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New Legislation Imposes Mandatory Duty to Report Child Pornography

By Brownlee LLP

Alberta's *Mandatory Reporting of Child Pornography Act* has received Royal Assent, but will not come into force until receiving Proclamation.

This new legislation imposes a duty to report child pornography if discovered by any person, including your employees. Specifically, Section 2 of the Act imposes a duty on all individuals to report to a "reporting entity" if that individual has reasonable and probable grounds to believe that a representation or material is child pornography, as defined by the *Criminal Code*. The reporting entity, described by the associated Regulations, shall then report the matter to a director designated by the *Child, Youth and Family Enhancement Act*, a police service, or both where necessary.

The Act does not create an obligation on an individual to seek out representations which may be child pornography. The Act also protects the identity of an informant, and prohibits the dismissal, suspension, demotion or harassment of an informant for making a report under the Act. A failure to report child pornography in contravention of Section 2 is an offence under the Act, punishable by a fine of not more than \$10,000.00 or two years of imprisonment, or both.

It is important to note that as the duty to report is imposed on the individual who discovers what is or may be child pornography. In other words, if an employee discovers material that may be child pornography, it is not enough to simply report the same to his or her supervisor. Rather, the employee should inform his or her supervisor, but must also report the material to a "reporting entity" such as the police or Alberta Children and Youth Services. Furthermore, upon being advised of such material by an employee, the supervisor would also likely have a duty to report the material under the Act as well. For this reason, employers should inform themselves of the duties under the Act, as well as support employees who will soon be required by law to report such material.

To review the full text of the *Mandatory Reporting of Child Pornography Act*, please click [here](#). For further questions, comments or concerns about this topic, please contact any member of our Labour & Employment team.

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