

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> 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.

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## 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

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## 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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