

Information Report



Service Area	Corporate Services
Date	Friday, September 24, 2021
Subject	Bill 177 – Transfer to Municipalities of certain Part III Provincial Offences Act Prosecutions

Executive Summary

Purpose of Report

To provide City Council with:

1. An update on Bill 177, Stronger, Fairer Ontario Act (Budget Measures), 2017 (Bill 177).
2. Information about the fact that the existing Memorandum of Understanding and the Local Side Agreement between the City and the Province (both dated December 17, 2000) will be amended to reflect the enacted changes to Bill 177 (which received Royal Assent on December 14, 2017) with regard to the transfer, from the Province to the City, of some Part III Provincial Offences Act (POA) charges.

Key Findings

Bill 177 amends the POA by way of allowing the Province to enter into agreements with municipalities permitting the latter to prosecute Part III charges.

These charges relate primarily to offences under the Highway Traffic Act, the Compulsory Automobile Insurance Act, and the Dog Owners' Liability Act.

In order to facilitate the transfer to the City of the prosecution of Part III offences, the existing Memorandum of Understanding and Local Side Agreement must be amended.

The anticipated transfer date of Part III charges will occur in 2022.

Financial Implications

There is no financial impact to the City arising out of this report.

Report

Details

In 1999, the Province of Ontario transferred the Provincial Offences Court program to certain municipalities. With this transfer, a Memorandum of Understanding (MOU) and a Local Side Agreement (LSA) were developed and signed by the Province and The Corporation of the City of Guelph. The transfer affected the operations and the prosecution of charges laid by way of the processes under Part I

and II of the POA. During that time, the Province retained the prosecution function related to charges under the Part III process, with the exception of those previously prosecuted by municipalities, such as municipal by-law charges and some Provincial statutes and regulations including the Building Code Act, 1992, the Fire Protection and Prevention Act, 1997, and the Planning Act.

On December 14, 2017, Bill 177 received Royal Assent and, in particular, sections 162 and 173 of the POA were amended. This allows the Province to amend the original MOUs and LSAs with their municipal counterparts, thus enabling those municipalities to prosecute some additional Part III charges. These charges are considered more serious in nature and are contrary to the provisions of the Highway Traffic Act, the Compulsory Automobile Insurance Act, and the Dog Owners' Liability Act, among other statutes. The current MOU and LSA must be amended prior to the transfer to the City of the additional Part III charges and the City's control of the prosecutorial functions related to those charges.

Information related to Parts I, II and III of the POA

A Part I offence involves an officer issuing a ticket, at roadside, to a defendant, with three options available. A defendant may select option 1 and pay the set fine as indicated on the offence notice; option 2, schedule and complete a walk-in guilty plea in front of a Justice of the Peace; or option 3 file a notice of intention to appear and request a trial.

Part II offences include parking infractions.

A Part III proceeding is commenced by way of swearing an Information, serving a Summons and compelling a defendant to appear in court.

Other Part III charges, laid under various other Provincial statutes and regulations, are prosecuted by the ministry responsible for the Act and are not included in this transfer (e.g., the Ministry of Labour, the Ministry of Transportation, and the Ministry of the Environment, Conservation and Parks).

Financial Implications

There is no financial impact to the City arising out of this report.

The Court Services Division's operational requirements are based on a non-tax supported budget with respect to the transfer of the Part III charges.

The Court Operations Section of the Court Services Division will continue (as it has since the original transfer in 2000) to maintain the administrative functions for the Part III charges.

As submitted for the purposes of the 2022 budget, an additional .5FTE (for a Prosecutor at NUME Grade Level 5) is required for the influx of the Part III charges. This will be supported by court-ordered sentencing and the Court Services Division's non-tax supported budget.

Consultations

None

Strategic Plan Alignment

Strategic Pillar – Working Together for our Future:

Court Services believes the transfer of Part III prosecutions from the Province to the City will create efficiencies in the operations of the Provincial Offences Court.

Currently, the time to trial for Part I charges is 152 days and 289 days for Part III charges. By way of the transfer to the City of the prosecution functions for Part III charges, the Court Services Division will develop a more consistent, efficient and streamlined process.

The transfer will improve the functioning of the Provincial Offences Court and enhance customer services for the public and other stakeholders. One service, one Prosecution Section at one court facility.

Attachments

None

Departmental Approval

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