

109TH CONGRESS
2D SESSION

H. R. 5295

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2006

Received; read twice and referred to the Committee on Health, Education,
Labor, and Pensions

AN ACT

To protect students and teachers.

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 “Student and Teacher
3 Safety Act of 2006”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The United States Department of Edu-
7 cation’s National Center for Education Statistics re-
8 ported in the 2005 Indicators of School Crime and
9 Safety that in 2003 seventeen percent of students in
10 grades 9-12 reported they carried a weapon. Six per-
11 cent reported having carried a weapon on school
12 grounds.

13 (2) The same survey reported that 29 percent
14 of all students in grades 9-12 reported that someone
15 offered, sold, or gave them an illegal drug on school
16 property within the last 12 months.

17 (3) The United States Constitution’s Fourth
18 Amendment guarantees “the right of the people to
19 be secure in their persons, houses, papers, and ef-
20 fects, against unreasonable searches and seizures”.

21 (4) That while the Supreme Court affirmed the
22 Fourth Amendment’s application to students in pub-
23 lic schools in New Jersey vs. TLO (1985), the Court
24 held that searches of students by school officials do
25 not require warrants issued by judges showing prob-

1 able cause. The Court will ordinarily hold that such
2 a search is permissible if—

3 (A) there are reasonable grounds for sus-
4 pecting the search will reveal evidence that the
5 student violated the law or school rules; and

6 (B) the measures used to conduct the
7 search are reasonably related to the search’s ob-
8 jectives, without being excessively intrusive in
9 light of the student’s age, sex, and nature of
10 the offense.

11 (5) The Supreme Court held in Board of Edu-
12 cation of Independent Sch. Dist. 92 of Pottawatomie
13 County vs. Earls (2002) that random drug testing
14 of students who were participating in extracurricular
15 activities was reasonable and did not violate the
16 Fourth Amendment. The Court stated that such
17 search policies effectively serve the School Districts
18 interest in protecting its students’ health and safety.

19 **SEC. 3. SEARCHES BASED ON REASONABLE SUSPICION.**

20 (a) IN GENERAL.—Each local educational agency
21 shall have in effect throughout the jurisdiction of the
22 agency policies that ensure that a search described in sub-
23 section (b) is deemed reasonable and permissible.

24 (b) SEARCHES COVERED.—A search referred to in
25 subsection (a) is a search by a full-time teacher or school

1 official, acting on any reasonable suspicion based on pro-
 2 fessional experience and judgment, of any minor student
 3 on the grounds of any public school, if the search is con-
 4 ducted to ensure that classrooms, school buildings, school
 5 property and students remain free from the threat of all
 6 weapons, dangerous materials, or illegal narcotics. The
 7 measures used to conduct any search must be reasonably
 8 related to the search's objectives, without being excessively
 9 intrusive in light of the student's age, sex, and the nature
 10 of the offense.

11 **SEC. 4. ENCOURAGEMENT TO PROTECT STUDENTS AND**
 12 **TEACHERS.**

13 (a) IN GENERAL.—A local educational agency that
 14 fails to comply with section 3 shall not, during the period
 15 of noncompliance, receive any Safe and Drug Free School
 16 funds after fiscal year 2008.

17 (b) DEFINITION.—In this section, the term “Safe and
 18 Drug Free School funds” includes any funds under Part
 19 A of Title IV of the Elementary and Secondary Education
 20 Act of 1965.

Passed the House of Representatives September 19,
 2006.

Attest:

KAREN L. HAAS,

Clerk.