

107TH CONGRESS
1ST SESSION

H. R. 1844

To amend the Elementary and Secondary Education Act of 1965 to provide teachers, principals, and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2001

Mr. GRAVES introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Elementary and Secondary Education Act of 1965 to provide teachers, principals, and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SCHOOL DISCIPLINE AND TEACHER LIABILITY**

4 **PROTECTION.**

5 (a) IN GENERAL.—The Elementary and Secondary
6 Education Act of 1965 (20 U.S.C 6301 et seq.) is amend-
7 ed by adding at the end the following:

1 **“TITLE XV—SCHOOL DISCIPLINE**
2 **AND TEACHER LIABILITY**
3 **PROTECTION**

4 **“SEC. 15001. SHORT TITLE.**

5 “This title may be cited as the ‘Teacher Protection
6 Act of 2001’.

7 **“SEC. 15002. PURPOSE.**

8 “The purpose of this title is to provide teachers, prin-
9 cipals and other school professionals the tools they need
10 to undertake reasonable actions to maintain order, dis-
11 cipline, and an appropriate educational environment.

12 **“SEC. 15003. PREEMPTION AND ELECTION OF STATE NON-**
13 **APPLICABILITY.**

14 “(a) PREEMPTION.—This title preempts the laws of
15 any State to the extent that such laws are inconsistent
16 with this title, except that this title shall not preempt any
17 State law that provides additional protection from liability
18 relating to teachers.

19 “(b) ELECTION OF STATE REGARDING NONAPPLICA-
20 BILITY.—This title shall not apply to any civil action in
21 a State court against a teacher in which all parties are
22 citizens of the State if such State enacts a statute in ac-
23 cordance with State requirements for enacting
24 legislation—

25 “(1) citing the authority of this subsection;

1 “(2) declaring the election of such State that
2 this title shall not apply, as of a date certain, to
3 such civil action in the State; and

4 “(3) containing no other provisions.

5 **“SEC. 15004. LIMITATION ON LIABILITY FOR TEACHERS.**

6 “(a) LIABILITY PROTECTION FOR TEACHERS.—Ex-
7 cept as provided in subsections (b) and (c), no teacher in
8 a school shall be liable for harm caused by an act or omis-
9 sion of the teacher on behalf of the school if—

10 “(1) the teacher was acting within the scope of
11 the teacher’s employment or responsibilities related
12 to providing educational services;

13 “(2) the actions of the teacher were carried out
14 in conformity with local, State, or Federal laws,
15 rules or regulations in furtherance of efforts to con-
16 trol, discipline, expel, or suspend a student or main-
17 tain order or control in the classroom or school;

18 “(3) if appropriate or required, the teacher was
19 properly licensed, certified, or authorized by the ap-
20 propriate authorities for the activities or practice in
21 the State in which the harm occurred, where the ac-
22 tivities were or practice was undertaken within the
23 scope of the teacher’s responsibilities;

24 “(4) the harm was not caused by willful or
25 criminal misconduct, gross negligence, reckless mis-

1 conduct, or a conscious, flagrant indifference to the
2 rights or safety of the individual harmed by the
3 teacher; and

4 “(5) the harm was not caused by the teacher
5 operating a motor vehicle, vessel, aircraft, or other
6 vehicle for which the State requires the operator or
7 the owner of the vehicle, craft, or vessel to—

8 “(A) possess an operator’s license; or

9 “(B) maintain insurance.

10 “(b) CONCERNING RESPONSIBILITY OF TEACHERS
11 TO SCHOOLS AND GOVERNMENTAL ENTITIES.—Nothing
12 in this section shall be construed to affect any civil action
13 brought by any school or any governmental entity against
14 any teacher of such school.

15 “(c) EXCEPTIONS TO TEACHER LIABILITY PROTEC-
16 TION.—If the laws of a State limit teacher liability subject
17 to one or more of the following conditions, such conditions
18 shall not be construed as inconsistent with this section:

19 “(1) A State law that requires a school or gov-
20 ernmental entity to adhere to risk management pro-
21 cedures, including mandatory training of teachers.

22 “(2) A State law that makes the school or gov-
23 ernmental entity liable for the acts or omissions of
24 its teachers to the same extent as an employer is lia-
25 ble for the acts or omissions of its employees.

1 “(3) A State law that makes a limitation of li-
2 ability inapplicable if the civil action was brought by
3 an officer of a State or local government pursuant
4 to State or local law.

5 “(d) LIMITATION ON PUNITIVE DAMAGES BASED ON
6 THE ACTIONS OF TEACHERS.—

7 “(1) GENERAL RULE.—Punitive damages may
8 not be awarded against a teacher in an action
9 brought for harm based on the action of a teacher
10 acting within the scope of the teacher’s responsibil-
11 ities to a school or governmental entity unless the
12 claimant establishes by clear and convincing evidence
13 that the harm was proximately caused by an action
14 of such teacher which constitutes willful or criminal
15 misconduct, or a conscious, flagrant indifference to
16 the rights or safety of the individual harmed.

17 “(2) CONSTRUCTION.—Paragraph (1) does not
18 create a cause of action for punitive damages and
19 does not preempt or supersede any Federal or State
20 law to the extent that such law would further limit
21 the award of punitive damages.

22 “(e) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—

23 “(1) IN GENERAL.—The limitations on the li-
24 ability of a teacher under this title shall not apply
25 to any misconduct that—

1 “(A) constitutes a crime of violence (as
2 that term is defined in section 16 of title 18,
3 United States Code) or act of international ter-
4 rorism (as that term is defined in section 2331
5 of title 18, United States Code) for which the
6 defendant has been convicted in any court;

7 “(B) involves a sexual offense, as defined
8 by applicable State law, for which the defendant
9 has been convicted in any court;

10 “(C) involves misconduct for which the de-
11 fendant has been found to have violated a Fed-
12 eral or State civil rights law; or

13 “(D) where the defendant was under the
14 influence (as determined pursuant to applicable
15 State law) of intoxicating alcohol or any drug at
16 the time of the misconduct.

17 “(2) RULE OF CONSTRUCTION.—Nothing in
18 this subsection shall be construed to effect sub-
19 section (a)(3) or (d).

20 **“SEC. 15005. DEFINITIONS.**

21 “For purposes of this title:

22 “(1) ECONOMIC LOSS.—The term ‘economic
23 loss’ means any pecuniary loss resulting from harm
24 (including the loss of earnings or other benefits re-
25 lated to employment, medical expense loss, replace-

1 ment services loss, loss due to death, burial costs,
2 and loss of business or employment opportunities) to
3 the extent recovery for such loss is allowed under ap-
4 plicable State law.

5 “(2) HARM.—The term ‘harm’ includes phys-
6 ical, nonphysical, economic, and noneconomic losses.

7 “(3) NONECONOMIC LOSSES.—The term ‘non-
8 economic losses’ means losses for physical and emo-
9 tional pain, suffering, inconvenience, physical im-
10 pairment, mental anguish, disfigurement, loss of en-
11 joyment of life, loss of society and companionship,
12 loss of consortium (other than loss of domestic serv-
13 ice), hedonic damages, injury to reputation and all
14 other nonpecuniary losses of any kind or nature.

15 “(4) SCHOOL.—The term ‘school’ means a pub-
16 lic or private kindergarten, a public or private ele-
17 mentary school or secondary school (as defined in
18 section 14101, or a home school.

19 “(5) STATE.—The term ‘State’ means each of
20 the several States of the United States, the District
21 of Columbia, the Commonwealth of Puerto Rico, the
22 United States Virgin Islands, Guam, American
23 Samoa, the Commonwealth of the Northern Mariana
24 Islands, any other territory or possession of the

1 United States, or any political subdivision of any
2 such State, territory, or possession.

3 “(6) TEACHER.—The term ‘teacher’ means a
4 teacher, instructor, principal, administrator, or other
5 educational professional that works in a school, a
6 local school board and any member of such board,
7 and a local educational agency and any employee of
8 such agency.”.

9 (b) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Title XV of the Elementary
11 and Secondary Education Act of 1965, as added by
12 subsection (a), shall take effect 90 days after the
13 date of the enactment of this Act.

14 (2) APPLICATION.—Title XV of the Elementary
15 and Secondary Education Act of 1965, as added by
16 subsection (a), applies to any claim for harm caused
17 by an act or omission of a teacher if that claim is
18 filed on or after the effective date specified in para-
19 graph (1), without regard to whether the harm that
20 is the subject of the claim or the conduct that
21 caused the harm occurred before such effective date.

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