



James Ebidia, President  
CRSP, ASA, RN

Phone: (416) 270-7689  
[jebidia@phssolutions.ca](mailto:jebidia@phssolutions.ca)  
[www.phssolutions.ca](http://www.phssolutions.ca)

Proactive Health and Safety Solutions brings your organization, software expertise, and a comprehensive range of customized health, safety and environmental solutions. Solutions designed to meet your needs and generate results.

**PHSS Vision**

All workplace parties in organizations understand, accept and carry out their responsibilities related to managing health and safety.

**PHSS Mission**

To assist organizations in proactively managing health and safety as part business management for the prevention of injury and illness. To demonstrate to organizations that managing health and safety is not only the right thing to do, but also creates a business advantage.

**BILL 168 IS NOW LAW**

**Ontario's Occupational Health and Safety Act (OHSA) now requires employers to take actions related to Workplace Violence and Harassment**

On December 9, 2009, Bill 168, amended the *Ontario Occupational Health and Safety Act* (OHSA) to require worker protection from violence and harassment, and established new specific worker rights relating to violence. The amendments will be enforced by the Ministry of Labour Inspectors starting on June 15, 2010.

These amendments will strengthen protection for workers from workplace violence and address harassment at work, and will apply to all workplaces to which the *Ontario Occupational Health and Safety Act* currently applies.

The new protections will require employers to:

- Develop and communicate workplace violence and harassment prevention policies and programs to workers
- Assess the risks of workplace violence, and take reasonable precautions to protect workers from possible domestic violence in the workplace.
- Allow workers to remove themselves from harmful situations if they have reason to believe that they are at risk of imminent danger due to workplace violence

Employers will need to understand:

- the requirements under Bill 168
- what constitutes workplace violence and workplace harassment
- your obligations are under the new law
- what is a "risk assessment" and how is it performed
- the requirements to establish a policy and program that every employer must have in place
- the steps to take now in order to be prepared before June 15, 2010
- the risk for a non-compliance to the new legal requirements

**Employers Will Need To Prepare a Written Violence and Harassment Program**

Employers are required to develop, implement and maintain a program to implement the workplace violence policy and the workplace harassment policy. The program should include measures and procedures for:

- workers to report incidents of workplace violence and harassment
- investigating and dealing with incidents or complaints of workplace violence and harassment
- assessing the risks of workplace violence and implementing control measures
- training and advising of workers respecting workplace violence and harassment
- dealing with work refusals related to workplace violence
- responding to information related to domestic violence
- reporting workplace violence



### **Workplace Violence Defined**

(a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker, this includes but is not limited to physical acts such as punching, hitting, kicking, pushing, damaging property or throwing objects.

(b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,

(c) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker. This may include behaviour such as bringing a weapon of any kind to a workplace or possessing a weapon of any kind while carrying out company business, or threatening to bring a weapon to a workplace.

### **Harassment Defined**

engaging in the course of a vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome. It includes any unwanted conduct that is known or ought reasonably to be known to be unwelcome. Harassment comprises any objectionable act, communication or display that is perceived to be insulting, frightening, embarrassing, offensive, humiliating, demeaning, or otherwise unwelcome, and that may have the effect of creating an intimidating, hostile or offensive work environment, interfering with an individual's performance, negatively affecting an individual's employment relationship, affecting the inherent personal dignity of the individual or their psychological or physical integrity.

### **Employers Will Need To Prepare Written Violence and Harassment Policies**

Where more than five workers are regularly employed at a workplace, Ontario employers are required to prepare and post a workplace violence and harassment policy.

### **Risk Assessment and Control Measures for Workplace Violence Prevention**

Employers are required assess the risks of workplace violence that may arise from the nature of the workplace, the type of work, or the conditions of work. There is no specific requirement to asses for the risks of workplace harassment. The risk assessment for workplace violence must include circumstances that would be common to similar workplaces and circumstances specific to the workplace. Based on the results of the assessment the employer must implement appropriate controls to prevent and manage the risk for violence. The assessment must be repeated as often as necessary to ensure that the policy and program continue to protect workers from workplace violence.

The results of the assessment must be communicate to the joint health and safety committee, health and safety representative, or workers directly (if there is no committee or representative) and provide a copy of the assessment if in writing.



### **Training and Advising Workers**

Employers must train workers in the contents of workplace violence and harassment policies and program. The duty of employers and supervisors to provide information and training under sections 25 and 27 of the OHS Act require employers and supervisors to provide information, including personal information, related to risks of workplace violence (not harassment) from a person with a history of violent behaviour (for example a patient, customer or another worker) if the worker can be expected to encounter that person during the course of their work, and there is a risk of violence likely to expose the worker to physical injury. Disclosure of personal information is limited to that information reasonably necessary to protect the worker from physical injury.

### **Dealing with Work Refusals Related To Workplace Violence**

Workers have the right to refuse work for conditions in the workplace that constitute “workplace violence” if “workplace violence is likely to endanger himself or herself”. There is mention in the OHS Act to permit a worker to refuse work where they believe that workplace harassment is likely to endanger the worker. The worker is to remain in a safe place “that is as near as reasonably possible to his or her workstation and available to the employer or supervisor for the purposes of the investigation.” (this change will effect all work refusals)

### **Responding To Information Related To Domestic Violence**

This provision relates to domestic violence. The employer is required to take every precaution reasonable in the circumstances for the protection of a worker if the employer becomes aware, or ought reasonably to be aware, that domestic violence that would likely expose a worker to physical injury may occur in the workplace. Ontario is the only jurisdiction in Canada to have this provision. It will remain to be seen to what extent the reasonable precaution expectations will be applied.

### **Reporting Workplace Violence**

The employers must prepare a notice under section 52 of the OHS Act in the event that a worker is disabled from their regular duties, or requires medical attention, as a result of workplace violence. The employer shall, within four days of the occurrence, give written notice of the occurrence containing the prescribed information and particulars to the Joint Health and Safety Committee, the health and safety representative and the trade union, if any and the Ministry of Labour inspector if requested by an inspector.

### **HEALTH AND SAFETY MANAGEMENT SYSTEM SOFTWARE**

PHS Solutions has developed an interactive [Health and Safety Management System Software](#) application. This software has been designed using 20 years of experience in the health and safety field to assist organizations to easily design, implement and maintain a health and safety management system. Please click [here](#) to view more detailed information on the software.

*If you no longer wish to receive the newsletter, please email [jebidia@phssolutions.ca](mailto:jebidia@phssolutions.ca)*