

Proposed Strong Borders Act must be improved

By **Sergio R. Karas**

Law360 Canada (June 12, 2025, 1:35 PM EDT) -- Bill C-2, the *Strong Borders Act*, introduced by Canada's Minister of Public Safety Gary Anandasangaree on June 3, 2025, proposes significant reforms to multiple pieces of legislation focused on security, immigration and combating the fentanyl crisis.

The bill amends the *Customs Act*, *Oceans Act*, *Sex Offender Information Registration Act*, *Immigration and Refugee Protection Act*, *Criminal Code*, *Mutual Legal Assistance in Criminal Matters Act*, *Canadian Security Intelligence Service Act*, *Canada Post Corporation Act*, *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and the *Precursor Chemical Regulations* under the *Controlled Drugs and Substances Act*. It also introduces the new *Supporting Authorized Access to Information Act*. While aimed at enhancing border security and combating transnational crime, particularly fentanyl trafficking, the bill introduces several immigration-related provisions that have sparked considerable debate.



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Notably, the bill proposes two key ineligibility criteria aimed at curbing the misuse of the refugee system. First, any claim filed more than one year after the claimant's arrival in Canada will be deemed ineligible for referral to the Immigration and Refugee Board (IRB). This provision is particularly significant as it applies retroactively to individuals who arrived in the country on or after June 24, 2020. The intent is to prevent delayed and strategic claims from individuals who may have remained in Canada for extended periods before seeking asylum, often after the expiry of their temporary status.

Second, the bill targets irregular migration by stipulating that claims submitted by individuals who entered Canada from the United States between official ports of entry will be ineligible if they are filed more than 14 days after their entry. This provision eliminates a loophole used by irregular migrants, who make refugee claims after the 14-day period that is covered by the Safe Third Country Agreement with the United States. Currently, if a person enters Canada undetected and remains for 14 days, they can make a claim. Together, these provisions seek to reinforce the integrity of the refugee process by tightening timelines, closing loopholes and reducing opportunities for abuse. It

remains to be seen if these provisions can survive constitutional challenges that will no doubt be filed by NGOs and other refugee interest groups.

While the Act takes a step forward in preventing abuse of the system, the reforms fall short of addressing major problems. Many international students, temporary workers and visitors submit refugee claims as a last resort to extend their stay in Canada, advised by unscrupulous consultants. Individuals who enter Canada on student, work or tourist visas often exploit the system by waiting until their legal status expires before making a refugee claim, frequently without any genuine basis of fear or persecution. This practice undermines the core purpose of the asylum system, which is to offer protection to those who are truly at risk.

A legitimate refugee typically flees their home country out of immediate fear for their safety and seeks protection as soon as possible, not months or years later after attending school, working or exhausting their temporary status. Notwithstanding that the proposed legislation bars claim after an individual has been in Canada for a year, delaying a filing for months significantly weakens the credibility of such applications. To maintain the integrity of the system, the government should consider reducing the claim deadline to a maximum of 30 or 60 days and imposing stricter requirements for proving a credible fear of persecution, thereby preventing bogus claims.

The proposed legislation fails to address a critical loophole by failing to prevent individuals who enter Canada on student, work or visitor visas from applying for refugee status, despite their possible misrepresentations made at the time of obtaining their visas or entering Canada. This omission will continue to invite misuse of the asylum system. There has been a sharp increase in refugee claims made by international students after failing academically, exhausting financial resources or losing their legal status. In the first quarter of 2025 alone, foreign students filed 5,500 asylum claims — a 22 per cent increase compared to the same period in 2024. This trend follows a record-setting 2024, during which 20,245 international students sought refugee status, nearly doubling the number from the previous year and marking a sixfold increase since 2019. It reflects a misuse of refugee protection, which was never intended as a fallback option for those who are unable to secure permanent resident status or renew their work permits.

By allowing individuals who entered Canada voluntarily on temporary visas to later claim asylum without immediate or newly arising fear of persecution, the system becomes vulnerable to exploitation. The reforms should have gone further by disqualifying such individuals from making refugee claims, with very limited exceptions for critical situations that could be determined by the minister of immigration. For example, if a war broke out while the student, visitor or worker was in Canada, the minister could designate that conflict as an exception to the bar to make a claim.

There are also significant procedural changes proposed to the *Immigration and Refugee Protection Act* that aim to enhance government control in situations involving public health or national security. These changes would allow officials to cancel, suspend or modify immigration documents, halt the intake of new applications, and terminate those already in process if deemed in the public interest. Additionally, Immigration, Refugees and Citizenship Canada would be permitted to share personal information more broadly with other federal and provincial agencies. Inexplicably, the new legislation will remove the Designated Countries of Origin regime that currently presumes refugee claims from 42 countries to be suspect. The list includes countries such as the United States, Mexico, the United Kingdom, the European Union, Australia, New Zealand, Japan and South Korea.

The legislation will also introduce new rules for refugee claims, including ministerial authority over evidentiary requirements, expanded grounds for claim abandonment or suspension, and mandatory representation for vulnerable individuals. Together, these provisions reflect a shift toward greater centralized decision-making and regulatory oversight in immigration processes.

The *Strong Borders Act* represents a sweeping reform of Canada's border, immigration and enforcement regimes, introduced in the name of public safety and national security concerns highlighted by the Trump administration and by the explosion of refugee claims in Canada. However, while its objectives may appear justified in the current geopolitical climate, some aspects of the Act raise serious concerns about proportionality, transparency and accountability, while at the same time, it falls short of addressing some pervasive problems with the refugee determination system. Expanded authority over surveillance and document cancellation must be balanced with strong legal safeguards to prevent erosion of privacy rights and procedural fairness.

Ultimately, the legitimacy of this legislation will depend on how effectively it is implemented. It should come as no surprise to anyone that there are likely to be many court challenges against the *Strong Borders Act*.

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