

Page 4, after line 21, insert the following:
“(14) establishing partnerships between State educational agencies and local educational agencies for the design and implementation of character education and training programs that reflect the values of parents, teachers, and local communities, and incorporate elements of good character, including honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness; and

“(15) implementing other activities that foster strong character development in at-risk juveniles and juveniles in the juvenile justice system.

It was decided in the affirmative { Yeas 422 Nays 1

¶66.21 [Roll No. 228] AYES—422

- Abercrombie, Ackerman, Aderholt, Allen, Andrews, Archer, Arney, Bachus, Baird, Baker, Baldacci, Baldwin, Ballenger, Barr, Barrett (NE), Barrett (WI), Bartlett, Barton, Bass, Bateman, Becerra, Bentsen, Bereuter, Berkley, Berman, Berry, Biggart, Bilbray, Bilirakis, Bishop, Blagojevich, Biley, Blumenauer, Blunt, Boehlert, Boehner, Bonilla, Bonior, Bono, Boski, Boswell, Boucher, Boyd, Brady (PA), Brady (TX), Brown (FL), Brown (OH), Bryant, Burr, Burton, Buyer, Callahan, Calvert, Camp, Campbell, Canady, Cannon, Capps, Cardin, Castle, Chabot, Chambliss, Chenoweth, Clay, Clayton, Clement, Clyburn, Coble, Coburn, Collins, Combest, Condit, Conyers, Cook, Cooksey, Costello, Cox

- Lucas (KY), Lucas (OK), Luther, Maloney (CT), Maloney (NY), Manzullo, Markey, Martinez, Mascara, Matsui, McCarthy (MO), McCarthy (NY), McCollum, McCreery, McDermott, McGovern, McHugh, McInnis, McIntosh, McIntyre, McKeon, McKinney, McNulty, Meehan, Meek (FL), Meeks (NY), Menendez, Metcalf, Mica, Millender-McDonald, Miller (FL), Miller, Gary, Miller, George, Mink, Moakley, Mollohan, Moore, Moran (KS), Moran (VA), Morella, Murtha, Myrick, Nadler, Napolitano, Neal, Nethercutt, Ney, Norwood, Nussle, Oberstar, Obey, Olver, Ortiz, Ose, Owens, Oxley, Packard, Pallone, Pascrell, Pastor, Paul, Payne, Pease, Pelosi, Peterson (MN), Peterson (PA), Petri, Phelps, Pickering, Pickett, Pitts, Pombo, Pomeroy, Porter, Portman, Price (NC), Pryce (OH), Quinn, Rahall, Ramstad, Rangel, Regula, Reyes, Reynolds, Riley, Rivers, Rodriguez, Roemer, Rogan, Rogers, Rohrabacher, Ros-Lehtinen, Rothman, Roukema, Roybal-Allard, Royce, Rush, Ryan (WI), Ryun (KS), Sabo, Sanchez, Sanders, Sandlin, Sanford, Sawyer, Saxton, Scarborough, Schaffer, Schakowsky, Scott, Sensenbrenner, Serrano, Sessions, Shadegg, Shaw, Sherman, Sherwood, Shimkus, Shows, Shuster, Simpson, Siskisky, Skeen, Skelton, Slaughter, Smith (MI), Smith (NJ), Smith (TX), Smith (WA)

- NOES—1 Capuano, NOT VOTING—11 Barcia, Brown (CA), Carson, Houghton, Johnson, Sam, Minge, Northup, Radanovich, Salmon, Shays, Thomas

So the amendment was agreed to.

¶66.22 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. MCINTOSH:

At the end of the bill, add the following (and make such technical and conforming changes as may be appropriate):

TITLE —TEACHER LIABILITY PROTECTION

SEC. 01. SHORT TITLE.

This title may be cited as the “Teacher Liability Protection Act of 1999”.

SEC. 02. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The ability of teachers, principals and other school professionals to teach, inspire and shape the intellect of our Nation’s ele-

mentary and secondary school students is deterred and hindered by frivolous lawsuits and litigation.

(2) Each year more and more teachers, principals and other school professionals face lawsuits for actions undertaken as part of their duties to provide millions of school children quality educational opportunities.

(3) Too many teachers, principals and other school professionals face increasingly severe and random acts of violence in the classroom and in schools.

(4) Providing teachers, principals and other school professionals a safe and secure environment is an important part of the effort to improve and expand educational opportunities.

(5) Clarifying and limiting the liability of teachers, principals and other school professionals who undertake reasonable actions to maintain order, discipline and an appropriate educational environment is an appropriate subject of Federal legislation because—

(A) the scope of the problems created by the legitimate fears of teachers, principals and other school professionals about frivolous, arbitrary or capricious lawsuits against teachers is of national importance; and

(B) millions of children and their families across the Nation depend on teachers, principals and other school professionals for the intellectual development of children.

(b) PURPOSE.—The purpose of this title is to provide teachers, principals and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline and an appropriate educational environment.

SEC. 03. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

(a) PREEMPTION.—This title preempts the laws of any State to the extent that such laws are inconsistent with this title, except that this title shall not preempt any State law that provides additional protection from liability relating to teachers.

(b) ELECTION OF STATE REGARDING NON-APPLICABILITY.—This title shall not apply to any civil action in a State court against a teacher in which all parties are citizens of the State if such State enacts a statute in accordance with State requirements for enacting legislation—

- (1) citing the authority of this subsection; (2) declaring the election of such State that this title shall not apply, as of a date certain, to such civil action in the State; and (3) containing no other provisions.

SEC. 04. LIMITATION ON LIABILITY FOR TEACHERS.

(a) LIABILITY PROTECTION FOR TEACHERS.—Except as provided in subsections (b) and (c), no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if—

- (1) the teacher was acting within the scope of the teacher’s employment or responsibilities related to providing educational services; (2) the actions of the teacher were carried out in conformity with local, state, or federal laws, rules or regulations in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school; (3) if appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher’s responsibilities; (4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and

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

- (A) possess an operator's license; or
(B) maintain insurance.

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

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

- (1) A State law that requires a school or governmental entity to adhere to risk management procedures, including mandatory training of teachers.
(2) A State law that makes the school or governmental entity liable for the acts or omissions of its teachers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

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

(1) GENERAL RULE.—Punitive damages may not be awarded against a teacher in an action brought for harm based on the action of a teacher acting within the scope of the teacher's responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such teacher which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

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

(e) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—

(1) IN GENERAL.—The limitations on the liability of a teacher under this title shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18, United States Code) for which the defendant has been convicted in any court;

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

(C) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(D) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to effect subsection (a)(3) or (d).

SEC. 05. LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In any civil action against a teacher, based on an action of a teacher acting within the scope of the teacher's responsibilities to a school or governmental entity, the liability of the teacher for noneconomic loss shall be determined in accordance with subsection (b).

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant who is a teacher, shall be liable only for the amount

of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant who is a teacher under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

SEC. 06. DEFINITIONS.

For purposes of this title:

(1) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) HARM.—The term "harm" includes physical, nonphysical, economic, and noneconomic losses.

(3) NONECONOMIC LOSSES.—The term "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

(4) SCHOOL.—The term "school" means a public or private kindergarten, a public or private elementary school or secondary school (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), or a home school.

(5) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) TEACHER.—The term "teacher" means a teacher, instructor, principal, administrator, or other educational professional that works in a school, a local school board and any member of such board, and a local educational agency and any employee of such agency.

SEC. 07. EFFECTIVE DATE.

(a) IN GENERAL.—This title shall take effect 90 days after the date of enactment of this Act.

(b) APPLICATION.—This title applies to any claim for harm caused by an act or omission of a teacher where that claim is filed on or after the effective date of this Act, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

It was decided in the { Yeas 300 affirmative } Nays 126

Table listing names of representatives: Bryant, Hobson, Portman, Burr, Hoekstra, Price (NC), Burton, Holden, Pryce (OH), Buyer, Hooley, Quinn, Callahan, Horn, Radanovich, Calvert, Hostettler, Rahall, Camp, Hulshof, Ramstad, Canady, Hunter, Regula, Cannon, Hutchinson, Reyes, Cardin, Hyde, Reynolds, Castle, Inslee, Riley, Chabot, Isakson, Rodriguez, Chambliss, Istook, Roemer, Chenoweth, Jefferson, Rogan, Clement, Jenkins, Rogers, Clyburn, John, Rohrabacher, Coble, Johnson (CT), Ros-Lehtinen, Coburn, Jones (NC), Roukema, Collins, Kanjorski, Royce, Combest, Kaptur, Ryan (WI), Condit, Kasich, Ryun (KS), Cook, Kelly, Sabo, Cooksey, Kildee, Sanchez, Costello, Kind (WI), Sandin, Cox, King (NY), Sanford, Cramer, Kingston, Sawyer, Crane, Klink, Saxton, Cubin, Knollenberg, Schaffer, Cunningham, Kolbe, Sensenbrenner, Danner, Kuykendall, Sessions, Davis (VA), Lampson, Shadegg, Deal, Lantos, Shaw, DeFazio, Largent, Sherwood, DeLay, Larson, Shimkus, DeMint, Latham, Shows, Dickey, LaTourette, Shuster, Dicks, Lazio, Simpson, Dooley, Leach, Siskiy, Doyle, Lewis (CA), Skeen, Dreier, Lewis (KY), Skelton, Duncan, Linder, Smith (MI), Dunn, Lipinski, Smith (NJ), Edwards, LoBiondo, Smith (TX), Ehlers, Lucas (KY), Smith (WA), Emerson, Lucas (OK), Souder, Engel, Luther, Spence, English, Martinez, Spratt, Etheridge, Mascara, Stabenow, Evans, Matsui, Stearns, Everett, McCarthy (MO), Stenholm, Ewing, McCarthy (NY), Stump, Fletcher, McCollum, Stupak, Forbes, McHugh, Sununu, Fossella, McInnis, Sweeney, Fowler, McIntosh, Talent, Franks (NJ), McIntyre, Tancredo, Frelinghuysen, McKeon, Tanner, Frost, McKinney, Tauscher, Gallegly, McNulty, Tauzin, Ganske, Metcalf, Taylor (MS), Gekas, Mica, Taylor (NC), Gephardt, Miller (FL), Terry, Gibbons, Miller, Gary, Thompson (MS), Gilchrest, Mollohan, Thornberry, Gillmor, Moore, Thune, Goode, Moran (KS), Thurman, Goodlatte, Moran (VA), Tiahrt, Goodling, Murtha, Toomey, Gordon, Myrick, Towns, Goss, Nethercutt, Traficant, Graham, Ney, Turner, Granger, Northup, Upton, Green (TX), Norwood, Viscolsky, Green (WI), Nussle, Walden, Greenwood, Oberstar, Walsh, Gutknecht, Obey, Wamp, Hall (OH), Ortiz, Watkins, Hall (TX), Ose, Waits (OK), Hansen, Oxley, Weldon (FL), Hastings (WA), Packard, Weldon (PA), Hayes, Pascrell, Weller, Hayworth, Pease, Whitfield, Hefley, Peterson (MN), Wicker, Herger, Peterson (PA), Wilson, Hill (IN), Petri, Wise, Hill (MT), Phelps, Wolf, Hilleary, Pickering, Wu, Hilliard, Pitts, Wynn, Hinchey, Pombo, Young (AK), Hinojosa, Pomeroy, Young (FL)

66.23

[Roll No. 229]

AYES—300

Table listing names of representatives: Aderholt, Bartlett, Blumenauer, Archer, Barton, Blunt, Armye, Bass, Boehlert, Bachus, Bentzen, Boehner, Baird, Bereuter, Bonilla, Baker, Berry, Borski, Ballenger, Bilbray, Boswell, Barcia, Billrakis, Boucher, Barr, Bishop, Boyd, Barrett (NE), Bliley, Brady (TX)

NOES—126

Table listing names of representatives: Abercrombie, Becerra, Brown (FL), Ackerman, Berkley, Brown (OH), Allen, Berman, Campbell, Andrews, Biggert, Capps, Baldacci, Blagojevich, Capuano, Baldwin, Bonior, Clay, Barrett (WI), Bono, Clayton, Bateman, Brady (PA), Conyers