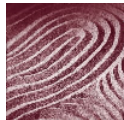
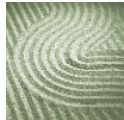
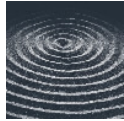


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Bill 168 – Amendments to the Occupational Health and Safety Act

Shane Smith

416.595.8166

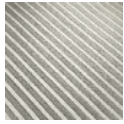
ssmith@millerthomson.com

January 27, 2010

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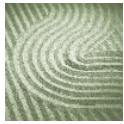
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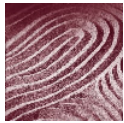
Overview



- Bill has passed, but in effect on June 15, 2010



- It is a significant legislative change to the OHSA and for employers



- Has added a new 'Part' to OHSA dealing specifically with workplace violence and harassment

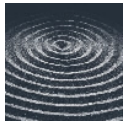
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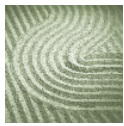
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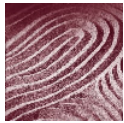
Background



- Historically, OHSA was of very limited relevance regarding matters of workplace violence and harassment



- There was legislation in other provinces that addressed some of these issues, but not in Ontario

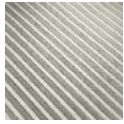


- Dupont Inquest made a number of recommendations, which ultimately led to this legislation

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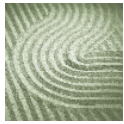
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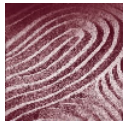
What Does it Do?



- Expands the scope of OHSA to cover workplace violence and harassment



- Introduces a number of new legal obligations on employers going forward



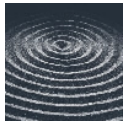
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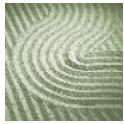


Definitions



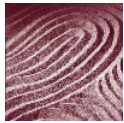
Workplace harassment:

- engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably know to be unwelcome



Workplace violence:

- exercise of physical force by a person against a worker in a workplace that causes or could cause physical injury; or
- an attempt by a person to do so; or
- a statement or behaviour that is reasonable for a worker to interpret as a threat to do so



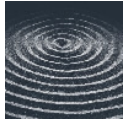
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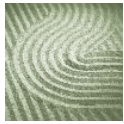
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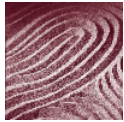
Obligations on Employers



1) Policies



a) prepare a policy with respect to workplace violence and workplace harassment;



b) post the policy in the workplace;

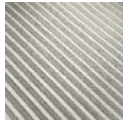
c) review the policies as often as necessary, but at least once a year; and

d) develop and maintain a program to implement the policies, and the program

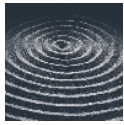
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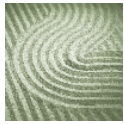
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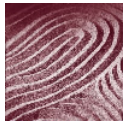
Obligations on Employers



2) Programs – the programs must have measures and procedures...



a) to control identified risks of workplace violence;



b) for summoning immediate assistance when workplace violence occurs or is likely to occur;

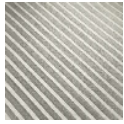
c) for workers to report incidents of workplace violence or workplace harassment;

d) set out how employer will investigate and deal with incidents or complaints of workplace violence and workplace harassment;

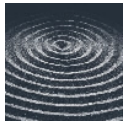
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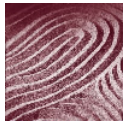
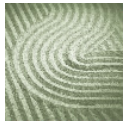
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Obligations on Employers



3) Assessment



- An employer must assess the risks of workplace violence that may arise from the nature of the workplace, the type of work or the conditions of work
- Advise the JHSC or representative or workers of the results of the assessment
- Reassess the risks as often as is necessary

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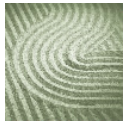
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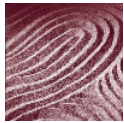
Obligations on Employers

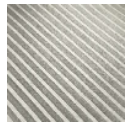


4) Domestic Violence

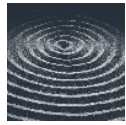


- If an employer becomes aware, or ought to be aware that domestic violence may occur in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker

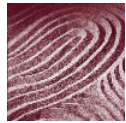
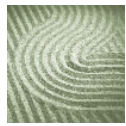




Obligations on Employers



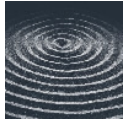
5) Provide Information



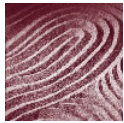
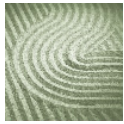
- Extends existing obligation to provide information and instruction to workers to cover the contents of the workplace violence and workplace harassment policies and programs;
- Duty to provide information, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour if worker can be expected to encounter that person in the course of his or her work



Other Elements



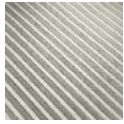
- Right to refuse unsafe work extends to situations where workplace violence is likely to endanger the worker



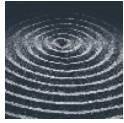
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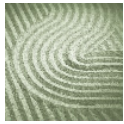
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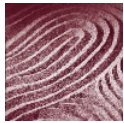
Summary



In summary, Employers need to:



- Have policies re workplace violence and harassment;



- Have programs re workplace violence and harassment;
- Conduct risk assessment related to workplace violence;
- Provide information and instruction to employees on these matters

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