

Tough new rules on fingerprinting

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CHANGES TO BC LAW WILL REQUIRE MORE EMPLOYEES TO SUBMIT MANDATORY FINGERPRINTS

The Criminal Records Review Act provides for mandatory fingerprinting for those employed by health authorities and who work with children or vulnerable adults. The program requires the employee to submit fingerprints to confirm identity if there is an applicant who has a match with two of the following three criteria: name, date of birth, and gender. The employee has to sign the authorization to provide fingerprints if required by the program. The employer is required to not allow the employee to work unless there is a records check - which may require the prints to ensure identity. The RCMP policy specifies that the fingerprints are destroyed after use and not retained for other purposes.

BC was the last province to put such policy into effect in 2013, and the extension of this program into the province has increased the number of people required to provide fingerprints. In response to concerns raised by some members who have been through the process, HSA has investigated the policy.

HSA is not able to take action to shield members from these rules because the employer plays no role in the check itself, or in deciding when the fingerprints are needed, HSA is unable to challenge the matter under the provisions of the collective agreement or relevant labour relations legislation.

Any challenge would have to be against the legislation itself, or the application of the legislation in practice. Given the nature of the legislation and the limited use of fingerprints by the RCMP, HSA's legal advice is that any court would find the legislation a reasonable manner of meeting its stated goal of protecting the vulnerable while ensuring the privacy of the person required to provide fingerprints. In other words, any legal challenge would be costly and unlikely to succeed.

While HSA is sympathetic to the frustration of members required to submit to this process, the union recommends compliance.

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