



SEXUAL VIOLENCE & HARASSMENT

Bill 132 and 168, 2016

An Act to amend various statutes with respect to sexual violence, sexual harassment, domestic violence and related matters

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Preamble

On March 6, 2015, the Government of Ontario announced “It’s Never Okay: An Action Plan to Stop Sexual Violence and Harassment”. The Government will not tolerate sexual violence, sexual harassment or domestic violence. Protecting all Ontarians from their devastating impact is a top Government priority and is essential for the achievement of a fair and equitable society.

All Ontarians would benefit from living without the threat and experience of sexual violence, sexual harassment, domestic violence and other forms of abuse, and all Ontarians have a role to play in stopping them.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1. This Act consists of this section, sections 2 and 3, and the Schedules to this Act.

Commencement

2. (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

Same, Schedules

- (2) The Schedules to this Act come into force as provided in each Schedule.

Different dates for same Schedule

- (3) If a Schedule to this Act or any portion of a Schedule to this Act provides that it is to come into force on a day to be named by proclamation of the Lieutenant Governor, the proclamation

may apply to the whole or any portion of the Schedule, and proclamations may be issued at different times as to any portion of the Schedule.

Short title

3. The short title of this Act is the Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment), 2016.

Schedule 1

Compensation for Victims of Crime Act

1. Section 6 of the Compensation for Victims of Crime Act is amended by adding the following subsections:

Exceptions

(2) Despite subsection (1), an application resulting from the commission of a crime of sexual violence or of violence that occurred within a relationship of intimacy or dependency may be made at any time, regardless of the expiry of any previously applicable limitation period under that subsection, subject to subsection (3).

Same, commenced applications

(3) Subsection (2) applies to an application commenced before section 1 of Schedule 1 to the Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment), 2016 came into force, unless,

- (a) the application was dismissed by the Board and no further appeal is available; or
- (b) at the time subsection (1) applied to the application, the Board declined to extend the time to make the application.

Commencement

2. This Schedule comes into force on the day the Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment), 2016 receives Royal Assent.

Schedule 2

Limitations Act, 2002

1. Subsection 7 (4) of the Limitations Act, 2002 is repealed.
2. Section 10 of the Act is repealed.

3. Subsection 15 (5) of the Act is amended by striking out “Subject to section 10” at the beginning.

4. (1) Clause 16 (1) (h) of the Act is repealed and the following substituted:

(h) a proceeding based on a sexual assault;

(h.1) a proceeding based on any other misconduct of a sexual nature if, at the time of the misconduct, the person with the claim was a minor or any of the following applied with respect to the relationship between the person with the claim and the person who committed the misconduct:

(i) the other person had charge of the person with the claim,

(ii) the other person was in a position of trust or authority in relation to the person with the claim,

(iii) the person with the claim was financially, emotionally, physically or otherwise dependent on the other person;

(h.2) a proceeding based on an assault if, at the time of the assault, the person with the claim was a minor or any of the following applied with respect to the relationship between the person with the claim and the person who committed the assault:

(i) they had an intimate relationship,

(ii) the person with the claim was financially, emotionally, physically or otherwise dependent on the other person;

(2) Section 16 of the Act is amended by adding the following subsections:

Same

(1.1) Clauses (1) (h), (h.1) and (h.2) apply to a proceeding whenever the act on which the claim is based occurred and regardless of the expiry of any previously applicable limitation period, subject to subsection (1.2).

Same

(1.2) Subsection (1.1) applies to a proceeding that was commenced before the day subsection 4 (2) of Schedule 2 to the Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment), 2016 came into force, unless the proceeding,

(a) was dismissed by a court and no further appeal is available; or

(b) was settled by the parties and the settlement is legally binding.

Same

(1.3) For greater certainty, clauses (1) (h), (h.1) and (h.2) are not limited in any way with respect to the claims that may be made in the proceeding in relation to the applicable act, which may include claims for negligence, for breach of fiduciary or any other duty or for vicarious liability.

5. (1) Subsection 24 (2) of the Act is amended by adding “Subject to subsection (2.1)” at the beginning.

(2) Section 24 of the Act is amended by adding the following subsection:

Exception

(2.1) This section does not apply to a claim in respect of which clause 16 (1) (h), (h.1) or (h.2) applies.

(3) Subsection 24 (7) of the Act is repealed.

Commencement

6. This Schedule comes into force on the day the Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment), 2016 receives Royal Assent.

Schedule 3

Ministry of Training, Colleges and Universities Act

1. The Ministry of Training, Colleges and Universities Act is amended by adding the following section:

Sexual violence

Definition

17. (1) In this section,

“sexual violence” means any sexual act or act targeting a person’s sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person’s consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

Application

(2) This section applies to every college of applied arts and technology and to every university that receives regular and ongoing operating funds from the government for the purposes of post-secondary education.

Sexual violence policy

(3) Every college or university described in subsection (2) shall have a sexual violence policy that,

- (a) addresses sexual violence involving students enrolled at the college or university;
- (b) sets out the process for how the college or university will respond to and address incidents and complaints of sexual violence involving students enrolled at the college or university, and includes the elements specified in the regulations relating to the process;
- (c) addresses any other topics and includes any other elements required by the regulations; and
- (d) otherwise complies with the requirements set out in the regulations.

Student input

(4) A college or university described in subsection (2) shall ensure that student input is considered, in accordance with any regulations, in the development of its sexual violence policy and every time the policy is reviewed or amended.

Review

(5) Every college or university described in subsection (2) shall review its sexual violence policy at least once every three years and amend it as appropriate.

Implementation of policy and other measures

- (6) Every college or university described in subsection (2) shall,
- (a) implement its sexual violence policy in accordance with the regulations; and
 - (b) implement any other measure or do any other thing it is required to do under the regulations relating to sexual violence involving students enrolled at the college or university.

Information for Minister

(7) Every college or university described in subsection (2) shall collect from its students and other persons, and provide to the Minister, such data and other information relating to the following as may be requested by the Minister, in the manner and form directed by the Minister:

1. The number of times supports, services and accommodation relating to sexual violence are requested and obtained by students enrolled at the college or university, and information about the supports, services and accommodation.

2. Any initiatives and programs established by the college or university to promote awareness of the supports and services available to students.

3. The number of incidents and complaints of sexual violence reported by students, and information about such incidents and complaints.

4. The implementation and effectiveness of the policy.

Personal information

(8) A college or university shall take reasonable steps to ensure that information provided to the Minister pursuant to subsection (7) does not disclose personal information within the meaning of section 38 of the Freedom of Information and Protection of Privacy Act.

Survey

(9) The Minister may conduct, or may direct a college or university described in subsection (2) to conduct or participate in, a survey of students and other persons as identified by the Minister, relating to the effectiveness of the college's or university's sexual violence policy, to the incidence of sexual violence at the college or university and to any other matter mentioned in paragraphs 1 to 4 of subsection (7).

Same

(10) A college or university that is directed by the Minister to conduct a survey described in subsection (9) shall disclose the results of the survey to the Minister.

Regulations

(11) The Lieutenant Governor in Council may make regulations relating to sexual violence involving students enrolled at colleges and universities described in subsection (2), and governing sexual violence policies required under this section, and without limiting the generality of this power, may make regulations,

(a) governing processes that shall be followed and persons who shall be consulted in the development and approval of sexual violence policies, and in their review and amendment, and governing how student input shall be provided and considered in such development, review and amendment;

(b) governing topics that shall be addressed or elements that shall be included in sexual violence policies;

(c) governing the provision of training to faculty, staff, students and other persons about sexual violence policies;

(d) respecting the publication of sexual violence policies and the promotion of awareness of the policies;

(e) requiring that appropriate supports, services and accommodation relating to sexual violence be provided to students affected by sexual violence, and governing such supports, services and accommodation and their provision;

(f) governing any other matter that the Lieutenant Governor in Council determines is necessary or advisable relating to sexual violence involving students, including,

(i) governing all matters relating to sexual violence policies and their implementation, and

(ii) governing other measures that colleges and universities shall implement, or other things that colleges and universities shall do, to address sexual violence involving students.

2. (1) Section 17 of the Act, as enacted by section 1, is amended by adding the following subsection:

Annual report to board of governors

(7.1) Every college or university described in subsection (2) shall provide its board of governors with an annual report setting out, in respect of the preceding year, the information described in paragraphs 1, 2, 3 and 4 of subsection (7).

(2) Subsection 17 (8) of the Act, as enacted by section 1, is amended by adding “or to its board of governors pursuant to subsection (7.1)” after “provided to the Minister pursuant to subsection (7).”

Commencement

3. (1) Subject to subsection (2), this Schedule comes into force on January 1, 2017.

Same

(2) Section 2 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Schedule 4

Occupational Health and Safety Act

1. (1) The definition of “workplace harassment” in subsection 1 (1) of the Occupational Health and Safety Act is repealed and the following substituted:

“workplace harassment” means,

(a) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or

(b) workplace sexual harassment; (“harcèlement au travail”)

(2) Subsection 1 (1) of the Act is amended by adding the following definition:

“workplace sexual harassment” means,

(a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or

(b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;

(3) Section 1 of the Act is amended by adding the following subsection:

Workplace harassment

(4) A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

2. (1) Subsection 32.0.6 (1) of the Act is repealed and the following substituted:

Program, harassment

(1) An employer shall, in consultation with the committee or a health and safety representative, if any, develop and maintain a written program to implement the policy with respect to workplace harassment required under clause 32.0.1 (1) (b).

(2) Clauses 32.0.6 (2) (b) and (c) of the Act are repealed and the following substituted:

(b) include measures and procedures for workers to report incidents of workplace harassment to a person other than the employer or supervisor, if the employer or supervisor is the alleged harasser;

(c) set out how incidents or complaints of workplace harassment will be investigated and dealt with;

(d) set out how information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless the

disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law;

(e) set out how a worker who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, will be informed of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation; and

(f) include any prescribed elements.

3. Section 32.0.7 of the Act is repealed and the following substituted:

Duties re harassment

32.0.7 (1) To protect a worker from workplace harassment, an employer shall ensure that,

(a) an investigation is conducted into incidents and complaints of workplace harassment that is appropriate in the circumstances;

(b) the worker who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, are informed in writing of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation;

(c) the program developed under section 32.0.6 is reviewed as often as necessary, but at least annually, to ensure that it adequately implements the policy with respect to workplace harassment required under clause 32.0.1 (1) (b); and

(d) such other duties as may be prescribed are carried out.

Results of investigation not a report

(2) The results of an investigation under clause (1) (a), and any report created in the course of or for the purposes of the investigation, are not a report respecting occupational health and safety for the purposes of subsection 25 (2).

Information and instruction, harassment

32.0.8 An employer shall provide a worker with,

(a) information and instruction that is appropriate for the worker on the contents of the policy and program with respect to workplace harassment; and

(b) any other prescribed information.

4. The Act is amended by adding the following section:

Order for workplace harassment investigation

55.3 (1) An inspector may in writing order an employer to cause an investigation described in clause 32.0.7 (1) (a) to be conducted, at the expense of the employer, by an impartial person possessing such knowledge, experience or qualifications as are specified by the inspector and to obtain, at the expense of the employer, a written report by that person.

Report

(2) A report described in subsection (1) is not a report respecting occupational health and safety for the purposes of subsection 25 (2).

Commencement

5. This Schedule comes into force on the later of,

(a) six months after the day the Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment), 2016 receives Royal Assent; and

(b) July 1, 2016.

Schedule 5

Private Career Colleges Act, 2005

1. The Private Career Colleges Act, 2005 is amended by adding the following section:

Sexual violence

Definitions

32.1 (1) In this section,

“sexual violence” means any sexual act or act targeting a person’s sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person’s consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

Sexual violence policy

(2) It is a condition of every registration that a private career college have a sexual violence policy that,

(a) specifically and solely addresses sexual violence involving students enrolled at the private career college;

(b) sets out the process for how the private career college will respond to and address incidents and complaints of sexual violence involving students enrolled at the private career college, and includes the elements specified in the regulations relating to the process;

(c) addresses any other topics and includes any other elements required by the regulations; and

(d) otherwise complies with the requirements set out in the regulations.

Complaint procedure

(3) A private career college shall respond to and address incidents and complaints of sexual violence under the process set out in its sexual violence policy, and not under the student complaint procedure established under section 31.

Inclusion in contracts

(4) Every private career college shall include its sexual violence policy in every contract made between the private career college and a student.

Student input

(5) Every private career college shall ensure that student input is considered, in accordance with any regulations, in the development of its sexual violence policy and every time the policy is reviewed or amended.

Review

(6) Every private career college shall review its sexual violence policy at least once every three years and amend it as appropriate.

Implementation of policy and other measures

(7) Every private career college shall,

(a) implement its sexual violence policy in accordance with the regulations; and

(b) implement any other measure or do any other thing it is required to do under the regulations relating to sexual violence involving students enrolled at the private career college.

Information for Superintendent

(8) Every private career college shall collect from its students and other persons, and provide to the Superintendent, such data and other information relating to the following as may be requested by the Superintendent, in the manner and form directed by the Superintendent:

1. The number of times supports, services and accommodation relating to sexual violence are requested and obtained by students enrolled at the private career college, and information about the supports, services and accommodation.
2. Any initiatives and programs established by the private career college to promote awareness of the supports and services available to students.
3. The number of incidents and complaints of sexual violence reported by students, and information about such incidents and complaints.
4. The implementation and effectiveness of the policy.

Personal information

(9) A private career college shall take reasonable steps to ensure that information provided to the Superintendent pursuant to subsection (8) does not disclose personal information within the meaning of section 38 of the Freedom of Information and Protection of Privacy Act.

Survey

(10) The Superintendent may conduct, or may direct a private career college to conduct or participate in, a survey of students and other persons as identified by the Superintendent, relating to the effectiveness of the private career college's sexual violence policy, to the incidence of sexual violence at the private career college and to any other matter mentioned in paragraphs 1 to 4 of subsection (8).

Same

(11) A private career college that is directed by the Superintendent to conduct a survey described in subsection (10) shall disclose the results of the survey to the Superintendent.

2. Section 49 of the Act is amended by adding the following subsection:

Sexual violence

(5.1) The Superintendent may publish data and other information provided under subsection 32.1 (8) or data or information derived from such data or information.

3. Subsection 55 (1) of the Act is amended by adding the following paragraphs:

14.1 relating to sexual violence involving students enrolled at private career colleges, and governing private career colleges' sexual violence policies, and without limiting the generality of this power,

- i. governing processes that shall be followed and persons who shall be consulted in the development and approval of sexual violence policies, and in their review and amendment, and

governing how student input shall be provided and considered in such development, review and amendment,

ii. governing topics that shall be addressed or elements that shall be included in sexual violence policies,

iii. governing the provision of training to faculty, staff, students and other persons about sexual violence policies,

iv. respecting the publication of sexual violence policies and the promotion of awareness of the policies,

v. requiring that appropriate supports, services and accommodation relating to sexual violence be provided to students affected by sexual violence, and governing such supports, services and accommodation and their provision,

vi. governing any other matter that the Lieutenant Governor in Council determines is necessary or advisable relating to sexual violence involving students, including,

A. governing all matters relating to sexual violence policies and their implementation, and

B. governing other measures that private career colleges shall implement, or other things that private career colleges shall do, to address sexual violence involving students;

14.2 governing private career colleges' student expulsion policies;

Commencement

4. This Schedule comes into force on January 1, 2017.

Schedule 6

Residential Tenancies Act, 2006

1. The Residential Tenancies Act, 2006 is amended by adding the following sections:

Notice by Tenant Before End of Period or Term

Notice to terminate tenancy, before end of period or term

47.1 (1) Despite subsections 44 (2) to (4) and section 47, a tenant may terminate a monthly or yearly tenancy or a tenancy for a fixed term by giving notice of termination to the landlord in accordance with this section if,

(a) the tenant is deemed under subsection 47.3 (1) to have experienced violence or another form of abuse; or

(b) a child residing with the tenant is deemed under subsection 47.3 (1) to have experienced violence or another form of abuse.

Same, joint tenants

(2) A joint tenant who meets the requirement in clause (1) (a) or (b) may,

(a) give a notice of termination of the tenancy under subsection (1), provided the notice is given jointly with all the other joint tenants; or

(b) give a notice of termination of his or her interest in the tenancy under subsection 47.2 (1).

Period of notice

(3) A notice under subsection (1) shall be given at least 28 days before the date the termination is specified to be effective.

Form and contents of notice

(4) A notice under subsection (1) shall,

(a) comply with subsection 43 (1); and

(b) be accompanied by,

(i) a copy of an order described in clause 47.3 (1) (a), (b) or (c) and issued not more than 90 days before the date the notice is given, or

(ii) a statement referred to in clause 47.3 (1) (d), (e) or (f).

Entry to show unit to prospective tenants under s. 26 (3)

(5) The landlord to whom a notice is given with respect to a rental unit under subsection (1) may enter the unit in accordance with subsection 26 (3) only after the tenant or all the joint tenants, as applicable, have vacated the unit in accordance with the notice and, for that purpose, clause 26 (3) (c) does not apply.

Notice to terminate interest in joint tenancy

47.2 (1) A joint tenant may terminate his or her interest in a monthly or yearly tenancy or in a tenancy for a fixed term by giving notice of termination to the landlord in accordance with this section if,

(a) the tenant is deemed under subsection 47.3 (1) to have experienced violence or another form of abuse; or

(b) a child residing with the tenant is deemed under subsection 47.3 (1) to have experienced violence or another form of abuse.

Notice given by some of the joint tenants

(2) A joint tenant who meets the requirement in clause (1) (a) or (b) may give a notice under subsection (1),

(a) either solely; or

(b) jointly with some but not all of the other joint tenants.

Period of notice

(3) A notice under subsection (1) shall be given at least 28 days before the date the termination is specified to be effective.

Form and contents of notice

(4) A notice under subsection (1) shall,

(a) be in a form approved by the Board;

(b) identify the rental unit for which the notice is given;

(c) state the date on which the interest in the tenancy is to terminate;

(d) be signed by the tenant or tenants giving the notice, or their agent; and

(e) be accompanied by,

(i) a copy of an order described in clause 47.3 (1) (a), (b) or (c) and issued not more than 90 days before the date the notice is given, or

(ii) a statement referred to in clause 47.3 (1) (d), (e) or (f).

Where notice void

(5) A notice given under subsection (1) becomes void with respect to a tenant who gave the notice, if the tenant does not vacate the rental unit on or before the termination date set out in the notice.

Tenant vacating unit in accordance with notice

(6) A tenant who gave notice under subsection (1) and vacates the rental unit on or before the termination date set out in the notice ceases to be a tenant and a party to the tenancy agreement

on the termination date, but this subsection does not affect any right or liability of the tenant arising from any breach of obligations that relates to the period before the termination.

Not a notice of termination of tenancy

(7) For greater certainty, a notice under subsection (1) is not a notice of termination of the tenancy for the purposes of this Act, including without limiting the generality of the foregoing, for the purposes of subsections 37 (2) and (3), subsection 46 (1) and clause 77 (1) (b).

Rent deposit

(8) Any rent deposit paid to the landlord or a former landlord in respect of the tenancy shall enure to the benefit of the tenant or tenants who did not give the notice under subsection (1) and any tenant in respect of whom the notice becomes void under subsection (5).

Notice of termination of yearly tenancy or tenancy for fixed term

(9) Despite subsections 44 (3) and (4) and section 47, after a joint tenant has ceased to be a tenant and a party to the tenancy agreement in accordance with subsection (6), any tenant referred to in subsection (8) may terminate a yearly tenancy or a tenancy for a fixed term by giving notice of termination to the landlord in accordance with the following:

1. The notice shall be given at least 60 days before the date the termination is specified to be effective.
2. If there is more than one tenant, notice shall be given jointly by all of them.
3. The notice shall comply with subsection 43 (1).

Application of s. 44 (5)

(10) Subsection 44 (5) applies with necessary modifications with respect to a notice given under subsection (9).

Tenant or child deemed to have experienced violence or another form of abuse

47.3 (1) For the purposes of sections 47.1 and 47.2, a tenant of a rental unit or a child residing with the tenant is deemed to have experienced violence or another form of abuse if,

(a) an order has been made under subsection 810 (3) of the Criminal Code (Canada) against a person mentioned in subsection (4) and the order includes one or more conditions described in subsection 810 (3.2) of that Act relating to the tenant, the child or the rental unit;

(b) an order has been made under section 46 of the Family Law Act against a person mentioned in subsection 46 (2) of that Act and the order includes one or more provisions described in subsection 46 (3) of that Act relating to the tenant, the child or the rental unit;

(c) an order has been made under section 35 of the Children's Law Reform Act against a person mentioned in subsection (4) and the order includes one or more provisions described in subsection 35 (2) of that Act relating to the tenant, the child or the rental unit;

(d) the tenant alleges that any of the following acts or omissions has been committed by a person mentioned in subsection (4) against the tenant or the child and the allegation is made in a statement that complies with the requirements in subsection (5):

(i) an intentional or reckless act or omission that caused bodily harm to the tenant or the child or damage to property,

(ii) an act or omission or threatened act or omission that caused the tenant or the child to fear for his or her own safety or the child's safety,

(iii) forced confinement of the tenant or the child, without lawful authority, or

(iv) a series of acts which collectively caused the tenant or the child to fear for his or her own safety or the child's safety, including following, contacting, communicating with, observing or recording the tenant or the child;

(e) the tenant alleges that sexual violence has been committed against the tenant or the child and the allegation is made in a statement that complies with the requirements in subsection (5); or

(f) the tenant alleges that an act or omission prescribed for the purposes of this clause has been committed against the tenant or the child and the allegation is made in a statement that complies with the requirements in subsection (5).

Definition

(2) In this section,

“sexual violence” means any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

Non-application of subs. (1)

(3) Subsection (1) does not apply with respect to,

(a) an order described in clause (1) (b) that was made against the tenant; or

(b) sexual violence or an act or omission referred to in clause (1) (f) that is alleged to have been committed by the tenant.

Persons against whom order or allegation made

(4) The person against whom an order described in clause (1) (a) or (c) was made and the person who is alleged to have committed an act or omission described in clause (1) (d) must be,

(a) a spouse or former spouse of the tenant;

(b) a person other than a spouse or former spouse of the tenant, who is living with the tenant in a conjugal relationship outside marriage, or who has lived with the tenant in a conjugal relationship outside marriage for any period of time, whether or not they are living in a conjugal relationship at the time the tenant gives a notice under subsection 47.1 (1) or 47.2 (1);

(c) a person who is or was in a dating relationship with the tenant; or

(d) a person who resides in the rental unit and who is related by blood, marriage or adoption to the tenant or to a child who resides with the tenant.

Statement by tenant

(5) A statement referred to in clause (1) (d), (e) or (f) shall comply with the following requirements:

1. The statement shall be in a form approved by the Board.

2. The statement shall identify the rental unit to which it relates.

3. The statement shall include an allegation that one or more of the following has occurred:

i. an act or omission described in clause (1) (d) has been committed against the tenant or a child residing with the tenant by a person mentioned in subsection (4),

ii. sexual violence, as defined in subsection (2), has been committed against the tenant or a child residing with the tenant, or

iii. an act or omission prescribed for the purposes of clause (1) (f) has been committed against the tenant or a child residing with the tenant.

4. The statement need not,

i. describe the circumstances of the sexual violence or of the act or omission,

ii. specify whether the occurrence is an occurrence of an act or omission referred to in subparagraph 3 i or iii or an occurrence of sexual violence referred to in subparagraph 3 ii,

iii. identify the person who is alleged to have committed the sexual violence or the act or omission, either by name or by the person's relationship to the tenant or the child residing with the tenant, or

iv. specify whether the sexual violence or the act or omission is alleged to have been committed against the tenant or a child residing with the tenant.

5. The statement shall include an assertion that, as a result of the sexual violence or the act or omission committed against the tenant or the child, the tenant believes that he or she or the child may be at risk of harm or injury, if he or she or the child continues to reside in the rental unit.

6. The statement shall be signed by the tenant.

Board proceedings

(6) In any proceeding under this Act where one of the issues to be determined by the Board is whether a person is deemed under subsection (1) to have experienced violence or another form of abuse, the Board may inquire into and make a determination as to whether the documentation accompanying the notice is genuine and is a copy of an order described in clause (1) (a), (b) or (c) or is a statement referred to in clause (1) (d), (e) or (f), but the Board may not inquire into or make any determination as to the truth of or the belief in the truth of any allegation or assertion referred to in paragraph 3 or 5 of subsection (5).

Confidentiality

47.4 (1) A landlord to whom a notice is given under subsection 47.1 (1) or 47.2 (1) shall keep confidential and shall not, except as provided in subsections (2) to (5), disclose to any person or entity the fact that the notice has been given, the notice or accompanying documentation or any information included in the notice or accompanying documentation.

Disclosure by landlord

(2) Subsection (1) does not prevent the landlord to whom a notice is given under subsection 47.1 (1) or 47.2 (1) from disclosing the fact that the notice has been given, the notice or accompanying documentation or any information included in the notice or accompanying documentation,

(a) to an employee in the Ministry, an investigator appointed under section 229 or any other representative of the Ministry, in connection with the investigation or prosecution of an alleged offence under this Act;

(b) to a law enforcement agency, but only upon request made by the law enforcement agency in connection with an investigation;

(c) to a person who is authorized under the Law Society Act to practise law or provide legal services in Ontario and who provides services to the landlord;

(d) to the Board, an employee in the Board or an official of the Board, for the purposes of any proceeding under this Act where one of the issues to be determined by the Board is whether notice was properly given under subsection 47.1 (1) or 47.2 (1);

(e) with the consent of the tenant who gave the notice and who meets the requirement in clause 47.1 (1) (a) or (b) or 47.2 (1) (a) or (b);

(f) to the extent that the information is available to the public; or

(g) as otherwise required by law.

Disclosure to remaining joint tenants

(3) Subsection (1) does not prevent the landlord to whom a notice is given with respect to a rental unit under subsection 47.2 (1) from disclosing the following information to any tenant referred to subsection 47.2 (8) after the termination date specified in the notice and after the joint tenant or tenants have vacated the rental unit in accordance with the notice:

(a) the fact that a notice was given under subsection 47.2 (1); and

(b) the termination date specified in the notice.

Advertising unit for rent

(4) Subsection (1) does not prevent the landlord to whom a notice is given with respect to a rental unit under subsection 47.1 (1) from advertising the rental unit for rent,

(a) during the notice period, but only if the rental unit is not mentioned in the advertisement and cannot otherwise be identified from the advertisement;

(b) after the tenant or all the joint tenants, as applicable, have vacated the rental unit in accordance with the notice; or

(c) if the tenant or joint tenants, as applicable, do not vacate the rental unit in accordance with the notice, after the tenancy has otherwise been terminated.

Disclosure to superintendent, property manager, etc.

(5) Subsection (1) does not prevent the landlord to whom a notice is given with respect to a rental unit under subsection 47.1 (1) or 47.2 (1) from disclosing the fact that the notice has been given, the notice or accompanying documentation or any information included in the notice or accompanying documentation to a superintendent, property manager or any other person who acts on behalf of the landlord with respect to the rental unit, if the person needs to know that fact or requires the notice or accompanying documentation or the information for the purposes of performing the person's duties on behalf of the landlord with respect to the rental unit.

Confidentiality, superintendent, property manager, etc.

(6) Subsections (1) to (4) apply with necessary modifications to a person to whom a landlord discloses, as provided in subsection (5), the fact that notice has been given with respect to a rental unit under subsection 47.1 (1) or 47.2 (1), the notice or accompanying documentation or any information included in the notice or accompanying documentation.

2. Section 233 of the Act is amended by adding the following clause:

(d.1) provides false or misleading information in connection with the giving of a notice under subsection 47.1 (1) or 47.2 (1);

3. Section 234 of the Act is amended by adding the following clause:

(b.1) contravenes subsection 47.4 (1);

4. Subsection 241 (1) of the Act is amended by adding the following paragraph:

13.0.1 prescribing acts or omissions for the purposes of clause 47.3 (1) (f), and for greater certainty,

i. an act or omission that causes emotional or financial harm or the fear of such harm to a person or another person may be prescribed even if it does not cause bodily harm to a person or does not cause a person to fear for his or her own safety or someone else's safety,

ii. an act or omission may be prescribed with or without a reference to the person who commits the act or omission, and

iii. a prescribed act or omission may include a threat or an attempt to commit the act or omission;

Commencement

5. This Schedule comes into force on the later of,

(a) six months after the day the Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment), 2016 receives Royal Assent; and

(b) July 1, 2016.

EXPLANATORY NOTE

This Explanatory Note was written as a reader's aid to Bill 132 and does not form part of the law. Bill 132 has been enacted as Chapter 2 of the Statutes of Ontario, 2016.

The Bill amends various statutes with respect to sexual violence, sexual harassment, domestic violence and related matters.

Schedule 1

Compensation for Victims of Crime Act

Currently, section 6 of the Compensation for Victims of Crime Act imposes a limitation period of two years on applications for compensation. The section is amended to remove this limitation period for applications resulting from the commission of a crime of sexual violence or of violence that occurred within a relationship of intimacy or dependency. This applies to applications commenced before the amendments come into force, subject to certain exceptions.

Schedule 2

Limitations Act, 2002

The Limitations Act, 2002 is amended to provide that there is no limitation period in respect of proceedings based on sexual assault or, in specified circumstances, on other misconduct of a sexual nature or on assault. This applies whenever the act that is the subject of the claim took place and regardless of the expiry of any previously applicable limitation period, subject to specified exceptions. Consequential amendments are made throughout the Act.

Schedule 3

Ministry of Training, Colleges and Universities Act

The Ministry of Training, Colleges and Universities Act is amended to impose various obligations on colleges and universities respecting sexual violence involving students.

The amendments require colleges and universities to have sexual violence policies that set out the process that will apply when incidents and complaints of sexual violence are reported, and that address any other matters required under the regulations. Regulations may also require colleges and universities to implement other measures addressing sexual violence involving students. Related regulation-making powers are added.

Schedule 4

Occupational Health and Safety Act

The Occupational Health and Safety Act is amended to include a definition of workplace sexual harassment and to add workplace sexual harassment to the definition of workplace harassment.

Various amendments are made to Part III.0.1 of the Act (Violence and Harassment) including the following:

1. Section 32.0.6 is amended to add additional requirements for programs that implement a workplace harassment policy required under the Act.

2. The new section 32.0.7 imposes certain duties on employers to protect workers from workplace harassment.

The new section 55.3 allows an inspector to order an employer to cause an investigation of workplace harassment to be conducted by a third-party person.

Schedule 5

Private Career Colleges Act, 2005

The Private Career Colleges Act, 2005 is amended to impose various obligations on private career colleges respecting sexual violence involving students.

The amendments require private career colleges to have sexual violence policies that set out the process that will apply when incidents and complaints of sexual violence are reported, and that address any other matters required under the regulations. Regulations may also require private career colleges to implement other measures addressing sexual violence involving students. Related regulation-making powers are added.

Schedule 6

Residential Tenancies Act, 2006

The Schedule amends the Residential Tenancies Act, 2006.

Currently, sections 44 and 47 of the Act allow a tenant to terminate a monthly or yearly tenancy or a tenancy for a fixed term by giving at least 60 days notice and require that the termination be effective on the last day of the monthly or yearly period on which the tenancy is based or on the expiration date of the fixed term.

Under new section 47.1 of the Act, a tenant may terminate a monthly or yearly tenancy or a tenancy for a fixed term before the end of the period or term by giving at least 28 days notice, provided that the tenant or a child residing with the tenant is deemed to have experienced violence or another form of abuse. In the case of a joint tenancy, if a joint tenant or a child residing with the joint tenant is deemed to have experienced violence or another form of abuse, the joint tenant may either give a notice of termination of the tenancy under section 47.1, provided the notice is given jointly with all the other joint tenants, or the joint tenant may give a notice of termination of his or her interest in the tenancy under new section 47.2 of the Act.

Section 47.2 allows the joint tenant to terminate his or her interest in a monthly or yearly tenancy or in a tenancy for a fixed term before the end of the period or term by giving at least 28 days notice. Under subsection 47.2 (2), the joint tenant may give the notice either solely or jointly with some but not all of the other joint tenants. Subsection 47.2 (6) provides that a joint tenant who gave the notice and vacates the rental unit on or before the termination date set out in the notice ceases to be a tenant and a party to the tenancy agreement on the termination date. Under subsection 47.2 (9), the joint tenant or tenants who did not give the notice and any tenant who gave the notice but did not vacate the unit may terminate a yearly tenancy or a tenancy for a fixed term before the end of the period or term by giving at least 60 days notice of termination

and, if there is more than one remaining joint tenant, the notice must be given jointly by all of them.

New section 47.3 of the Act sets out the circumstances under which a tenant or a child residing with the tenant is deemed to have experienced violence or another form of abuse. They include cases where a restraining order relating to the tenant, the child or the rental unit has been made against specified persons (such as a spouse or former spouse of the tenant). They also include cases where the tenant alleges that sexual violence (as defined in subsection 47.3 (2)) or another act or omission mentioned in subsection 47.3 (1) has been committed against the tenant or the child and where the allegation is made in a statement that complies with specified requirements. These acts or omissions include intentional or reckless acts or omissions that caused bodily harm to the tenant or the child and have been committed by specified persons (such as a spouse or former spouse of the tenant) and any other act or omission prescribed under new paragraph 13.0.1 of subsection 241 (1). Under that paragraph, an act or omission may be prescribed with or without a reference to the person who commits the act or omission, and an act or omission that causes emotional or financial harm or the fear of such harm to a person or another person may be prescribed even if it does not cause bodily harm to a person or does not cause a person to fear for his or her own safety or someone else's safety.

A notice under subsection 47.1 (1) or 47.2 (1) must be accompanied by a copy of an order referred to in subsection 47.3 (1) and issued not more than 90 days before the notice is given or must be accompanied by a statement referred to in subsection 47.3 (1). Under new section 47.4 of the Act, a landlord to whom a notice is given under subsection 47.1 (1) or 47.2 (1) must keep confidential and not disclose, except as otherwise provided, the fact that the notice has been given, the notice or accompanying documentation or any information included in the notice or documentation. New clause 233 (d.1) of the Act makes it an offence to knowingly provide false or misleading information in connection with the giving of a notice under subsection 47.1 (1) or 47.2 (1). New clause 234 (b.1) of the Act makes it an offence to contravene the confidentiality obligations set out in section 47.4.



Sexual Violence and Sexual Harassment Policy

Revision as per Bill 123 as Amended March 16, 2016

1. Policy Application

This policy applies to all Career College students of Crossroads Truck & Career Academy

2. The scope

The policy applies to complaints of Sexual Violence that have occurred on Crossroads Truck & Career Academy campus or at one of our events and involve our students.

3. Purpose and intent

All of Crossroads Truck & Career Academy students have a right to study in an environment free of sexual violence.

This document sets out our policy on sexual violence involving our students, defines the prohibited behaviors, and outlines our investigative process for Sexual Violence.

4. Policy objectives

Crossroads is committed to providing our students with an educational environment free from sexual violence and treating those students who report incidents of sexual violence with dignity, and respect.

To that end Crossroads will provide a copy of the policy to our students, and educate them together with our career college management, employees and contractors about this policy and

Initials _____



how to identify situations that involve, or could progress into sexual violence against our students and how to reduce it.

Where a complaint has been made, under this Policy of sexual violence Crossroads will take all reasonable steps to investigate it, including as follows:

- (a) Providing on-campus investigation procedures to students for sexual violence complaints;
- (b) Responding promptly to any complaint and providing reasonable updates to the complainant and the respondent about the status of the investigation;
- (c) Assisting students who have experienced sexual violence in obtaining counselling and medical care;
- (d) Providing students who have experienced sexual violence with appropriate academic and other accommodation; and
- (e) Providing students who have experienced sexual violence with information about reporting options as set out in Appendix 1.

5. Definition of Sexual Violence

This policy prohibits sexual violence which means any sexual act or targeting a person's sexuality, gender identity or gender expression whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, and sexual exploitation.

6. Reporting and Responding to Sexual Violence

Students, faculty and staff of Crossroads will take all reasonable steps to prevent sexual violence involving our students on our career college campus or events by reporting immediately to Crossroads Management Team if our students have been subjected to, or if they have witnessed or knowledge of sexual violence involving our students or have reason to believe that sexual violence has occurred or may occur which involves our students.

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Subject to paragraph 7 below, to the extent it is possible, Crossroads Management will attempt to keep all information disclosed confidential except in those circumstances it believed an individual is at immediate risk of self-harm, or harming another, or there are reasonable grounds to believe that others on our campus or the border community are at risk.

Crossroads recognizes the right of the complainant to determine how her or his complaint will be dealt with. However, in certain circumstances, Crossroads may be required by law or its internal policy to initiate an internal investigation and/or inform police without the complaint's consent, if it is believed the safety of the member of its campus or the border community is at risk.

A complainant in seeking an accommodation should contact Crossroads Management team.

7. Investigating Reports of Sexual Violence

A complaint of sexual violence may be filed under this Policy by, any student of our career college to the Crossroad Management in writing.

A complainant may ask another person to keep present during the investigation.

Upon a complaint of alleged sexual violence being made the Crossroad Management team will initiate an investigation, including as follows:

- (a) determine whether the incident should be referred immediately to police;
- (b) determine what the interim measures, if any, need to be taken during the investigation;
- (c) meetings with the complainant to determine the date and time of the incident, the persons involved, the names of any person who witnessed the incident and a complete description of what occurred;
- (d) interviewing the complainant, any person involved in the incident and any identified witnesses;
- (e) interviewing any other person who may have knowledge of incidents related to the complaint or similar incidents;
- (f) informing the respondent of the complaint, providing details of the allegations and giving the respondent an opportunity to respond to those allegations;
- (g) providing reasonable updates to the complainant and the respondent about the status of the investigation; and

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(h) determining what disciplinary action if any should be taken

8. Disciplinary Measures

If it is determined by Crossroads Management that a student of our career college had been involved in sexual violence, immediate disciplinary or corrective action will be taken up to and including termination of employment of instructors or staff or expulsion of a student.

In cases where criminal proceedings are initiated, Crossroads will assist police agencies, lawyers, insurance company, and courts to the fullest extent.

Where criminal and/or civil proceedings are commenced in respect of allegations of sexual violence Crossroads may conduct its own independent investigation and make its own determination in accordance with its own policies and procedures.

9. Making False Statements

It is a violation of this policy for anyone to knowingly make a false complaint of sexual violence or to provide false information about a complaint. Individuals who violate this Policy are subject to disciplinary and/or corrective action, up to and including termination of employment of instructors or staff or expulsion of a student.

10. Access to Supports and Services

Students are not required to report an incident of, or make a complaint about, sexual violence in order to obtain the supports and services. A student may contact any member of Crossroads Management to get information about supports and services.

11. Reprisal

It is a violation of this policy to retaliate or threaten to retaliate against the complainant who has brought forward a complaint of sexual violence, providing information related to a complaint, or otherwise being involved in the complaint investigation process.

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12. Review

This policy will be reviewed three years after it is first implemented.

13. Collection of Student Data

Crossroads shall collect and be prepared to provide upon request by the Superintendent of the Private Career Colleges such data and informed as required according to subsection 32. 3 (8), (9) and 10 of Schedule 5 of the Private Career College Act, 2005 as amended.

14. Resources

Appendix 1

Canadian Association of Sexual Assault Centers, Ontario Provincial

English

Assault Women's helpline

Toll free: 1-866-863-0511

#SAFE #7233 on Bell, Rogers, Fido, or Telus mobile

TTY 416-364-8762 www.AWHL.org.

French

Telephone toll free: 1-877-336-2433

ATS: 1-866-860-7082

www.femaide.ca

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Ottawa

Sexual Assault Support Centre

Crisis: 613-234-2266

Phone: 613-725-2160

TTY: 613-725-1657

info@sascottawa.com

<http://sascottawa.com>

Ottawa

Ottawa Rape Crisis Centre

Crisis: 613-562-2333

Office: 613-562-2334

<http://prcc.net>

Brockville

Assault Response & Care Centre

Office: 613-345-3881 or 1-800-567-7415

rcc@bgh-on.ca

www.arc-c.ca

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Acknowledgment and Agreement

I _____ acknowledge that I have read and understand the Student Career College Sexual Violence and Sexual Harassment Policy of Crossroads Truck & Career Academy. I agree to adhere to this policy. I understand that if I violate the rules set forth by this Policy, I may face disciplinary action up to and including dismissal from Crossroads.

Name: _____

Signature: _____

Date: _____

Witness: _____

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