Alternatives North and Gerry Cheezie | Policy Brief | June 2025

Shaping Bill 49: Proposed Amendments to the NWT Safer Communities and Neighbourhoods Act

Making SCAN Legislation Work for NWT Communities

ALTERNATIVES NORTH'S POSITION

Alternatives North recognizes that a majority of MLAs support Bill 49, and that the GNWT is committed to proceeding with SCAN legislation. Our goal is not to defeat the bill but to improve it, to ensure that if civil enforcement of problem properties proceeds in the NWT, it does so with Indigenous community oversight, local capacity, meaningful accountability, and built-in protections against the harms documented in other jurisdictions. The amendments proposed in this brief would make Bill 49 more defensible, more effective, and less likely to cause the displacement and Charter-rights harms identified in comparable legislation elsewhere.

What Bill 49 Is Intended to Do

SCAN (Safer Communities and Neighbourhoods) is a civil enforcement tool. It allows a designated investigator to gather evidence that a property is habitually used for illegal activities, and then to pursue a court order or administrative notice directing property owners or occupants to address those activities. The remedy targets the use of a property, not individual criminal liability.

Bill 49 was introduced by Justice Minister Jay Macdonald in June 2025 as part of a broader public safety legislative package that includes a Civil Forfeiture Act and a Trespass to Property Act. The GNWT conducted public engagement from October to November 2025, in which 67% of respondents identified illegal activity at residential properties as a major problem in their community. Drug trafficking was the most commonly cited concern.

Alternatives North does not dispute that illegal activity at problem properties is a genuine community concern across the NWT. Our position is that the effectiveness and fairness of the legislation depend entirely on how it is administered, and that Bill 49 as currently drafted lacks the structural safeguards necessary to prevent the documented harms of SCAN enforcement elsewhere.

What the Evidence Shows

SCAN legislation has been in place in Yukon for years and has been studied in multiple other Canadian jurisdictions. The pattern of outcomes is consistent enough to treat as predictive for the NWT context.

What works

- Civil enforcement can provide communities with a faster, more accessible tool than criminal prosecution for addressing persistent problem properties.
- The community-initiated complaint process gives residents and Indigenous governments a formal mechanism to trigger investigations, rather than waiting for police action.
- The civil standard of proof (balance of probabilities rather than beyond reasonable doubt) makes enforcement more achievable in complex situations.

What the evidence consistently shows goes wrong

- **Displacement, not resolution:** Enforcement moves people to other locations without addressing the underlying conditions (addiction, poverty, housing instability) driving the activity.
- **Disproportionate impact:** SCAN enforcement falls heavily on Indigenous people, people experiencing poverty, and people in unstable housing. These are the populations most represented in the activities SCAN targets.
- **Homelessness risk:** Property closures can render occupants homeless, particularly acute in communities with severe housing shortages. In Yukon, this risk was litigated directly, producing Wright v. Yukon (2024 YKSC 41), in which the Yukon Supreme Court found provisions of Yukon's SCAN Act unconstitutional where enforcement would render people homeless.
- **No outcome data:** Independent evaluations have consistently found no rigorous evidence that SCAN reduces harm at the community level, as opposed to moving harm out of sight.
- **Prevention imbalance:** SCAN addresses symptoms of social conditions through a property law mechanism rather than through social supports, housing investment, or harm reduction services.

THE FEDERAL PARLIAMENTARY RECORD

In June 2026, the same month Bill 49 was introduced, the federal Standing Committee on Indigenous and Northern Affairs (INAN) tabled a major report on Indigenous public safety, Beyond Enforcement: Supporting Indigenous-Led Public Safety and Well-Being Initiatives. Drawing on 52 witnesses including extensive testimony from Yukon, the committee concluded that enforcement-first approaches to public safety in Indigenous communities consistently fail, that the disproportionate impact on Indigenous peoples engages Charter sections 7 and 15, and that the appropriate model is Indigenous-led, holistic, co-developed public safety, not civil or criminal enforcement imposed without Indigenous design and oversight. This is not a critique of policing specifically; the committee's findings about displacement, disproportionate impact, and the need for holistic responses apply equally to civil enforcement mechanisms like SCAN.

NWT'S OWN PUBLIC ENGAGEMENT CONFIRMS THESE CONCERNS

The GNWT's own public engagement on this legislation, conducted October 27 to November 28, 2025 and summarized in its What We Heard Report, produced results that track these failure modes closely. Of 156 SCAN survey respondents, views on effectiveness were split almost evenly, with 30% saying SCAN would be very effective and 33% somewhat effective, against 15% not very effective, 9% not at all effective, and 13% unsure. Respondents' top concern about the legislation was the risk of discrimination or misuse (72 responses), followed by the risk of unfounded complaints (58) and fairness to tenants (50). Fifty-seven percent were very or somewhat concerned about impacts on children, Elders, and people with addictions.

Participants in Fort Smith, Hay River, and Norman Wells raised the exact regional equity problem Amendment 2 is designed to fix, questioning whether SCAN staff and decision-making authority would be concentrated in Yellowknife. On the NWT's proposed model, which routes enforcement through the existing Rental Office rather than the courts, one Hay River participant said bluntly: “SCAN needs teeth.” Written submissions from Indigenous Governments echoed Amendments 1 and 2 directly. The Délı̨nę Got'ı̨nę Government's submission called for legislation that would “expressly recognize the role and authority of Indigenous Governments” and provide “direct pathways for local governments to implement the statutes in their own communities.”

On the homelessness risk at the centre of Wright v. Yukon, the engagement recorded direct warnings from residents. A Yellowknife participant said of SCAN: “It will make people homeless, and they will do drugs on the street.” A survey respondent put the displacement dynamic plainly, writing that removing people from a house “doesn't really address the root cause of the crime, it just moves it to another location” — precisely what Amendment 4's wraparound services requirement is designed to prevent.

Proposed Amendments to Bill 49

The following five amendments would substantially improve Bill 49 without defeating its stated purpose. Each addresses a documented failure mode of SCAN legislation in comparable jurisdictions.

Amdt. 1

Indigenous Oversight Body

Establish a formal oversight body for SCAN administration in the NWT, with representation from Dene, Métis, and Inuvialuit governments. This body should have authority to: review complaints about SCAN investigations and enforcement actions; access and audit demographic data on who is subject to SCAN enforcement; recommend suspension of enforcement in specific communities where housing or service capacity is insufficient; and report publicly on outcomes annually. This must be a body with real authority, not a consultative advisory role that can be satisfied nominally.

Amdt. 2

Regional Administration and Local Hiring

SCAN investigators and administrative staff should be hired locally and regionally, not centralized in Yellowknife. Regional administration ensures that investigators know the communities they serve, their housing conditions, their service availability, and their social context. Local hiring creates community capacity and economic benefit, and reduces the risk of enforcement by officers unfamiliar with local realities. The bill should include explicit provisions for regional offices, local hiring preferences, and training programs that build NWT-based SCAN capacity over time.

Amdt. 3

Mandatory Demographic Data Collection and Public Reporting

Bill 49 must require the collection and annual public reporting of data broken down by Indigenous identity, gender, and housing status for all SCAN investigations and enforcement actions: who is being investigated, who is subject to orders, what happens to occupants of closed properties, and what support services were accessed. Without this data, there is no way to know whether enforcement is falling disproportionately on Indigenous peoples, people experiencing poverty, or other vulnerable populations, and no basis for the oversight body or the Legislative Assembly to evaluate whether the legislation is working as intended or causing the harms documented elsewhere.

Amdt. 4

Wraparound Services Requirement Before Enforcement

Before a SCAN order can result in property closure or occupant displacement, the legislation should require that the investigator document what housing, addiction, mental health, and social support services are available to affected occupants and that referrals have been made. Where adequate services are not available, enforcement that would render occupants homeless should be suspended until they are. This directly addresses the Wright v. Yukon constitutional vulnerability: it ensures that SCAN enforcement does not operate as a mechanism of state-facilitated homelessness in communities where there is nowhere for displaced people to go.

Amdt. 5

Sunset Clause Triggered by Diminished Support Services Funding

Bill 49 should include a sunset clause that automatically suspends SCAN enforcement authority if territorial or federal funding for the support services that SCAN enforcement depends on (housing, addiction treatment, mental health, and harm reduction) falls below a defined threshold. SCAN's stated rationale is that civil enforcement will be accompanied by connections to support services. If those services are cut, the rationale disappears and the displacement-without-resolution problem becomes inevitable. A funding-triggered sunset clause ensures that the

GNWT cannot enforce SCAN in conditions that make it harmful while pointing to service availability as its justification.

Why These Amendments Are in Everyone's Interest

These amendments are not obstacles to Bill 49's stated purpose, they are conditions for achieving it. Each one addresses a specific documented failure mode that would otherwise make the legislation less effective and more legally vulnerable.

Constitutional defensibility

Wright v. Yukon (2024) established that SCAN legislation must be assessed against section 7 of the Charter where enforcement risks homelessness, and that section 15 equality concerns arise where enforcement falls disproportionately on Indigenous peoples. The wraparound services requirement (Amendment 4) and demographic data collection (Amendment 3) directly address these vulnerabilities. A bill passed without these provisions is more likely to face successful Charter challenge, which serves no one.

Effectiveness

SCAN enforcement without local knowledge, Indigenous oversight, or demographic accountability is enforcement that moves harm rather than resolving it. Regional administration and local hiring (Amendment 2) and the oversight body (Amendment 1) make enforcement more contextually appropriate and more likely to produce the community safety outcomes the GNWT is seeking.

Fiscal responsibility

The sunset clause (Amendment 5) is not an anti-enforcement provision, it is a fiscal integrity provision. It ensures that if the support service infrastructure that makes SCAN defensible is cut in future budgets, the enforcement mechanism does not continue operating in conditions that guarantee harm and legal challenge. It protects the GNWT from the cost of litigation and the reputational damage of a repeat of the Yukon experience.

Reconciliation

Dene, Métis, and Inuvialuit oversight of a civil enforcement tool that will operate in their communities is not a courtesy, it is a requirement of the GNWT's own reconciliation commitments and the broader framework of Indigenous rights in Canada. The INAN committee's June 2026 report makes clear that federal parliamentary opinion now firmly holds that public safety interventions in Indigenous communities must be co-developed and Indigenous-overseen. A SCAN regime without Indigenous oversight is out of step with that direction.

Supporting Evidence

Wright v. Yukon (2024 YKSC 41)

The Yukon Supreme Court found provisions of Yukon's Safer Communities and Neighbourhoods Act unconstitutional as applied where enforcement would render affected parties homeless. The court held that state-facilitated homelessness engages section 7 of the Charter, and that SCAN processes without adequate procedural protections before depriving people of housing are constitutionally vulnerable. The court's reasoning applies to the structural features of SCAN legislation broadly, including Bill 49 as currently drafted.

dos Santos Review (2007)

An independent analysis of the GNWT's earlier administrative SCAN policy framework identified the same problems that remain unaddressed in Bill 49: no demographic data collection on who is being targeted, no defined outcome measures, opaque cost structures, and a structural emphasis on enforcement over prevention. Eighteen years later, the current bill does not appear to have incorporated these lessons.

GNWT Public Safety Legislation — What We Heard Report (2025–26)

The GNWT's own engagement report on Civil Forfeiture and SCAN, based on 156 SCAN survey responses, five community meetings, and written submissions from Indigenous Governments, found respondents nearly evenly split on whether SCAN would improve community safety, with discrimination or misuse the single most cited concern about the legislation. Participants in Fort Smith, Hay River, and Norman Wells raised the same regional-equity and capacity concerns Amendment 2 addresses, and the Dél̨ı̨nę Got'ı̨nę Government's written submission called for exactly the kind of Indigenous authority and local implementation pathways proposed in Amendments 1 and 2. Several participants, including one who said eviction "doesn't really address the root cause of the crime, it just moves it to another location," independently identified the displacement dynamic this brief's amendments are designed to prevent.

INAN Report — Beyond Enforcement (June 2026)

The federal Standing Committee on Indigenous and Northern Affairs, drawing on 52 witnesses including extensive Yukon testimony, concluded that enforcement-first approaches to public safety in Indigenous communities consistently produce displacement rather than resolution, fall disproportionately on Indigenous peoples, and are constitutionally vulnerable. The committee called for Indigenous-led, co-developed, holistic public safety approaches as the appropriate framework. While the report focused on policing rather than civil enforcement, its findings about disproportionate impact, Charter exposure, the need for outcome data, and the importance of Indigenous oversight apply directly to SCAN.

Yukon SCAN Outcomes

Yukon's documented SCAN experience includes enforcement falling heavily on Indigenous residents and those in precarious housing; displacement into more precarious situations rather

than connection to services; and limited evidence of harm reduction at the community level. Yukon also developed successful Community Safety Officer programs, non-enforcement, culturally grounded, and community-based, that demonstrably reduced police calls and improved community safety perceptions. These are the kinds of approaches the INAN committee recommends, and the kind of capacity the NWT should be building alongside any enforcement mechanism.

Summary of Requested Amendments

Alternatives North requests that the Standing Committee on Social Development recommend the following amendments to Bill 49 before the bill proceeds to third reading:

Amendment 1 Establish a formal Indigenous oversight body with Dene, Métis, and Inuvialuit representation, with authority to audit enforcement data, review complaints, and recommend suspension of enforcement where conditions warrant.

Amendment 2 Require regional administration and local hiring for SCAN investigators and staff, with explicit provisions for NWT-based training and capacity building.

Amendment 3 Require mandatory collection and annual public reporting of data broken down by Indigenous identity, gender, and housing status for all SCAN investigations and enforcement actions.

Amendment 4 Require documentation of available support services and referrals before enforcement that would displace occupants, and suspend such enforcement where adequate services are unavailable.

Amendment 5 Include a sunset clause that automatically suspends SCAN enforcement authority if territorial funding for housing, addiction, mental health, and harm reduction services falls below a defined threshold.

ALTERNATIVES NORTH'S COMMITMENT

Alternatives North is prepared to work constructively with the GNWT and the Standing Committee on Social Development to develop specific legislative language for each of these amendments. We are available to appear before the committee and to provide additional research or analysis on any of the issues raised in this brief. Contact: alternativesnorthinfo@gmail.com — alternativesnorth.ca