

105TH CONGRESS
2D SESSION

H. R. 4378

To require local educational agencies to develop and implement a random drug testing program for students in grades 7 through 12.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1998

Mr. PETERSON of Pennsylvania (for himself, Mr. BARR of Georgia, Mr. BARTON of Texas, and Mr. ENGLISH of Pennsylvania) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To require local educational agencies to develop and implement a random drug testing program for students in grades 7 through 12.

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. SHORT TITLE.**

4 This Act may be cited as the “Empowering Parents
5 to Fight Drugs Act of 1998”.

6 **SEC. 2. GRANT AUTHORIZATION.**

7 (a) STATE GRANTS.—The Secretary is authorized to
8 provide grants to State educational agencies to enable
9 each local educational agency in the State to develop and

1 implement a random drug testing program for students
2 in grades 7 through 12.

3 (b) LOCAL SUBGRANTS.—Each State educational
4 agency that receives a grant award under this Act shall
5 award not less than 99.75 of such amount to provide sub-
6 grants to local educational agencies.

7 (c) STATE APPLICATION.—Any State educational
8 agency desiring to receive a grant under this part for any
9 fiscal year shall submit an application to the Secretary at
10 such time and in such manner as the Secretary may re-
11 quire.

12 **SEC. 3. ALLOCATION.**

13 (a) IN GENERAL.—

14 (1) STATE ALLOCATION.—Except as provided
15 in subsection (b)(1), from the total amount appro-
16 priated pursuant to section 7 in any fiscal year, the
17 Secretary shall allocate to each State educational
18 agency an amount that bears the same ratio to such
19 total amount as the number of students enrolled in
20 grades 7 through 12 in such State in the preceding
21 fiscal year bears to the total number of such stu-
22 dents for all States for that fiscal year.

23 (2) LOCAL ALLOCATION.—Except as provided
24 in subsection (b)(2), of the remaining amounts ap-
25 propriated pursuant to section 7 in any fiscal year,

1 the State shall allocate to each local educational
2 agency an amount that bears the same ratio to such
3 remaining amount as the number of students en-
4 rolled in grades 7 through 12 in such agency bears
5 to the total number of such students for all local
6 educational agencies in the State for that fiscal year.

7 (b) ADMINISTRATIVE COSTS.—

8 (1) SECRETARY.—The Secretary may reserve
9 the lesser of \$200,000 or 0.10 percent of the total
10 amount appropriated to carry out this Act in each
11 fiscal year for the costs of administration.

12 (2) STATE EDUCATIONAL AGENCIES.—Each
13 State educational agency may reserve not more than
14 0.25 percent of any grant funds received under this
15 Act in each fiscal year for the costs of administra-
16 tion.

17 (3) LOCAL EDUCATIONAL AGENCIES.—Each
18 local educational agency may reserve not more than
19 5 percent of any grant funds received under this Act
20 in each fiscal year for the costs of administration.

21 **SEC. 4. REQUIREMENTS AND OPTIONAL ACTIVITIES.**

22 (a) IN GENERAL.—Each local educational agency
23 that receives a grant under this Act shall certify to the
24 State educational agency that—

1 (1) funds received under this Act shall be used
2 in accordance with subsection (b);

3 (2) the agency shall develop a plan to imple-
4 ment a drug testing program; and

5 (3) before implementation, any drug testing
6 plan or subsequent amendment to such plan shall be
7 considered a public document and made available to
8 the public for review, not later than 30 days after
9 such plan or amendment is available.

10 (b) USES OF FUNDS.—

11 (1) REQUIRED USES OF FUNDS.—A local edu-
12 cational agency that receives a grant under this Act
13 shall, either directly or through contract with outside
14 sources, provide for a drug test of each student in
15 grades 7 through 12 not less than once each year.
16 Such test shall, at a minimum, include a drug
17 screening for marijuana, amphetamines,
18 phencyclidine (PCP), opiates, and cocaine.

19 (2) OPTIONAL USES OF FUNDS.—After a local
20 educational agency has complied with the require-
21 ments of paragraph (1), the agency may use any re-
22 maining funds available for the following:

23 (A) LAW ENFORCEMENT ASSISTANCE.—To
24 contract with local law enforcement agencies to

1 assist in drug detection in schools, including the
2 use of drug sniffing dogs.

3 (B) ADDITIONAL TESTS.—To test students
4 more than once during a school year.

5 **SEC. 5. GENERAL REQUIREMENTS.**

6 (a) REPORTING OF TEST RESULTS.—Each local edu-
7 cational agency that receives funds under this Act shall
8 inform parents in detail about the random testing pro-
9 gram and ensure that—

10 (1) at the beginning of each school year, par-
11 ents are notified of their right to withdraw their
12 child from participation in the random drug testing
13 program; and

14 (2) parents receive, on a timely basis, the posi-
15 tive results of any drug test of a child who partici-
16 pates in the program.

17 (b) CONFIDENTIALITY.—The local educational agen-
18 cy shall develop and enforce standards designed to protect
19 the confidentiality of all student test results.

20 (c) MEDICAL REVIEW OFFICER.—

21 (1) IN GENERAL.—Each local educational agen-
22 cy that receives a grant under this Act shall provide,
23 either directly or through contract, for a medical re-
24 view officer.

1 (2) DUTIES.—Each medical review officer shall
2 be designated to receive all test results.

3 (A) FIRST POSITIVE RESULT.—In the case
4 of the first positive test result of a student, the
5 medical review officer shall be responsible to in-
6 form only parents by making every attempt fea-
7 sible to meet with the parents of such student
8 and inform the parents of the results and re-
9 sources and services of rehabilitation and edu-
10 cation available in the community.

11 (B) CONSECUTIVE POSITIVE RESULTS.—In
12 the case of a student who has 2 or more con-
13 secutive positive test results, the medical review
14 officer shall be responsible to inform parents
15 and school officials who shall determine the ap-
16 propriate action for the student based on school
17 policy.

18 **SEC. 6. DEFINITIONS.**

19 For purposes of this Act—

20 (1) the term “medical review officer” means a
21 licensed physician (medical doctor or doctor of oste-
22 opathy) responsible for receiving laboratory results
23 generated by a local educational agency’s drug test-
24 ing program who has knowledge of substance abuse
25 disorders and has appropriate medical training to in-

1 interpret and evaluate a student's confirmed positive
2 test result together with the student's medical his-
3 tory and any other relevant biomedical information;

4 (2) the term "parent" includes a legal guardian
5 or other person standing in loco parentis;

6 (3) the term "Secretary" means the Secretary
7 of Education; and

8 (4) the term "State" means each of the 50
9 States, the District of Columbia, the Commonwealth
10 of Puerto Rico, the United States Virgin Islands,
11 American Samoa, and Guam.

12 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated such sums
14 as may be necessary to carry out this Act for each of fiscal
15 years 1999 through 2003.

16 **SEC. 8. AMENDMENT TO ESEA.**

17 (a) AMENDMENT.—Part E of title XIV of the Ele-
18 mentary and Secondary Education Act of 1965 is amend-
19 ed by adding at the end the following:

20 **"SEC. 14515. RANDOM DRUG TESTING.**

21 "Any local educational agency that receives funds
22 under this Act shall implement a drug testing program
23 that meets the requirements of the "Empowering Parents
24 to Fight Drugs Act of 1998."

1 (b) EFFECTIVE DATE.—A local educational agency
2 shall implement a drug testing program referred to in sec-
3 tion 14515 of the Elementary and Secondary Education
4 Act of 1965 not later than the school year beginning 1
5 year after the date of the enactment of this Act.

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