



BILL NO. 14

Government Bill

*1st Session, 61st General Assembly
Nova Scotia
58 Elizabeth II, 2009*

An Act to Amend Chapter 240 of the Revised Statutes, 1989, the Judicature Act

CHAPTER 17
ACTS OF 2009

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 5, 2009**

The Honourable Ross Landry
Minister of Justice

*Halifax, Nova Scotia
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**An Act to Amend Chapter 240
of the Revised Statutes, 1989,
the Judicature Act**

Be it enacted by the Governor and Assembly as follows:

1 Chapter 240 of the Revised Statutes, 1989, the *Judicature Act*, is amended by adding immediately after Section 45 the following Sections:

45A In Sections 45B to 45E,

- (a) “clerk of the court” means
 - (i) for the Supreme Court, the prothonotary,
 - (ii) for the Supreme Court (Family Division), a court officer, or
 - (iii) for the Court of Appeal, the Registrar;
- (b) “court” means the Supreme Court or the Court of Appeal.

45B (1) Where a court is satisfied that a person has habitually, persistently and without reasonable grounds, started a vexatious proceeding or conducted a proceeding in a vexatious manner in the court, the court may make an order restraining the person from

- (a) starting a further proceeding on the person’s own behalf or on behalf of another person;
- (b) continuing to conduct a proceeding,

without leave of the court.

(2) The court may make the order apply to a spokesperson or agent of a party or to any other person specified by the court who in the opinion of the court is associated with the person against whom the order is made.

(3) Notice of a motion for an order under subsection (1) or (2) must be given to the Minister of Justice and Attorney General, except when the Minister is a party to the proceeding in respect of which the motion is made.

(4) A motion for an order under subsection (1) or (2) may be made by the party against whom the vexatious litigation has been started or conducted, a clerk of the court or, with leave of the court, any other person.

(5) An order may not be made against counsel of record or a lawyer who substitutes for counsel of record.

45C A person against whom an order has been made under subsection (1) or (2) of Section 45B by the Supreme Court or a judge of the Court of Appeal may appeal the order to the Court of Appeal.

45D (1) A person against whom an order has been made under subsection (1) or (2) of Section 45B may make a motion for leave to start or continue a proceeding and, where a court is satisfied that the proceeding is not an abuse of process and is

based on reasonable grounds, the court may grant leave on such terms as the court determines.

(2) A motion in a proceeding in the Court of Appeal for a restraining order under subsection (1) or (2) of Section 45B, or for an order for leave under subsection (1), may be made to a judge of the Court of Appeal.

(3) A court may make rules of court respecting granting leave, including a rule requiring the court to consider the frequency of motions made by or on behalf of the person making the motion for leave.

45E Nothing in Sections 45B to 45D limits the authority of a court to make an order in respect of an abuse of a process of the court, including an order for dismissal, a stay or indemnification or to strike a pleading.

2 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
