



MINUTES OF PROCEEDINGS

OTTAWA, Monday, June 13, 2022

(18)

[English]

Pursuant to the order of the Senate of May 5, 2022, the Standing Senate Committee on Legal and Constitutional Affairs met this day in room B30, Senate of Canada Building, and with videoconference, at 11:02 a.m. ET, the chair, the Honourable Mobina S. B. Jaffer, presiding.

Members of the committee present: The Honourable Senators Boisvenu, Boniface, Campbell, Dalphond, Harder, P.C., Jaffer and Pate (7).

Members of the committee present by videoconference: The Honourable Senators Batters, Clement, Cotter, Dupuis and White (5).

Participating in the meeting: Laurie-Anne Spooner, Administrative Assistant, Committees Directorate; Julian Walker and Michaela Keenan-Pelletier, analysts, Library of Parliament.

Pursuant to the order of reference adopted by the Senate on Thursday, March 31, 2022, the committee continued its consideration of Bill S-4, An Act to amend the Criminal Code and the Identification of Criminals Act and to make related amendments to other Acts (COVID-19 response and other measures).

WITNESSES (by videoconference):

Department of Justice Canada:

Shannon Davis-Ermuth, Senior Counsel - Team Lead;

Normand Wong, Senior Counsel - Team Lead, Criminal Law Policy.

Shannon Davis-Ermuth and Normand Wong answered questions from time to time.

Resuming debate on the motion of the Honourable Senator Batters that Bill S-4 be amended in clause 46, on page 20:

(a) by replacing line 19 with the following:

“**715.23 (1)** Before making a determination to allow or re-”;

(b) by replacing lines 32 and 33 with the following:

“lic hearing;

(e) the nature and seriousness of the offence;

(f) whether the technology is available to ensure a stable connection that allows for presenting exhibits and for full participation in the proceedings;

(g) the accessibility of the proceedings to the public;

(h) the security of the proceedings and those participating in them; and

(i) whether conditions can be established to ensure that the court and parties can evaluate the credibility of witnesses.

(2) If the court allows or requires an accused or an offender to appear by audioconference or videoconference, it may establish any conditions on that appearance that are appropriate in the circumstances.”.

After debate, the question being put on the motion in amendment, it was negatived on the following vote:

YEAS

The Honourable Senators

Batters, Pate, White — 3

NAYS

The Honourable Senators

Boniface, Clement, Cotter, Dalphond, Harder— 5

ABSTENTIONS

The Honourable Senator

Dupuis — 1

It was agreed that clause 46 carry, on division.

The chair asked whether clause 47 shall carry.

The Honourable Senator Batters moved that Bill S-4 be amended in clause 47, on page 23, by adding the following after line 4:

“(3.1) Paragraphs 715.25(2)(e) and (f) are replaced by the following:

(e) the accused’s right to a fair and public hearing;

(f) the nature and seriousness of the offence;

(g) whether the technology is available to ensure a stable connection that allows for presenting exhibits and for full participation in the proceedings;

(h) the accessibility of the proceedings to the public;

(i) the security of the proceedings and those participating in them; and

(j) whether conditions can be established to ensure that the court and parties can evaluate the credibility of witnesses.

(2.1) If the court allows or requires a participant to appear by audioconference or videoconference, it may establish any conditions on that appearance that are appropriate in the circumstances.”.

After debate, the question being put on the motion in amendment, it was negated on the following vote:

YEAS

The Honourable Senator

Batters — 1

NAYS

The Honourable Senators

Boniface, Clement, Cotter, Dalphond, Dupuis, Harder, Pate, White — 8

ABSTENTIONS

Nil

It was agreed that clause 47 carry, on division.

It was agreed that clauses 48 to 50 carry, on division.

It was agreed that clauses 51 to 60 carry, on division.

It was agreed that clauses 61 to 70 carry, on division.

It was agreed that clauses 71 to 77 carry, on division.

The chair asked whether clause 78 shall carry.

The Honourable Senator Cotter moved that Bill S-4 be amended on page 37, by adding the following after line 7:

“Independent Review

78.1 (1) The Minister of Justice must, no later than three years after the day on which this Act receives royal assent, initiate one or more independent reviews on the use of remote proceedings in criminal justice matters that must include an assessment of whether remote proceedings

(a) enhance, preserve or adversely affect access to justice;

(b) maintain fundamental principles of the administration of justice; and

(c) adequately address the rights and obligations of participants in the criminal justice system, including accused persons.

(2) The Minister of Justice must, no later than five years after the day on which a review is initiated, cause a report on the review — including any findings or recommendations resulting from it — to be laid before each House of Parliament.”.

After debate, the question being put on the motion in amendment, it was adopted, on division.

The Honourable Senator Dalphond moved that Bill S-4 be amended on page 37 by adding the following after line 7:

“Review of Act

78.1 (1) At the start of the fifth year after the day on which this Act receives royal assent, the provisions enacted or amended by this Act are to be referred to a committee of the Senate and a committee of the House of Commons that may be designated or established for the purpose of reviewing the provisions.

(2) The committees to which the provisions are referred are to review them and the use of remote proceedings in criminal justice matters and submit reports to the Houses of Parliament of which they are committees, including statements setting out any changes to the provisions that they recommend.”.

After debate, the question being put on the motion in amendment, it was adopted, on division.

It was agreed that clause 78 carry, on division.

It was agreed that clause 79 carry, on division.

It was agreed that the title carry.

It was agreed that the bill carry, as amended, on division.

It was agreed that the Law Clerk and Parliamentary Counsel be authorized to make necessary technical, grammatical, or other required non-substantive changes as a result of the amendments adopted by the committee, including updating cross-references and renumbering of provisions.

The committee discussed observations.

After debate, it was agreed that observations be appended to the committee's report.

It was agreed that the Subcommittee on Agenda and Procedure be empowered to approve the final version of the observations being appended to the report, taking into consideration the changes discussed in committee, and with any necessary editorial, grammatical or translation changes as required.

It was agreed that the chair report Bill S-4, with amendments and observations, to the Senate.

At 12:01 p.m., the committee adjourned to the call of the chair.

ATTEST:

Mark Palmer

Clerk of the Committee