

# Blakes Bulletin

## Labour & Employment

### Proposed Ontario Legislation Targets Workplace Violence and Harassment

LISA CARTY

On April 20, 2009, the Ontario government introduced Bill 168, the *Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace), 2009*. This legislation, if passed, will make a number of significant amendments to the *Occupational Health and Safety Act* (the OHSA) in an effort to safeguard workers from workplace violence and harassment. Specifically, Bill 168 designates workplace violence and harassment as occupational health and safety hazards and establishes new obligations for employers with respect to workplace violence and harassment. Before Bill 168 becomes law, it must pass two more readings and receive royal assent.

The highlights of Bill 168 are as follows:

- 1. New definitions.** New definitions of workplace harassment and workplace violence are added to the OHSA.
- 2. Workplace policies.** Employers must prepare policies to address workplace violence and harassment. These policies must be reviewed, at minimum, on an annual basis. Employers must provide information and training about the content of these policies. For employers with more than five employees, these policies must be in writing and posted in a conspicuous location in the workplace.
- 3. Workplace programs.** Employers must develop and maintain programs to implement their workplace violence and harassment policies. These programs must include procedures for workers to report incidents of harassment or violence and must set out how the employer will investigate such incidents. Workplace violence programs must also include procedures to control the risk of workplace violence and to summon assistance when required. Employers must provide training about the content of these programs.

- 4. Violence assessments.** Employers must assess the risk of workplace violence in their workplaces with regard to the nature of the workplace, the type of work and the conditions of work. The assessment must consider the circumstances that are specific to the workplace as well as those that are common to similar workplaces. The employer must provide the results of the assessment and a copy of the assessment to the workplace health and safety committee or representative. Following the initial risk assessment, employers must reassess the risk of workplace violence as often as necessary to ensure that workers remain protected.

- 5. Addressing domestic violence at work.** Employers must take every precaution reasonable in the circumstances to protect workers from domestic violence. This obligation arises when the employer becomes aware, or ought reasonably to be aware, that domestic violence may occur in the workplace and would likely expose workers to physical injury.

- 6. Duties of employers and supervisors.** The duties of employers and supervisors currently set out in the OHSA apply with respect to workplace violence.

- 7. Information about violent individuals.** Employers and supervisors must provide information, including personal information, to workers about a person with a history of violent behaviour. This duty applies where a worker can be expected to encounter that person in the course of his or her work and the risk of workplace violence is likely to expose the worker to physical injury.

- 8. Right to refuse work.** Workers can refuse to work where they have reason to believe that workplace violence will likely put them into danger.

- 9. Reporting obligations.** Employers have specific reporting obligations when a worker is disabled from performing his regular work or requires medical attention as a result of workplace violence.

For further information, please contact a member of Blakes Labour & Employment Group.

Go to [blakes.com/english/subscribe.asp](http://blakes.com/english/subscribe.asp) to subscribe to other Blakes Bulletins.

Blakes periodically provides materials on our services and developments in the law to interested persons. If you do not wish to receive further bulletins or other materials from Blakes, please contact Blakes Marketing Department at 416-863-3036 or [dorothy.byers@blakes.com](mailto:dorothy.byers@blakes.com). For additional information on our privacy practices, please contact us at [privacyofficer@blakes.com](mailto:privacyofficer@blakes.com). *Blakes Bulletin* is intended for informational purposes only and does not create a lawyer-client relationship. The transmission of this information does not suggest Blakes or any of its lawyers are practising law of any jurisdiction other than Canada. The information provided in this bulletin is summary in nature and does not constitute legal advice. We would be pleased to provide additional details or advice about specific situations if desired. For permission to reprint articles, please contact Blakes Marketing Department at 416-863-2403 or [lynn.spencer@blakes.com](mailto:lynn.spencer@blakes.com). ©2009 Blake, Cassels & Graydon LLP.