

DID YOU KNOW

Cyber bullying includes using any online messaging system to harass or threaten individuals, or to distribute intimate images that were otherwise intended to remain private. The Protecting Canadians from Online Crime Act, which comes into force on March 9, is intended to help mitigate the devastating results for victims of cyber bullying.



Protecting Canadians From Online Crime Act Becomes Law, Impacts Employers

On Dec. 9, 2014, [Bill C-13](#), the Protecting Canadians from Online Crime Act (Act) received royal assent. The Act, which has been labelled Canada's cyber bullying law, will come into force on **March 9, 2015**.

True to its name, the Act introduces new provisions to Canada's Criminal Code concerning cyber bullying, but it also increases the power of law enforcement agencies to obtain electronic information related to the investigations of crimes.

Specifically, the Act provides law enforcement agencies with two new tools that they may utilize in investigating crimes: preservation demands and preservation orders.

Preservation demands and orders require employers to preserve computer data in their control or possession to ensure that it is not deleted before a production order or search warrant is obtained.

Preservation demands and orders differ from general data retention requirements. General data retention requirements dictate that employers collect and store data for a particular period of time for **all** subscribers, regardless of whether they are subject to an investigation. In contrast, a preservation demand or order relates only to a particular telecommunication or person, in the context of an investigation.

The Act also creates new production orders related to transmission data and tracking data that employers must contend with.

The new production orders created by the Act allow law enforcement agencies to obtain transmission or tracking data that is already in an employer's possession at the time of the order. Employers that are issued a production order must produce the transmission or tracking data requested or face penalties.

Penalties for failing to comply with the Act's requirements are stiff. Individuals or employers that violate a preservation demand may be fined up to \$5,000. Penalties for violating the terms of a preservation or production order are even stricter. An individual or employer that violates the terms of a preservation or production order may face fines up to \$250,000 or six months of imprisonment.

In light of the new obligations created by the Act, employers should review, and, if necessary, amend their privacy policies, information management policies, and data retention policies to ensure compliance with potential preservation or production orders. Employers' policies should outline the procedure for responding to preservation demands, preservation orders and production demands and make clear which staff members are responsible for responding to demands and orders.