

106TH CONGRESS
1ST SESSION

H. R. 404

To amend title IX of the Education Amendments of 1972 to impose on employers responsibility for conduct of their employees under certain circumstances.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 19, 1999

Ms. NORTON (for herself and Ms. KILPATRICK) introduced the following bill;
which was referred to the Committee on Education and the Workforce

A BILL

To amend title IX of the Education Amendments of 1972
to impose on employers responsibility for conduct of their
employees under certain circumstances.

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 “Student Protection
5 From Sexual Abuse Act of 1999”.

6 **SEC. 2. AMENDMENT.**

7 Title IX of the Education Amendments of 1972 (20
8 U.S.C. 1681–1688) is amended by adding at the end the
9 following:

1 “RESPONSIBILITY OF EMPLOYERS

2 “SEC. 910. (a) Subject to subsection (b), an employer
3 shall be vicariously liable under this title to an individual
4 who is not an employee of such employer, for the conduct
5 of an employee if—

6 “(1) such conduct would have violated this title
7 if engaged in by such employer; and

8 “(2)(A) such employee was aided in accomplish-
9 ing such conduct by—

10 “(i) the existence of an agency relationship
11 with such employer; or

12 “(ii) the approval of such employer; or

13 “(B) such employer—

14 “(i) knew, or in the exercise of reasonable
15 care should have known, of such conduct; and

16 “(ii) did not take action to cause the ces-
17 sation of such conduct.

18 “(b) If the conduct referred to in subsection (a) of
19 an employee does not result in a tangible consequence to
20 the individual aggrieved by a violation of this title, it shall
21 be an affirmative defense to liability of an employer estab-
22 lished under subsection (a)(2)(A)(i) for damages that—

23 “(1) such employer—

24 “(A) communicated to such employee and
25 to the individual aggrieved by such violation,

1 such employer’s policy against conduct that
2 constitutes a violation of this title; and

3 “(B) established, and made available to
4 such individual, complaint procedures to pre-
5 vent such conduct and such violation; and

6 “(2) such individual did not use such proce-
7 dures to prevent the violation by which such individ-
8 ual is aggrieved.

9 “(c) The court may award such legal and equitable
10 relief as may be appropriate for a claim established under
11 this section.”.

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