

Ontario Considering Requirement that Employers Disclose How They Are Monitoring Employees

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On February 28, 2022, the Ontario Government introduced the new "*Bill 88, Working for Workers Act, 2022*" which would amend the *Employment Standards Act, 2000* ("ESA") and, amongst other things, require employers to develop an Electronic Monitoring Policy.

If this legislation passes, Ontario will become the first province in Canada to require such a policy. It is expected that the legislation will also require employers to explain how they are tracking employees through their computers, phones, and other electronic devices.

Similar to the "Disconnecting from Work" legislation, which we discussed [here](#), this new policy would only apply to workplaces with 25 or more employees. The details of what would be required in the policy are unclear, but the Ontario Government has suggested that it will require at least "*information on whether the employer electronically monitors its workers, and if so, a description of how and in what circumstances the employer does this. In addition, the employer would need to disclose the purpose of collecting information through electronic monitoring.*"

In addition to this change, Bill 88 may also:

- Create a new *Digital Platform Workers Rights Act, 2022* which would create certain rights for workers who work through digital platforms;
- Expand military reservist leave under the ESA to cover training time;
- Amend the *Occupational Health and Safety Act* to increase fines and require certain workplaces to have naloxone kits in the workplace; and
- Clarify that certain IT professionals, who provide their services through a corporation or a sole proprietorship and who are paid at least \$60/hour, are excluded from the ESA.

Please note that this bulletin is intended for informational purposes only and does not constitute legal advice or an opinion on any issue. We strongly recommend that you contact your Miller Canfield lawyer with any specific questions you may have so that those questions can be addressed properly with you.