



MINUTES OF PROCEEDINGS

OTTAWA, Thursday, May 11, 2023

(57)

[English]

The Standing Senate Committee on Legal and Constitutional Affairs met this day at 11:30 a.m., in room W110, 1 Wellington St., the chair, the Honourable Brent Cotter, presiding.

Members of the committee present: The Honourable Senators Batters, Boisvenu, Clement, Cotter, Dalphond, Dupuis, Gagné, Jaffer, Klyne, Martin, Patterson (*Nunavut*), Simons and Tannas (13).

Participating in the meeting: Aoife Mc Donald, 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 9, 2023, the committee continued its consideration of Bill C-9, An Act to amend the Judges Act.

WITNESSES:

Department of Justice Canada:

Toby Hoffmann, Director and General Counsel, Judicial Affairs Section;

Patrick Xavier, Senior Counsel, Judicial Affairs Section;

Shakiba Azimi, Counsel, Judicial Affairs Section.

It was agreed, with leave of the committee, to withdraw the amendment proposed by the Honourable Senator Simons at the end of the last meeting, while a new version is pending.

The Honourable Senator Batters moved that Bill C-9 be amended in clause 12, on page 8,

(a) by adding the following after line 22:

“(e.1) suspend the judge with salary for a period that the panel considers appropriate in the circumstances;

(e.2) suspend the judge without salary for a period of up to 30 days;”;

(b) by replacing line 25 with the following:

“graphs (a) to (e.2);”.

Toby Hoffmann and Patrick Xavier answered questions from time to time.

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

YEAS

The Honourable Senators

Batters, Boisvenu, Martin, Patterson (*Nunavut*), Simons, Tannas — 6

NAYS

The Honourable Senators

Clement, Cotter, Dalphond, Dupuis, Gagné, Jaffer, Klyne — 7

ABSTENTIONS

NIL

The Honourable Senator Simons moved that Bill C-9 be amended in clause 12,

(a) on page 5, by adding the following after line 23:

“**86.1** The Council shall, with respect to each complaint received, collect the following information, provided that the complainant consents to its collection:

(a) the race, Indigenous identity, national or ethnic origin, and religion of the complainant;

(b) the sex and gender identity of the complainant; and

(c) any disability of the complainant.”;

(b) on page 23,

(i) by replacing lines 17 to 24 with the following:

“setting out, in respect of the year,

(a) the number of complaints

(i) received,

(ii) withdrawn or abandoned,

(iii) dismissed by a screening officer for a reason set out in

(A) paragraph 90(1)(a),

(B) paragraph 90(1)(b), and

(C) paragraph 90(1)(c),

(iv) dismissed by a reviewing member for a reason set out in

(A) paragraph 90(1)(a),

(B) paragraph 90(1)(b), and

(C) paragraph 90(1)(c),

(v) dismissed by a reviewing member for being wholly without merit,

(vi) reviewed by review panels, hearing panels and appeal panels, and

(vii) in respect of which any of the actions referred to in paragraphs 102(a) to (g) were taken;

(b) for each category listed in paragraph (a), the number of those complaints that allege

(i) sexual misconduct, or

(ii) discrimination on the basis of a prohibited ground of discrimination within the meaning of the *Canadian Human Rights Act*;

(c) for each category listed in paragraph (a), in a manner that does not allow for the identification of any complainant, a summary of the information collected under section 86.1; and

(d) for any withdrawn or abandoned complaints, the reasons provided, if any.”,

(ii) by adding the following after line 26:

“(3) The Minister may recommend, on the basis of the information contained in the annual report, that the Council establish seminars under paragraph 60(2)(b).”.

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

YEAS

The Honourable Senators

Batters, Clement, Jaffer, Martin, Patterson (*Nunavut*), Simons, Tannas — 7

NAYS

The Honourable Senators

Boisvenu, Cotter, Dalphond, Dupuis, Gagné, Klyne — 6

ABSTENTIONS

NIL

The Honourable Senator Clement moved that Bill C-9 be amended in clause 12, on page 6, by replacing line 13 with the following:

“alleges sexual misconduct or sexual harassment or that alleges discrimination”.

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

The Honourable Senator Clement moved that Bill C-9 be amended in clause 12,

(a) on page 6,

(i) by adding the following after line 15:

“(4) If the screening officer dismisses the complaint, they shall

(a) give notice of their decision and the reasons for it to the Council; and

(b) inform the complainant in writing of their decision and the reasons for it.

(5) The reasons shall not include information that is confidential or personal, or that is not in the public interest to disclose.

90.1 The Council shall make public the screening officer’s decision and the reasons for it, as soon as feasible after receiving them.”,

(ii) by replacing lines 33 and 34 with the following:

“they shall

(a) give notice of their decision and the reasons for it to the Council; and

(b) inform the complainant in writing of their decision and the reasons for it.”;

(b) on page 7, by adding the following after line 3:

“**94.1** The Council shall make public the reviewing member’s decision and the reasons for it, as soon as feasible after receiving them.”;

(c) on page 9, by adding the following after line 6:

“**103.1** The Council shall make public the review panel’s decision and the reasons for it, as soon as feasible after receiving them.”

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

At 1:31 p.m., the committee adjourned to the call of the chair.

ATTEST:

Mark Palmer

Clerk of the Committee