

110TH CONGRESS  
1ST SESSION

# H. R. 3291

To protect students and teachers.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2007

Mr. KIRK (for himself, Mr. DAVIS of Kentucky, Mr. CARNEY, Mr. SESSIONS, Mrs. BIGGERT, Mr. TERRY, Mr. ROSKAM, Mr. GINGREY, Mr. REICHERT, Mr. KUHLMAN of New York, Mr. GERLACH, Mr. SHAYS, Mr. SHIMKUS, Mr. BOUSTANY, Mr. TOM DAVIS of Virginia, Mr. FERGUSON, Mr. GILCHREST, Mrs. MILLER of Michigan, Mr. SAXTON, Mr. WAMP, Mr. McCOTTER, Mr. BRADY of Texas, Mr. LINCOLN DIAZ-BALART of Florida, Mr. ENGLISH of Pennsylvania, Mr. FRELINGHUYSEN, Ms. PRYCE of Ohio, Mr. ROGERS of Michigan, Mr. TIBERI, and Mr. WELLER of Illinois) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Student and Teacher  
5 Safety Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) The United States Department of Edu-  
2           cation’s National Center for Education Statistics re-  
3           ported in the 2005 Indicators of School Crime and  
4           Safety that in 2003 17 percent of students in grades  
5           9–12 reported they carried a weapon. Six percent re-  
6           ported having carried a weapon on school grounds.

7           (2) The same survey reported that 29 percent  
8           of all students in grades 9–12 reported that someone  
9           offered, sold, or gave them an illegal drug on school  
10          property within the last 12 months.

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

15          (4) That while the Supreme Court affirmed the  
16          Fourth Amendment’s application to students in pub-  
17          lic schools in *New Jersey vs. TLO* (1985), the Court  
18          held that searches of students by school officials do  
19          not require warrants issued by judges showing prob-  
20          able cause. The Court will ordinarily hold that such  
21          a search is permissible if—

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

1 (B) the measures used to conduct the  
2 search are reasonably related to the search's ob-  
3 jectives, without being excessively intrusive in  
4 light of the student's age, sex, and nature of  
5 the offense.

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

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

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

19 (b) SEARCHES COVERED.—A search referred to in  
20 subsection (a) is a search by a full-time teacher or school  
21 official, acting on any reasonable suspicion based on pro-  
22 fessional experience and judgment, of any minor student  
23 on the grounds of any public school, if the search is con-  
24 ducted to ensure that classrooms, school buildings, school  
25 property and students remain free from the threat of all

1 weapons, dangerous materials, or illegal narcotics. The  
2 measures used to conduct any search must be reasonably  
3 related to the search's objectives, without being excessively  
4 intrusive in light of the student's age, sex, and the nature  
5 of the offense.

6 **SEC. 4. ENCOURAGEMENT TO PROTECT STUDENTS AND**  
7 **TEACHERS.**

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

12 (b) **DEFINITION.**—In this section, the term “Safe and  
13 Drug Free School funds” includes any funds under Part  
14 A of Title IV of the Elementary and Secondary Education  
15 Act of 1965.

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