Committee Report 50-20(1)
Date: October 27, 2026

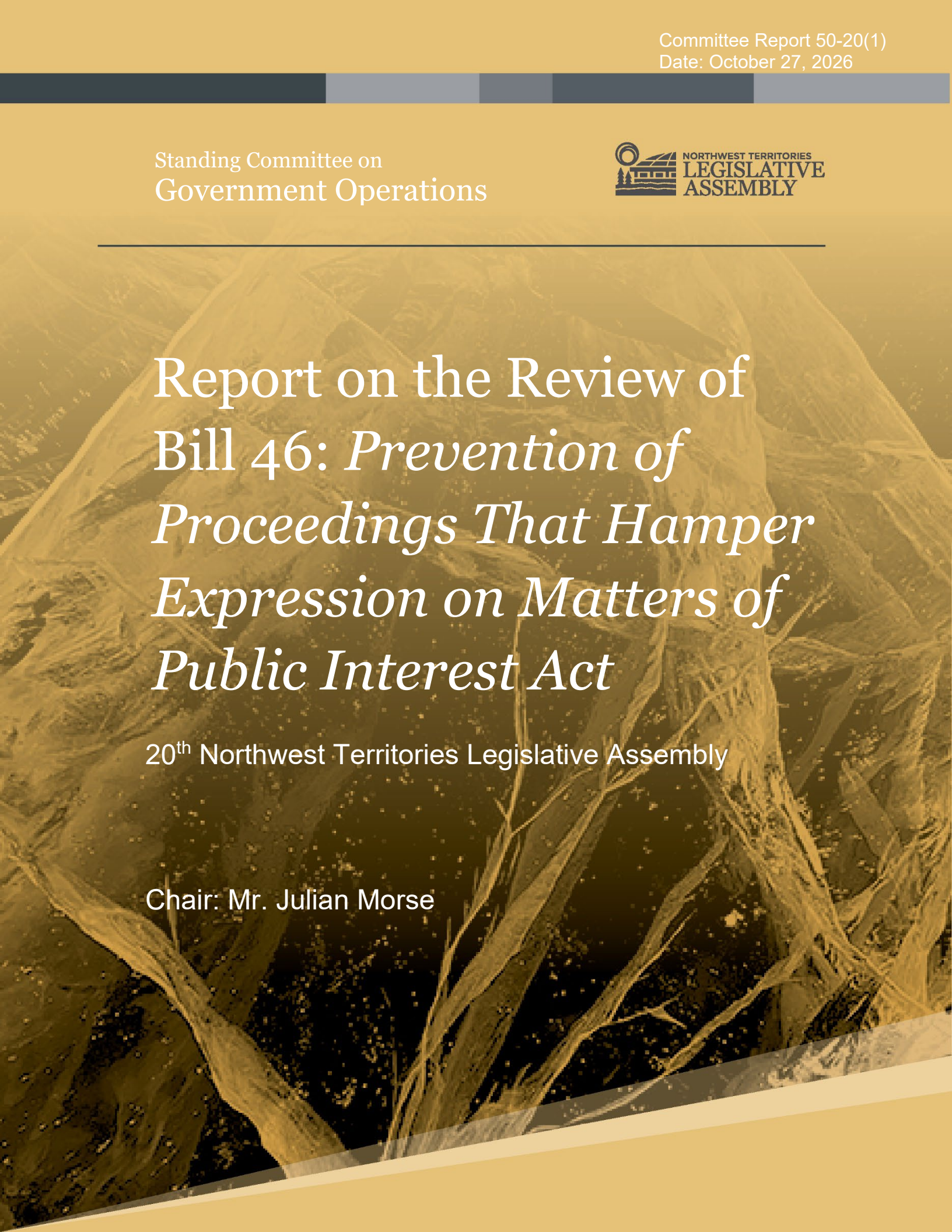
Standing Committee on
Government Operations

NORTHWEST TERRITORIES LEGISLATIVE ASSEMBLY

Report on the Review of Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act*

20th Northwest Territories Legislative Assembly

Chair: Mr. Julian Morse



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NORTHWEST TERRITORIES
LEGISLATIVE ASSEMBLY
TERRITOIRES DU NORD-OUEST
ASSEMBLÉE LÉGISLATIVE

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Government Operations is pleased to provide its *Report on Bill 46: Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act* and commends it to the House.

Mr. Julian Morse
Chair, Standing Committee on Government Operations

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STANDING COMMITTEE ON GOVERNMENT OPERATIONS

Report on the Review of Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act*

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STANDING COMMITTEE ON GOVERNMENT OPERATIONS

REPORT ON BILL 46: *PREVENTION OF PROCEEDINGS THAT HAMPER EXPRESSION ON MATTERS OF PUBLIC INTEREST ACT*

INTRODUCTION AND BACKGROUND

Bill 46: *Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act*[1] (Bill 46) received second reading on March 6, 2026, and was subsequently referred to the Standing Committee on Government Operations (Committee) for review.

Bill 46 is a Private Member's Bill introduced by the MLA for Mackenzie Delta. Bill 46 is intended to encourage individuals to express themselves on matters of public interest and to promote participation in public debate. Bill 46 seeks to protect individuals from strategic lawsuits against public participation (commonly referred to as "SLAPPs"), which are lawsuits that may be used to deter, silence, or financially burden individuals who speak out on public issues. The proposed legislation would establish a process for the early dismissal of proceedings arising from expression on matters of public interest while maintaining safeguards to ensure that deliberately false, malicious, or hateful speech is not protected.

This report summarizes Committee's review of Bill 46 and its efforts to strengthen the proposed legislation through eight (8) motions adopted during clause-by-clause review (listed in Appendix A). In addition, the report sets out two (2) recommendations to the Government of the Northwest Territories (Government) aimed at supporting the effective implementation of anti-SLAPP protections and advancing broader measures to safeguard public participation, freedom of expression, and open democratic discourse in the Northwest Territories.

COMMITTEE CONSIDERED PUBLIC INPUT

On April 28, 2026, Committee held a public hearing with the Bill's sponsor, the MLA for Mackenzie Delta, supported by Mr. Lawrence Norbert, a Mackenzie Delta constituent and Gwichya Gwich'in Elder. At the same hearing, Committee also received a briefing from the Minister of Justice regarding Government's perspectives on Bill 46.[2] The Minister's presentation is included in Appendix B, and related correspondence is included in Appendix C.

Between April and July 2026, Committee sought input on Bill 46 through a public call for submissions, social media outreach, and targeted stakeholder engagement. Committee received five written submissions:

- Written submission from the Canadian Association of Journalists (May 26, 2026)
- Written submission from the Northwest Territories Ombud (June 3, 2026)
- Written submission from the Northwest Territories Association of Communities (June 15, 2026)
- Written submission from Alternatives North (June 24, 2026)
- Written submission from one member of the public (June 26, 2026).

Written submissions are included in Appendix B.

Committee appreciates the invaluable contributions received throughout its review. The evidence and perspectives provided informed Committee's consideration of Bill 46.

INTERJURISDICTIONAL IMPLICATIONS OF BILL 46

Committee considered it important to study Bill 46 within the broader Canadian jurisdictional context to ensure that territorial legislation aligns with national standards for anti-SLAPP statutes.

Bill 46 reflects legislative approaches adopted elsewhere in Canada. It is largely modeled on Ontario's anti-SLAPP legislation, the *Protection of Public Participation Act,* [3] which has been recognized as among the strongest anti-SLAPP frameworks internationally. Similar legislation has been adopted in British Columbia and Manitoba, while Quebec has implemented measures within its civil procedure legislation to address abusive litigation and protect public participation.

GOVERNMENT IMPLICATIONS OF BILL 46

During the public hearing, the Minister of Justice advised Committee that the Department of Justice supports Bill 46 as drafted and expects any associated impacts on government to be minor. Committee considered this an important factor in its review, as Private Members' Bills are developed independent of government and are subject to procedural limitations relating to the appropriation of public funds.

The Minister further noted that information and support are available through court workers and regional outreach positions that assist residents in providing information and advice in a variety of areas that the Legal Aid Commission operates; however the outreach lawyers are limited in their ability to represent people before the court.

EVIDENCE PRESENTED BY THE SPONSOR OF BILL 46

Committee heard from the sponsor of Bill 46 and a supporting witness, Mr. Norbert, that freedom of expression is fundamental to democracy, transparency, and reconciliation. Evidence presented to Committee suggested that the legacy of residential schools and intergenerational trauma has, in some cases, contributed to a culture of silence within Indigenous communities in the Northwest Territories, underscoring the importance of protecting the ability of residents to speak openly on matters of public interest without fear of retaliatory litigation. Committee heard that safeguarding public participation can support more open dialogue, civic engagement, and reconciliation across the territory.

Committee also heard concerns about the disproportionate impact that SLAPP-type proceedings can have on individuals with limited financial means, as the prospect of costly litigation may discourage citizens from questioning governments, organizations, or community leaders. The sponsor recommended public education initiatives to raise awareness of the rights and protections available under the proposed legislation.

Committee appreciates these perspectives and recognizes the potential role of anti-SLAPP legislation in strengthening public participation, encouraging open discussion of matters of public interest, and fostering transparent and accountable public discourse in the Northwest Territories. The testimony highlighted the significance of ensuring that residents can engage in public debate without undue fear of legal consequences.

AMENDMENTS

Committee put forward eight (8) motions to amend Bill 46. These are included in Appendix A of this report. The sponsor ultimately concurred with each of the eight (8) motions to amend the Bill at the clause-by-clause review held on September 21, 2026.

For ease of reference, Committee’s amendments are organized by theme, reflecting the policy rationale behind each amendment.

1. Strengthening Alignment with Other Jurisdictions

Motion 1: Definition of Expression to include entities as well as persons

Committee added “or entity” to the end of the definition of “expression” which applies to any communication, whether or not it is directed at a person. While Committee understands that the term “person” is generally interpreted in law to include organizations and other entities, the amendment improves clarity, aligns Bill 46 with comparable anti-SLAPP legislation in other Canadian jurisdictions and reduces the potential for arguments that entities were intentionally excluded.

Motion 2: Matter of public interest

Committee amended section 4 of Bill 46 to substitute the phrase “in respect of” with “relates to” concerning a matter of public interest. This terminology is consistent with other Canadian anti-SLAPP statutes and the framework established by the Supreme Court of Canada, supporting greater consistency in interpretation.

Motion 5: Cross-examination and evidence

Committee amended section 10 to follow the Ontario model referring to “documentary evidence” in dismissal motions. The amendment adopts a more consistent approach to evidentiary requirements, improves clarity, and aligns Bill 46 more closely with comparable anti-SLAPP legislation in other Canadian jurisdictions.

2. Strengthening Procedural Protections

Motion 3: Full indemnity costs

Several submissions recommended that section 7 be amended to provide that a successful moving party is presumptively entitled to costs on a “full indemnity basis” rather than “on an enhanced costs basis.” Committee amended section 7 to align Bill 46 with comparable legislation in British Columbia, Manitoba, and Ontario to strengthen the deterrent effect of the legislation and help successful defendants recover their reasonable legal costs, on a full indemnity basis, when responding to meritless claims.

Motion 4: Awarding damages

One submission noted that both the British Columbia and Manitoba Acts expressly allow a court to award damages either on its own initiative or at the request of the party seeking dismissal. Bill 46 is broader and relies on judicial discretion. Committee amended section 8 to clarify that the court may award damages on its own initiative or on motion by the moving party, providing greater certainty about the court's authority to grant damages.

Motions 6 and 7: Appeals

Committee noted that jurisdictions take different approaches to anti-SLAPP appeals. While the Ontario and Manitoba Acts require all appeals to be heard as soon as practicable, Bill 46 follows the British Columbia Act which applies this requirement only to appeals of dismissal orders. To provide greater certainty and support the timely resolution of proceedings, Committee made two amendments to clarify that anti-SLAPP orders may be appealed to the Court of Appeal without leave (otherwise known as permission) and that all such appeals are to be heard as soon as practicable.

Motion 8: Automatic stay of related tribunal proceedings

Several submissions recommended an automatic stay of related administrative or tribunal proceedings when a dismissal motion is filed. The Minister of Justice similarly questioned the absence of such a provision in Bill 46. After further study, Committee adopted an amendment to provide for an automatic stay of related proceedings pending determination of a dismissal motion, consistent with anti-SLAPP legislation in other jurisdictions and intended to prevent unnecessary litigation costs.

PROPOSALS NOT RESULTING IN AMENDMENTS

Committee carefully considered several additional proposed amendments to Bill 46, but ultimately did not recommend changes in relation to the following matters:

- **Interpretive Provision**: Committee considered adding an interpretive clause requiring the legislation to be construed broadly to protect expression on matters of public interest. Committee concluded that the amendment would have little practical effect, as comparable legislation does not contain similar provisions and courts already interpret anti-SLAPP legislation broadly.

- **Qualified Privilege**: Committee considered adopting the broader Ontario approach to qualified privilege. Committee found that Bill 46 already incorporates the key elements of both the British Columbia and Ontario models, including related amendments to the *Defamation Act*, and therefore an amendment was unnecessary.

- **Timeline for Hearing Motions**: Committee considered establishing a fixed timeline for hearing dismissal motions, similar to the 60-day timeline required in Ontario. Committee concluded that the requirement for applications to be heard "as soon as practicable" provides appropriate flexibility to address court scheduling and other practical considerations.

- **Definition of Expression**: Committee considered replacing "or" with "and" in the definition of "expression". As the provision is intended to be interpreted broadly and the proposed wording would not change its legal effect, no amendment was recommended.

- **Costs**: Committee considered a proposal to presumptively award costs to respondents of unsuccessful anti-SLAPP applications. Committee did not recommend an amendment, noting that Bill 46 is consistent with approaches in other Canadian jurisdictions and appropriately preserves judicial discretion in awarding costs.

RECOMMENDATIONS

As a result of its review, Committee has the following recommendation for Government:

Recommendation 1: The Standing Committee on Government Operations recommends that the Government of the Northwest Territories prepare public education materials to raise awareness amongst Northwest Territories residents of the rights and protections available through Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act.*

Recommendation 2: The Standing Committee on Government Operations recommends that the Government of the Northwest Territories provide a response to this report within 120 days.

CONCLUSION

On September 21, 2026, Committee conducted its clause-by-clause review of Bill 46 and adopted eight (8) amendments before reporting the Bill to the Legislative Assembly as

ready for consideration in Committee of the Whole. This concludes the Standing Committee on Government Operations' review of Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act*.

ENDNOTES

[1] Bill 46 is available at: https://www.ntlegislativeassembly.ca/sites/default/files/bills-and-legislation/2026-03/Bill%2046%20%28public%20version%29.pdf.
[2] Video of the April 28, 2026 public hearing on Bill 46 with the Bill's sponsor, Mr. Norbert, and the Minister of Justice is available at: https://www.youtube.com/live/StaZLpYG83g?t=480s.
[3] Ontario's *Protection of Public Participation Act (2015)* is available at: https://www.ontario.ca/laws/statute/s15023.

APPENDIX :

MOTIONS

6596\IR\ML\DRAFT#01\SEPTEMBER 1, 2026\MOTIONS\FIRST.20/Motion 1 s 1(1) MEM/DH/SEPT 3, 2026/VSTP/SEPT 3, 2026/EB.01

MOTION

PREVENTION OF PROCEEDINGS THAT HAMPER EXPRESSION ON MATTERS OF PUBLIC INTEREST ACT

That subclause 1(1) of Bill 46 be amended by deleting the definition "expression" and substituting the following:

"expression" means any communication, regardless of

(a) whether it is made verbally or non-verbally,

(b) whether it is made publicly or privately, or

(c) whether or not it is directed at a person or entity; (*expression*)

MOTION

LOI SUR LA PRÉVENTION DES INSTANCES LIMITANT LA LIBERTÉ D'EXPRESSION SUR DES AFFAIRES D'INTÉRÊT PUBLIC

Il est proposé que le paragraphe 1(1) du projet de loi 46 soit modifié par suppression de la définition d'«expression» et par substitution de ce qui suit :

«expression» Toute communication, selon le cas :

a) faite verbalement ou non;

b) faite en public ou en privé;

c) s'adressant ou non à une personne ou une entité. (*expression*)

6596\IR\ML\DRAFT#01\SEPTEMBER 1, 2026\MOTIONS\FIRST.20/Motion 2 s 4(1)(b) relates to MEM/DH/SEPT 3, 2026/VSTP/SEPT 3, 2026/EB.01

MOTION

PREVENTION OF PROCEEDINGS THAT HAMPER EXPRESSION ON MATTERS OF PUBLIC INTEREST ACT

That paragraph 4(1)(b) of Bill 46 be amended by striking out "is in respect of**" and substituting "**relates to**".**

MOTION

LOI SUR LA PRÉVENTION DES INSTANCES LIMITANT LA LIBERTÉ D'EXPRESSION SUR DES AFFAIRES D'INTÉRÊT PUBLIC

Il est proposé que l'alinéa 4(1)b) du projet de loi 46 soit modifié par suppression de «est relative à**» et par substitution de «**concerne**».**

6595\IR\ML\DRAFT#01\SEPTEMBER 1, 2026\MOTIONS\FIRST.20/Motion 3 s 7(1) full indemnity MEM/DH/SEPT 3, 2026/VSTP/SEPT 3, 2026/EB.01

MOTION

PREVENTION OF PROCEEDINGS THAT HAMPER EXPRESSION ON MATTERS OF PUBLIC INTEREST ACT

That subclause 7(1) of Bill 46 be deleted and the following substituted:

Costs on dismissal

7. (1) If a judge dismisses a proceeding under section 4, the applicant is entitled to costs on the application and in the proceeding on a full indemnity basis, unless the judge determines that such an award is not appropriate in the circumstances.

MOTION

LOI SUR LA PRÉVENTION DES INSTANCES LIMITANT LA LIBERTÉ D'EXPRESSION SUR DES AFFAIRES D'INTÉRÊT PUBLIC

Il est proposé que le paragraphe 7(1) du projet de loi 46 soit supprimé et remplacé par ce qui suit :

Dépens en cas de rejet

7. (1) Si un juge rejette une instance en application de l'article 4, le requérant a droit aux dépens afférents à la requête et à l'instance sur la base d'une indemnisation intégrale, sauf si le juge décide qu'une telle adjudication des dépens n'est pas indiquée dans les circonstances.

6566\IR\ML\DRAFT#01\SEPTEMBER 1, 2026\MOTIONS\FIRST.20/Motion 4 judges own motion MEM/DH/SEPT 3, 2026/VSTP/SEPT 4, 2026/EB.01

MOTION

PREVENTION OF PROCEEDINGS THAT HAMPER EXPRESSION ON MATTERS OF PUBLIC INTEREST ACT

That clause 8 of Bill 46 be deleted and the following substituted:

Damages

8. On an application for a dismissal order under section 4, the judge may, on the judge's own motion or on application by the applicant, award the damages the judge considers appropriate against a respondent if the judge finds that the respondent brought the proceeding in bad faith or for an improper purpose.

MOTION

LOI SUR LA PRÉVENTION DES INSTANCES LIMITANT LA LIBERTÉ D'EXPRESSION SUR DES AFFAIRES D'INTÉRÊT PUBLIC

Il est proposé que l'article 8 du projet de loi 46 soit supprimé et remplacé par ce qui suit :

Dommages-intérêts

8. Dans le cadre d'une requête d'ordonnance de rejet en vertu de l'article 4, le juge peut, de sa propre initiative ou sur demande du requérant, accorder contre l'intimé les dommages-intérêts qu'il estime appropriés, s'il conclut que l'intimé a introduit l'instance de mauvaise foi ou à une fin illégitime.

6596\IR\ML\DRAFT#01\SEPTEMBER 1, 2026\MOTIONS\FIRST.20/Motion 5 s 10(1) evidence MEM/DH/SEPT 3, 2026/VSTP/SEPT 3, 2026/EB.01

MOTION

PREVENTION OF PROCEEDINGS THAT HAMPER EXPRESSION ON MATTERS OF PUBLIC INTEREST ACT

That subclause 10(1) of Bill 46 be amended by striking out "an application under section 4**" and substituting "**any documentary evidence filed by the parties**".**

MOTION

LOI SUR LA PRÉVENTION DES INSTANCES LIMITANT LA LIBERTÉ D'EXPRESSION SUR DES AFFAIRES D'INTÉRÊT PUBLIC

Il est proposé que le paragraphe 10(1) du projet de loi 46 soit modifié par suppression de «la requête visée à l'article 4**» et par substitution de «**les éléments de preuve documentaire déposés par les parties**».**

6596\IR\MEM\ML\DRAFT#02\SEPTEMBER 10, 2026\MOTIONS\FIRST.20/Motion 6 s 11 An appeal of an order
MEM/DH/SEPT 10, 2026/EB.02

MOTION

PREVENTION OF PROCEEDINGS THAT HAMPER EXPRESSION ON MATTERS OF PUBLIC INTEREST ACT

That clause 11 of Bill 46 be amended by striking out "an order to dismiss made under section 4**" and substituting "**an order made under section 4**".**

MOTION

LOI SUR LA PRÉVENTION DES INSTANCES LIMITANT LA LIBERTÉ D'EXPRESSION SUR DES AFFAIRES D'INTÉRÊT PUBLIC

Il est proposé que l'article 11 du projet de loi 46 soit modifié par suppression de «de rejet rendue en vertu de l'article 4 est entendue**» et par substitution d'«**rendue en vertu de l'article 4 est entendu**».**

6596\IR\ML\DRAFT#01\SEPTEMBER 1, 2026\MOTIONS\FIRST.20/ Motion 7 s11.1 appeal to CA MEM/DH/SEPT 3, 2026/VSTP/SEPT 3, 2026/EB.01

MOTION

PREVENTION OF PROCEEDINGS THAT HAMPER EXPRESSION ON MATTERS OF PUBLIC INTEREST ACT

That Bill 46 be amended by adding the following after clause 11:

Appeal to Court of Appeal

11.1. (1) An appeal of an order made under section 4 must be heard by the Court of Appeal.

No leave required

(2) An appeal of an order under section 4 does not require any permission or leave to appeal.

MOTION

LOI SUR LA PRÉVENTION DES INSTANCES LIMITANT LA LIBERTÉ D'EXPRESSION SUR DES AFFAIRES D'INTÉRÊT PUBLIC

Il est proposé que le projet de loi 46 soit modifié par insertion, après l'article 11, de ce qui suit :

Appel à la Cour d'appel

11.1. (1) L'appel d'une ordonnance rendue en vertu de l'article 4 est entendu par la Cour d'appel.

Aucune autorisation d'appel

(2) L'appel d'une ordonnance rendue en vertu de l'article 4 ne nécessite aucune autorisation d'appel.

6596\IR\ML\DRAFT#01\SEPTEMBER 1, 2026\MOTIONS\FIRST.20/Motion 8 stay of admin proceedings MEM/DH/SEPT 3, 2026/VSTP/SEPT 4, 2026/EB.01

MOTION

PREVENTION OF PROCEEDINGS THAT HAMPER EXPRESSION ON MATTERS OF PUBLIC INTEREST ACT

That Bill 46 be amended by adding the following immediately before the heading preceding clause 12:

Stay of related tribunal proceeding

11.2. (1) If the respondent has begun a proceeding before a tribunal and the applicant believes that the proceeding relates to the same matter of public interest that the applicant alleges is the basis of the proceeding that is the subject of their application under this Act, the applicant may file with the tribunal a copy of the application that was filed with the court and, on its filing, the tribunal proceeding is deemed to have been stayed by the tribunal.

Notice

(2) The tribunal shall give to each party to a tribunal proceeding stayed under subsection (1),

(a) notice of the stay; and

(b) a copy of the application that was filed with the tribunal.

Duration

(3) A stay of a tribunal proceeding under subsection (1) remains in effect until the application, including any appeal of the application, has been finally disposed of, subject to subsection (4).

Stay may be lifted

(4) A judge may, on application, order that the stay is lifted at an earlier time if, in their opinion,

(a) the stay is causing or would likely cause undue hardship to a party to the tribunal proceeding; or

(b) the proceeding that is the subject of the application under this Act and the tribunal proceeding that was stayed under subsection (1) are not sufficiently related to warrant the stay.

MOTION

LOI SUR LA PRÉVENTION DES INSTANCES LIMITANT LA LIBERTÉ D'EXPRESSION SUR DES AFFAIRES D'INTÉRÊT PUBLIC

Il est proposé que le projet de loi 46 soit modifié par insertion, immédiatement avant l'intertitre qui précède l'article 12, de ce qui suit :

Suspension d'une instance connexe devant un tribunal administratif

11.2. (1) Si l'intimé a introduit une instance devant un tribunal et que le requérant croit que l'instance se rapporte à la même affaire d'intérêt public qui, selon lui, serait le fondement de l'instance faisant l'objet de sa requête en application de la présente loi, ce dernier peut déposer auprès du tribunal une copie de la requête qui a été déposée auprès de la cour et, une fois celle-ci déposée, l'instance devant le tribunal est réputée avoir été suspendue par celui-ci.

Avis

(2) Le tribunal remet les documents suivants à chaque partie à l'instance dont il est saisi et qui est suspendue en vertu du paragraphe (1) :

a) un avis de la suspension;

b) une copie de la requête qui a été déposée auprès du tribunal.

Durée

(3) La suspension d'une instance devant le tribunal en vertu du paragraphe (1) demeure en vigueur tant qu'il n'a pas statué de façon définitive sur la requête, y compris tout appel de celle-ci, sous réserve du paragraphe (4).

Levée de la suspension

(4) Un juge peut, sur requête, ordonner que la suspension soit levée à une date antérieure s'il est d'avis :

a) soit que la suspension cause ou causerait vraisemblablement un préjudice injustifié à une partie à l'instance devant le tribunal;

b) soit que l'instance qui fait l'objet de la requête en application de la présente loi et l'instance devant le tribunal qui a été suspendue en vertu du paragraphe (1) ne

sont pas suffisamment connexes pour justifier la suspension.

Same

(5) An application under subsection (4) must be brought before a judge of the Supreme Court or, if the decision made on the application is under appeal, a judge of the Court of Appeal.

Idem

(5) La requête visée au paragraphe (4) est présentée devant un juge de la Cour suprême ou, si la décision rendue sur la requête est portée en appel, devant un juge de la Cour d'appel.

Appendix B:

Presentations and Submissions



LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

STANDING COMMITTEE ON GOVERNMENT OPERATIONS
BILL 46: *Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act*

PUBLIC INPUT
April 28, 2026

Thank you, Committee, for your invitation to make a personal presentation.

Thank you also to my Sijaa (my friend), Mr. George Nerysoo, Member of the Legislative Assembly for the Mackenzie Delta, in championing this important piece of legislation and in assisting me to appear before you today.

I acknowledge the traditional lands of the Yellowknives Dene.

I also acknowledge my late parents Napoleon and Annie Norbert; my maternal grandparents, the late Chief Paul Niditchie and wife Camilla, and my paternal grandparents, the late Manuel and Caroline Norbert.

.....

In August 2025, I posed four questions to delegates and audience Participants of the Annual General Assembly of the Gwich'in Tribal Council.

Today, I would like to ask these same questions, revised for this occasion, if I may, to the Honourable Committee Members:

1. How many members of this Committee are descendants of residential school survivors within the NWT or in other territories or provinces?
2. How many members of this Committee are themselves residential school survivors?
3. How many members are married to or partners with residential school survivors or their descendants?

At the Gwich'in assembly that day, most delegates and audience members stood up in the affirmative to one, or more, or - in some cases - to all of the questions.

I then asked one more pertinent question: What is the main thing you remember about speaking up for yourself or another student?

The main thing I learned as a former hostel student for asking "why?" was punishment – and mostly physical punishment such as being slapped, or strapped or having my ears or hair pulled. Very soon, I learned to keep quiet and not talk and not be noticed – as we learned: not to rock the boat. Not to be a trouble-maker. And because we learned that punishment worked, we used it against other students, or younger siblings

When we grew into adulthood, we used it against those who loved us, like our spouses or our kids. But more than anything, we used it against ourselves as individuals

In her November 1994 Sir Joseph Bernier Federal Day School Turquetil Hall Investigation Report (a copy of which is filed in the Legislative Library), Madam Katherine Peterson put words to this pain:

> *There emerges a psychological trauma for both society and the individual - an internal conflict between the will to deny past horrors and the will to proclaim.*
>
> *Experts working in the field of domestic violence and survivors of abuse contend that these experiences and abuse should be more accurately described as "torture and acts of atrocity" and that the effects (shame, guilt, self-blame, isolation, persistent distrust, explosive anger, self injury, preoccupation with suicide, dissociation, disruption of intimate relationships, loss of sustaining faith, hopelessness, despair) are both severe and very long term.*

The legacy of silence still impacts many of our communities today. You have only but to read the 2015 Truth and Reconciliation Commission report for the inter-generational impacts of silencing Indigenous Peoples through the Indian Residential School Policy. Today, in some of our communities, there are some so-called leaders who use this legacy to silence our people, to silence critics, and to suppress debate on matters of public interest

When meetings of a government – any government be it public or Indigenous - are open to the press and the public, its budgets may be reviewed by anyone, and its laws and decisions are open to discussion, it is seen as transparent.

As to whether there has been a documented proceeding or clear risk of SLAPP-type lawsuits in the NWT that would support the need for this legislation, I would leave that to other submissions to speak on. I would like ask, though, in return is: how many persons have been SLAPP'ed by a lawsuit for speaking out or asking questions at a community meeting, or annual assembly? How many have been silenced over the decades? We are finally finding our voices: we cannot allow lawsuits to take them away!

I believe and I firmly request that this legislation include a provision for Legal Aid. We must assist those who cannot financially defend themselves from the large or unlimited coffers of large organizations or corporations.

There is a chilling effect on the soul when the RCMP knock on your door to serve you a 15-page notice and statement of claim from one or more plaintiffs. There is a more scary moment when one realizes that there is just enough funds to make it to the next payday or – as in my case - old age pension. No citizen should have to choose between paying for food or paying for a lawyer to defend one's right to speak.

Or does one have to turn to a civil liberties organization in Canada if this Honourable Assembly should wash its hands of this legislation proposed to stop regression? In this last regard, I refer the Committee to the September 2020 policy brief of the Yellowhead Institute entitled *'Does the Charter Apply? The Struggle to Protect Free Speech On-Reserve'* by Robert Jago.

The Department of Justice should be tasked with a territorial-wide public awareness campaign to inform our citizens as to their rights under this legislation.

In their report, the TRC Commission proclaimed:

> *Reconciliation is in the best interests of all of Canada.*
>
> *It is necessary not only to resolve the ongoing conflicts between Aboriginal peoples and institutions of the country, but also in order for Canada to remove a stain from its past and be able to maintain its claim to be a leader in the protection of human rights among the nations of the world.*

To manifest that idea, I quote excerpts by the noted American broadcast journalist Edward R. Murrow from the March 9, 1954 episode of his television program *See It Now* which helped lead to the censure of Senator Joseph McCarthy:

> *"We must not confuse dissent with disloyalty.*
>
> *We will not walk in fear, one of another. We will not be driven by fear into an age of unreason, if we dig deep in our history and our doctrine, and remember that we are not descended from fearful men - not from men who feared to write, to speak, to associate and to defend causes that were, for the moment, unpopular.*
>
> *We proclaim ourselves, as indeed we are, the defenders of freedom, wherever it continues to exist in the world, but we cannot defend freedom abroad by deserting it at home."*

How often have I heard the expression '*Democracy is Fragile'*. I say that the freedom to publicly express my ideas, my concerns, without fear of being SLAPPed, is just as important and just as fragile.

On its webpage entitled 'Freedom of expression and media freedom', the Government of Canada states:

> *Canada believes freedom of expression is at the core of human individuality and is one of the essential foundations of a safe and prosperous society.*
>
> *The right of everyone to hold opinions without interference and the right to freedom of expression are in Article 19 of the* Universal Declaration of Human Rights *and reaffirmed in Article 19 of the* International Covenant on Civil and Political Rights. *This includes the freedom to seek, receive and impart information and ideas of all kinds, whether orally, in writing or in print, or through any other media of choice.*

Citizens should – and must – have to the right to ask hard questions of their elected leaders without fear of being SLAPPed by a lawsuit. They deserve to ask and to know the reason or reasons why - for example and heavens forbid – if their Premier - elected by them - should decide - for whatever reason - to move to a luxury condominium in a southern city rather than live in the Homeland he is sworn to represent.

You hold our collective and individual freedom of expression in your hands, Committee. Protect it. It is not always about not knowing what we have; sometimes, it's about failing to believe you will ever lose it. I pray, I hope that we – as a territory of Canada - never lose our freedom of expression.

I ask this Committee to be part of the Truth and Reconciliation healing journey for people to find their voices. I implore you to assist in passing my Sijaa Mr. Nerysoo's Private Member's Public Bill 46 and to ensure that no citizen is left without resources to defend their voice. And then let us celebrate with our voices during a designated *'Freedom of Expression in the Northwest Territories Day'*, come next May 3rd in 2027.

Hai, Mahsi, Merci, Thank you.

Lawrence Norbert, Gwichya Gwich'in Elder
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Bill 46 anti –SLAPP Legislation

Public briefing for the Standing Committee on Government Operations

April 2026

Government of
Northwest Territories

What is anti-SLAPP legislation?

Allows for the dismissal of a lawsuit

Anti-SLAPP legislation in Canada

Four Provinces with anti-SLAPP legislation

- Ontario
- British Columbia
- Manitoba
- Quebec

Differences

NT and Ontario Legislation

- Applications heard within 60 days
- Stay of proceedings

Differences

British Columbia and Manitoba

- Stay of Proceedings
- No 60-day deadline

Administrative bodies

- No requirement in the NT Legislation

May 26, 2026

NWT Legislative Assembly Standing Committee on Government Operations
committees@ntassembly.ca

Attn: Julian Morse, chair, Standing Committee on Government Operations
Cc. Denny Rodgers, Jane Weyallon Armstrong, Kate Reid, Richard Edjericon, and Robert Hawkins, members, Standing Committee on Government Operations

Dear committee chair and members,

The Canadian Association of Journalists (CAJ) appreciates the opportunity to provide feedback on private member's Bill 46: Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act.

The CAJ is an independent, not-for-profit organization that provides advocacy and professional development for journalists across Canada, and serves as the national voice of Canadian journalists.

The CAJ is a strong advocate for robust legislation in all Canadian jurisdictions to protect journalists from strategic lawsuits against public participation, commonly known as anti-SLAPP laws.

Without such legislation, individuals, corporations and government bodies are able to proceed with meritless lawsuits with the aim of censoring, intimidating and silencing journalists, media organizations and others on matters of public interest. Even the threat of such legal action can negatively influence reporting and result in a chilling effect, obstructing access to information and discussion on matters of public interest.

SLAPP actions are a misuse of court resources, are costly and time-consuming to fight, and undermine the Charter right to freedom of expression including freedom of the press. Smaller and independent media organizations as well as independent and freelance journalists particularly face risks if burdened with the high costs and time required to mount a legal defence to such actions.

Given these factors, the CAJ is pleased to see Bill 46 be introduced and pass second reading in the NWT Legislative Assembly.

Many aspects of the proposed legislation are positive including the time limit on cross-examinations, pausing all other steps in proceedings once an application to dismiss an action is filed, requiring judicial approval for amendments to pleadings, allowing defendants to be awarded damages if a lawsuit was brought in bad faith, and requiring appeals to be heard as soon as practicable.

These sections of the proposed act will help to prevent the waste of resources on SLAPP actions and deter individuals, corporations and government bodies from filing bad faith lawsuits.
`

Of particular strength is the clause in the bill which ensures that oral or written communication on a matter of public interest has qualified privilege regardless of whether the communication is witnessed or reported by media representatives or other persons. This will help encourage people to speak freely on matters of public interest, including to the media, and ensure public access to information.

Compared to legislation implemented in other provinces including British Columbia and Ontario, which the Centre for Free Expression at Toronto Metropolitan has ranked as the strongest anti-SLAPP laws in the world, the legislation proposed in Bill 46 has some weaknesses that could be addressed through amendments.

Bill 46 proposes that enhanced legal costs be awarded to a defendant unless a judge decides otherwise. Comparatively, Ontario's Protection of Public Participation Act allows for defendants to be awarded full indemnity costs.

Given the high financial costs and time required to mount a legal defence to a SLAPP action, allowing for defendants to be awarded only enhanced legal costs means such actions can still financially damage journalists and media outlets, particularly those with limited resources. Allowing for enhanced costs is also not as strong a deterrent to bad faith actors as granting costs on a full indemnity basis and could still risk a chill on reporting.

Bill 46 also proposes that an application for dismissal be heard as soon as practicable after it is filed with the court rather than within the 60 day timeline outlined in Ontario legislation. Providing a firm deadline provides clarity to the parties involved and prevents unnecessary delays.

Finally, unlike the Ontario law, Bill 46 does not include provisions allowing for a stay of related tribunal or administrative proceedings. Such a provision is intended to prevent a defendant from incurring increased legal costs while a motion to dismiss is pending.

In closing, the CAJ supports robust legislation in the NWT that protects freedom of expression including freedom of the press; deters bad faith actors from misusing court resources or the threat of legal action to censor, intimidate or silence journalists; and allows SLAPP actions to be dealt with quickly and effectively.

Board of Directors, Canadian Association of Journalists

Northwest Territories
Ombud

We speak up for fairness

June 3, 2026

HONOURABLE JULIAN MORSE
CHAIR
STANDING COMMITTEE ON GOVERNMENT OPERATIONS

Bill 46: Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act

Thank you for the letter dated April 15, 2026, inviting feedback on Bill 46: Prevention of Proceedings that Hamper Expression of Interest Act. This proposed legislation is an important step toward protecting democratic participation, strengthening public trust, and ensuring fairness within our legal and administrative systems.

At its core, Bill 46 aims to encourage individuals to speak freely on matters of public interest, promote broad participation in public debate, and reduce the effects caused by Strategic Lawsuits Against Public Participation (SLAPPs). These objectives align closely with the principles outlined in the *Fairness by Design* framework, which emphasizes that public systems must be designed to enable meaningful participation, equitable outcomes, and accountable decision-making.

Supporting Participation and Being Heard

One of the central fairness standards is ensuring individuals have the opportunity to meaningfully participate and be heard in processes that affect them. Bill 46 directly advances this principle by protecting individuals from lawsuits intended to silence or intimidate them from speaking on matters of public interest. Without such protections, individuals may self-censor due to fear of costly legal action, undermining their fundamental right to participate in public discourse.

Promoting Fair and Balanced Decision-Making

An important part of administrative fairness is ensuring reasoned, transparent, and a balanced decision-making process is available to all residents. Bill 46 incorporates a structured and principled test requiring plaintiffs to demonstrate substantial merit, lack of valid defence, and harm sufficient to outweigh the public interest in protecting expression. This approach helps ensure that courts carefully balance competing interests-protecting legitimate claims while preventing misuse of the legal system to suppress expression.

…/2

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Ensuring Timely and Accessible Processes
Timeliness and accessibility are also core elements of administrative fairness. The Bill's provision for early dismissal of SLAPPs and expedited hearings supports efficient resolution of disputes, reducing unnecessary costs and delays for individuals defending their right to speak. This helps address the imbalance often faced by individuals with fewer resources when defending against well-funded litigants.

Advancing Equity and Reducing Power Imbalances
Fairness frameworks highlight the importance of using an equity lens to address systemic imbalances and barriers. SLAPPs disproportionately impact individuals, community advocates, and marginalized voices who may lack the financial means to defend themselves. By discouraging litigation that is intended to silence or burden such individuals, Bill 46 promotes more equitable participation in public decision-making and debate.

Strengthening Accountability and Public Confidence
Finally, fairness requires accountability and systems that inspire public trust. By discouraging abusive litigation and reinforcing protections for good-faith public expression, Bill 46 helps ensure that legal processes are used appropriately and not as tools of intimidation. This contributes to a more transparent and accountable system, consistent with fairness principles.

Bill 46 reflects and advances core principles of administrative fairness: meaningful participation, impartial and reasoned decision-making, equitable access and accountability. By protecting individuals from SLAPPs, the Bill strengthens democratic engagement and ensures that public discourse remains open, inclusive, and fair.

Sincerely,



Krista Carnogursky
Ombud

NWT Association of Communities
Connecting Community Governments Since 1966

MY COMMUNITY MATTERS

June 15, 2026

Julian Morse, Chair
Standing Committee on Government Operations
Northwest Territories Legislative Assembly
P.O. Box 1320
Yellowknife, NT
X1A 2N4

Dear MLA Morse,

Bill 46: Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act

Thank you for your letter of April 15, 2026, providing the Northwest Territories Association of Communities (NWTAC) with the opportunity to provide input into Bill 46: *Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act* (the Bill).

As you know, the NWTAC represents local governments in all 33 communities of the Northwest Territories. Together, we have become a powerful, effective voice for NWT community governments. Acting on our democratically-adopted resolutions, we advocate for the interests of NWT communities to the Governments of the Northwest Territories and Canada, and through the Federation of Canadian Municipalities (FCM). The NWTAC presents a unified voice for communities on municipal goals and issues, and this year, we celebrate our 60th anniversary of advocacy, addressing common issues, delivering programs and exchanging information. We greatly appreciate the opportunity to review draft legislation when it is being considered by NWT legislators and provide you with our perspective.

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The Bill is intended to protect individuals and groups from meritless intimidating lawsuits intended to silence public criticism on matters of public interest. This type of legislation – often referred to as anti-SLAPP (strategic lawsuit against public participation) – can be beneficial for community governments since it seeks to ensure open and sincere discussion on matters of public interest, reduces the burden of frivolous litigation, and ensures democratic participation, particularly in planning and development processes. Community Governments undertake the bulk of decision-making in public, with very limited exceptions, so ensuring a safe context for well-intentioned, objective engagement aligns with the principle of open public discourse under which we operate.

Further, the principle of open communication with no threat of punishment or recourse provides an assurance to Indigenous Northerners who experienced, directly or indirectly, the impact of residential schools where questioning authority by students resulted in punishment. Removing the threat of potential ramifications for speaking out is critically important when viewed from this perspective.

To summarize, while there may be some concerns with anti-SLAPP legislation as a means of delaying development or limiting the scope of community government control over development, NWTAC sees more advantages than potential disadvantages in the adoption and implementation of the Bill.

Thank you once again for the opportunity to comment.

Respectfully,



Mayor Kandis Jameson
President

Alternatives North

DELIVERED VIA EMAIL

June 24, 2026

Julian Morse, MLA Frame Lake
Chair of the Standing Committee on Government Operations
Legislative Assembly of the Northwest Territories
Box 1320
Yellowknife NT X1A 2L9

Re: Submission on Bill 46 — *Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act*

We are Alternatives North, a social justice coalition focused on social, environmental and economic justice in the Northwest Territories ("NWT"). We are writing to express our strong support for Bill 46, the *Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act*. The Bill is closely modelled on the anti-SLAPP laws in British Columbia[1] ("BC"), Ontario[2] and Manitoba[3], and meets most of the criteria for evaluating anti-SLAPP laws developed by the Centre for Free Expression at Toronto Metropolitan University (the "Centre").[4]

This submission was supported by policy advice from Heather McLeod-Kilmurray, a Professor and former Co-Director at the Centre for Environmental Law and Global Sustainability at University of Ottawa, and the work of lawyers and students at AEL Advocacy[5], Krystal-Anne Roussel and Lisa Tran. Professor McLeod-Kilmurray also assisted Alternatives North and Ecology North with detailed comments on the proposed Statement of Environmental Values with several of the recommendations incorporated into the final version.[6]

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[1] *Protection of Public Participation Act*, SBC 2019, c 3.
[2] *Protection of Public Participation Act, 2015*, SO 2015, c 23.
[3] *The Public Interest Expression Defence Act*, SM 2025, c 45.
[4] Evan Brander, James L. Turk, "Global Anti-SLAPP Ratings: Assessing the strength of anti-SLAPP laws" (March 23, 2023) Centre for Free Expression, Toronto Metropolitan University, https://cfe.torontomu.ca/sites/default/files/2023-03/2023_03_03%20Anti-SLAPP%20Evaluations_FINAL.pdf.
[5] https://www.aeladvocacy.ca/.
[6] See: https://www.ntlegislativeassembly.ca/sites/default/files/legacy/td_564-192.pdf.

A. Why Anti-SLAPP Legislation Matters in the Northwest Territories

A Strategic Lawsuit Against Public Participation (SLAPP) is a lawsuit intended to censor, intimidate or silence critics by burdening them with the cost and stress of a legal battle.[7] SLAPPs often target activists, advocates, journalists, and ordinary citizens who speak out on matters of public interest.[8] They typically arise where there is a significant imbalance of power and resources between the parties.[9]

Anti-SLAPP legislation allows the courts to identify and dismiss such a claim at an early stage, before the defendant is worn down by the time, expense and effort of defending it.[10] This legislation is key to *protecting expression* on matters of public interest from undue interference, and to *promoting the freedom* to participate in public debate.

It is important to consider Bill 46 within this broader context. The public hearings before the Standing Committee on Government Operations demonstrated many of the concerns the Bill seeks to address.[11] The Bill was largely discussed in relation to the rights of residential school survivors to share their experiences, criticize their Indigenous governments, and advocate for human rights. There was also a threat made against Ecology North by DeBeers over the public showing of a documentary on the diamond industry back in 1994 just as diamond mining was beginning. (see Member's Statements and questions by Jim Antoine and Brian Lewis made on March 16-17, 1994: https://hansard.opennwt.ca/search/?q_al=De+Beers&q_ex=&q_an=&q_no=&q_pid=&q_sec=&q_df=1994-01-01&q_dt=1995-01-01&q_as=&q_t=). Alternatives North supports the efforts of the MLA who introduced this Private Member's Bill and the constituent who brought forward these concerns and supports adopting the strongest possible protections to preserve freedom of expression and enable residents to participate fully in democratic processes.

These protections are particularly important in the NWT. Popular action on Indigenous rights, institutional misconduct, residential-school experiences, and governmental and administrative matters are all susceptible to SLAPP litigation. Many residents, including Elders and community members, do not have the resources to defend a lawsuit brought to silence them. Bill 46 would give them meaningful protection. For these reasons, Alternatives North strongly supports the Bill and urges its adoption.

B. Evaluation of Bill 46 Against the Centre for Free Expression Criteria

The Centre identifies nine criteria for evaluating anti-SLAPP statutes:

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[7] https://cfe.torontomu.ca/guidesadvice/anti-slapp-legislation-backgrounder
[8] https://ecojustice.ca/news/anti-slapp-legislation/
[9] https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733668/EPRS_BRI(2022)733668_EN.pdf at p 2.
[10] https://cfe.torontomu.ca/guidesadvice/anti-slapp-legislation-backgrounder
[11] See: https://www.youtube.com/watch?v=StaZLpYG83g

(1) the scope of the law;
(2) the minimum burden of proof required by the defendant;
(3) the shifted burden of proof required of the plaintiff;
(4) a stay of proceedings;
(5) the defendant's presumptive entitlement to costs;
(6) expedited hearings of anti-SLAPP motions;
(7) a right to immediate appeal and its timeline;
(8) a damages provision; and
(9) instruction for statutory interpretation.

Bill 46 is strong in several aspects. It is very broad in scope, applying to all proceedings that are concerns of public interest. Under section 4(1), it imposes a minimal burden on the defendant, who need only satisfy the court that the proceeding arises from an expression they made in respect of a matter of public interest. Under section 4(2), the onus then shifts to the plaintiff to justify continuation of the proceeding. The Bill also allows for expedited treatment of motions and for appeals (section 11).

However, Bill 46 is comparatively weak on several of the Centre's criteria. For example, it does not provide for an automatic stay of related administrative proceedings. The costs available to a successful defendant are limited (an "enhanced costs" rather than a "full indemnity" standard) and the defendant is not insulated from adverse costs.

Hearings are not set within a defined timeline (the Bill uses "as soon as practicable"). Finally, the Bill does not contain an instruction to interpret the law liberally or broadly. While we support the Bill and applaud the NWT government for this initiative, we propose several amendments to further strengthen the Bill:

1. Add an express provision directing courts to construe the Act broadly and liberally to achieve its purposes.
2. Add "or entity" to the definition of "expression" so the Act covers expressions directed at a person or entity.
3. Introduce an automatic stay of related administrative and tribunal proceedings once a dismissal motion is brought.
4. Replace the "enhanced costs basis" with a "full indemnity basis" for costs, matching BC, Ontario and Manitoba.
5. Adopt the broader Ontario-style qualified privilege defence, with the corresponding amendment to the *Defamation Act*.
6. Use "relates to a matter of public interest" rather than "in respect of" in the section 4 dismissal test.
7. Adopt a defined statutory timeline for hearing the motion (for example, 60 days, as in Ontario), subject to judicial discretion to extend.
8. Adopt minor wording changes to harmonize the Bill with the other jurisdictions.

C. Detailed Analysis and Recommendations

1. Instruction for Expansive Statutory Interpretation

The Centre considers statutes that direct judges to read the anti-SLAPP law broadly or liberally to be stronger than those that do not. Many statutes include such an instruction. For example, several U.S. anti-SLAPP statutes direct that the law "shall be construed broadly" or "liberally" to effectuate its purposes:

- **California**: In the purposes section, the statute states "To this end, this section shall be construed broadly."[12]
- **Georgia**: Right after the purposes section, the statute states "To accomplish the declarations provided for under this subsection, this Code section shall be construed broadly."[13]
- **Illinois**: Section 110/30 provides that the Act should be "construed liberally to effectuate its purposes and intent fully."[14]
- **New York:** The Act requires that "public interest" be construed liberally.[15]
- **Texas**: Under section 27.011, the statute states "This chapter shall be construed liberally to effectuate its purpose and intent fully."[16]
- **Utah:** Section 78B-25-111 indicates that "This chapter shall be broadly construed and applied to protect the exercise of the right of freedom of speech and of the press, the right to assemble and petition, and the right of association, guaranteed by the United States Constitution or the Utah Constitution."[17]

A broad or liberal interpretation ensures more flexible and robust protection of expression. A broad reading of "public interest," for example, can capture consumer reviews, community issues, and environmental advocacy; a broad reading of "expression" can extend to defamation (libel and slander), contract disputes, and regulatory complaints. Such instruction expands the scope of the legislation, allowing it to be more robust.

Recommendation No. 1: Add an interpretive provision directing that the Act be construed broadly and liberally to fully effectuate its purpose of protecting expression on matters of public interest.

2. "Person or Entity" in the Definition of Expression (Section 1(1))

The Ontario, BC and Manitoba Acts define expression as a communication "whether or not it is directed at a person or entity." The Supreme Court of Canada confirmed in

[12] https://codes.findlaw.com/ca/code-of-civil-procedure/ccp-sect-425-16/
[13] https://law.justia.com/codes/georgia/2020/title-9/chapter-11/article-3/section-9-11-11-1/
[14] https://www.ilga.gov/Legislation/ILCS/Articles?ActID=2937&ChapterID=56
[15] https://www.nysenate.gov/legislation/laws/CVR/70-A
[16] https://statutes.capitol.texas.gov/?tab=1&code=CP&chapter=CP.27&artSec=27.001
[17] https://le.utah.gov/xcode/Title78B/Chapter25/C78B-25_2023050320230503.pdf

1704604 Ontario Ltd. v. Pointes Protection Association, 2020 SCC 22 that this definition is to be read expansively.[18] Limiting the NWT definition to a "person" would narrow the Bill, because the party criticized in public-interest expression can be a corporation, government body or other entity. "Person" is defined in the *Interpretation Act*[19] Schedule as including "a corporation and the heirs, executors, administrators or other legal representatives of a person." This likely provides additional rationale for use of "entity" and an expansive definition for same in the Bill. It may also be helpful to define "entity" in the Bill to include registered societies under GNWT legislation (*Societies Act*).

Recommendation No. 2: Add "or entity" to the definition of "expression" so it reads "directed at a person or entity," matching the comparator statutes.

3. Automatic Stay of Related Proceedings

Ontario, BC and Manitoba all provide for an automatic stay of related administrative and tribunal proceedings once a dismissal motion is brought. A stay prevents a plaintiff from continuing to impose litigation costs and from using parallel proceedings as a tactical pressure point while the motion is pending. It reduces cost, delay and effort for everyone in the system, and the Centre places high value on a stay of proceedings.

Recommendation No. 3: Add provisions enforcing an automatic stay of related administrative and tribunal proceedings upon the bringing of a dismissal motion, similar to Ontario's legislation s. 137.4; the Manitoba Act ss. 10-11; and the BC Act s. 11.

4. Full Indemnity Rather Than "Enhanced Costs" (Section 7)

The BC, Ontario and Manitoba Acts each place costs and damages in separate sections, while Bill 46 combines them in section 7. The more important difference is the cost standard. Bill 46 proposes that a successful applicant recover costs "on an enhanced costs basis," whereas BC, Ontario and Manitoba all provide for costs "on a full indemnity basis."

Full indemnity is the standard precisely because of its deterrent function. Under Ontario's section 137.1(7), a successful moving party is presumptively entitled to full indemnity costs. The Ontario Court of Appeal in *Levant v. DeMelle*, 2022 ONCA 79 explained that this presumption serves two purposes: to reduce the adverse impact of unmeritorious litigation on constitutional values, and to deter the commencement of SLAPP actions in the first place.[20]

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[18] *1704604 Ontario Ltd. v. Pointes Protection Association*, 2020 SCC 22 at para 25.
[19] https://www.justice.gov.nt.ca/en/files/legislation/interpretation/interpretation.a.pdf
[20] *Levant v. DeMelle*, 2022 ONCA 79 at para 79.

The presumptive full-indemnity award is a powerful deterrent against weak or tactical claims, and it also encourages counsel to take on the defence of public-interest expression even where the defendant may be unable to pay.

Full indemnity is a better deterrent than enhanced costs because it requires the plaintiff to bear effectively all of the defendant's reasonable defence costs, leaving meritless claims with no cost advantage. We note that the presumption is not unlimited. In *Park Lawn Corporation v. Kahu Capital Partners Ltd.*, 2023 ONCA 129, the Court of Appeal indicated that anti-SLAPP costs should not generally exceed $50,000 even on a full-indemnity basis, to keep the procedure proportionate[21], but this guideline operates within, and does not displace, the full-indemnity standard. Adopting the same "full indemnity" language would harmonize the NWT law with the other provinces and better serve the Bill's deterrent purpose.

Recommendation No. 4: Amend section 7 to provide that a successful moving party is presumptively entitled to costs on a full indemnity basis, and consider separating the costs and damages provisions as the other jurisdictions do.

5. Qualified Privilege (Section 3)

Bill 46 adopts the language of the BC Act on qualified privilege. The BC approach, as the Bill's own Plain Language Summary[22] notes, extends qualified privilege only to communications already protected at common law. Ontario took a broader approach. Through the *Protection of Public Participation Act, 2015*[23], it amended the *Libel and Slander Act*[24] so that qualified privilege applies to communications on a matter of public interest between persons with a direct interest in the matter, regardless of whether the communication is witnessed or reported by the media, thereby protecting certain public communications, such as a social media post on a public issue, that the common law might not protect. Manitoba did not address qualified privilege in its statute at all, leaving the matter to the common law and the responsible-communication defence recognized in *Grant v. Torstar Corp.*, 2009 SCC 61.[25]

Because the broader Ontario formulation provides stronger protection for public-interest expression (the central object of the Bill), Alternatives North favours it.

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[21] *Park Lawn Corporation v. Kahu Capital Partners Ltd*., 2023 ONCA 129 at para 39.
[22] https://www.ntlegislativeassembly.ca/tabled-documents/plain-language-summary-bill-no-46-201-prevention-proceedings-hamper-expression.
[23] *Protection of Public Participation Act, 2015*, SO 2015, c 23.
[24] *Libel and Slander Act*, RSO 1990, c L.12, s 25..
[25] *Grant v. Torstar Corp.*, 2009 SCC 61.

Recommendation No. 5: Adopt the broader Ontario-style qualified privilege defence by framing the consequential amendment to the *Defamation Act* accordingly (see s. 4 of the Ontario *Act to Amend the Courts of Justice Act* which amends the *Libel and Slander Act* of Ontario by adding s. 25.)

6. Order to Dismiss (Section 4)

Section 4 of the Bill sets the test for dismissing a SLAPP. In the BC, Ontario and Manitoba Acts, the first branch of the test asks whether the expression "relates to" a matter of public interest. Bill 46 instead uses "in respect of" a matter of public interest. The phrase "relates to a matter of public interest" is the exact language the Supreme Court of Canada authoritatively interpreted in *1704604 Ontario Ltd. v. Pointes Protection Association*, 2020 SCC 22, drawing on *Grant v. Torstar*, 2009 SCC 61.[26] The Court held that the defendant's threshold burden is deliberately undemanding and involves no assessment of the value of the expression[27] and that "public interest" is to be construed broadly and contextually (e.g. it is not confined to political matters, does not require a public-figure plaintiff, and is assessed by looking at the subject matter of the expression as a whole.[28] Adopting the identical phrase imports this settled, expression-protective body of jurisprudence directly into NWT law.
Although "in respect of" is itself capable of a broad reading, it has not been interpreted in the anti-SLAPP context. Using different language invites needless argument over whether the NWT test is meant to differ from the harmonized national standard, which would undermine the predictability and the quick, inexpensive resolution the Bill is designed to achieve, and would forfeit the benefit of persuasive precedent from BC, Ontario and Manitoba.

Recommendation No. 6: Amend section 4 to use "relates to a matter of public interest," consistent with the other Canadian statutes and the Supreme Court of Canada's framework.

7. Timeline for Hearing a Motion (Section 9.3)

Bill 46, like the BC and Manitoba Acts, requires the motion to be heard "as soon as practicable." Ontario instead requires the motion to be heard no later than 60 days after it is filed. There are arguments both ways. A defined timeline promotes transparency and predictability and reflects the statutory urgency of unburdening defendants from meritless lawsuits quickly, a point to which the Centre attaches importance. On the

[26] *1704604 Ontario Ltd. v. Pointes Protection Association*, 2020 SCC 22.
[27] *Ibid* at para 28.
[28] *Grant v. Torstar Corp.* at paras 105-106, 109.

other hand, a fixed deadline is more demanding on a smaller court system, and "as soon as practicable" affords flexibility to account for available resources and operational realities in the NWT.

On balance, because prompt resolution is central to the Bill's protective purpose, Alternatives North recommends a defined outer timeline, with discretion to extend where the interests of justice require. This captures the benefits of predictability while preserving the flexibility the NWT courts may need.

Recommendation No. 7: Adopt a defined statutory timeline for hearing the motion (for example, within 60 days, as in Ontario), subject to the court's discretion to extend for good reason.

8. Minor Wording Changes to Harmonize with Other Jurisdictions

Several smaller changes would improve consistency and avoid divergent interpretation:

- **Use the word "and" rather than "or" in the definition of "expression" (s. 1(1)):** The Ontario, BC and Manitoba Acts use "and" in the definition of "expression." While the difference is minor, "and" is more inclusive than "or," and consistency across the statutes promotes harmonious interpretation.
- **Damages (s. 7):** The BC and Manitoba Acts allow the court to award damages "on their own initiative or on motion by the moving party." Adding this wording confirms the court may award damages without a separate motion.
- **Cross-examination on documentary evidence (s. 10):** Section 10(1) refers to cross-examination, while section 10(2) refers to cross-examination on documentary evidence; the Ontario Act refers to documentary evidence in both. Aligning the two subsections keeps the motion efficient and limited in scope, consistent with its screening purpose.
- **Appeals (s. 11):** The Ontario Act provides for an appeal of an order "to dismiss or not to dismiss." Adopting this language ensures that both parties have a right of appeal from the disposition of the motion.

Recommendation No. 8: Adopt the wording changes in section 5.8 to harmonize Bill 46 with the BC, Ontario and Manitoba statutes.

D. Conclusion

Alternatives North strongly supports Bill 46 and urges its passage. The Bill is a significant and welcome step toward protecting the freedom of NWT residents to participate in public debate without fear of being silenced by litigation. The amendments proposed in this submission would strengthen the Bill, align it more closely with the

leading Canadian anti-SLAPP statutes, and ensure that its protections are as robust and predictable as possible.

We thank the Committee for the opportunity to contribute and would welcome the chance to provide any further information that would assist its review.

Sincerely,



Kevin O'Reilly

cc. George Nerysoo, MLA Mackenzie Delta and Sponsor of Bill 46

From:	M K
To:	DST_LEG_Committees; Angus Wilson
Subject:	Bill 46 - technical comment for the Committee"s consideration
Date:	June 26, 2026 17:04:38

Attention: Standing Committee on Government Operations

I understand that members of the Law Society of the Northwest Territories have been invited to provide comments on Bill 46. I would like to offer one modest, technical suggestion for the Committee's consideration.

My proposal is simply to amend section 7(2) to align with section 7(1). If an anti-SLAPP application succeeds, the applicant is presumptively entitled to enhanced costs. If the application is unsuccessful, the respondent should likewise be presumptively entitled to costs of the application, unless the Court determines otherwise. As drafted, section 7(2) provides the opposite default. I haven't been able to identify a principled basis for that distinction.

I have no concern with the objective of protecting expression on matters of public interest from abusive litigation. That is an entirely legitimate legislative objective. What I have not seen in the Bill or the accompanying materials is evidence that such abusive litigation is, in fact, a demonstrated problem in the Northwest Territories. That does not necessarily mean the legislation should not proceed. It does suggest, however, that care should be taken to ensure the legislation does not itself create an unnecessary deterrent for people with legitimate claims.

My concern is practical. If this bill is enacted as drafted, some people with legitimate claims may decide not to bring them. I'm assuming that is not an intended effect of the proposed legislation.

Commencing a lawsuit is already expensive. If this legislation comes into effect, a prospective plaintiff would have to consider more than the cost of litigating their underlying case. They would also have to consider the realistic possibility that they will first be required to defend a potentially lengthy anti-SLAPP application, including any appeals, before their own claim can even move forward. That is not simply because such an application is available. It is because the Bill creates relatively little default cost consequence for bringing an unsuccessful application, making it more likely that plaintiffs will, in practice, have to fund two proceedings rather than one. To elaborate:

- Under section 5, filing the application automatically stays the underlying proceeding until the application, including any appeal of it, has been finally determined. Under section 9(2), the application may be brought at any time after the proceeding has commenced. The plaintiff therefore has no control over whether, or when, that

Melissa Kruger

Appendix C:

Committee Correspondence

NORTHWEST TERRITORIES
LEGISLATIVE ASSEMBLY
TERRITOIRES DU NORD-OUEST
ASSEMBLÉE LÉGISLATIVE

March 30, 2026

GEORGE NERYSOO
MEMBER OF THE LEGISLATIVE ASSEMBLY FOR MACKENZIE DELTA

Invitation to Brief Committee on Bill 46: *Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act*

The Standing Committee on Government Operations (Committee) was referred Bill 46: *Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act* on March 06, 2026. As part of its review, Committee invites you to appear before it as sponsor of the bill in order to provide information to, and answer questions from, Committee members about the bill. In order to inform its review of the bill and its stakeholder outreach activities, Committee is particularly interested to hear from you about the engagement you undertook with stakeholders, interested parties, and the Government of the Northwest Territories while preparing this legislation.

Committee staff will contact your office to arrange a mutually convenient time for your appearance, ideally during the upcoming committee meetings during the last week of April and the first week of May.

Thank you for your consideration. Committee looks forward to reviewing Bill 46.

Julian Morse, Chair
Standing Committee on
Government Operations

c. Members of the Legislative Assembly
Committee Members, Standing Committee on Government Operations
Clerk, Standing Committee on Government Operations
Advisor, Standing Committee on Government Operations

From:	George Nerysoo
To:	Larissa LeMouel; Georgina Neyando
Cc:	Caitlin Cleveland MLA; Caroline Wawzonek MLA; Daniel McNeely; Denny Rodgers; Jane Weyallon Armstrong; Jay Macdonald MLA; Julian Morse; Kate Reid; Kieron Testart; Lesa Semmler MLA; Lucy Kuptana MLA; Richard Edjericon; RJ Simpson; RJ Simpson MLA; Robert Hawkins; Shauna Morgan; Sheryl Yakeleya; Vince McKay MLA; Tasha Bergman; Angus Wilson; Georgina Neyando
Subject:	Re: 2026-03-30 - SCOGO to MLA Nerysoo - Invitation to Brief Committee on Bill 46
Date:	March 31, 2026 15:48:38

Thank you for the invitation and I accept, stating that this will take place during committee week

---

From: Larissa LeMouel <Larissa_LeMouel@ntassembly.ca>
Sent: Monday, March 30, 2026 10:55:40 AM
To: George Nerysoo <George_Nerysoo@ntassembly.ca>; Georgina Neyando <Georgina_Neyando@ntassembly.ca>
Cc: Caitlin Cleveland MLA <Caitlin_Cleveland@ntassembly.ca>; Caroline Wawzonek MLA <Caroline_Wawzonek@ntassembly.ca>; Daniel McNeely <Daniel_McNeely@ntassembly.ca>; Denny Rodgers <Denny_Rodgers@ntassembly.ca>; Jane Weyallon Armstrong <Jane_WeyallonArmstrong@ntassembly.ca>; Jay Macdonald MLA <Jay_Macdonald@ntassembly.ca>; Julian Morse <Julian_Morse@ntassembly.ca>; Kate Reid <Kate_Reid@ntassembly.ca>; Kieron Testart <Kieron_Testart@ntassembly.ca>; Lesa Semmler MLA <Lesa_Semmler@ntassembly.ca>; Lucy Kuptana MLA <Lucy_Kuptana@ntassembly.ca>; Richard Edjericon <Richard_Edjericon@ntassembly.ca>; RJ Simpson <RJ_Simpson@gov.nt.ca>; RJ Simpson MLA <RJ_Simpson@ntassembly.ca>; Robert Hawkins <Robert_Hawkins@ntassembly.ca>; Shauna Morgan <Shauna_Morgan@ntassembly.ca>; Sheryl Yakeleya <Sheryl_Yakeleya@ntassembly.ca>; Vince McKay MLA <Vince_McKay@ntassembly.ca>; Tasha Bergman <Tasha_Bergman@ntassembly.ca>; Angus Wilson <Angus_Wilson@ntassembly.ca>; Georgina Neyando <Georgina_Neyando@ntassembly.ca>
Subject: 2026-03-30 - SCOGO to MLA Nerysoo - Invitation to Brief Committee on Bill 46

Good day,

Please find attached correspondence addressed to Mr. George Nerysoo, Member of the Legislative Assembly for Mackenzie Delta, from Mr. Julian Morse, Chair of the Standing Committee on Government Operations.

The correspondence is an Invitation to brief Committee on Bill 46: *Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act*

*Note: Please consider this as your original, no hardcopy to follow

Mársı | kinanāskomitin | Thank you | Merci | Haį̨' | Quana | Qujannamiik | Quyanainni | Mahsì | Máhsı | Masì

Larissa LeMouel
Pronouns| Pronoms : *she/her/hers* | *elle/ells*

Executive Administrative Coordinator|Coordonnatrice administrative exécutive

Office of the Clerk | Bureau du greffier

Northwest Territories Legislative Assembly | Assemblée législative des Territoires du Nord-Ouest
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NORTHWEST TERRITORIES
LEGISLATIVE ASSEMBLY
TERRITOIRES DU NORD-OUEST
ASSEMBLÉE LÉGISLATIVE

April 08, 2026

THE HONOURABLE JAY MACDONALD
GOVERNMENT HOUSE LEADER

Invitation to Brief Committee on Bill 46: *Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act*

The Standing Committee on Government Operations (Committee) was referred Bill 46: *Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act* on March 6, 2026. As part of its review, Committee invites the Honourable Jay Macdonald, Minister of Justice to appear before it, accompanied by departmental officials, to brief Committee on the department's position on the bill and answer questions from Committee members.

As a private Member's bill, Committee is particularly interested to hear whether the bill is welcomed by the Government of the Northwest Territories, whether the bill duplicates or affects any work undertaken by the department in this area, and whether the department has any concerns with enacting the bill as currently drafted that could be rectified through amendments. Recognizing that the 18th Assembly accepted a recommendation from the Standing Committee on Economic Development and Environment during its review of Bill 39: Environmental Rights Act to introduce similar legislation during the life of the 19th Assembly, Committee also seeks to better understand why similar legislative initiatives have not been advanced by government since that time.

Committee staff will contact Minister Macdonald's office to arrange a mutually convenient time for his appearance, ideally to be closely coordinated with or held immediately following an appearance by the Member for the Mackenzie Delta, the bill's sponsor, during the upcoming committee meetings during the last week of April and the first week of May.

Thank you for your consideration. Committee looks forward to reviewing Bill 46.

Julian Morse, Chair
Standing Committee on
Government Operations

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NORTHWEST TERRITORIES
LEGISLATIVE ASSEMBLY
TERRITOIRES DU NORD-OUEST
ASSEMBLÉE LÉGISLATIVE

May 1, 2026

GEORGE NERYSOO
MEMBER OF THE LEGISLATIVE ASSEMBLY FOR MACKENZIE DELTA

Follow-up Questions Concerning Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act*

Thank you for appearing before the Standing Committee on Government Operations (Committee) with Mr. Lawrence Norbert on April 28, 2026 as part of its review of your private Member's bill, Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act*. Committee members sincerely appreciate you both sharing your thoughts and answering their questions.

During the subsequent appearance by the Minister of Justice that evening, the Department posed two questions about the bill that arose following a comparison of Bill 46 with similar legislation enacted in other Canadian jurisdictions.

The first question concerns the use of the word "person" in subclause (c) of the definition of "expression" in clause 1(1) of Bill 46: "whether or not it is directed at a person". Departmental officials noted that "person" is defined in the *Interpretation Act* as including "a corporation and the heirs, executors, administrators or other legal representatives of a person". They noted that Bill 46 would therefore apply to communications by individuals and corporations, while the definition of "expression" in the Ontario legislation uses the wording "whether or not it is directed at a person or entity". This makes the Ontario legislation applicable to a broader group of entities, including administrative tribunals and bodies that are not incorporated. The officials queried whether the definition of "expression" in Bill 46 should be expanded.

…/2

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The second question concerns the lack of a mechanism in Bill 46 to stay related proceedings. In Ontario's legislation, if the party responding to an "anti-SLAPP" dismissal motion begins a proceeding before a separate tribunal against the same party that filed the anti-SLAPP motion that the latter believes to be related to the same matter of public interest, the party that filed the initial anti-SLAPP dismissal motion may have the new related proceeding stayed. Committee notes that similar provisions are included in the legislation in British Columbia and Manitoba. Departmental officials noted that Bill 46 does not include a similar provision, and queried why this was the case and whether a similar provision should be added to Bill 46.

Committee would appreciate hearing your response to both questions. In cases where you believe they highlight gaps in Bill 46, Committee is open to working with you to draft amendments to address them.

Julian Morse, Chair
Standing Committee on
Government Operations

c. Committee Members, Standing Committee on Government Operations
Clerk, Standing Committee on Government Operations
Advisor, Standing Committee on Government Operations

NORTHWEST TERRITORIES
LEGISLATIVE ASSEMBLY
TERRITOIRES DU NORD-OUEST
ASSEMBLÉE LÉGISLATIVE

May 1, 2026

THE HONOURABLE JAY MACDONALD
GOVERNMENT HOUSE LEADER

Follow-up Questions Concerning Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act*

Thank you for appearing before the Standing Committee on Government Operations (Committee) in your capacity as Minister of Justice on April 28, 2026 as part of its review of Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act.*

Committee notes two commitments made at the meeting to provide additional information in writing: any preliminary or background work completed by the Government on similar "anti-SLAPP" legislation, and an explanation as to why the Government had not brought forward similar legislation previously. Committee notes that the Standing Committee on Economic Development and Environment included a recommendation that anti SLAPP legislation be introduced during the 19th Assembly in its Report 27-18(3) on Bill 39: *Environmental Rights Act*, and that the Legislative Assembly adopted this recommendation during its review of the report in Committee of the Whole on August 16, 2019. Committee recognizes that this motion was adopted near the end of the 18th Assembly, and that no response to the report from the Government was tabled prior to dissolution.

Thank you for your consideration. Committee looks forward to your response as it continues its review of Bill 46.

Julian Morse, Chair
Standing Committee on
Government Operations

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Director, Legislative Affairs and House Planning
Manager, Committee and Advisory Services
Clerk, Standing Committee on Government Operations
Advisor, Standing Committee on Government Operations

NORTHWEST TERRITORIES
LEGISLATIVE ASSEMBLY
TERRITOIRES DU NORD-OUEST
ASSEMBLÉE LÉGISLATIVE

June 17, 2026

MR. GEORGE NERYSOO
MEMBER OF THE LEGISLATIVE ASSEMBLY FOR MACKENZIE DELTA

Stakeholder Feedback on Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act*

In the course of its review of your private Member's bill, Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act*, the Standing Committee on Government Operations (Committee) has received feedback from stakeholders and interested parties, including the Canadian Association of Journalists (CAJ). Committee is interested in further exploring two issues raised by the CAJ to improve the bill: awarding full indemnity costs to successful applicants, and including a stay of related proceedings.

The CAJ notes that mounting a legal defence to "Strategic Lawsuits Against Public Participation" (SLAPPs) can be costly and time-consuming, which means that awards issued only on an enhanced costs basis can still financially damage journalists and media outlets with limited resources. The CAJ is also concerned that allowing only for enhanced costs is not as strong a deterrent compared to awarding costs on a full indemnity basis. Committee notes that other Canadian jurisdictions with similar anti-SLAPP regimes (Ontario, British Columbia, and Manitoba) provide for the awarding of full indemnity costs.

The CAJ also notes that Bill 46 does not include provisions allowing for a stay of related tribunal or administrative proceedings. Committee notes that, in many cases, a defendant may be involved in multiple related parallel processes. With no provision granting a stay in related proceedings, those would keep moving forward even as the defendant is applying to have one proceeding dismissed as a SLAPP. Committee notes that, while Bill 46 requires that no further steps in a given proceeding be taken once an application for dismissal is made, similar anti-SLAPP regimes in Ontario, British Columbia, and Manitoba extend this requirement to related proceedings. The Minister of Justice also flagged this question during his appearance before the Committee on April 28, 2026, and Committee previously relayed this concern to you for your feedback on May 1, 2026.

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Committee would be open to preparing amendment motions to Bill 46 to replace the entitlement to awards on an “enhanced costs basis” with “full indemnity basis” in clause 7, and to add a provision to stay related tribunal and administrative proceedings that the moving party believes to be related to the same matter of public interest. These amendment motions would more closely align Bill 46 with similar anti-SLAPP regimes in other Canadian jurisdictions.

Committee would appreciate your response to these issues and to the letter sent to you on May 1st. Thank you for your consideration. Committee looks forward to continuing its review of Bill 46.

Julian Morse, Chair
Standing Committee on
Government Operations

c. Committee Members, Standing Committee on Government Operations
Clerk, Standing Committee on Government Operations
Advisor, Standing Committee on Government Operations

From: Julian Morse
To: Angus Wilson; Tasha Bergman
Subject: FW: Submission on Bill 46 — Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act
Date: June 30, 2026 15:04:18

It was sent to just me, sorry for not noticing sooner. Can you reach out to George and make sure he has the resources to respond to our letters? I'm not sure if he has law clerk support for analysis/response.

Thanks!

Mársı | Kinanāskomitin | Thank you | Merci | Hąį' | Quana | Qujannamiik | Quyanainni | Máhsı | Máhsı | Mahsì

Julian Morse
MLA Frame Lake
(He/Him)

Northwest Territories Legislative Assembly
PO Box 1320 | Yellowknife NT | X1A 2L9
Phone: 867-767-9143 ext. 12110
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NTASSEMBLY.CA

From: Georgina Neyando <Georgina_Neyando@ntassembly.ca>
Sent: Friday, June 26, 2026 3:16 PM
To: Julian Morse <Julian_Morse@ntassembly.ca>
Subject: RE: Submission on Bill 46 — Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act

Drin Gwiinzii, Mr. Morse,

I would like to respond to the recommendations forwarded from Kevin O'Reilly, Ecology North, on Bil 46. I am in favor of the recommendations that Mr. O'Reilly has made on behalf of Ecology North. I feel these recommendations will strengthen the Bill more broadly and fairly represent everyone.
If you have any questions, please feel free to contact me for further discussion.

Thank you
George Nerysoo
MLA Mackenzie Delta

From: George Nerysoo <George_Nerysoo@ntassembly.ca>
Sent: Thursday, June 25, 2026 12:53 AM
To: Georgina Neyando <Georgina_Neyando@ntassembly.ca>
Subject: Fw: Submission on Bill 46 — Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act

Please print this document off for me.
Thank you

From: kevin o'reilly <kor@theedge.ca>
Sent: Wednesday, 24 June 2026 23:22:06
To: Julian Morse <Julian_Morse@ntassembly.ca>
Cc: George Nerysoo <George_Nerysoo@ntassembly.ca>; Georgina Neyando <Georgina_Neyando@ntassembly.ca>; DST_LEG_Committees <committees@ntassembly.ca>; Alternatives North <altnorthplan@groups.io>
Subject: Re: Submission on Bill 46 — Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act

Some people who received this message don't often get email from kor@theedge.ca. Learn why this is important

Please find attached a submission from Alternatives North on Bill 46: Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act. We are very pleased to offer our strong support for this Bill with some recommendations to further strengthen it.

Should you have any questions, feel free to contact me as shown below. Thanks.

++

Kevin O'Reilly
P.O. Box 444
Yellowknife NT X1A 2N3
Canada
867-920-2765 home
867-444-2929 cell
kor@theedge.ca

NORTHWEST TERRITORIES
LEGISLATIVE ASSEMBLY
TERRITOIRES DU NORD-OUEST
ASSEMBLÉE LÉGISLATIVE

July 03, 2026

MR. GEORGE NERYSOO
MEMBER OF THE LEGISLATIVE ASSEMBLY FOR MACKENZIE DELTA

Public Feedback on Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act*

In the course of its review of your private Member's bill, Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Public Interest Act*, the Standing Committee on Government Operations (Committee) has received public comments from stakeholders and interested parties, including a member of the Law Society of the Northwest Territories, and seeks your feedback on this particular submission.

The proposal would be to amend subsection 7(2) so that if a judge does not dismiss an "anti-SLAPP" proceeding, the respondent is entitled to costs on the application unless the judge determines otherwise. This would align subsection 7(2) with subsection 7(1), which states that if a judge does dismiss an "anti-SLAPP" proceeding, the applicant is entitled to costs on the application unless the judge determines otherwise.

The argument made in the public submission is that the applicant and respondent should be treated equally. The concern expressed is that, as currently written, Bill 46 will increase the cost to a plaintiff of pursuing litigation in the first place if they have to first defend themselves from an "anti-SLAPP" application before their own case can proceed. This could create a deterrent that would prevent people with legitimate claims from initiating litigation.

Committee notes that the current language of section 7 of Bill 46 is consistent with similar pieces of legislation enacted in Ontario, British Columbia, and Manitoba, and that, in each jurisdiction, the judge or the court has discretion to award or withhold costs on the application as they consider appropriate. Committee therefore does not necessarily agree with this proposal at this time but is seeking your feedback as sponsor of Bill 46.

…/2

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Thank you for your consideration. Committee looks forward to continuing its review of Bill 46.

Julian Morse, Chair
Standing Committee on
Government Operations

c. Committee Members, Standing Committee on Government Operations
Clerk, Standing Committee on Government Operations
Advisor, Standing Committee on Government Operations

NORTHWEST TERRITORIES
LEGISLATIVE ASSEMBLY
TERRITOIRES DU NORD-OUEST
ASSEMBLÉE LÉGISLATIVE

September 17, 2026

GEORGE NERYSOO
MEMBER OF THE LEGISLATIVE ASSEMBLY FOR MACKENZIE DELTA

Proposed Amendments to Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Free Expression Act*

The Standing Committee on Government Operations (Committee) is reviewing Bill 46: *Prevention of Proceedings That Hamper Expression on Matters of Free Expression Act.*

Following its review, Committee has prepared eight amendment motions to the Bill that respond to many of the recommendations made by Alternatives North and which were also raised by other stakeholders. These amendment motions do the following:

- Motion 1: in clause 1, modifies the definition of “expression” to include entities as well as persons.
- Motion 2: in subclause 4(1), substitutes “in respect of” with “relates to”.
- Motion 3: in subclause 7(1), replaces “enhanced costs basis” with “full indemnity basis”.
- Motion 4: in clause 8, adds the express authority for a judge to award damages on the judge’s own motion.
- Motion 5: in subclause 10(1), notes “any documentary evidence” being the subject of cross-examination.
- Motion 6: in clause 11, provides that any appeal be heard as soon as practicable, not just appeals of orders to dismiss.
- Motion 7: adds a new clause 11.1 that provides that no permission, or leave, is required to appeal an order made under section 4.
- Motion 8: adds a new clause 11.2 that provides an automatic stay of related tribunal proceedings.

…/2

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The draft amendment motions are attached for your review. They are accompanied by a copy of the English text of Bill 46 prepared by Committee staff which shows how the proposed amendments, if adopted, would modify the Bill.

Committee welcomes your feedback on these proposed amendments. Committee has scheduled the clause-by-clause review of Bill 46 to take place on Monday, September 21 at noon, and looks forward to your participation. If you object to any of the proposed amendments, please inform Committee staff as soon as possible. Otherwise, Committee looks forward to completing its review of the Bill.



Julian Morse, Chair
Standing Committee on
Government Operations

Attachment(s)

c. Committee Members, Standing Committee on Government Operations
Clerk, Standing Committee on Government Operations
Advisor, Standing Committee on Government Operations

PREVENTION OF PROCEEDINGS THAT HAMPER EXPRESSION ON MATTERS OF PUBLIC INTEREST ACT

(with proposed amendments in red; additions are underlined, deletions are struck through)

The Commissioner of the Northwest Territories, by and with the advice and consent of the Legislative Assembly, enacts as follows:

Interpretation

Definitions

1. (1) In this Act,

"applicant" means a party making an application under section 4;

"expression" means any communication, regardless of

(a) whether it is made verbally or non-verbally,
(b) whether it is made publicly or privately, or
(c) whether or not it is directed at a person or entity [Motion 1];

"respondent" means a party responding to an application made under section 4.

Retroactivity and retrospectivity

(2) For greater certainty, this Act does not have retroactive or retrospective effect.

Purposes

2. The purposes of this Act are

(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.

Qualified privilege

3. If an oral or written communication on a matter of public interest, between persons who have a direct interest in the matter, has qualified privilege, that communication has qualified privilege regardless of whether the communication is witnessed or reported by media representatives or other persons.

Dismissal of Proceeding that Limits Debate

Order to dismiss

4. (1) Subject to subsection (2), on an application by a person against whom a proceeding is brought, a judge shall dismiss the proceeding against the applicant if the applicant satisfied the judge that

(a) the proceeding arises from an expression made by the applicant; and

(b) the expression ~~is in respect of~~ relates to [Motion 2] a matter of public interest.

No dismissal

(2) A proceeding must not be dismissed on an application under subsection (1) if the respondent satisfies the judge that

(a) there are grounds to believe that

(i) the proceeding has substantial merit, and

(ii) the applicant has no valid defence in the proceeding; and

(b) the harm likely to be or have been suffered by the respondent as a result of the applicant's expression is sufficiently serious that the public interest in permitting the proceeding to continue outweighs the public interest in protecting that expression.

No Further Steps

No further steps in proceeding

5. Once an application under section 4 is made, no further steps may be taken in the proceeding by any party until the application, including any appeal of the application, has been finally disposed of.

No Amendment to Pleadings

No amendment to pleadings

6. Unless a judge orders otherwise, the respondent is not permitted to amend their pleadings in the proceeding

(a) in order to prevent or avoid an order under section 4 dismissing the proceeding; or

(b) in order to continue the proceeding, if the proceeding is dismissed under section 4.

Costs and Damages

Costs on dismissal

7. (1) If a judge dismisses a proceeding under section 4, the applicant is entitled to costs on the application and in the proceeding on ~~an enhanced costs~~ a full indemnity [Motion 3] basis, unless the judge determines that such an award is not appropriate in the circumstances.

Costs if application to dismiss denied

(2) If a judge does not dismiss a proceeding under section 4, the respondent is not entitled to costs on the application, unless the judge determines that such an award is appropriate in the circumstances.

Damages

8. ~~On dismissing a proceeding under section 4, a judge may award the applicant such damages as the judge considers appropriate,~~ On an application for a dismissal order under section 4, the judge may, on the judge's own motion or on application by the applicant, award the damages the judge considers appropriate against a respondent [Motion 4] if the judge finds that the respondent brought the proceeding in bad faith or for an improper purpose.

Procedural Matters

Manner of making application

9. (1) An application to dismiss a proceeding under section 4 must be made in accordance with the Rules of the Supreme Court.

When to make application

(2) An application under section 4 may be made at any time after the proceeding has commenced.

Motion to be heard as soon as is practicable

(3) An application under section 4 must be heard as soon as practicable after the notice of application is filed with the Supreme Court.

Limit on cross-examinations

10. (1) Subject to subsection (2), cross-examination on ~~an application under section 4~~ any documentary evidence filed by the parties [Motion 5] must not exceed a total of seven hours for any party.

Extension of time

(2) A judge may extend the time permitted for cross-examination on documentary evidence if the judge determines that it is necessary to do so in the interests of justice.

Appeals

Appeal to be heard as soon as practicable

11. An appeal of an order ~~to dismiss~~ [Motion 6] made under section 4 must be heard as soon as practicable after the appellant perfects the appeal.

Appeal to Court of Appeal

11.1. (1) An appeal of an order made under section 4 must be heard by the Court of Appeal.

No leave required

(2) An appeal of an order under section 4 does not require any permission or leave to appeal. [Motion 7]

Stay of related tribunal proceeding

11.2 (1) If the respondent has begun a proceeding before a tribunal and the applicant believes that the proceeding relates to the same matter of public interest that the applicant alleges is the basis of the proceeding that is the subject of their application under this Act, the applicant may file with the tribunal a copy of the application that was filed with the court and, on its filing, the tribunal proceeding is deemed to have been stayed by the tribunal.

Notice

(2) The tribunal shall give to each party to a tribunal proceeding stayed under subsection (1),

(a) notice of the stay; and

(b) a copy of the application that was filed with the tribunal.

Duration

(3) A stay of a tribunal proceeding under subsection (1) remains in effect until the application, including any appeal of the application, has been finally disposed of, subject to subsection (4).

Stay may be lifted

(4) A judge may, on application, order that the stay is lifted at an earlier time if, in their opinion,

(a) the stay is causing or would likely cause undue hardship to a party to the tribunal proceeding; or

(b) the proceeding that is the subject of the application under this Act and the tribunal proceeding that was stayed under subsection (1) are not sufficiently related to warrant the stay.

Same

(5) An application under subsection (4) must be brought before a judge of the Supreme Court or, if the decision made on the application is under appeal, a judge of the Court of Appeal. [Motion 8]

Other Rights Remain

Rights not limited

12. The remedies under this Act are in addition to any other right or remedy that may be available to an applicant or a respondent.

CONSEQUENTIAL AMENDMENT

Defamation Act

13. The *Defamation Act* is amended by adding the following after section 11:

Application of qualified privilege

11.1. Any qualified privilege that applies in respect of an oral or written communication on a matter of public interest between two or more persons who have a direct interest in the matter applies regardless of whether the communication is witnessed or reported by media representatives or other persons.