

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2675
OFFERED BY MR. CLINE OF VIRGINIA

Strike all that follows after the enacting clause and
insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Protecting Our Courts
3 from Foreign Manipulation Act”.

4 SEC. 2. TRANSPARENCY AND LIMITATIONS ON FOREIGN
5 THIRD-PARTY LITIGATION FUNDING.

6 (a) IN GENERAL.—Chapter 111 of title 28, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 “§ 1660. Transparency and limitations on foreign
10 third-party litigation funding

11 “(a) PROHIBITION ON THIRD-PARTY FUNDING LITI-
12 GATION BY FOREIGN STATES AND SOVEREIGN WEALTH
13 FUNDS.—

14 “(1) FUNDING PROHIBITION.—It shall be un-
15 lawful—

16 “(A) for any foreign state or sovereign
17 wealth fund to provide any monetary support
18 either directly or indirectly for initiating or liti-

1 gating a civil action in which it is not a named
2 party; or

3 “(B) for any party or counsel to receive
4 from a foreign state or sovereign wealth fund
5 any monetary support either directly or indi-
6 rectly for initiating or litigating a civil action in
7 which the foreign state or sovereign wealth fund
8 is not a named party.

9 “(2) SOURCING PROHIBITION.—It shall be un-
10 lawful for any party or counsel to enter into an
11 agreement creating a right for anyone, other than
12 the named parties or counsel of record, to receive
13 any payment that is contingent, in any respect, on
14 proceeds from the action or from any matter within
15 a portfolio of civil actions that includes the civil ac-
16 tion and involves the same counsel of record or affili-
17 ated counsel, the terms of which are to be satisfied
18 by money that has been or will be directly or indi-
19 rectly sourced, in whole or in part, from a foreign
20 state or a sovereign wealth fund.

21 “(b) ENFORCEMENT.—

22 “(1) NULL AND VOID.—Any obligation to pro-
23 vide monetary support or agreement in violation of
24 subsection (a) shall be null and void.

1 “(2) DISMISSAL.—Any civil action in which
2 monetary support in violation of subsection (a) has
3 been or is being used by a plaintiff to litigate the
4 civil action shall be dismissed with prejudice and
5 subject to terms the court considers proper.

6 “(3) RELIEF ON MOTION.—Any final judgment
7 entered in a civil action in which monetary support
8 in violation of subsection (a) was used may be sub-
9 ject to being relieved on motion made pursuant to
10 Rule 60(b)(3) of the Federal Rules of Civil Proce-
11 dure.

12 “(c) DISCLOSURE OF THIRD-PARTY LITIGATION
13 FUNDING AND FOREIGN SOURCE CERTIFICATION BY
14 FOREIGN PERSONS, FOREIGN STATES, AND SOVEREIGN
15 WEALTH FUNDS.—

16 “(1) IN GENERAL.—In any civil action, each
17 party or the counsel of record for the party shall—

18 “(A) disclose in writing to the court, to all
19 other named parties to the civil action, to the
20 Attorney General, and to the Principal Deputy
21 Assistant Attorney General for National Secu-
22 rity—

23 “(i) the name, the address and, if ap-
24 plicable, the citizenship or the country of
25 incorporation or registration of any foreign

1 person, foreign state, or sovereign wealth
2 fund, other than the named parties or
3 counsel of record, that—

4 “(I) has provided or has agreed
5 to provide direct or indirect monetary
6 support for initiating or litigating the
7 civil action;

8 “(II) has a right to receive any
9 payment that is contingent, in any re-
10 spect, on proceeds from the civil ac-
11 tion pursuant to a settlement, judg-
12 ment, award of attorney’s fees, or
13 pursuant to any other outcome of the
14 civil action; or

15 “(III) has a right to receive any
16 payment that is contingent, in any re-
17 spect, on proceeds from any matter
18 within a portfolio of civil actions that
19 includes the civil action by settlement,
20 judgement, award of attorney’s fees,
21 or pursuant to any other outcome of
22 the civil action, and involves the same
23 counsel of record or affiliated counsel;
24 and

1 “(ii) if the party or the counsel of
2 record for the party submits a certification
3 described in subparagraph (C)(i), the
4 name, the address, and, if applicable, the
5 citizenship or the country of incorporation
6 or registration of the foreign person, for-
7 eign state, or sovereign wealth fund that is
8 the source of the money;

9 “(B) produce to the court, to all other
10 named parties to the civil action, to the Attor-
11 ney General, and to the Principal Deputy As-
12 sistant Attorney General for National Security,
13 except as otherwise stipulated or ordered by the
14 court, a copy of any documentation concerning
15 monetary support described in subparagraph
16 (A)(i)(I) or any agreement creating a contin-
17 gent right described in subclause (II) or (III) of
18 subparagraph (A)(i); and

19 “(C) for a civil action in which direct or in-
20 direct monetary support for initiating or liti-
21 gating the civil action has been or will be pro-
22 vided or in which there is an agreement cre-
23 ating a right to receive any payment by anyone,
24 other than the named parties or counsel of
25 record, that is contingent, in any respect, on

1 proceeds from of the civil action by settlement,
2 judgment, award of attorney’s fees, or pursuant
3 to any other outcome of the civil action, or on
4 proceeds from any matter within a portfolio
5 that includes the civil action and involves the
6 same counsel or affiliated counsel, submit to the
7 court a certification that—

8 “(i) the money that has been or will
9 be used to provide monetary support or
10 satisfy any term of the agreement has been
11 or will be directly or indirectly sourced, in
12 whole or in part, from a foreign person,
13 foreign state, or sovereign wealth fund, in-
14 cluding the monetary amounts that have
15 been or will be used to satisfy the agree-
16 ment; or

17 “(ii) that the disclosure and certifi-
18 cation criteria set forth in subparagraph
19 (A)(ii) and clause (i) of this subparagraph
20 do not apply to the civil action.

21 “(2) TIMING.—

22 “(A) IN GENERAL.—Any disclosure and
23 certification required under paragraph (1) for a
24 civil action described in such paragraph shall be
25 made not later than the later of—

1 “(i) 30 days after the date on which
2 any monetary support that is required to
3 be disclosed pursuant to paragraph
4 (1)(A)(i)(I), or any portion thereof, is ini-
5 tially provided, or any agreement described
6 in subclause (I), (II), or (III) of paragraph
7 (1)(A)(i) is executed; or

8 “(ii) the date on which the civil action
9 is filed.

10 “(B) PARTIES SERVED OR JOINED
11 LATER.—A party that has disclosure and cer-
12 tification obligations under paragraph (1) that
13 is first joined in the civil action after the date
14 on which the civil action is filed shall make any
15 disclosure and certification required under
16 paragraph (1) not later than 30 days after
17 being joined, unless a different time is set by
18 stipulation or court order.

19 “(3) FOREIGN SOURCE DISCLOSURE AND CER-
20 TIFICATION FORMAT.—

21 “(A) IN GENERAL.—Any disclosure re-
22 quired under paragraph (1)(A) and a certifi-
23 cation required under paragraph (1)(C) shall—

24 “(i) be made in the form of a declara-
25 tion under penalty of perjury pursuant to

1 section 1746 and shall be made to the best
2 knowledge, information, and belief of the
3 declarant formed after reasonable inquiry;
4 and

5 “(ii) be provided to all other named
6 parties to the civil action, to the Attorney
7 General, and to the Principal Deputy As-
8 sistant Attorney General for National Se-
9 curity by the party or counsel of record for
10 the party making the disclosure and cer-
11 tification, except as otherwise stipulated or
12 ordered by the court.

13 “(B) SUPPLEMENTATION AND CORREC-
14 TION.—Not later than 30 days after the date
15 on which a party or counsel of record for the
16 party knew or should have known that a disclo-
17 sure made under paragraph (1)(A) or a certifi-
18 cation made under paragraph (1)(C) is incom-
19 plete or inaccurate in any material respect, the
20 party or counsel of record shall supplement or
21 correct the disclosure or certification.

22 “(d) FAILURE TO DISCLOSE, TO SUPPLEMENT;
23 SANCTIONS.—A disclosure, production, or certification
24 under subsection (b) is deemed to be information required
25 by Rule 26(a) of the Federal Rules of Civil Procedure and

1 subject to the sanctions provisions of Rule 37 of the Fed-
2 eral Rules of Civil Procedure.

3 “(e) DEFINITIONS.—In this section—

4 “(1) the term ‘foreign person’—

5 “(A) means any person or entity that is
6 not a United States person, as defined in sec-
7 tion 101 of the Foreign Intelligence Surveil-
8 lance Act of 1978 (50 U.S.C. 1801); and

9 “(B) does not include a foreign state or a
10 sovereign wealth fund;

11 “(2) the term ‘foreign state’ has the meaning
12 given that term in section 1603; and

13 “(3) the term ‘sovereign wealth fund’ means an
14 investment fund owned or controlled, directly or in-
15 directly, by a foreign state or an agency or instru-
16 mentality of a foreign state (as defined in section
17 1603).”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
19 The table of sections chapter 111 of title 28, United
20 States Code, is amended by adding at the end the fol-
21 lowing:

“1660. Transparency and limitations on foreign third-party litigation funding.”.

22 **SEC. 3. REPORT TO CONGRESS.**

23 Not later than 1 year after the date of enactment
24 of this Act, and annually thereafter, the Attorney General
25 shall submit to the Committee on the Judiciary of the Sen-

1 ate and the Committee on the Judiciary of the House of
2 Representatives a report on the activities involving foreign
3 third-party litigation funding in Federal courts, including,
4 if applicable—

5 (1) the identities of foreign third-party litiga-
6 tion funders in Federal courts, including names, ad-
7 dresses, and citizenship or country of incorporation
8 or registration;

9 (2) the identities of foreign persons, foreign
10 states, or sovereign wealth funds (as such terms are
11 defined in section 1660 of title 28, United States
12 Code, as added by section 2 of this Act) that have
13 been the sources of money for third-party litigation
14 funding in Federal courts;

15 (3) the judicial districts in which foreign third-
16 party litigation funding has occurred;

17 (4) an estimate of the total amount of foreign-
18 sourced money used for third-party litigation fund-
19 ing in Federal courts, including an estimate of the
20 amount of such money sourced from each country;
21 and

22 (5) a summary of the subject matters of the
23 civil actions in Federal courts for which foreign
24 sourced money has been used for third-party litiga-
25 tion funding.

1 **SEC. 4. APPLICABILITY.**

2 The amendments made by this Act shall apply to any
3 civil action pending on or commenced on or after the date
4 of enactment of this Act.

