

106TH CONGRESS  
1ST SESSION

# H. R. 3465

To provide safer schools and a better educational environment.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 1999

Mr. BRADY of Texas (for himself, Mr. MCINTOSH, and Mr. BRYANT) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To provide safer schools and a better 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. SHORT TITLE.**

4       This Act may be cited as the “Teacher Liability Pro-  
5       tection Act”.

6       **SEC. 2. TEACHER LIABILITY PROTECTION.**

7       The Elementary and Secondary Education Act of  
8       1965 (20 U.S.C 6301 et seq.) is amended by adding at  
9       the end the following:

1 **“TITLE XV—TEACHER LIABILITY**  
2 **PROTECTION**

3 **“SEC. 15001. SHORT TITLE.**

4 “This title may be cited as the ‘Teacher Liability Pro-  
5 tection Act of 1999’.

6 **“SEC. 15002. FINDINGS AND PURPOSE.**

7 “(a) FINDINGS.—Congress makes the following find-  
8 ings:

9 “(1) The ability of teachers, principals and  
10 other school professionals to teach, inspire and  
11 shape the intellect of our Nation’s elementary and  
12 secondary school students is deterred and hindered  
13 by frivolous lawsuits and litigation.

14 “(2) Each year more and more teachers, prin-  
15 cipals and other school professionals face lawsuits  
16 for actions undertaken as part of their duties to pro-  
17 vide millions of school children quality educational  
18 opportunities.

19 “(3) Too many teachers, principals and other  
20 school professionals face increasingly severe and ran-  
21 dom acts of violence in the classroom and in schools.

22 “(4) Providing teachers, principals and other  
23 school professionals a safe and secure environment is  
24 an important part of the effort to improve and ex-  
25 pand educational opportunities.

1 “(5) Clarifying and limiting the liability of  
2 teachers, principals and other school professionals  
3 who undertake reasonable actions to maintain order,  
4 discipline and an appropriate educational environ-  
5 ment is an appropriate subject of Federal legislation  
6 because—

7 “(A) the scope of the problems created by  
8 the legitimate fears of teachers, principals and  
9 other school professionals about frivolous, arbi-  
10 trary or capricious lawsuits against teachers is  
11 of national importance; and

12 “(B) millions of children and their families  
13 across the Nation depend on teachers, prin-  
14 cipals and other school professionals for the in-  
15 tellectual development of children.

16 “(b) PURPOSE.—The purpose of this title is to pro-  
17 vide teachers, principals and other school professionals the  
18 tools they need to undertake reasonable actions to main-  
19 tain order, discipline and an appropriate educational envi-  
20 ronment.

21 **“SEC. 15003. PREEMPTION AND ELECTION OF STATE NON-**  
22 **APPLICABILITY.**

23 “(a) PREEMPTION.—This title preempts the laws of  
24 any State to the extent that such laws are inconsistent  
25 with this title, except that this title shall not preempt any

1 State law that provides additional protection from liability  
 2 relating to teachers.

3 “(b) ELECTION OF STATE REGARDING NONAPPLICA-  
 4 BILITY.—This title shall not apply to any civil action in  
 5 a State court against a teacher in which all parties are  
 6 citizens of the State if such State enacts a statute in ac-  
 7 cordance with State requirements for enacting  
 8 legislation—

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

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

13 “(3) containing no other provisions.

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

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

19 “(1) the teacher was acting within the scope of  
 20 the teacher’s employment or responsibilities related  
 21 to providing educational services;

22 “(2) the actions of the teacher were carried out  
 23 in conformity with local, State, and Federal laws,  
 24 rules and regulations in furtherance of efforts to

1 control, discipline, expel, or suspend a student or  
2 maintain order or control in the classroom or school;

3 “(3) if appropriate or required, the teacher was  
4 properly licensed, certified, or authorized by the ap-  
5 propriate authorities for the activities or practice in  
6 the State in which the harm occurred, where the ac-  
7 tivities were or practice was undertaken within the  
8 scope of the teacher’s responsibilities;

9 “(4) the harm was not caused by willful or  
10 criminal misconduct, gross negligence, reckless mis-  
11 conduct, or a conscious, flagrant indifference to the  
12 rights or safety of the individual harmed by the  
13 teacher; and

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

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

19 “(B) maintain insurance.

20 “(b) CONCERNING RESPONSIBILITY OF TEACHERS  
21 TO SCHOOLS AND GOVERNMENTAL ENTITIES.—Nothing  
22 in this section shall be construed to affect any civil action  
23 brought by any school or any governmental entity against  
24 any teacher of such school.

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

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

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

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

16       “(d) LIMITATION ON PUNITIVE DAMAGES BASED ON  
17 THE ACTIONS OF TEACHERS.—

18           “(1) GENERAL RULE.—Punitive damages may  
19 not be awarded against a teacher in an action  
20 brought for harm based on the action of a teacher  
21 acting within the scope of the teacher’s responsibil-  
22 ities to a school or governmental entity unless the  
23 claimant establishes by clear and convincing evidence  
24 that the harm was proximately caused by an action  
25 of such teacher which constitutes willful or criminal

1 misconduct, or a conscious, flagrant indifference to  
2 the rights or safety of the individual harmed.

3 “(2) CONSTRUCTION.—Paragraph (1) does not  
4 create a cause of action for punitive damages and  
5 does not preempt or supersede any Federal or State  
6 law to the extent that such law would further limit  
7 the award of punitive damages.

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

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

12 “(A) constitutes a crime of violence (as  
13 that term is defined in section 16 of title 18,  
14 United States Code) or act of international ter-  
15 rorism (as that term is defined in section 2331  
16 of title 18, United States Code) for which the  
17 defendant has been convicted in any court;

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

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

24 “(D) where the defendant was under the  
25 influence (as determined pursuant to applicable

1 State law) of intoxicating alcohol or any drug at  
 2 the time of the misconduct.

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

6 **“SEC. 15005. LIABILITY FOR NONECONOMIC LOSS.**

7 “(a) GENERAL RULE.—In any civil action against a  
 8 teacher, based on an action of a teacher acting within the  
 9 scope of the teacher’s responsibilities to a school or gov-  
 10 ernmental entity, the liability of the teacher for non-  
 11 economic loss shall be determined in accordance with sub-  
 12 section (b).

13 “(b) AMOUNT OF LIABILITY.—

14 “(1) IN GENERAL.—Each defendant who is a  
 15 teacher, shall be liable only for the amount of non-  
 16 economic loss allocated to that defendant in direct  
 17 proportion to the percentage of responsibility of that  
 18 defendant (determined in accordance with paragraph  
 19 (2)) for the harm to the claimant with respect to  
 20 which that defendant is liable. The court shall  
 21 render a separate judgment against each defendant  
 22 in an amount determined pursuant to the preceding  
 23 sentence.

24 “(2) PERCENTAGE OF RESPONSIBILITY.—For  
 25 purposes of determining the amount of noneconomic



1       loss allocated to a defendant who is a teacher under  
2       this section, the trier of fact shall determine the per-  
3       centage of responsibility of that defendant for the  
4       claimant's harm.

5   **“SEC. 15006. DEFINITIONS.**

6       “For purposes of this title:

7           “(1) **ECONOMIC LOSS.**—The term ‘economic  
8       loss’ means any pecuniary loss resulting from harm  
9       (including the loss of earnings or other benefits re-  
10      lated to employment, medical expense loss, replace-  
11      ment services loss, loss due to death, burial costs,  
12      and loss of business or employment opportunities) to  
13      the extent recovery for such loss is allowed under ap-  
14      plicable State law.

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

17          “(3) **NONECONOMIC LOSSES.**—The term ‘non-  
18      economic losses’ means losses for physical and emo-  
19      tional pain, suffering, inconvenience, physical im-  
20      pairment, mental anguish, disfigurement, loss of en-  
21      joyment of life, loss of society and companionship,  
22      loss of consortium (other than loss of domestic serv-  
23      ice), hedonic damages, injury to reputation and all  
24      other nonpecuniary losses of any kind or nature.

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

5           “(5) STATE.—The term ‘State’ means each of  
6       the several States of the United States, the District  
7       of Columbia, the Commonwealth of Puerto Rico, the  
8       United States Virgin Islands, Guam, American  
9       Samoa, the Commonwealth of the Northern Mariana  
10      Islands, any other territory or possession of the  
11      United States, or any political subdivision of any  
12      such State, territory, or possession.

13          “(6) TEACHER.—The term ‘teacher’ means a  
14      teacher, instructor, principal, administrator, or other  
15      educational professional that works in a school, a  
16      local school board and any member of such board,  
17      and a local educational agency and any employee of  
18      such agency.

19   **“SEC. 15007. EFFECTIVE DATE.**

20          “(a) IN GENERAL.—This title shall take effect 90  
21      days after the date of the enactment of the Teacher Liabil-  
22      ity Protection Act.

23          “(b) APPLICATION.—This title applies to any claim  
24      for harm caused by an act or omission of a teacher if that  
25      claim is filed on or after the effective date of the Teacher

1 Liability Protection Act, without regard to whether the  
2 harm that is the subject of the claim or the conduct that  
3 caused the harm occurred before such effective date.”.

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