

# Goodmans<sup>LLP</sup> Update

## Ontario Proposes Protections From Civil Liability Relating to COVID-19 Exposure

With the introduction of the *Supporting Ontario's Recovery Act, 2020* (the “Act”) Ontario becomes the third jurisdiction in Canada and the 38<sup>th</sup> jurisdiction in North America to propose protections from civil liability relating to exposure to COVID-19. If enacted, the proposed changes would offer protection from civil liability for workers, volunteers and essential businesses and charitable organizations that have made and are making an honest effort to follow public health guidelines and COVID-19-related laws.

### Highlights

The Act proposes to provide targeted protection from civil liability for those individuals and organizations that made and are continuing to make an honest effort to follow public health guidelines and laws, including:

- healthcare workers and institutions, including long-term care and retirement living;
- frontline workers who serve the public everywhere from grocery stores to restaurants and retail stores;
- businesses and their employees;
- charities, non-profit organizations; and
- coaches, volunteers and minor sports associations.

The proposed legislation requires a person or organization relying on the Act to demonstrate it made a “good faith effort” to act in accordance with public health guidance. “Good faith effort” is defined in the proposed legislation as including an honest effort, whether or not that effort is reasonable.

The protections under the proposed legislation will not apply to any business that operated in contravention of the provincial government’s emergency orders requiring the closure of all non-essential businesses, or any similar orders that may be made during the remainder of the COVID-19 pandemic.

As is common in the 37 other North American jurisdictions with similar legislative protections, the proposed legislation maintains the right of Ontarians to take legal action against those who willfully, or with gross negligence, endanger others.

The proposed legislation responds to calls to ensure those who are contributing to the recovery of the province and make good faith efforts to follow public health guidance and laws on COVID-19, are not discouraged from making a difference in their communities because they are afraid of civil liability.

For further information concerning this development, please contact the chair of our Aging & Healthcare division, [Michelle Roth](#).

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