

Immunity from COVID Claims?

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Immunity from liability for claims involving the spread of COVID-19? This is what has been put forward by the Attorney General of Ontario, Doug Downey, in the proposed bill, *Supporting Ontario Recovery Act*.

If passed, this legislation will protect individuals and organizations found to be have making “a good faith effort” to abide by the public health guidelines and laws with respect to COVID-19. Proposed parties that could benefit from this protection include:

- Healthcare workers and institutions,
- Frontline workers who serve the public, including grocery stores, restaurants and retail stores;
- Businesses and their employees,
- Charities, non-profit organizations, and
- Coaches, volunteers and minor sports associations.

The proposed bill defines “good faith effort” to include an honest effort, whether or not the effort is reasonable.

One can see how this protection would be welcome news for those individuals and businesses trying to move forward amidst the ongoing pandemic, but worry about their potential exposure to a civil lawsuit, should an outbreak take place.

For example, if a child were to contract COVID-19 after playing hockey in their local league, or a customer tests positive after attending their favourite retail store, provided the necessary health guards were in place and all federal, provincial and municipal laws relating to the coronavirus were being followed, the hockey coach and retailer would not be found liable for the inadvertent spread of the virus.

The proposed bill will not, however, protect against intentional misconduct or gross negligence. In other words, those found to be wilfully or purposefully violating public health guidelines and laws, will not be protected from liability.

Most notably, the proposed bill will be retroactive to March 17, 2020, meaning this protection from liability will include any and all potential claims as of that date forward.

For those parties that presently have pending claims in the courts that involve exposure to or infection of COVID-19, you will want to keep a close eye on the future of this bill as the implications will no doubt be significant.

For more information, the proposed bill can be found on the [Legislative Assembly of Ontario website](#).