

108TH CONGRESS
1ST SESSION

H. R. 2732

To amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under State law.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2003

Mrs. MUSGRAVE (for herself, Mr. BOEHNER, Mr. HOEKSTRA, Mr. SAM JOHNSON of Texas, Mr. DEMINT, Mr. WILSON of South Carolina, Mr. EHLERS, Mr. PITTS, Mrs. MYRICK, Mr. BARTLETT of Maryland, Mr. FRANKS of Arizona, Mr. KENNEDY of Minnesota, Mr. ADERHOLT, Mr. BRADY of Texas, Mr. GUTKNECHT, Mr. KING of Iowa, Mr. CRANE, Mr. MILLER of Florida, Mr. BEAUPREZ, Mr. CHABOT, Mr. DOOLITTLE, Mr. AKIN, Mr. JONES of North Carolina, Mr. TOOMEY, Mr. SMITH of Michigan, Mr. RYUN of Kansas, Mr. HOSTETTLER, Mr. PAUL, Mr. SOUDER, Mr. RYAN of Wisconsin, and Mr. WELDON of Florida) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under State law.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Home School Non-
3 Discrimination Act of 2003”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds as follows:

6 (1) The right of parents to direct the education
7 of their children is an established principle and
8 precedent under the United States Constitution.

9 (2) The Congress, the President, and the Su-
10 preme Court, in exercising their legislative, execu-
11 tive, and judicial functions, respectively, have repeat-
12 edly affirmed the rights of parents.

13 (3) Education by parents at home has proven
14 to be an effective means for young people to achieve
15 success on standardized tests and to learn valuable
16 socialization skills.

17 (4) Young people who have been educated at
18 home are proving themselves to be competent citi-
19 zens in post-secondary education and the workplace.

20 (5) The rise of private home education has con-
21 tributed positively to the education of young people
22 in the United States.

23 (6) Several laws, written before and during the
24 rise of private home education, are in need of clari-
25 fication as to their treatment of students who are
26 privately educated at home pursuant to State law.

1 **SEC. 5. CLARIFICATION OF THE CHILD FIND PROCESS**
2 **UNDER THE INDIVIDUALS WITH DISABIL-**
3 **ITIES EDUCATION ACT.**

4 Section 614(a)(1) of the Individuals with Disabilities
5 Education Act (20 U.S.C. 1414(a)(1)) is amended by add-
6 ing at the end the following:

7 “(D) EFFECT OF ABSENCE OF CONSENT
8 ON AGENCY OBLIGATIONS.—In any case for
9 which there is an absence of consent for an ini-
10 tial evaluation under this paragraph or for spe-
11 cial education or related services to a child with
12 a disability under this part—

13 “(i) the local educational agency shall
14 not be required to convene an IEP meeting
15 or develop an IEP under this section for
16 the child; and

17 “(ii) the local educational agency shall
18 not be considered to be in violation of any
19 requirement under this part (including the
20 requirement to make available a free ap-
21 propriate public education to the child)
22 with respect to the lack of an initial eval-
23 uation of the child, an IEP meeting with
24 respect to the child, or the development of
25 an IEP under this section for the child.”.

1 **SEC. 6. CLARIFICATION OF THE COVERDELL EDUCATION**
2 **SAVINGS ACCOUNT AS TO ITS APPLICABILITY**
3 **FOR EXPENSES ASSOCIATED WITH STUDENTS**
4 **PRIVATELY EDUCATED AT HOME UNDER**
5 **STATE LAW.**

6 (a) **IN GENERAL.**—Paragraph (4) of section 530(b)
7 of the Internal Revenue Code of 1986 (relating to quali-
8 fied elementary and secondary education expenses) is
9 amended by adding at the end the following new subpara-
10 graph:

11 “(C) **SPECIAL RULE FOR HOME**
12 **SCHOOLS.**—For purposes of clauses (i) and (iii)
13 of subparagraph (A), the terms ‘public, private,
14 or religious school’ and ‘school’ shall include
15 any home school which provides elementary or
16 secondary education if such school is treated as
17 a home school or private school under State
18 law.”.

19 (b) **EFFECTIVE DATE.**—The amendment made by
20 subsection (a) shall apply to taxable years beginning after
21 the date of the enactment of this Act.

1 **SEC. 7. CLARIFICATION OF SECTION 444 OF THE GENERAL**
2 **EDUCATION PROVISIONS ACT AS TO PUB-**
3 **LICLY HELD RECORDS OF STUDENTS PRI-**
4 **VATELY EDUCATED AT HOME UNDER STATE**
5 **LAW.**

6 Section 444 of the General Education Provisions Act
7 (20 U.S.C. 1232g; also referred to as the Family Edu-
8 cational Rights and Privacy Act of 1974) is amended—

9 (1) in subsection (a)(5), by adding at the end
10 the following:

11 “(C) For students in non-public education (including
12 any student educated at home or in a private school in
13 accordance with State law), directory information may not
14 be released without the written consent of the parents of
15 such student.”;

16 (2) in subsection (a)(6), by striking “, but does
17 not include a person who has not been in attendance
18 at such agency or institution.” and inserting “, in-
19 cluding any non-public school student (including any
20 student educated at home or in a private school as
21 provided under State law). This paragraph shall not
22 be construed as requiring an educational agency or
23 institution to maintain education records or person-
24 ally identifiable information for any non-public
25 school student.”; and

1 (3) in subsection (b)(1), by striking subpara-
2 graph (F) and inserting the following:

3 “(G) organizations conducting studies for,
4 or on behalf of, educational agencies or institu-
5 tions for the purpose of developing, validating,
6 or administering predictive tests, administering
7 student aid programs, and improving instruc-
8 tion, provided—

9 “(i) such studies are conducted in
10 such a manner as will not permit the per-
11 sonal identification of students and their
12 parents by persons other than representa-
13 tives of such organizations and such infor-
14 mation will be destroyed when no longer
15 needed for the purpose for which it is con-
16 ducted; and

17 “(ii) for students in non-public edu-
18 cation, educational records or personally
19 identifiable information may not be re-
20 leased without the written consent of the
21 parents of such student.”.

1 **SEC. 8. CLARIFICATION OF ELIGIBILITY FOR STUDENTS**
2 **PRIVATELY EDUCATED AT HOME UNDER**
3 **STATE LAW FOR THE ROBERT C. BYRD HON-**
4 **ORS SCHOLARSHIP PROGRAM.**

5 Section 419F(a) of the Higher Education Act of
6 1965 (20 U.S.C. §1070d–36(a)) is amended by inserting
7 “(or a home school, whether treated as a home school or
8 a private school under State law)” after “public or private
9 secondary school”.

10 **SEC. 9. CLARIFICATION OF THE FAIR LABOR STANDARDS**
11 **ACT AS APPLIED TO STUDENTS PRIVATELY**
12 **EDUCATED AT HOME UNDER STATE LAW.**

13 Subsection (l) of section 3 of the Fair Labor Stand-
14 ards Act (29 U.S.C. 203) is amended by adding at the
15 end the following: “The Secretary shall extend the hours
16 and periods of permissible employment applicable to em-
17 ployees between the ages of fourteen and sixteen years who
18 are privately educated at a home school (whether the home
19 school is treated as a home school or a private school
20 under State law) beyond such hours and periods applicable
21 to employees between the ages of fourteen and sixteen
22 years who are educated in traditional public schools.”.

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