

Plain Language Summary

Private Member's Public Bill George Nerysoo, MLA for Mackenzie Delta **Bill 46:** *Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act*

Overview

This is a Bill to encourage people to express themselves on matters of public interest, and to promote debate on those matters. It does this by offering protections to people being sued in Court for expressing themselves on matters of public interest. The purpose is to protect innocent people from being “bullied” or “gagged” by perhaps larger or more well-resourced parties, just for speaking their mind. However, the Bill would not protect deliberately false, hateful, or malicious speech.

The Bill models large parts of Ontario's *Protection of Public Participation Act, 2015*, which has been recognized as one of the strongest anti-SLAPP laws in the world.¹ A SLAPP is a “Strategic Lawsuit Against Public Participation”. SLAPPs are lawsuits used to delay or silence individuals who speak out on matters of public interest. The intention of a SLAPP is to create pressure, delay, or financial burden for the person being sued rather than to succeed on legal merit, often accusing defendants of defamation.²

This topic has also been studied by the Uniform Law Conference of Canada, and several jurisdictions in Canada have adopted this type of legislation. This Bill draws inspiration from those sources.

This summary outlines the purpose and key provisions of the Bill and provides a comparison to similar legislation across Canada.

Purpose and Key Provisions

The purposes of the Bill are as follows:

¹ *Global Anti-SLAPP Ratings: Assessing the Strength of Anti-SLAPP Laws*. Centre for Free Expression, Toronto Metropolitan University (2023).

<https://cfe.torontomu.ca/publications/global-anti-slapp-ratings-assessing-strength-anti-slapp-laws>

² *Anti-SLAPP Legislation: A Background*. Centre for Free Expression, Toronto Metropolitan University (2023).
<https://cfe.torontomu.ca/guidesadvice/anti-slapp-legislation-background>



- (a) to encourage individuals to express themselves on matters of public interest;
- (b) to promote broad participation in debates on matters of public interest;
- (c) to discourage the use of litigation as a means of unduly limiting expression on matters of public interest; and
- (d) to reduce the risk that participation by the public in debates on matters of public interest will be hampered by fear of legal action.

The title of the Bill draws its inspiration from these purposes, particularly (c) and (d). A similar title is used in the Ontario legislation: “Prevention of Proceedings that Limit Freedom of Expression on Matters of Public Interest (Gag Proceedings)”.

The Bill would establish a process that allows a defendant that has been sued to apply for the early dismissal of a lawsuit if it qualifies as a SLAPP. If the defendant can demonstrate that the lawsuit arises from an expression related to a matter of public interest, the plaintiff would then have to prove that:

- the proceeding has substantial merit,
- the defendant has no valid defence, and
- the harm caused by the expression is serious enough that the public interest in continuing the lawsuit outweighs the public interest in protecting the expression.

If the plaintiff cannot prove all three of these points, the judge must dismiss the proceeding.

Other key provisions include:

- all other steps in the proceeding are paused once an application to dismiss is filed;
- amendments to pleadings are not allowed unless approved by the judge, to prevent parties from avoiding the intent of the process;
- if the application to dismiss is successful, enhanced legal costs are awarded to the defendant unless the judge decides otherwise;
- if the application is unsuccessful, the plaintiff is not entitled to costs, unless the judge decides otherwise;
- the defendant may be awarded damages if the lawsuit was brought in bad faith;
- the application must be heard as soon as practicable after filing with the NWT Supreme Court;
- cross-examination on evidence can be no longer than seven hours per side, unless the judge allows more time;



- any appeal must be heard as soon as practicable; and
- the provisions apply only to proceedings commenced after the Act comes into force.

The Bill also includes provisions strengthening the defence of qualified privilege, including a consequential amendment to the *Defamation Act*. This defence provides protection to defendants in defamation claims, unless it can be shown that they acted with malice.

Jurisdictional Review

Several Canadian jurisdictions have introduced legislation to address SLAPPs, each taking a slightly different approach.

Quebec

Quebec was the first province to successfully address SLAPPs in 2009 by amending *its Code of Civil Procedure* to prevent abusive lawsuits. The focus was on protecting public participation and preventing misuse of the justice system; however, it did not include the structured early dismissal process that later became a key feature of Anti-SLAPP laws in other provinces. Instead, it gave courts authority to identify and stop abusive proceedings at any stage.³

Ontario

Ontario introduced Anti-SLAPP legislation in 2015 through amendments to the *Courts of Justice Act*, which serves as a model for similar legislation across Canada.⁴ Ontario's law had an early impact, with multiple SLAPPs being dismissed; however, in its early years there was inconsistency in how the legislation was applied. As the courts continued to interpret the legislation, they found that the final step of the three-part test, which weighs the public interest in continuing the proceeding against protecting the expression, often determined the outcome.⁵ The meaning of the legislation was explained by the Supreme Court of Canada in *1704604 Ontario Ltd. v. Pointes Protection Association* (2020 SCC 22).⁶

British Columbia

British Columbia passed its *Protection of Public Participation Act* in 2019.⁷ The legislation closely follows the Ontario model, using the same three-part test and overall process for early

³ *Anti-SLAPP Legislation on the Horizon*. Lawson Lundell LLP (2018).
<https://www.lawsonlundell.com/publication/anti-slapp-legislation-on-the-horizon>

⁴ *Protection of Public Participation Act, 2015*, S.O. 2015, c. 23.
<https://www.ontario.ca/laws/statute/s15023>

⁵ *Anti-SLAPP Laws in Ontario: Recent Trends and Lingering Uncertainties*. Centre for Free Expression, Toronto Metropolitan University (2024).
<https://cfe.torontomu.ca/blog/2024/05/anti-slapp-laws-ontario-recent-trends-and-lingering-uncertainties>

⁶ *1704604 Ontario Ltd. v. Pointes Protection Association*, 2020 SCC 22.
<https://www.canlii.org/en/ca/scc/doc/2020/2020scc22/2020scc22.html>

⁷ *Protection of Public Participation Act*, S.B.C. 2019, c. 3.
<https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/19003>



dismissal. Unlike Ontario, which pauses all steps in a proceeding once a motion is filed, British Columbia allows injunctions to proceed (the proposed Bill would not allow this). The province is also more flexible with its timeline, requiring that the motion be heard “as soon as practicable” rather than within a specific 60-day deadline, to accommodate scheduling pressures and court backlogs. The legislation also includes a narrower privilege clause that applies only to communications already protected under common law, such as a resident writing a formal letter to their MLA about a matter of public concern. In contrast, Ontario’s legislation extends qualified privilege to certain public communications that would not normally be protected, such as a social media post concerning a public issue. The legislation was discussed by the Supreme Court of Canada in *Hansman v. Neufeld* (2023 SCC 14).⁸

Manitoba

Manitoba enacted *The Public Interest Expression Defence Act* in 2025.⁹ Like British Columbia’s legislation, it allows injunctions to continue during a motion and provides flexibility by requiring that the motion be heard “as soon as practicable”. Unlike Ontario and British Columbia, Manitoba’s legislation does not include any provision related to qualified privilege for communications on matters of public interest.

High-Level Overview of Legislative Approaches

Feature	Ontario	BC	Manitoba	NWT (Proposed)
Timeline to hear motion	60 days	As soon as practicable	As soon as practicable	As soon as practicable
Injunctions allowed during motion	No	Yes	Yes	No
Qualified privilege clause	Yes	Yes (limited)	No	Yes (limited)

Discussion in the Legislative Assembly

Anti-SLAPP legislation was raised during the 18th Legislative Assembly on August 16, 2019, when Committee of the Whole adopted a motion recommended by the Standing Committee on

⁸ *Hansman v. Neufeld*, 2023 SCC 14.

<https://www.canlii.org/en/ca/scc/doc/2023/2023scc14/2023scc14.html>

⁹ *The Public Interest Expression Defence Act*, SM 2025, c 45.

<https://canlii.ca/t/56ls2>



Jadízj ʔedza Nén Xa

Beba ʔelígíth ʔeła
Délth'i Kúé

Economic Development and Environment for the Government of the Northwest Territories begin work on anti-SLAPP legislation to be introduced in the 19th Assembly. Members expressed support for protecting the public's right to participate in debate without fear of legal action.¹⁰

The issue was raised again on March 3, 2020, when a Member asked the Minister of Environment and Natural Resources about progress on the Committee's recommendation. The Minister confirmed that anti-SLAPP legislation fell outside the department's mandate and noted that discussions would need to occur with the Minister of Justice regarding next steps.¹¹

¹⁰ Hansard Transcript, August 16, 2019. Legislative Assembly of the Northwest Territories.
<https://www.ntlegislativeassembly.ca/sites/default/files/legacy/hn190816.pdf>

¹¹ Hansard Transcript, March 3, 2020. Legislative Assembly of the Northwest Territories.
<https://www.ntlegislativeassembly.ca/sites/default/files/legacy/hn200303.pdf>