

**OCTOBER IS CYBERSECURITY AWARENESS MONTH**

and we wanted to share some of the latest updates that may impact your business.

**Electronic Monitoring Law in Effect**

- As of Tuesday, October 11, 2022 and owing to Bill 88, all Ontario employers with more than 25 employees must have an electronic monitoring policy in place. The purpose of the policy is to ensure transparency and notify employees how they are being monitored.
- The Ministry of Labour ("MOL") has introduced helpful guidelines around what these policies should include, such as:
  - a description of how and in what circumstances the employer may electronically monitor its employees;
  - the purposes for which the information obtained may be used by the employer;
  - the date the policy was prepared;
  - the date any changes were made to the policy.
- Importantly though, no new right to privacy has been created by Bill 88, but rather it requires a system of transparency.
- According to the MOL, these policies will apply to all of the employer's employees in Ontario, including to employees in management, executives and shareholders – provided they are also employees.
- To assist with affordable compliance, we have enclosed a copy of our template Bill 88 Policy, provided to you in draft in

order to serve as a starting point for your business.

**Bill C-26: New Cybersecurity Legislation for Federally Regulated Sectors**

- In June, the Federal government introduced [Bill C-26](#) - *An Act Respecting Cyber Security, Amending the Telecommunications Act and making Consequential Amendments to other Acts*.
- The Act requires Federally regulated employers to establish a cyber security program that identifies cyber risks, plans to minimize the impact of a cyber security incidents and reporting protocols, should an incident occur – which would then need to be reported to the Communications Security Establishment ("CSE").
- The Act has stringent compliance requirements, with administrative penalties for non-compliance up to \$1 million for individuals and \$15 million for organizations.
- Presently, it is unclear whether organizations closely linked to, or who find themselves within the greater supply chain of Federally regulated employers will also be required to comply with the Act.

**Bill C-27: New Privacy Legislation Introduced**

- In June, the Federal government also introduced [Bill C-27](#) - *An Act to Enact the Consumer Privacy Protection Act, the Personal Information and Data Protection Tribunal Act and the Artificial Intelligence and Data Act and to*

*make Consequential and related Amendments to other Acts.*

- The Bill aims to strengthen private sector privacy laws, set up a new tribunal to deal with privacy matters and establish the position of an Artificial Intelligence Data Commissioner.
- The Bill, which is in its second reading, will increase fines (up to \$25 million for corporations) and make obtaining clear consent a mandatory requirement. Accordingly, organizations should consider sanitizing their terms of service and ensuring that these are couched in plain language, with the ability to have users request to have their data disposed of, while maintaining privacy management programs.
- Ritesh Kotak, a cybersecurity and technology analyst and member of our firm, appeared on Global News to discuss the Bill and how it may impact various organizations. Link here: <https://bit.ly/3vY91zD>

*We will continue to share updates and insights in the coming weeks however, for specific questions, please feel free to reach out to us directly at – [nic@leclairandassociates.ca](mailto:nic@leclairandassociates.ca) (519) 859 6015*

Written by Ayushi Dave, Ritesh Kotak and Nic Preston