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Bill 274

An Act respecting the disclosure of information related to intimate partner violence

Mrs. J. Stevens

Private Member's Bill

1st Reading April 1, 2021

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill enacts the *Intimate Partner Violence Disclosure Act, 2021*. The Act allows individuals to apply for information regarding whether their intimate partner has a history of committing intimate partner violence. The Act also allows police to provide this information to a person at risk even if the person has not applied for it.

An Act respecting the disclosure of information related to intimate partner violence

Preamble

Gender-based violence is an endemic and entrenched social issue in all communities in Ontario. Different communities require different strategies to reduce, prevent and respond to gender-based violence so a multifaceted approach to addressing gender-based violence is needed. In addition to strong laws and law enforcement, survivors of gender-based violence require access to community support and counselling services, safe and affordable housing, including shelters, income support, mental health support and child care to ensure they have the resources necessary to leave unsafe situations safely. These services require adequate and sustained funding on an annualized basis.

It is also important to recognize that many stereotypes, myths and other misinformation about gender-based violence still exist within the criminal justice system and must be addressed to ensure survivors are protected by these systems.

For any law reform in this area to be successful, those interpreting and enforcing the law, including police, lawyers and judges, require education and training to ensure they have an adequate understanding of gender-based violence.

An important additional tool to help protect against gender-based violence, in particular intimate partner abuse, is legislation to allow women to access information about whether their intimate partner has a violent or abusive past. Any such legislation will not work for all communities and all people and will not alone be sufficient to end gender-based violence. Such legislation must be implemented alongside other measures that will provide resources for survivors that address the root causes of gender-based violence.

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

Definitions

1 In this Act,

“applicant” means an individual who meets the requirements of section 3 and applies for disclosure information; (“demandeur”)

“disclosure information” means prescribed information; (“renseignements susceptibles de divulgation”)

“intimate partner violence” means behaviour by an intimate partner or former intimate partner that causes physical, sexual or psychological harm, including physical aggression, sexual coercion, psychological abuse and controlling behaviours; (“violence entre partenaires intimes”)

“Minister” means the Attorney General or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“person at risk” means an individual a police force determines to be a person at risk in accordance with subsection 5 (2); (“personne à risque”)

“police force” means a police force as defined in the *Police Services Act*; (“corps de police”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“regulations” means the regulations made under this Act. (“règlements”)

Collection, use and disclosure of information

2 (1) A police force or the Minister may collect, use or disclose personal information,

- (a) for the purposes of making a disclosure under section 4 or 5;
- (b) for the purposes of determining whether to make a disclosure under section 4 or 5;
- (c) for the purposes of determining whether a person is a person at risk in accordance with subsection 5 (2); or
- (d) for a prescribed purpose.

Same

(2) If the Minister enters into an agreement with the Government of Canada or the government of any province or territory in relation to the sharing of information for the purposes of this Act or legislation that has similar purposes to this Act in the other jurisdiction, a police force or the Minister may collect, use or disclose personal information for the purposes referred to in subsection (1) in accordance with that agreement.

Applicant

3 A person may apply for disclosure information if,

- (a) they believe they are at risk of intimate partner violence; or
- (b) they meet any prescribed criteria.

Disclosure — applicant

4 (1) A police force may provide disclosure information to an applicant or a person referred to in subsection (2) if they meet the prescribed requirements.

Assistance to applicant

(2) Subject to the regulations, the following persons may assist with an application for disclosure information or make an application for disclosure information on behalf of an applicant:

1. A person who has the consent of the applicant, provided in the prescribed manner.
2. A prescribed person.
3. A representative of a third party organization to which subsection 5 (3) applies who has the consent of the applicant, provided in the prescribed manner.

Disclosure — person at risk

5 (1) A police force may provide disclosure information to a person at risk in accordance with the regulations, regardless of whether the person at risk has applied for disclosure information.

Determination person at risk

(2) A police force may determine an individual is a person at risk if they meet the prescribed requirements.

Third parties

(3) A police force may contact any of the following individuals to act as an intermediary for the purposes of providing disclosure information to a person at risk:

1. An employee of an agency or organization that provides individuals with accommodation in an emergency or transitional shelter because of homelessness or abuse.
2. An employee of an agency or organization that supports victims of intimate partner violence.
3. A member of the Ontario Association of Social Workers.
4. A member of the Ontario College of Psychologists.
5. A member of the Ontario Registered Nurses' Association.
6. A duly qualified medical practitioner.
7. A prescribed person.

Disclosure — conditions

6 Every person who receives disclosure information under section 4 or 5 shall comply with the following conditions:

1. No person may subsequently use or disclose the disclosure information for purposes not related to this Act unless,
 - i. the person to whom the disclosure information relates has provided consent in the prescribed manner, or
 - ii. the disclosure is required or authorized by law.
2. Any prescribed conditions.

Other obligations not affected

7 Nothing in this Act prevents a police force from disclosing any information, including disclosure information, that the police force is otherwise permitted or authorized by law to disclose.

Referral

8 On disclosing disclosure information to an applicant or person at risk, a police force shall ensure that the applicant or person at risk is provided with information regarding access to gender-based violence support services.

Disclosure not acted on

9 No police force and no government agency or office may deny access to services or protection for an applicant or person at risk who receives disclosure information and remains in their relationship on the basis that the applicant or person at risk remained in the relationship.

Commissioner's powers and duties not limited

10 For greater certainty, nothing in this Act limits the powers and duties of the Information and Privacy Commissioner under the *Freedom of Information and Protection of Privacy Act*.

Confidentiality

11 (1) Subject to the regulations, no person shall disclose any disclosure information that comes to their knowledge in accordance with this Act unless that person is authorized by this Act, or otherwise authorized by law, to do so.

Applicant's name and information privileged

(2) Subject to subsection (3), the name of an applicant and other information that would identify the applicant is privileged information of the applicant.

Applicant's name and information privileged — exception

(3) Information referred to in subsection (2) may be released if the Minister directs that it may be released.

Non-compellability

12 (1) A police force or a member, agent, employee or delegate of a police force and the Minister or a delegate or subdelegate of the Minister is not compellable to,

- (a) give evidence in any proceeding of a judicial nature concerning information that comes to their knowledge in accordance with this Act; or
- (b) produce any file, paper, information, report, correspondence or other document relating to the regulations.

Exception

(2) Subsection (1) does not apply for the purposes of a judicial review proceeding relating to this Act.

Family law proceedings

13 The following may not be used as evidence against an applicant or person at risk in a Family Court proceeding or in other proceedings relating to child protection and custody:

1. That an applicant applied for disclosure information.
2. That a person at risk did not apply for disclosure information.
3. That an applicant or person at risk received disclosure information.
4. That an applicant or person at risk did not act on disclosure information that they received.

Training program

14 The Minister shall establish a program to ensure police and other government employees who come into contact with victims of domestic violence receive adequate and appropriate training that ensures,

- (a) applicants are provided with appropriate information regarding referrals to gender-based violence services at the time information is disclosed under this Act in order to ensure applicants have the opportunity to connect with supports and experts who can assist the applicant with safety planning in the event the applicant wishes to leave their present relationship; and
- (b) all police officers and other officials who are involved in the disclosure of information under this Act are familiar with a trauma-informed approach.

Non-application of Act

15 This Act or any prescribed provisions of this Act do not apply to,

- (a) any prescribed person or class of persons; or
- (b) in any prescribed circumstances.

Delegation

16 The Minister may delegate to any person any power duty or function of the Minister under this Act.

Regulations

17 The Lieutenant Governor in Council may make regulations,

- (a) prescribing requirements governing the disclosure of disclosure information under sections 4, 5 and 11;
- (b) prescribing anything that is referred to, in this Act, as prescribed.

Amendments

18 (1) The definition of “police force” in section 1 of the Act is repealed.

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

“police service” means a police service as defined in the *Community Safety and Policing Act, 2019*; (“service de police”)

(3) The Act is amended by striking out “police force” wherever it appears in the following provisions and substituting in each case “police service”:

- 1. The definition of “person at risk” in section 1.
- 2. Section 2.
- 3. Subsection 4 (1).
- 4. Section 5.
- 5. Section 7.
- 6. Section 8.
- 7. Section 9.
- 8. Subsection 12 (1).

Commencement

19 This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

20 The short title of this Act is the *Intimate Partner Violence Disclosure Act, 2021*.