

Second Session – Forty-First Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Legislative Affairs

Chairperson
Mr Doyle Piwniuk
Constituency of Arthur-Virden

Vol. LXX No. 8 - 6 p.m., Thursday, May 18, 2017

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MANITOBA LEGISLATIVE ASSEMBLY
Forty-First Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS

Thursday, May 18, 2017

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Doyle Piwniuk (Arthur-Virden)

VICE-CHAIRPERSON – Mr. Reg Helwer (Brandon West)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Mrs. Cox, Hon. Messrs. Eichler, Fielding, Micklefield

Ms. Fontaine, Messrs. Helwer, Johnson, Mses. Klassen, Lathlin, Messrs. Marcelino, Piwniuk

PUBLIC PRESENTERS:

Bill 9–The Advocate for Children and Youth Act

Mr. Bert Crocker, Southern Authority (Southern First Nations Network of Care)

Ms. Daphne Penrose, Children's Advocate

WRITTEN SUBMISSIONS:

Bill 9–The Advocate for Children and Youth Act

Bert Crocker, Southern Authority (Southern First Nations Network of Care)

MATTERS UNDER CONSIDERATION:

Bill 9–The Advocate for Children and Youth Act

Bill 11–The Community Child Care Standards Amendment Act (Staff Qualifications and Training)

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Clerk Assistant (Mr. Andrea Signorelli): Good evening. Will the Standing Committee on Legislative Affairs please come to order.

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

Are there any nominations for this position?

Mr. Reg Helwer (Brandon West): I'd like to nominate Mr. Piwniuk.

Clerk Assistant: Mr. Piwniuk has been nominated.

Are there any other nominations?

Hearing no other nominations, Mr. Piwniuk, will you please take the Chair.

Mr. Chairperson: Our next item of business is to elect a Vice-Chairperson.

Are there any nominations?

Mr. Derek Johnson (Interlake): Reg Helwer.

Mr. Chairperson: Mr. Helwer has been nominated as the Vice-Chairman.

And are there any other nominations?

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

This meeting has been called to consider the following bills: Bill 9, The Advocate for Children and Youth Act; and Bill 11, The Community Child Care Standards Amendment Act (Staff Qualifications and Training).

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

We have a number of presenters registered to speak tonight, as noted in the list of presenters before you. But I'd like to—would like to inform the members of the committee that presenters No. 1, Petti—Tara Petti will be substituted by Bert Crocker.

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

As well, in attendance with our rules, a time limit of 10 minutes has been allotted for presentations, another five minutes allowed for questions from the committee members. If presenters are not in attendance when their name is called, they will be dropped to the bottom of the list. If the presenter is not in attendance when their name is called the second time, they will be removed from the presenters' list.

Prior for proceeding this with the public presentations, I would like to advise members of the public regarding the process of speaking in committee. The proceedings of our meeting are recorded in order to provide a 'verbamin' transcript. Each time someone speak—wishes to speak, whether it is an MLA or a presenter, I would first say their—the person's name, since the signal of the Hansard record is—turned the mics on and off.

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

Bill 9—The Advocate for Children and Youth Act

Mr. Chairperson: Okay, the first person I would like to call is Bert Crocker from Southern Authority (Southern First Nations Network of Care).

Mr. Crocker, do you have any written materials to distribute to the committee—yes, he does.

Mr. Crocker, please proceed with your presentation.

Mr. Bert Crocker (Southern Authority (Southern First Nations Network of Care)): Good evening, Mr. Chairman and members of the committee. My name is Bert Crocker; I'm with the Southern First Nations Network of Care. I am filling in for Tara Petti this evening, who, on short notice, was not able to arrange to attend.

I'm pleased to appear before you this evening to speak to the provisions of Bill 9 concerning the creation of an advocate with broader powers and with stand-alone legislation.

Owing to the complexity of some of the issues and the limited time allocated for presentations, I wish to request the committee—of the committee that there be a decision to include both documents comprising our written submission in Hansard.

And I believe, Mr. Chairman, you need to call a vote at this point.

Mr. Chairperson: Okay. Thank you, Mr. Crocker, for your presentation—I would like to have leave of the committee if it's agreed to have in Hansard. *[Agreed]*

Yes, we are, Mr. Crocker. Go ahead.

Mr. Crocker: Thank you, Mr. Chairman—

Mr. Chairperson: And then we also have the—are they in the member stick?

Mr. Crocker: Yes, the memory stick comprises these two documents.

Mr. Chairperson: Okay. Thank you very much then.

Okay, go ahead, Mr. Crocker.

Mr. Crocker: My presentation this evening will include brief commentary on the most important changes we are hoping to see in this draft legislation. It is clear from our review of Bill 9 that considerable work has been done to capture the intent of Commissioner Hughes's recommendation as well as the local details that are critical in the implementation of such legislation. We appreciate those efforts greatly and have relatively few suggestions for change as a result.

The current wording in Bill 9 for serious injury would not necessarily capture a non-lethal overdose or life-threatening hypothermia, either of which could leave a person in a prolonged comatose or persistent vegetative state. The FS—SFNNC's proposed wording for the replacement definition, critical incident, would capture those situations and begin a process of reconciling conflicting definitions in different statutes for terms such as serious injury.

I will skip the blue portion owing to my 10-minute limitation but would invite members to read that at their leisure.

We hope that the starting point for clarifying this situation would be the opportunity afforded in the review of Bill 9 this evening. In general terms, the solution would be threefold: the introduction of the term critical incident replacing serious injury or death throughout Bill 9, a broader definition of that term than what appears in the CFS act and a specific provision giving precedence to the definition within Bill 9 if there is a conflict between that definition and any of the other definitions in the CFS act.

You have been provided with a side-by-side comparison document which outlines the concerns

and proposed changes that we're requesting. I will now take you through that document.

* (18:10)

Beginning on page 3 of the legal-size paper, we are requesting that instead of using the term serious injury, the phrase critical incident be substituted with consequent additional minor changes to wording throughout the bill.

The necessary changes occur in about 35 different places, which have been incorporated into the side-by-side comparison document. The new definition would make it clear that advocate involvement is not dependent on an injury, as that term is commonly understood, but would include events such as an overdose that is not generally associated with injuries but which can and do lead to life-altering consequences.

On page 6 of the side-by-side document, we are requesting that consideration be given to changing the wording in subsection 18(3)(b). This section deals with the protection of the identity of a source of referral which often becomes a contentious issue later. We are suggesting that the person's written consent be obtained. This would align it with the provisions in 18.1(2) of the CFS act and perhaps, more importantly, provide greater clarity when an advocate staff is required to address the issue of repercussions from disclosure in addition to the issue presented at the time of referral.

On page 8, with respect to section 20(3), we come to the question of situations where a family or child was in receipt of services in Manitoba but the death has occurred in another jurisdiction. The southern network and the current Children's Advocate's office are presently involved in two such situations and, in each, there would appear to be service delivery improvements that might stem from a special investigation review under section 8.2.3 of the current legislation.

We regard it as very important that there be some sort of trigger mechanism for the advocate for children and youth to become involved in investigating Manitoba services provided, or otherwise, even though the death occurred in another jurisdiction.

The reality in Manitoba is that some children and young adults in receipt of reviewable services in Manitoba must be referred to other jurisdictions where specialized medical treatment, which, if it

ends badly outside of Manitoba, should still be able to trigger a review of services provided in Manitoba.

An acceptable alternate trigger could be a letter from an agency or a CFS authority, and the details could be covered in the regulation.

On pages 8 and 9, with respect to section 21(1) and 21(2), reporting of critical incidents to the advocate, we are requesting that there be specific mention made to the regulations by way of providing a clear link to the anticipated forms, procedures and timelines that will be provided there. Such a link would greatly simplify the day-to-day workings of this legislation.

Also, on page 9, with respect to 21(2), which involves reporting to—of critical incidents for young adults, we are requesting that there be specific mention made of CFS agencies in addition to government departments for greater clarity.

On pages 9 and 10, with respect to the question of precedents raised in our introductory comments, we are proposing a new subsection 21(5), which would provide that in the event of confusion or conflict regarding the various definitions of incidents, critical incidents, serious injuries, et cetera, the provisions of Bill 9 would prevail over those similar provisions in the CFS act and the accompanying regulations to the CFS act.

On pages 12 and 13, with respect to the recipients of reports, that would be 27(4), we are requesting that they still go to the Ombudsman. With the greatest of respect to the current advocate, we must mention that the southern network is still dealing with a situation where a former advocate made a recommendation that a specific agency and CFS authority should ensure that any over-the-counter medication should not be given to a child in care except when authorized by a physician in a situation where there was no link established between the death and any medication of any sort.

Apart from the appropriateness of that recommendation, if accepted, that recommendation would establish a different standard for one agency and one CFS authority in Manitoba.

It is our respectful submission that such anomalies are better dealt with by a reference to another independent body than any other way.

On page 14, with respect to section 33(2), we would request that the word promptly be inserted into the list of adverbs that establish the framework

for a child's ability to communicate with the advocate.

On page 18, in the transitional amendments to The Ombudsman Act, subsections 41(5) and 41(6) would no longer be required if our recommendation about material still going to the Ombudsman is accepted.

On pages 19 and 20, in the consequential amendments section dealing with changes to the CFS act, the existing section 86.1, which covers potential conflicts between FIPPA and the CFS act would be followed by a new section, 86.2, that would confirm the precedence of the definition of critical incident in Bill 9 over similar definitions in the CFS act and those regulations.

On pages 21 and 22, in the consequential amendments to The Ombudsman Act and stemming from the comments respecting the provisions of section 27(4) of Bill 9, we are respectfully suggesting that section 16.1(1) of The Ombudsman Act be amended to make reference to receiving reports under section 27(4) of Bill 9, and that section 16.1(2) of The Ombudsman Act remain unchanged.

In conclusion, I would be pleased to answer any questions the committee may have, and wish to thank the committee for its time and attention.

Thank you, Mr. Chairman.

Mr. Chairperson: Thank you, Mr. Crocker.

The honourable minister, do you have a comment that you want to—

Hon. Scott Fielding (Minister of Families): No—well, first of all, thank you very much for your presentation. It's obviously very thorough—that you went through—and we're happy with the direction of the bill.

With that being said, there's always room to make improvements to these things, and we did put a parameter to do a five-year review of the bill, of course, in the legislation. And so I do appreciate you bringing these sorts of comments to our committee.

Ms. Nahanni Fontaine (St. Johns): Miigwech for your presentation tonight.

I recognize that 10 minutes isn't nearly enough time to come and go through some of the things that you've mentioned in your side-by-side, which I think I just want to let you know I sincerely appreciate.

So, in the very limited time that we have for questions, can you explain some of the concerns in respect of some of the things that you've highlighted here in respect of the terminology of critical incident? So, yes.

Mr. Crocker: Again, my name is Bert Crocker for the record.

The critical incident amendments to the CFS act which took effect October 15th of 2015 were accompanied by a unique regulation. The number of that regulation is in the blue type at the top of page 2 of your presentation.

The definition of critical incident in the regulation under the CFS act talks about death or physical injury that is of life-threatening consequence. However, physical injury does not generally intercept things such as non-lethal overdoses or hypothermia.

And I could tell this committee, as the child-death guy at the southern network, on the 17th of October—two days after those amendments took effect—we had a baby, three or four weeks old, breastfeeding, whose mother was very, very high on cocaine, whose heart stopped, and there was no physical injury. The intent of that legislation clearly was to capture that sort of an incident.

That amendment—or, that amendment to the CFS act and its regulation were clearly defective.

The infant lived, by the way, and it's too soon to find out if there's long-term damage, but at least he did live and the people nearby had the presence of mind to call emergency services forthwith.

That problem remains undealt with in the CFS legislation, and if this government is committed, as I believe it is, to streamlining regulations, this would be an ideal time for this committee to incorporate those thoughts into the—into Bill 9 and give a message to the drafters of the regulations under Bill 9 so that we can begin to clarify some of those gaps in the current regime.

Does that rather long answer give rise to further questions or—

Mr. Chairperson: Ms. Fontaine.

Ms. Fontaine: Yes, I mean, certainly it does. I think that we could probably be here, you know, well into the early hours of the morning discussing this act and all of its implications and coupled with or in concert with the regulations in the CFS act. So I do

appreciate it and I, you know, miigwech for that—or, that explanation that you gave.

* (18:20)

So is that the most serious concern that you have in respect of that definition? Is that—and I'm just wondering how was that little baby not captured, then, in respect of—*[interjection]*

Mr. Chairperson: Mr. Crocker. Yes, go ahead. I have to introduce you first, Mr. Crocker, so that we can—

Mr. Crocker: Oh, yes. My—it's Bert Crocker, again, for the record.

And the answer to your question is there was no physical injury and the child survived, so therefore no death. And, in the absence of a serious physical injury, in the absence of death, it was not capturable.

Mr. Chairperson: Any other questions? Thank you, Mr. Crocker.

Okay. No. 2 'presentate'—presenter is Daphne Penrose. So I'll call Daphne to come up. And she's from the Children's Advocate. She's a children's advocate, yes.

And do you have any materials that you want to present—distribute?

Ms. Daphne Penrose (Children's Advocate): Yes, I think that gentleman has them right there.

Do you want me to wait until he hands them out?

Mr. Chairperson: Go ahead, Ms. Penrose—yes.

Ms. Penrose: Good evening. I'd like to thank the Standing Committee on Legislative Affairs for this audience today to speak to Bill 9.

Today, I appear before you to add the voices of children and youth to this important process of lawmaking. As Manitoba's Children's Advocate, I serve this province to represent and elevate the rights and opinions of young people throughout Manitoba, and many of them have been waiting a long time to be able to access support from the Office of the Children's Advocate.

Manitoba has more children in care than any other province or territory in Canada, and, while all of those young people currently qualify from—support from our office, many other children who need us do not. Manitoba has significantly high

numbers of youth involved with the justice system; of youth who are unable to access basic social supports in their home communities; children with significant medical and developmental needs; children and youth who are exploited; and many others who must rely every day on the provincial public services in order to live, develop and thrive. And an important reminder that the majority of the children in care and the majority of the children who access our office for support are indigenous.

Unfortunately, unless those children are also involved with the child-welfare system, they are excluded from accessing advocacy services my office could offer. My staff are seasoned, knowledgeable children's rights and advocacy professionals with the best interests of children as their guide, and they are faced regularly with the burden of turning away children and youth who reach out to us simply because those young people do not have open CFS files.

The rules to qualify for advocacy services have long been a significant gap in our province, who chooses to care for and support children in vulnerable circumstances. Bill 9 addresses many of those long-standing gaps by allowing more children and youth through our door who need us and who are asking us to help them. So, after many years by my—by the staff at my office, by my predecessor and by many of us picking up the banner to urge governments to make the changes that have long been needed, we are happy that, three and a half years ago, Commissioner Hughes echoed the advocate's calls and added his voice to the chorus in the province calling for a stronger, broader mandate for the Children's Advocate.

Bill 9 is not perfect, but it represents a good, significant step towards the best care for children and youth by ensuring that many more young people who need advocates will finally be able to access them. We are happy that youth justice will be a key area for our mandate. We are pleased that this bill also begins to open the door for us in education, mental health and addiction. We are pleased to see that disability services will fall under the mandate, as will services to young adults between the ages of 18 and 21 who are receiving support and transition services. This has long been an area where we have pushed our mandate and offered services to young adults, because we long ago recognized not only the need by the real absence of support for those young adults, many of whom have emerged from childhoods marked with significant loss and trauma.

Bill 9 also provides a broader mandate and improved discretion for the advocate to direct child death resources to those investigations where there are the 'strongest' likelihood of making recommendations that can prevent future deaths to other children and young adults. We are pleased that serious injuries will now be a reporting requirement from the system to the advocate. The Children's Advocate should know how many children and youth are being injured while reliant on public services and, yet, currently, my office is largely in the dark about this vital data.

We are pleased that Bill 9 will allow the advocate to provide more information to the public on the experiences of children and youth. We know that an informed public is critical in the creation of safe communities, and it is vital that data and expert analysis on issues and trends we complete internally be shared with Manitobans.

We need to not only help the public understand what's happening, but we also must help educate the public on what questions they need to ask about how public services are delivered in the province. Engaging Manitobans in these important conversations help all of us as public servants, as parents, and as citizens because the more people who join the discussion, the more we can work together to create the solutions. We are excited that Bill 9 provides avenues for us to engage and inform Manitobans.

It has been a long road to get where we find ourselves tonight, and on behalf of my office, many in the public and the children and youth in this province, I am also here to share words of thanks. We have closely watched the progress as each of the four bills that have been introduced, government Bill 25 and 16 in 2015, private member Bill 210 in 2016, and finally, Bill 9 earlier this year. While there are some differences in each of them, one thing has remained constant: Each of the three parties in the House have stood and voiced support for this legislation. Each member who has spoken to various bills has ultimately put words of support on the record that articulate that each party supports and understands that the legislation that currently empowers and enables the advocate is too narrow and must be expanded.

So, on behalf of all of us and the young people of this province, I say thank you for speaking to the importance of this legislation and doing so on behalf of the young people who have voices but who tell us that they often feel like no one is listening to them.

Ultimately, we need to demonstrate to Manitoba's children and youth that our fierce and common goal is to make sure that we have strong public services when they need them and that those public services are always seeking to improve.

Our young people need your leadership, your wisdom and your decisive action.

Thank you for giving me the opportunity to appear today and we'd be happy to answer any questions that you might have.

Mr. Chairperson: Thank you very much for your presentation, Ms. Penrose.

The minister, do you have any comments for Ms. Penrose?

Mr. Fielding: Sure. Well, first of all, thank you very much for coming here and presenting, Daphne. We really much appreciate that—looking forward to working with you in a co-operative way from a government point of view. And I do appreciate, kind of, some of the comments and appreciate we're in a situation where we had a advocate that we had prior, and just because of the term, there's a new position as you come in right when the legislation is being introduced, so I very much appreciate that.

I've got two kind of main questions, I guess—love to just get your impression on. Number 1 is more of a global question, but it's, you know, how important—you talked a little bit about this. How important is that openness and transparency or giving your office a bit more of independence in terms of, you know, kind of relaying that information and—so, if you could maybe expand upon that, you know, maybe compared to other jurisdictions. *[interjection]*

Mr. Chairperson: Ms. Penrose.

Ms. Penrose: Sorry. This bill does provide much more discretion around public reporting, but I do have to say that I am cognizant of the delicate nature of some of the information that we do have.

Ultimately, what we have to do is always weigh best interest. So, it's important that we continue to do research and analyze trends and publish information that is helpful to the community to understand what we're seeing in child welfare and some of the successes and areas where I think we can improve.

But we always need to be mindful of the fact that much of the reporting—or, investigations that we do have children and families that are attached to them, and we must treat that with the utmost respect when we move forward, and that will always be our

guiding principle, is the safety of children and the family.

So, I—there will be some public reporting on trends and those pieces, and when I do publish a report, it will always be with those factors in mind.

Ms. Fontaine: So, welcome to your new position. You mentioned some of your staff. I actually just want to, for the record, acknowledge some of your phenomenal staff that you do have, some that are in the audience with you: Ainsley Krone, of course; my—one of my elders, Thelma Morrisseau, who is just an extraordinary, loving, wise human being that you're actually so blessed to have in your office. I actually just want to acknowledge Corey La Berge as well, who is just a phenomenal, phenomenal human being.

* (18:30)

You did note—and I appreciate that you noted some of the other bills for the record for the members here that, two of which were the NDP's, including my private member's bill, 210. So I appreciate that you put that on the record as well.

I do also want to note that in your narrative, you talked about the importance of recognizing that predominantly the children that come to the Child's Advocate's office looking for advocacy are indigenous, and, if you—and I'm sure that you probably took a look at the bills as they've been presented—that's what it seems like in your narrative—you'll note that actually, in Bill 9, whereas in Bill 10, there was mention of the Truth and Reconciliation Commission, that the work that we do on behalf of children, predominantly indigenous children, have to recognize the work of the calls of action to Truth and Reconciliation Commission. But, actually, Bill 9 took that reference out, to the TRC.

So I'm curious, you know, in respect of when we're living in this era of reconciliation, and the vast majority of the children that are going to come to your office are indigenous, how are you going to execute, you know, really, the spirit of the TRC and the calls to action? How do you see that happening?

Ms. Penrose: Well, I think—gee, I'm going to get it yet—so I think that part of how we're going to proceed on that is to continue to seek to hire an indigenous deputy advocate, and we are also going to make sure that those folks who are providing advocacy in our office are representative, right, and so that they have learned experience in indigenous issues.

Also, ensuring that we are responding to the needs of the children in the community, that we are getting to know the communities, that we are going out and visiting with the chief and council in those communities and the folks who these matters are affecting and opening ourselves to the children.

Ms. Fontaine: So I do understand that there's been the deputy indigenous child's advocate position for quite a while. It hasn't been filled. I know—I believe that there's been several postings for it. I'm not sure why it hasn't been filled. I don't know if—I mean, I know that you've only been in the job for a couple of months. But what is the plan, then, to be able to actually put somebody in that position that's qualified and be able to do some of the work that you're talking about? [*interjection*]

Mr. Chairperson: Ms. Penrose, go ahead.

Ms. Penrose: I think I have to go back and find out what the history was. And so why wasn't the position filled, what happened there, before I can move forward and make plans to figure out what some of those barriers were. So I think that I have to do some homework and move forward, learning from where we were and what happened in those competitions, for sure.

Mr. Chairperson: I just want to inform the committee that the five minutes is up for questioning.

So—you want—does the committee have leave for an extended—there's another question for Ms.—is there leave for another question from the committee?

An Honourable Member: I've got a—

Mr. Chairperson: Another—there's two more questions.

So is there leave for—to have two more questions by the committee? [*Agreed*]

So, Ms. Fontaine, your question.

Ms. Fontaine: So I do note that in your narrative, as well, that you said something, and I can't remember—I wrote it down here—but that it was a good start, it's a long-standing—all the bills, including the bill that we're here to discuss, Bill 9. I'm curious, in respect of, you know, what more do you see that needs to be legislated in order to really execute your duties and for the staff to be able to execute their duties? What do you think is missing in the bill?

Ms. Penrose: So I think that some of the things that are missing, or that we need to endeavour to include, are issues around health, when we have children who

are really struggling to get health services and to be able to provide some advocacy for those children, as well, and also within education. I realize that this is a really good step with the individual education plan, but, when you narrow down the fact that those—that sets the parameter fairly small, that does limit the number of children that we can assist in advocacy as well as other government services that children are trying to access.

So I think that there is still room to grow in some of those, but there is some work that needs to be done, and I think that this is a good—this is a—quite a wide expansion of the mandate and will take time to be able to move forward on all of these. So I think this is a really good—a really good first step at this.

Mr. Chairperson: The honourable minister, for a question.

Mr. Fielding: Yes, I'm getting older, so I need to write things down just to *[inaudible]*

Again, question for you, just—you know, actually there's, as I think everyone will recognize, a balancing act, right, between the public's, you know, right to know on things and protecting the rights of children and what have you. So how do you—and I know you articulated a little bit about that, but the bill does provide more discretion and more autonomy and, you know, to your office to make those decisions of what information is in the public's best interest, right, to change.

So how do you—I guess my question is how do you find that balance? And how do you see yourself determining when the public's right to know outweighs potentially privacy, right? I mean it's a very—it's a sensitive area and, you know, I'd love to hear your perception on that, and you touched upon it a bit before, but I'd love to hear a little bit more details on that.

Ms. Penrose: I think that, as I move forward and begin to create special reports and refine our investigations and decide which investigations we are going to do and which ones would have larger impacts, I think that will become clearer. What I can tell you is that if informing the public is going to help initiate the conversation and it's going to call to action some public assistance or knowledge or conversation, I think that's when I'm going to lead and try to really look at making those reports public.

When you think about issues like suicide or sexual exploitation, those are issues that are not specific inside of our system; those are provincial

issues, and our community needs to help and be on board when we deal with that, because those issues are a community issue it's not a child advocate issue, it's not a child-welfare issue, it is a provincial issue, and everybody owns a piece of that. And that will be how I move forward in deciding which reports I'm going to do.

And, being accountable, child welfare is an immense responsibility and it cannot be taken lightly, and we are all accountable to those services that we provide. When you have the magnitude of responsibility that is laid out in this act, we have to be transparent about how we deliver those services and how we comply to the standards that those services are to be delivered by.

Mr. Chairperson: Well, thank you very much for answering all these questions, Ms. Penrose, and thank you in your presentation. Thank you.

Next person on the list is James Beddome, and is James in the—available? Okay, I guess we'll call him a second time, and it's James Beddome, and he's going to be removed from the list.

That concludes the list of presenters I have before you.

Are there any other persons in attendance that wish to make a presentation? Seeing none, that concludes public presentations.

* * *

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

Hon. Ralph Eichler (Minister of Agriculture): I move we start with Bill 9.

Mr. Chairperson: Is that agreed by the committee? *[Agreed]*

During the consideration of the bill, preamble, enacting clauses and the title are postponed until all other clauses have been considered in the proper order. Also, if there are any agreement that the—from the committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members have comments, questions or amendments to purpose—to propose.

Is that agreed? *[Agreed]*

* (18:40)

Mr. Chairperson: We will now proceed with the Bill 9.

Does the minister responsible for Bill 9 have any opening statements?

The honourable minister.

Mr. Fielding: I do.

Well, thank you very much, and it truly—

Mr. Chairperson: Honourable Minister.

Mr. Fielding: Thank you very much, Mr. Chair, and it is a true pleasure to bring Bill 9, the advocate for children youth, before the committee here today.

The bill creates stand-alone legislation for the Children's Advocate, who is independent officer of the Legislature. The bill also 'exstands' the mandate of the advocate beyond the child and family service system to include advocacy, supports for vulnerable children, youth and adults in the justice system, in the health system, in the education and the disability sectors.

Bill 9 grants the advocate new powers to review and investigate serious incidences—or, serious injuries, rather, as well as deaths among vulnerable young Manitobans connected to the justice system, the child-welfare system, the mental health system and addiction services. These elements of the bill, along with the advocate's expanded ability to publish more information will promote accountability and transparency for a wide variety of services.

As the Minister of the Department of Families, I am particularly proud of the bill, because it responds to 11 of the recommendations made during the Phoenix Sinclair inquiry. My view is the bill represents a significant step to protecting our most vulnerable citizens.

Honourable committee members, I look forward to taking the first steps in moving Bill 9 to a vote and ratification by the Legislative Assembly. The bill really sets the stage for a strong and independent advocate and we can see 'fry'—just her presentation today, a passionate person and someone that I think will take the role very seriously, and, with that independence that we're providing, can really look out for the best interests of our children. The mandate, of course, is to realize a system-wide change on behalf of and a true partnership of the Manitoba's children and youth.

So, just in conclusion, I truly want to thank not just the members of the committee for being here

today and the members that came out, including the Children's Advocate for coming out to making the presentation today. But it is an exciting step for our government. I truly like the fact that we're able to open—openness—to bring openness and transparency and have been struck, not just as the minister, but, you know, sometimes the amount of secrecy that's in the child-welfare system is something that, I think, we need to change, and, I think, this legislation, although more guided towards the Children's Advocate, does provide some more openness and transparency. And, I think, at the end of the day, if you're able to provide that openness and transparency—the advocate has a right to make those determinations, what's in the best interest of the system, and I think that will produce better results, and I think that will make vulnerable children more safe.

And so I truly think that that balancing act that we're trying to get in terms of protecting children versus the privacy right is something that, you know, I think we got—I got right. I, being the government, got right. It's something that we put through the ombudsman, in terms of the privacy piece. We want to make sure that all elements of the privacy element is something that was supported by the ombudsman, and that's what we based the privacy elements of this. So very much appreciate their time here tonight. With that, I'll conclude my comments.

Mr. Chairperson: We thank the minister for his opening statement.

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

An Honourable Member: I do.

Mr. Chairperson: Ms. Fontaine.

Ms. Fontaine: So I want to first and foremost just acknowledge the presenters that we have here tonight, particularly the folks from, obviously, the Child's Advocate office. It's been a long time coming, and I think it's important to put on the record and for everybody, you know, for the committee members and for everybody here that, certainly, the spirit of this bill and the spirit of the changes comes from, you know, the just most horrific murder of just a little baby. And so I want to put it on the record that tonight I just want to acknowledge and honour Phoenix Sinclair and everything that that little baby went through to kind of bring us to where we are today.

I think it's so important that, you know, none of these bills, they're not our bills, they're not ours divorced from actually the conditions in which they're predicated upon, and for these particular bills, I think that it is so important to recognize Phoenix Sinclair, and so I want to put that on the record.

And in those comments, I also want to put on the record—again, I know that we discussed this, I'm not even sure when—but at some point, in respect of, you know, why the government chose to take out any reference to the Truth and Reconciliation Commission. And so, you know, when we look at Phoenix Sinclair and, you know, the conditions in which her murder was predicated upon, it is actually borne out of the colonial history here in Canada, and certainly the residential school system, which has entrenched intergenerational trauma and hurt and pain within indigenous communities and certainly with indigenous families.

So, you know, I do want to put on the record, too—I mean, I don't even know how amendments, at this point—but I do want to encourage the minister that at some point to reconsider the section on Truth and Reconciliation Commission, because, again, if it wasn't for, you know—and I've said this in the House many times, along with my colleague from The Pas and my colleague from Fort Rouge, and actually my sister colleague from Kewatinook—that if it wasn't for the survivors of residential schools who had the courage, and a courage that, you know, unless you've lived through that, people cannot even imagine to share your story of what is cultural genocide, if it wasn't for them, you know, I would argue that—and if it wasn't for the fact that they actually survived so that Canadians can actually hear these stories, you know, I'm not sure if we would be here, as well.

And so, I would ask the minister to consider reference to TRC, because our new Child Advocate noted that predominantly—and everybody knows this—that predominantly, the children that are seeking advocacy are—or are in a variety of different systems are predominantly indigenous. And that is predicated upon this colonial history, which includes the residential schools.

And I think that what's, you know, I think what's very important to understand is that, you know, reference to the TRC and the calls to actions and everything that justice, you know, Senator Justice Murray Sinclair talks about, is the spirit of healing. And, you know, certainly in this, you know, era of

reconciliation that everybody talks about, we have to understand that we have to be cognizant and we have to be—we have to practise reconciliation, and one of the most easiest ways that we could have done that was to have kept the reference of the TRC so that the work that the Child Advocate and all her amazing staff do, that their work is within the spirit of the TRC calls of action.

So I think I will just leave those comments for right now. Again, you know, I gently and respectfully ask the minister that at some point to include reference to TRC—again, I want to make it explicitly clear that we understand that we are on this era of reconciliation and you can't use the words but actually have no frame of reference to it, and you certainly can't use the words, have no frame of reference and certainly no practice of it.

So I say, miigwech.

Mr. Chairperson: We thank the member for her opening statement.

Shall the clause 1 pass—oh, sorry—oh, Ms. Klassen.

Ms. Judy Klassen (Kewatinook): I just also wanted to thank—

Mr. Chairperson: Oh, sorry, Ms. Klassen, we need leave for you to have an opening statement, by the committee.

Does the committee grant leave for the—Ms. Klassen to? *[Agreed]*

Ms. Klassen: I just wanted to thank the presenters for coming out, as well. It was nice to hear the new advocate speak, and I feel the passion and I'm so grateful that it's communicated yet again, and I see the passion once again. As a child of two residential school survivors, I wholeheartedly agree with my sister colleague from—I don't know if we're—St. John—I don't know if we can use names here, but—

* (18:50)

Mr. Chairperson: Yes, you can use names.

Ms. Klassen: —with Ms. Fontaine because, you know, on one side my mom beat me horribly as a child and it was not because it was taught by her parents; it was taught in that residential school system. And, on the other side, I had a father who couldn't openly show affection, and being a product of that kind of parenting, it really—it really messed myself up when I became a young mother and, you

know, I'm proud to say that with my youngest I wanted it to stop with my generation because I—a lot of people continue on that intergenerational trauma and you see the effects of it every day when you go out to communities and you see the effects of it when you walk on the streets of Winnipeg in any corner of Winnipeg.

And so I think that serious consideration needs to be made because that was the goal of the TRC, is to give these recommendations for how life can get better for the indigenous people of Manitoba, and so I would also urge that that seriously be looked at and reconsidered, and I thank you for giving me leave to speak.

Mr. Chairperson: Thank you, Ms. Klassen.

Clause 1—pass; clauses 2 through 4—pass; clauses 5 through 7—pass; clause 8—pass; clauses 9 and 10—pass; clause 11—pass; clauses 12 through 14—pass; clauses 15 through 17—pass; clause 18—pass; clause 19—pass; clause 20—pass; clause 21—pass; clauses 22 and 23—pass; clause 24—pass; clauses 25 and 26—pass; clause 27—pass; clause 28—pass; clauses 29 and 30—pass; clause 31—pass; clause 32—pass; clauses 33 and 34—pass; clauses 35 and 36—pass; clause 37—pass; clauses 38 and 39—pass; clause 40—pass; clause 41—pass; clause 42—pass; clauses 43 and 44—pass; clauses 45 and 46—pass; clauses 47 through 50—pass; clauses 51 through 54—pass; preamble—pass; enacting clause—pass; title—pass. Bill be reported.

Is it agreed to the committee that we can take a five-minute break? *[Agreed]*

The committee recessed at 6:55 p.m.

The committee resumed at 7:01 p.m.

Mr. Chairperson: Committee back to order.

**Bill 11—The Community Child Care Standards
Amendment Act
(Staff Qualifications and Training)**

Mr. Chairperson: So now we'll go on to Bill 11.

Does the minister responsible for Bill 11 have an opening statement?

Hon. Scott Fielding (Minister of Families): I do.

I'm very pleased to bring bill 'letep'-11, The Community Child Care Standards Amendment Act, staff training, before the committee here, today. As the minister responsible for early learning and child

care, I am particularly pleased with the opportunity to create this new legislation.

The bill will make changes respecting the Child Care Education Program Approval Committee, commonly referred to as CCEPAC, which—currently established by the Manitoba Education and Training, CCEPAC—sorry, my acronyms, I'll have to pronounce a little better—have been proven essential support for—from—really, for the province since the early 1980s.

Bill 11 supports efforts to reduce red tape by eliminating duplication. CCEPAC and a second redundant committee will be eliminated by the bill. Their overlapping responsibilities will be assigned to a new established committee under the Department of Families. This ensures the province will continue to provide advice to—or, sorry, receive advice on academic programs and competencies for working with licensed early learning and child care. In my view, the act sets the stage, ensuring that the qualifications of staff in licensed facilities continue to be evidence based. In turn, this enhances the provisions of high-quality early learning and child-care services in Manitoba's—for Manitoba's children.

The bill, supported by my colleague, the Minister of Education, and by key stakeholders in the early learning and child-care sector.

Honourable committee members, I look forward to moving Bill 11 to a vote and ratification by the Legislative Assembly.

Thank you, Mr. Chairman.

Mr. Chairperson: We thank the minister for his opening statement.

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

Ms. Nahanni Fontaine (St. Johns): So of—just a quick, quick couple of statements that, of course, members of the NDP support improving the process of ensuring high standards of staff qualifications in child care. We, certainly, respect and value the expertise of early childhood educators, and I think if that—everybody around the table would agree that they are so essential to our child-care system.

And I know I already said this in the House. I love—I loved my own children's early childhood educators, and they were phenomenal. And, you know, when you're going to work and you're doing a variety of different degrees, they are an integral part

of you being able to pursue your own goals and make a better life for your own children. So, certainly, I want to put on the record tonight that, you know, we honour really, really important work. I don't think I could do that work. So I—you—we certainly stand with them, recognizing their inherent value. And, you know, the NDP, I think, have made it perfectly know that we are committed to them and that they have our support.

We hope that the new committee will function well. We hope that they will continue to hear the expert advice directly from early childhood educators. And I know that the minister referenced red tape. I don't think I've ever heard that sentence so many times in the last year, so I actually had to figure out what it meant in the beginning when I first got elected. I understand it now perfectly well, and so we would never want to see regulations relaxed in a way that compromises and puts at risk children's safety. And I hope and I suspect, the minister being a parent himself, would ensure that, you know, we have the best safety regulations for children here.

And so, again, you know, we hope that the minister will continue to consult with and work with, you know, the Manitoba Child Care Coalition, the Manitoba Child Care Association, because, of course, I would argue that they are, like, the experts here in Manitoba in respect of child care and the needs that we have in Manitoba and they are phenomenally just amazing people and always willing to work with and offer their expertise.

So, with that, I'll close it off.

Miigwech.

Mr. Chairperson: We thank the member for her opening statements.

Okay, Ms. Klassen, do you want to—

An Honourable Member: Sorry, I'm good, thanks.

Mr. Chairperson: You're good? Okay, thanks.

Okay, we'll get on to the clauses.

Clauses 1 and 2—pass; clause 3—pass; clauses 4 and 5—pass; clauses 6 and 7—pass; clauses 8 through 10—pass; enacting clause—pass; title—pass. Bill be reported.

That's it. That concludes the committee and thank everyone.

The hour being 7:07, that will—what is the will of the committee?

Some Honourable Members: Rise.

Mr. Chairperson: To rise?

Committee rise.

COMMITTEE ROSE AT: 7:07 p.m.

WRITTEN SUBMISSIONS

Re: Bill 9

Dear Madam/Mr. Chairperson,

I am pleased to appear before you this evening to speak to the provisions of Bill 9, concerning the creation of an Advocate with broader powers, and with stand-alone legislation.

Owing to the complexity of some of the issues, and the limited time allocated for presentations, I wish to request of the Committee that there be a decision to include both documents comprising our written submission in Hansard.

My presentation this evening will include brief commentary on the most important changes we are hoping to see in this draft legislation. It is clear from our review of Bill 9 that considerable work has been done to capture the intent of Commissioner Hughes' recommendation as well as the local details that are critical in the implementation of such legislation. We appreciate those efforts greatly, and have relatively few suggestions for change as a result.

The current wording in Bill 9 for "serious injury" would not necessarily capture a non-lethal overdose or life threatening hypothermia, either of which could leave a person in a prolonged comatose and persistent vegetative state. The SFNNC's proposed wording for the replacement definition, "critical incident", would capture those situations and begin the process of reconciling conflicting definitions in different statutes for terms such as "serious injury".

[This issue cannot be adequately discussed without making passing reference to provisions under The CFS Act, for which we seek your indulgence. This same definitional shortcoming also appears in the treatment of the term "serious injury" in the Critical Incident Reporting Regulation 154/2015 under The Child and Family Services Act, where it is confined to "physical injury". To complicate matters further, there is a definition of "incident" in both the Foster Home Licensing Regulation 18/99 (at s. 22) and the Child Care Facilities (Other than Foster Homes)

Licensing Regulation 17/99 (at s. 34). These two definitions, while similar to each other, do not accord with the definition in The Critical Incident Reporting Regulation. The respective requirements for forms also differ. The potential for conflicting interpretations regarding which provisions take precedence over which others is significant. Both of the regulations from 1999 were to have been reviewed by 2004, a review that has yet to occur.]

We hope that the starting point for clarifying this situation would be the opportunity afforded in the review of Bill 9 this evening. In general terms, the solution would be three-fold; the introduction of the term "critical incident" as a replacement for "serious injury or death" throughout Bill 9, a broader definition of that term than what appears in The CFS Act, and a specific provision giving precedence to the definition within Bill 9 if there is a conflict between that definition and any of the other definitions under The CFS Act.

You have been provided with a side-by-side comparison document which outlines the concerns and proposed changes we are requesting. I will now take you through that document.

Specific Recommendations

Beginning on p. 3, we are requesting that instead of using the term "serious injury", the phrase "critical incident" be substituted, with consequent additional minor changes to wording throughout the Bill. The necessary changes occur in about 35 different places, which have been incorporated into the side-by-side comparison document. The new definition would make it clear that Advocate involvement is not dependent on an injury as that term is commonly understood, but would include events such as overdoses that are not generally associated with injuries but which can and do have life-altering consequences.

[On p. 5 of the side-by-side document, with respect to s. 17(1), we wish to make it a matter of record that our interpretation of the wording is that the Advocate is able to obtain relevant personal and health information about a caregiver of a child if that information is reasonably determined to be necessary to assess the adequacy of planning that has occurred with respect to a situation being investigated by that office.]

On p. 6 of the side-by-side document, we are requesting that consideration be given to changing the wording in subsection 18(3)(b). This section

deals with the protection of the identity of a source of referral, which often becomes a contentious issue "later". We are suggesting that the person's written consent be obtained. This would align it with the provisions in 18.1(2) of The CFS Act, and, perhaps more importantly, provide greater clarity when an Advocate staff is required to address the issue of repercussions from disclosure in addition to the issue presented at the time of referral.

On p. 8, with respect to s. 20(3), we come to the question of situations where a family or child was in receipt of services in Manitoba, but the death has occurred in another jurisdiction. The SFNNC and the current Children's Advocate's Office are presently involved in two such situations, and in each there would appear to be service delivery improvements that might stem from a Special Investigation Review under s. 8.2.3 of the current legislation. We regard it as very important that there be some sort of trigger mechanism for the Advocate for Children and Youth to become involved in investigating Manitoba services provided (or otherwise) even though the death occurred in another jurisdiction. [(Although) Neither of the two current situations involve medical procedures such as heart surgery performed in Toronto, London or Edmonton], The reality in Manitoba is that some children and young adults in receipt of reviewable services in Manitoba must be referred to other jurisdictions for specialized medical treatment, which, if it ends badly outside of Manitoba, should still be able to trigger a review of services provided in Manitoba. An acceptable alternate trigger could be a letter from an agency or a CFS authority, and the details could be covered in the regulation.

On pp. 8 and 9, with respect to s. 21(1) and 21(2) (reporting of critical incidents to the Advocate), we are requesting that there be specific mention made to the regulations, by way of providing a clear link to the anticipated forms, procedures, and timelines that will be provided there. Such a link would greatly simplify the day-to-day workings of this legislation.

Also on p. 9, with respect to s. 21(2), [reporting of critical incidents involving young adults to the Advocate], we are requesting that there be specific mention made of CFS agencies in addition to government departments, for greater clarity.

On pp. 9-10, with respect to the question of precedence raised in our introductory comments, we are proposing a new subsection. 21(5), which would provide that in the event of confusion or conflict

regarding the various definitions of incidents, critical incidents, serious injuries, etc., the provisions of Bill 9 would prevail over those in The CFS Act.

On pp. 12-13, with respect to the recipients of reports [s. 27(4)], we are requesting that they still go to the Ombudsman. With the greatest of respect to the current Advocate, we must mention that we are still dealing with a situation where a former Advocate made a recommendation that a specific agency and CFS authority should ensure that any "over-the-counter" medications should not be given to a child in care except when authorized by a physician, in a situation where there was no link established between the death and any medication of any sort. Apart from the appropriateness of that recommendation, if accepted, that recommendation would establish a different standard for one agency and one CFS authority in Manitoba. It is our respectful submission that such anomalies are better dealt with by reference to another independent body than any other way.

On p. 14, with respect to s. 33(2), we would request that the word "promptly" be inserted into the list of adverbs that establish the framework for a child's ability to communicate with the Advocate.

On p. 18, in the transitional amendments to The Ombudsman Act, subsections 41(5) and 41(6) would no longer be required.

On pp. 19-20, in the consequential amendments section dealing with changes to The CFS Act, the existing s. 86.1 (which covers potential conflicts between FIPPA and The CFS Act) would be followed by a new section, 86.2, that would confirm the precedence of the definition of "critical incident" in Bill 9 over similar definitions in The CFS Act.

On pp. 21-22, in the consequential amendments to The Ombudsman Act, and stemming from the comments respecting the provisions of s. 27(4) of Bill 9, we are respectfully suggesting that s. 16.1(1) of The Ombudsman Act be amended to make reference to receiving reports under s. 27(4) of Bill 9, and that s. 16.1(2) of The Ombudsman Act remain unchanged.

Conclusion

I would be pleased to answer any questions that committee members may have, and wish to thank the committee for its time and attention to our presentation.

Bert Crocker, Senior Quality Assurance Specialist, for Tara Petti, CEO Southern First Nations Network of Care

Table with 3 columns: Original Wording, Proposed/Alternative Wording, and Commentary. Content includes WHEREAS statements and Part 1 Definitions.

Table with 3 columns: Original Wording, Proposed/Alternative Wording, and Commentary. Content includes definitions for (e) additional services, (f) youth justice services, (g) health care facility, (h) parent/guardian, (i) personal health information, (j) personal information, and (k) public body.

Table with 3 columns: Original Wording, Proposed/Alternative Wording, and Commentary. Content includes definitions for (a) reviewable service, (b) mental health services, (c) additional services, (d) youth justice services, (e) services for young adults, (f) serious injury, and (g) critical incident.

Table with 3 columns: Original Wording, Proposed/Alternative Wording, and Commentary. Content includes RESPONSIBILITIES AND POWERS, Responsibilities, Priority for children and young adults, United Nations Convention on the Rights of the Child, Advice to ministers, and Power to delegate.

SPNRC Commentary Ref: B8B-9 THE ADVOCATE FOR CHILDREN AND YOUTH ACT	18 May, 2017	Commentary
Original Wording	Proposed Alternate Wording	
13(1) The Advocate may, in writing, delegate to a person any responsibility or power of the Advocate under this Act, except the power to make a report or to further delegate a responsibility or power.		
Advocate may still exercise power		
13(2) The Advocate may continue to carry out a responsibility or exercise a power that he or she has delegated.		
Delegation in case of conflict		
13(3) Despite subsections (1) and (2), if the Advocate is in a conflict of interest concerning a matter, he or she may delegate in writing to any person any responsibility or power respecting the matter, including the power to make a report.		
Access to places or designated services		
13(4) When, for the purpose of carrying out responsibilities under this Act, the Advocate requires access to a place where children or young adults receive a designated service, the owner or person in charge of the place must provide access at a time when it is reasonable and safe to do so.		
No power to act as legal counsel		
13(5) The Advocate may not act as legal counsel.		
RIGHT TO INFORMATION		
Right to information		
13(6) The Advocate may require a public body or other person to provide any information in its custody or under its control — including personal information and personal health information — necessary to enable the Advocate to carry out responsibilities or exercise powers under this Act.		The SPNRC would interpret this subsection to include the ability of the Advocate to obtain necessary information about the health status of a patient or guardian that is caring for a child or planning to care for a child if that information is necessary to assist the Advocate to assess the ability of a service provider's planning for and with the child.
Duty to provide information and assistance		
13(7) Despite any other enactment, the public body or other person must provide the Advocate		

SPNRC Commentary Ref: B8B-9 THE ADVOCATE FOR CHILDREN AND YOUTH ACT	18 May, 2017	Commentary
Original Wording	Proposed Alternate Wording	
	subsection 20(1), it must provide information about the serious incident to the Advocate in accordance with subsection 20(2).	Although it may be redundant, there's merit to making explicit mention of the region here.
Duty to report serious injury to young adult		
21(1) After the government department responsible for the provision of services under <i>The Child and Family Services Act</i> becomes aware of a serious injury to a young adult for which a review may be conducted under subsection 20(2), it must provide information about the injury to the Advocate.		
Assessment before review		
21(2) For the purpose of this section, a government department or regional health authority may complete information relating to one or more serious injuries and provide it to the Advocate at intervals agreed on by the Advocate and the department or health authority.		
Information provided at intervals		
21(3) For the purpose of this section, a government department or regional health authority may complete information relating to one or more serious injuries and provide it to the Advocate at intervals agreed on by the Advocate and the department or health authority.		
Assessment before review		
21(4) The Advocate must assess each report of a serious injury or death that he or she receives to determine if there is jurisdiction to review the injury or death under section 20 and whether a review is warranted.		

SPNRC Commentary Ref: B8B-9 THE ADVOCATE FOR CHILDREN AND YOUTH ACT	18 May, 2017	Commentary
Original Wording	Proposed Alternate Wording	
with the information and assistance that the Advocate requires.		
Privileged information excluded		
17(1) Despite subsection (1), the Advocate may not require information that is subject to a legal privilege, including solicitor-client privilege, the privilege respecting Cabinet confidences and the privilege in section 9 of <i>The Manitoba Evidence Act</i> (hospital, standards and critical incident review committees).		
Information for research purposes		
17(4) When conducting research under clause 11(3)(b), the Advocate must not require personal information or personal health information if other information will serve the purpose of the research.		
Providing research information		
17(5) Information required for research under clause 11(3)(b) to be provided at the times and in the manner agreed on by the Advocate and the public body or other person.		
CONFIDENTIALITY AND PRIVACY		
Confidentiality of information		
18(1) The Advocate, and anyone employed under or acting as a delegate of the Advocate, must (a) maintain confidentiality about all matters that come to their knowledge in the course of their work under this Act, and (b) not disclose information to any person except as required to carry out responsibilities and exercise powers under this Act.		
No disclosure re adoption records		
18(2) The Advocate, and anyone employed under or acting as a delegate of the Advocate, must not disclose personal information, personal health information or potentially identifying information relating to the granting of an order of adoption under <i>The Adoption Act</i> .		
Limits on disclosure re identity of informant		
18(3) The Advocate, and anyone employed under or acting as a delegate of the Advocate, must not disclose the identity of a person who has made a report under section 18 of <i>The Child and Family Services Act</i> unless (a) the disclosure is required in a proceeding of a judicial nature in accordance with section 25, or (b) the person who made the report consents to the disclosure.		s. 18(1)(2) of the CFS Act mentions "written consent", and this bill should require that provision to exist

SPNRC Commentary Ref: B8B-9 THE ADVOCATE FOR CHILDREN AND YOUTH ACT	18 May, 2017	Commentary
Original Wording	Proposed Alternate Wording	
	11(5) If a provision in the definition of "critical incident" or "incident" in this Act is inconsistent or in conflict with a provision in <i>The Child and Family Services Act</i> , C.C.S.M. c. 50, the provision of this Act prevails.	potential for conflicting interpretations of definitions in various regulations under the CFS Act.
Disclosures of results of the review		
22 (1) If, after completing a review under section 20, the Advocate decides not to investigate under section 23, the Advocate may disclose the results of the review to (a) the government department or regional health authority responsible for the provision of a reviewable service that is the subject of the review, (b) the public body or other person who provided the reviewable service, and (c) any other person or entity that the Advocate considers appropriate to notify in the circumstances.		
Investigations of serious injuries and deaths		
24 (1) The Advocate may investigate a serious injury or death of a child or young adult if, after completing a review under section 20, the Advocate determines that (a) a reviewable service, or related policies or practices, might have contributed to the serious injury or death; and (b) the serious injury or death (i) occurred in unusual or suspicious circumstances, or (ii) was, or may have been, self-inflicted or inflicted by another person.		
Persons notified of an investigation		
24(2) On deciding to investigate a serious injury or death under this Part, the Advocate must (a) the minister responsible for the provision of a reviewable service that is a subject of the investigation, (b) the public body or other person that provided a reviewable service that is a subject of the investigation, (c) if the reviewable service was provided by a child and family services agency, its mandating authority under <i>The Child and Family Services Act</i> , (d) if the reviewable service was funded by a regional health authority, that authority; and (e) any other person or entity that the Advocate considers appropriate to notify in the circumstances.		

SPNRC Commentary Ref: B8B-9 THE ADVOCATE FOR CHILDREN AND YOUTH ACT	18 May, 2017	Commentary
Original Wording	Proposed Alternate Wording	
Disclosure to another advocate or representative		
19(1) Subject to subsections (2) and (3), the Advocate may disclose information relating to a child or young adult to an advocate or representative for children and youth in another province or territory where reasonably required by that advocate or representative to carry out responsibilities with respect to the child or young adult.		misunderstandings.
Limits on disclosure of personal information		
19(4) The Advocate, and anyone employed under or acting as a delegate of the Advocate, must ensure that any disclosure of personal information, personal health information or potentially identifying information (a) is necessary to accomplish the purpose for which the disclosure is made; and (b) is limited to the minimum amount of information necessary to accomplish that purpose.		
Disclosure limits apply to reviews, investigations and reports		
19(5) For certainty, subsection (1) applies during any review or investigation conducted under this Act and in relation to the making of any report under this Act.		
PART 4 REVIEWS AND INVESTIGATIONS OF SERIOUS INJURIES AND DEATHS		
REVIEWS OF SERIOUS INJURIES AND DEATHS		
Jurisdiction to review – serious injury to child		
20(1) The Advocate may review a serious injury to a child who was receiving, or whose family was receiving, a reviewable service at the time of the injury or in the year before the injury.		
Jurisdiction to review – serious injury to young adult		
20(2) The Advocate may review a serious injury to a young adult who was receiving services under subsection 50(2) of <i>The Child and Family Services Act</i> (support beyond termination of guardianship) at the time of the injury or in the year before the injury.		
Jurisdiction to review – death of child or young adult		
20(3) After receiving		critical incidents not involving death that occur outside of Manitoba could be reported in accordance with provisions in the regulations. critical incidents not involving death that occur outside of Manitoba could be reported in accordance with provisions in the regulations.

SPNRC Commentary Ref: B8B-9 THE ADVOCATE FOR CHILDREN AND YOUTH ACT	18 May, 2017	Commentary
Original Wording	Proposed Alternate Wording	
Right to enter and inspect		
26(1) The Advocate may apply to the Court of Queen's Bench for an order directing a public body or person to comply with an order made under subsection (1).		
Report after investigation		
27(1) After investigating a serious injury or death of a child or young adult under this Part, the Advocate must make a report on that injury or death.		
Contents of report		
27(2) A report must contain the reasons the Advocate had for undertaking the investigation and his or her findings and may (a) contain recommendations for (i) the public body or other person that provided a reviewable service that is a subject of the investigation, or (ii) address any other matters that the Advocate considers relevant.		
No finding of legal responsibility		
27(3) The findings of the Advocate must not contain any finding of legal responsibility.		
Persons given report		
27(4) A copy of the report must be given to (a) the minister responsible for the provision of a reviewable service that is a subject of the investigation,		

SPNRC Commentary Ref: B8B-9 THE ADVOCATE FOR CHILDREN AND YOUTH ACT	18 May, 2017	Commentary
Original Wording	Proposed Alternate Wording	
20(3) After receiving notice of the death of a child or young adult from the chief medical examiner under <i>The Fatality Inquiries Act</i> , the Advocate may review		notice of the death of a child or young adult from the chief medical examiner under <i>The Fatality Inquiries Act</i> , of the death occurred outside of Manitoba, the Advocate may review
(a) a child's death, if the child or his or her family was receiving a reviewable service at the time of the death or in the year before the death; and		
(b) a young adult's death, if the young adult was receiving services under subsection 50(2) of <i>The Child and Family Services Act</i> at the time of the death or in the year before the death.		
Purpose of review		
20(4) A review under this section may be conducted for the following purposes:		
(a) to determine whether to investigate the serious injury or death under section 23;		
(b) to identify and analyse recurring circumstances or trends (i) to improve the effectiveness and responsiveness of reviewable services, or (ii) to inform improvements to public policies relating to designated services.		
Duty to report serious injury to child		
21(1) After a government department or regional health authority responsible for the provision of a reviewable service becomes aware of a serious injury to a child for which a review may be conducted under subsection 20(1), it must provide information about the injury to the Advocate.		Although it may be redundant, there's merit to making explicit mention of the regulation here.

SPNRC Commentary Ref: B8B-9 THE ADVOCATE FOR CHILDREN AND YOUTH ACT	18 May, 2017	Commentary
Original Wording	Proposed Alternate Wording	
25 For the purpose of an investigation under this Part, the Advocate may at any reasonable time enter and inspect any place where a reviewable service being investigated is or was provided.		
Power to compel persons to answer questions and order disclosure		
26(1) For the purpose of an investigation under this Part and subject to subsection 17(3) (privileged information), the Advocate may make one or both of the following orders: (a) an order requiring a person to attend, personally or by electronic means, before the Advocate to answer questions on oath or affirmation, or in any other manner; (b) an order requiring a public body or other person to produce for the Advocate a record or other thing in the person's custody or under his or her control.		
Order to comply		
26(2) The Advocate may apply to the Court of Queen's Bench for an order directing a public body or person to comply with an order made under subsection (1).		
Report after investigation		
27(1) After investigating a serious injury or death of a child or young adult under this Part, the Advocate must make a report on that injury or death.		
Contents of report		
27(2) A report must contain the reasons the Advocate had for undertaking the investigation and his or her findings and may (a) contain recommendations for (i) the public body or other person that provided a reviewable service that is a subject of the investigation, or (ii) address any other matters that the Advocate considers relevant.		
No finding of legal responsibility		
27(3) The findings of the Advocate must not contain any finding of legal responsibility.		
Persons given report		
27(4) A copy of the report must be given to (a) the minister responsible for the provision of a reviewable service that is a subject of the investigation,		

SFNAC Commentary No: B88 9 THE ADVOCATE FOR CHILDREN AND YOUTH ACT		18 May, 2017	Commentary
Original Wording		Proposed Alternate Wording	
C.C.S.M. c. F157 amended			
46. Subsection 1(1) of <i>The Francophone Community Enhancement and Support Act</i> is amended in the definition "independent officer" by replacing clause (c) with the following:			
(c) the Advocate for Children and Youth; and			
The Freedom of Information and Protection of Privacy Act			
C.C.S.M. c. F175 amended			
47. Subsection 1(1) of <i>The Freedom of Information and Protection of Privacy Act</i> is amended in the definition "officer of the Legislative Assembly" by striking out "the Children's Advocate" and substituting "the Advocate for Children and Youth".			
The Legislative Assembly Management Commission Act			
C.C.S.M. c. L114 amended			
48. Clause 6(b) and subsection 9(1) of <i>The Legislative Assembly Management Commission Act</i> are amended by striking out "the Children's Advocate" and substituting "the Advocate for Children and Youth".			
The Legislative Library Act			
C.C.S.M. c. L120 amended			
49. Section 1 of <i>The Legislative Library Act</i> is amended in the definition "officer of the Legislative Assembly" by striking out "the Children's Advocate" and substituting "the Advocate for Children and Youth".			
The Mental Health Act			
C.C.S.M. c. M110 amended			
50. Clause 32(1)(c) of <i>The Mental Health Act</i> is amended by adding "and, if the patient is a child, the Advocate for Children and Youth" after "the Ombudsman".			
The Ombudsman Act			
C.C.S.M. c. O45 amended			
51. Section 15.1 of <i>The Ombudsman Act</i> is repealed.			
		The Ombudsman Act	16.1(2) of <i>The Ombudsman Act</i> would remain unchanged.
		C.C.S.M. c. O45 amended	51. Section 15.1(1) of <i>The Ombudsman Act</i> is repealed. This amendment must be made.

SFNAC Commentary No: B88 9 THE ADVOCATE FOR CHILDREN AND YOUTH ACT		18 May, 2017	Commentary
Original Wording		Proposed Alternate Wording	
		for the implementation of recommendations contained in the reports prepared by the Advocate for Children and Youth under clauses 27 (4)(c) and 27(4)(d) of this Act.	Ombudsman.
The Public Interest Disclosure (Whistleblower Protection) Act			
C.C.S.M. c. P217 amended			
52. Section 2 of <i>The Public Interest Disclosure (Whistleblower Protection) Act</i> is amended in the definition "office" by replacing clause (c) with the following:			
(c) the office of the Advocate for Children and Youth;			
C.C.S.M. REFERENCE AND COMING INTO FORCE			
C.C.S.M. reference			
53. This Act may be referred to as chapter A6.7 of the Continuing Consolidation of the Statutes of Manitoba.			
Coming into force			
54. This Act comes into force on a day to be fixed by proclamation.			

The Legislative Assembly of Manitoba Debates and Proceedings
are also available on the Internet at the following address:

<http://www.gov.mb.ca/legislature/hansard/hansard.html>