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Abusive Lawfare Prevention and Accountability Act

ABSTRACT

The growing use of legal systems as tools for strategic gain has highlighted the urgent need for a clear legal definition of the term '**lawfare**'. While lawfare can serve as a legitimate means of enforcing rights or promoting accountability, it can also be weaponized to undermine legal institutions, harass opponents, or obstruct justice.

Lawfare can manifest in various forms, which must be categorized to distinguish between legitimate legal action and abuses of legal systems. Abusive Lawfare results in the misuse of legal systems for strategic, obstructive, or coercive purposes. This policy paper introduces draft legislation to clarify legitimate versus abusive lawfare.

A BILL

To provide a legal definition for abusive lawfare, establish restrictions to prevent its misuse, and impose penalties for violations thereof.

SECTION 1. SHORT TITLE

This Act may be cited as the "**Abusive Lawfare Prevention and Accountability Act**".

SECTION 2. FINDINGS AND PURPOSE

(a) Findings

Congress finds that:

1. The misuse of legal systems for strategic, obstructive, or coercive purposes undermines the rule of law and public trust in judicial institutions.
2. Frivolous, vexatious, or malicious legal actions can impose undue burdens on individuals, businesses, and governments.
3. Current legal systems lack sufficient safeguards against the abuse of litigation processes for purposes beyond the legitimate pursuit of justice.

(b) Purpose

The purpose of this Act is to:

1. Legally define "abusive lawfare."
 2. Establish restrictions to deter its misuse.
 3. Impose penalties for violations to protect the integrity of legal systems.
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SECTION 3. DEFINITIONS

For the purposes of this Act:

1. **Abusive Lawfare:** The strategic misuse of legal systems, processes, or institutions with the intent to:
 - o Burden or harass an individual, organization, or government without substantial legal merit.
 - o Delay, obstruct, or frustrate the enforcement of valid laws or regulations.
 - o Undermine an opponent through frivolous, repetitive, or baseless legal claims.

2. **Frivolous Lawsuit:** A legal action initiated without any substantial legal or factual basis, intended primarily to harass, burden, or coerce the defendant.
 3. **Vexatious Litigant:** An individual or entity that persistently files legal actions that are deemed frivolous or abusive.
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SECTION 4. PROHIBITIONS AND RESTRICTIONS

(a) Prohibited Conduct

It shall be unlawful for any individual, organization, or entity to:

1. File legal actions without substantial evidence or legal merit to burden or coerce the defendant.
2. Repeatedly initiate similar or identical lawsuits after prior dismissal by a court for lack of merit.
3. Use legal systems or processes to obstruct the implementation or enforcement of valid laws or policies.

(b) Restrictions

1. **Evidence Thresholds:** All lawsuits must meet a minimum evidentiary standard, as determined by the jurisdiction, before being admitted for consideration.
 2. **Mandatory Review:** Courts shall conduct a pre-admission review of claims identified as high-risk for abuse, including:
 - Repeated filings on the same issue.
 - Claims with no discernible legal basis.
 3. **Prevention Orders:** Courts may issue orders restricting individuals or entities deemed vexatious litigants from filing additional legal actions without prior approval.
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SECTION 5. PENALTIES FOR VIOLATIONS

(a) Civil Penalties

1. Individuals or entities found guilty of engaging in abusive lawfare may be subject to:
 - **Fines:** Up to \$250,000 for each instance of proven abuse.
 - **Compensatory Damages:** Payment to defendants for legal fees and other costs incurred as a result of abusive lawfare.

- **Sanctions:** Additional penalties as deemed appropriate by the court.

(b) Criminal Penalties

1. For willful, repeated violations with demonstrable intent to harm or coerce, offenders may face:
 - **Imprisonment:** Up to five years.
 - **Fines:** Up to \$500,000.
 - **Disqualification:** Barred from filing further lawsuits without court pre-approval for a period of up to 10 years.

(c) Professional Accountability

1. Attorneys engaging in abusive lawfare may face disciplinary actions, including:
 - Suspension or revocation of their license to practice law.
 - Mandatory ethics training.

SECTION 6. ENFORCEMENT AND MONITORING

(a) Establishment of Monitoring Bodies

1. The Department of Justice shall establish an **Abusive Litigation Oversight Office (ALOO)** to:
 - Monitor patterns of abusive lawfare.
 - Provide training and guidance to courts on identifying abusive practices.

(b) Judicial Reporting

1. Courts shall report instances of identified abusive lawfare to the ALOO and relevant state bar associations for further action.

SECTION 7. INTERNATIONAL APPLICATION

(a) Application to Foreign Actors

1. Foreign individuals, organizations, or governments engaging in abusive lawfare against U.S. entities may be subject to:
 - Sanctions under existing international frameworks.
 - Restriction from filing lawsuits in U.S. courts without prior review.

(b) Coordination with International Bodies

1. The Department of State shall engage with international organizations to develop global standards for addressing abusive lawfare.
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SECTION 8. EFFECTIVE DATE

This Act shall take effect 180 days after its enactment.

SECTION 9. SEVERABILITY

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of its other provisions shall not be affected thereby.

CONCLUSION

The **Abusive Lawfare Prevention and Accountability Act** represents a critical step toward safeguarding the integrity of legal systems and restoring public trust in judicial processes. By clearly defining "abusive lawfare" and introducing targeted restrictions, penalties, and monitoring mechanisms, this policy ensures that legal frameworks remain tools for justice rather than instruments of coercion or obstruction.

The Act addresses the pressing need for accountability by deterring frivolous and malicious litigation while upholding the rights of individuals to legitimate legal recourse. Through a comprehensive approach that includes civil and criminal penalties, professional accountability for legal practitioners, and the establishment of oversight bodies, this legislation creates a robust framework to prevent the misuse of legal systems.

Furthermore, the Act emphasizes the importance of international cooperation, recognizing that the global nature of modern legal disputes requires harmonized standards to combat abusive practices effectively. With its balanced measures and focus on preserving judicial integrity, this policy positions itself as a model for ensuring justice, fairness, and the rule of law in both domestic and international contexts.

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Mark Herr is the visionary founder of the Center for Self Governance (CSG), an innovative educational organization dedicated to promoting the principles of individual, relational, and societal self governance; the American Social Science Association and the Washington Systematic Policy and Learning Center, national and state-based institutions created to promote the development and distribution of systematic policy and the networking of systematic practitioners.

With a profound belief in the power of informed laymen to shape their communities and nations, Mark has spent over a decade empowering individuals to understand and exercise their self-governance effectively and practice systematic politics competitively.

Mark is a sought-after speaker and educator, known for his engaging teaching style and ability to distill complex concepts into actionable insights. His work has been featured in various media outlets, and he continues to inspire individuals to take ownership of their role in maintaining their individual, relational, and societal self governance.