, liberty

and well-being. We face many additional challenges in these areas when working with women who have escaped violence on reserve and come to Ikwe. Over 50% of our client caseload at Ikwe is First Nation women and children from northern Manitoba First Nation communities. We are hopeful that this legislation will have an impact on the law enforcement procedures and willingness in First Nation communities as it pertains to the safety and security of First Nation women and their children.

We welcome enhanced resources to Ikwe and other shelters to increase the capacity and training of our Protection Order Designates. This will allow Ikwe to provide more supports to clients seeking the application of PO’s. We are very encouraged that the new legislation will address the “possession of firearms” issue as it pertains to the “abuser”. This will greatly help alleviate the stress levels of women who far too often continue to feel like “sitting ducks” as it pertains to their safety and risk, knowing that the abuser is in possession of dangerous weapons.

Although this legislation does not provide 100% safety and risk free for the victim, it does, however, provide significant enhancements to the safety, health and risk of victims of domestic and family violence.

We are pleased to report that since the wake of these very tragic domestic violence-related murders, Ikwe has seen an increase in the granting of PO’s to our clients. We have since not seen a PO application denied to women who are residential clients of Ikwe. This is very encouraging for our women and shelter.

Thank you for this opportunity to be meaningfully involved in the contribution of this critically required amended legislation that will positively impact the safety and lives of Manitobans.

Trudy L. Lavalley, HBSW, BA  
Executive Director  
Ikwe Widdjitiwin, Inc.

Re: Bill 33

Dear Committee Members:

I am writing to urge the enactment of Part 3, Division 6 of the Family Law Amendment Act (Bill 33) that is intended to better address how the justice system deals with parental relocation cases. If enacted, this law will provide better guidance for courts, lawyers, and most importantly separated parents, and should reduce litigation in

this highly contentious area, and thereby contribute to less burden on parents and their children, as well reducing costs in the justice system.

By way of background for the Committee, I have been a law professor at Queen's University in Kingston Ontario for more than 30 years. I am a member of the Royal Society of Canada and I am regarded as a leading Canadian expert on family and children's law. I have published a number of papers concerning parental relocation,<sup>1</sup> and my work has been cited by the courts in some relocation cases, including the leading Supreme Court of Canada decision on this issue, *Gordon v Goertz*.<sup>2</sup> I served as an advisor to the Committee of the Manitoba Bar Association that recommended the enactment of legislation to address this issue.

#### Background

In most Canadian jurisdictions, including Manitoba, the law currently provides only the most general guidance for parents, lawyers and the courts about disputes concerning post-separation relocation of a parent and child: relocation decisions are to be based on the "best interests of the child" (*Gordon v Goertz*, SCC 1996). This test gives individual judges very little guidance, and understandably there is significant inconsistency in its application and unpredictability about how it will be applied.

As a result of the vagueness of this test and uncertainty about outcomes of litigation, lawyers often have great difficulty in advising clients about relocation issues, expensive litigation is promoted, parents experience very significant frustration in planning their affairs, and the interests of children

are negatively affected. Having clearer guidance for application of the best interests test for relocation cases would facilitate judicial resolution of cases, promote settlements, reduce costs for litigants and the justice system, and help parents to make post-separation plans for their children.

Co-ordinated federal-provincial law reform action would certainly be desirable, and has been advocated by lawyers and academic commentators; the former Minister of Justice (Peter Mackay) made some remarks suggesting support for action on this issue, but the former government did not act. The present federal government has not indicated a position on family justice reform, and this is an opportune time for Manitoba to take a lead in enacting legislation to address this important issue.<sup>3</sup>

Enacting legislation to address relocation issues in Manitoba that is consistent with social science research and jurisprudence will not only help judges, lawyers, parents, and children in province, but can also serve as a model that may later be adopted in other Canadian jurisdictions and hopefully at the federal level.

#### Parental Relocation; Family Law Act—Part 3—Division 6

In my view, the proposed provisions regarding parental relocation are consistent with the international social science research on the effects of post-separation parental relocation on children and with the trends of Canadian and Manitoba jurisprudence.

These provisions establish a clear process for addressing relocation issues; under the proposal, many cases are likely to be resolved informally without the need for a court application or litigation.

In cases where a court application is needed, these provisions will create an onus of proof on one party about how to apply the "best interests test," but will not supplant it. Very appropriately (unlike with the

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<sup>1</sup> See e.g. Bala & Harris, "Parental Relocation Cases: Applying the Best Interests Test in Ontario," (2006), 22 *Canadian Journal of Family Law* 127-170; Bala, Bertrand, Wheeler, Paetsch & Holder, *A Study of Post-Separation/Divorce Parental Relocation* (Justice Canada, under contract with Canadian Research Institute for Law and the Family, 2012); Bala & Wheeler, "Canadian Relocation Cases: Heading Towards Guidelines" (2012), 30 *Canadian Family Law Quarterly* 271-320; and Bala, "Moving Closer to International Relocation Advisory Guidelines" [2013] *International Family Law* 47-50.

<sup>2</sup> *Gordon v. Goertz*, (1996) S.C.J. No. 52, at para. 80; See also e.g. *Mantyka v. Dueck*, [2012] S.J. No. 716 (C.A.).

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<sup>3</sup> The 2013 British Columbia Family Law Act addresses relocation, though with a relocation presumption for all cases except where there is equal sharing of time. In my view (and the view of other commentators), this legislation is not consistent with social science research in this area or court practice, and accordingly has been to a significant extent limited by court decisions in that province.

present legislation) domestic violence is to be an explicit in making relocation decisions.

The onuses of proof are consistent with social science research about the importance of continuity of care and stability. In cases under s. 45(3)(a) where the non-moving parent has had significant involvement (one third or more of time) and there is in effect some form of shared care, there should be an onus on the moving parent to justify disruption of this relationship. Conversely, under s. 45(4)(a) where a parent has limited involvement with the child (less than one fifth of the time), there will be an onus on that parent to justify allowing the primary caregiver to relocate with the child.

The presumptions in s. 45(3) (b) and 45(4)(b) about relocation in cases where the "age and maturity [make it] to consider the child 's views" are an explicit adoption of the standard of the United Nations Convention on the Rights of the Child (of which Canada is a signatory), and consistent with the Hague Convention on International Child Abduction and Canadian jurisprudence. The requirement for involvement of an independent professional to establish a child's views should discourage parents from themselves pressuring children to take sides in these cases.

The onus in s. 45(3)(c) is premised on a desire to discourage unilateral action by placing an onus on a parent who has acted unilaterally to justify relocation of the children, and is consistent with Canadian jurisprudence. This provision should discourage "self help" in this area, which is often so devastating for children and the parent left behind.

These provisions only establish an onus of proof (or presumption) about the best interests of a child and may be rebutted in individual cases. While the enactment of these presumptions will discourage some applications, help resolve others, and provide a more efficient approach for dealing with these matters, it will not resolve all cases. In some more difficult cases, individualized determinations of a child's best interests will still be required. However, in my view these proposals should lead to more predictable and less costly resolution of relocation cases. It will thereby reduce costs for separated parents, promote the interests of children and contribute to a less costly system of justice.

If your Committee wishes, I would be pleased to be a witness via video communication or otherwise.

Yours sincerely,

Nicholas Bala, L.S.M., B.A., J.D., LL.M., F.R.S.C.  
Professor of Law

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