



Ontario introduces police record checks legislation - limits the release of non-criminal information

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On June 3, 2015, Bill 113, the *Police Record Checks Reform Act, 2015*, carried first reading. If passed, the legislation will create province-wide standards for the type of information that can be disclosed by police through record checks.

The proposed legislation applies to police checks for the purpose of determining an individual's suitability for employment, volunteer work, a licence or office, membership in any body, to provide or receive goods or services, or for the purpose of assessing an application to an educational institution or program. The proposed legislation standardizes the process for obtaining a police record check and creates three types of records:

- criminal record checks;
- criminal record and judicial matters checks; and
- vulnerable sector checks.

A schedule to Bill 113 sets out the type of information about an individual that can be disclosed under each type of check. Bill 113 proposes to prohibit the disclosure of "non-conviction information" except in vulnerable sector checks. The proposed legislation defines "non-conviction information" as information concerning criminal charges where the charge was dismissed, withdrawn, stayed or resulted in a stay of proceedings or an acquittal.

For vulnerable sector checks, Bill 113 proposes a number of conditions that must be satisfied in order for non-conviction information to be disclosed:

- the criminal charge to which the information relates is specified by a regulation (yet to be made);
- the alleged victim was a child or other vulnerable person; and
- the police record check provider determines that the individual has engaged in a pattern of predation that presents a risk of harm to a child or a vulnerable person by considering a number of specified factors.

If non-conviction information is included in the record, the individual may request a reconsideration of the disclosure.

Bill 113 stipulates that the record checks can only be released to a third party with the consent of the



individual to which the information relates. Bill 113 would also prevent the disclosure of information relating to other police interactions, such as being questioned in relation to a crime, information obtained from “carding”, and mental health interactions such as suicide attempts.

Bill 113 was applauded by numerous stakeholders, including the Ontario Human Rights Commission, the Canadian Civil Liberties Association, and the Ontario Chamber of Commerce. The current system for police record checks has come under heavy criticism from many stakeholders due to the barriers to employment and volunteer opportunities that the disclosure of non-conviction information creates. Proposed Bill 113 would limit the disclosure of this type of information to specific circumstances and will introduce additional rigour and consistency for disclosure across the province.

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