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## **Ontario Announces Proposed Job Protection for Workers during COVID-19 Pandemic**

By: Amanda Boyce

Ontario Premier Doug Ford's office announced this morning that it has directed the Minister of Labour, Training and Skills Development to draft legislation that, if passed, would provide significant protection for workers who are away from work due to circumstances surrounding the evolving COVID-19 pandemic.

Employers should expect any proposed bill to be passed into law quite quickly, given the circumstances. Regardless of any amendments that take place before the legislation is passed, it will undoubtedly present challenges for employers struggling to cope with uncertainty for their businesses in the face of an unprecedented global pandemic.

Although few details have been provided thus far, early proposals indicate that the below protections will be made retroactive to January 25, 2020, the date that the first presumptive COVID-19 case was confirmed in Ontario. The new legislation will therefore have implications for employers who may already have taken action to deal with their workforces in light of changing circumstances.

The proposed legislation would, if passed, provide job protection for employees unable to work for the following reasons:

- The employee is under medical investigation, supervision or treatment for COVID-19.
- The employee is acting in accordance with an order under the Health Protection and Promotion Act.
- The employee is in isolation or quarantine.
- The employee is acting in accordance with public health information or direction.
- The employer directs the employee not to work.
- The employee needs to provide care to a person for a reason related to COVID-19 such as a school or day-care closure.

While the announcement does not specify the exact sort of "job protection" to be put in place, presumably employers will be prevented from terminating employees who are absent from work for the above-noted reasons. The duration of allowable absences is not yet clear. The proposal also indicates that employers will not be able to require medical notes from workers who take leave for these reasons.

Early announcements do not make clear whether employees can unilaterally decide to place themselves in isolation, or whether self-isolation must be directed by a public authority of some sort to attract job protection. Further, while employees' caregiving responsibilities are already protected under the Human Rights Code ground of 'family status', the proposed legislation may provide more specific and directed guidance regarding which sorts of caregiving relationships and circumstances are protected in the present circumstances.

It is not yet clear whether the proposed legislation will impact the provisions of the Employment Standards Act which govern temporary layoffs. Pursuant to those provisions, temporary layoffs become terminations

of employment after a certain duration in some circumstances. Many businesses will experience slow-downs and economic hardship during the COVID-19 pandemic, and the proposal purports to provide job protection where “the employer directs the employee not to work”.

It seems unlikely that the legislation will provide workers with paid leave entitlement, as the announcement emphasizes that many workers will be eligible for Employment Insurance sickness benefits. The government is also reviewing current access and eligibility to emergency assistance which is available through the Ontario Works program to support individuals who are impacted by the coronavirus and who are not able to meet their basic living expenses.

Stringer LLP will be monitoring the proposed legislation closely, and will provide updates on new developments as they occur.

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*UPDATE* is an electronic publication of Stringer LLP  
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