

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 2958  
OFFERED BY MR. RULLI OF OHIO**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Balance the Scales  
3 Act”.

**4 SEC. 2. REPORT ON ADVERSE INTEREST AGREEMENTS.**

5 (a) IN GENERAL.—Section 504 of the Employee Re-  
6 tirement Income Security Act of 1974 (29 U.S.C. 1134)  
7 is amended by adding at the end the following:

8 “(f) COLLABORATION WITH PLAINTIFF ATTOR-  
9 NEYS.—

10 “(1) IN GENERAL.—In the event that the Sec-  
11 retary provides adverse assistance to an individual,  
12 prior to providing the adverse assistance, the Sec-  
13 retary shall—

14 “(A) enter into a written agreement with  
15 the individual that details the nature and scope  
16 of such assistance, and

17 “(B) provide a copy of such agreement to  
18 any employer, plan sponsor, or fiduciary that

1           may be directly and adversely impacted by such  
2           assistance.

3           “(2) ADVERSE ASSISTANCE DEFINED.—For  
4           purposes of this subsection, the term ‘adverse assist-  
5           ance’ means assistance or advice, including the dis-  
6           closure of information as described in subsection (a),  
7           that is directed specifically toward an attorney for  
8           potential use in a civil action under section 502(a).

9           “(3) REPORT.—

10           “(A) IN GENERAL.—Not later than 60  
11           days after the date of enactment of this sub-  
12           section, and by December 31 of each year that  
13           begins after such date, the Secretary shall sub-  
14           mit to Congress a report containing information  
15           on all agreements to provide adverse assistance  
16           in effect for the preceding fiscal year, including,  
17           in relation to each such agreement—

18                   “(i) a copy of the agreement, with any  
19                   information described in subparagraph  
20                   (B)(ii) redacted;

21                   “(ii) the date the agreement was en-  
22                   tered into;

23                   “(iii) a detailed description of the na-  
24                   ture and scope of the assistance provided  
25                   during the fiscal year, including—

1           “(I) the information shared, in-  
2           cluding the source, type, and amount  
3           of the information, and the date on  
4           which such information was shared;

5           “(II) a log of verbal communica-  
6           tions, including—

7                   “(aa) the date of each com-  
8                   munication;

9                   “(bb) the parties engaged in  
10                  such communication;

11                  “(cc) the mode of commu-  
12                  nication; and

13                  “(dd) the nature of any in-  
14                  formation shared; and

15           “(III) a log of meetings, includ-  
16           ing—

17                   “(aa) the date of each meet-  
18                   ing;

19                   “(bb) the parties present at  
20                  the meeting;

21                   “(cc) mode of the meeting;  
22                  and

23                   “(dd) the purpose of such  
24                  meeting and the nature of any  
25                  information shared; and

1           “(iv) an explanation of how such  
2           agreement is consistent with the public pol-  
3           icy of promoting the voluntary sponsorship  
4           of employee benefit plans subject to this  
5           Act.

6           “(B) IDENTIFYING INFORMATION.—The  
7           report described under paragraph (A)—

8           “(i) shall identify the parties to each  
9           agreement; and

10           “(ii) may not include any information  
11           that may be used to identify any other per-  
12           son (including an employer, plan sponsor,  
13           plan fiduciary, service provider, or any  
14           other potential defendant).”.

15       (b) EFFECTIVE DATE.—

16           (1) IN GENERAL.—Subject to subsection (b),  
17           the amendments made by this section shall apply to  
18           any adverse assistance provided on or after the date  
19           of enactment of this Act.

20           (2) EXISTING AGREEMENTS.—For the purposes  
21           of paragraph (1) of section 504(f) (as added by this  
22           section) of the Employee Retirement Income Secu-  
23           rity Act (29 U.S.C. 1134(f)), if, not later than 60  
24           days after the date of enactment of this Act, the  
25           Secretary of Labor takes the actions required in

