

114TH CONGRESS
1ST SESSION

S. 852

To provide that employment-related arbitration agreements shall not be enforceable with respect to any claim related to a tort arising out of rape.

IN THE SENATE OF THE UNITED STATES

MARCH 24, 2015

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide that employment-related arbitration agreements shall not be enforceable with respect to any claim related to a tort arising out of rape.

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 “A Voice for Victims Act
5 of 2015”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Federal law has long held that workplace
9 disputes may be the subject of valid agreements to
10 arbitrate unless Congress “has evinced an intention

1 to preclude” such agreements for the disputes at
2 issue. (See *Gilmer v. Interstate/Johnson Lane Corp.*,
3 500 U.S. 20, 26 (1991)).

4 (2) It is the intent of Congress that employees
5 not be compelled by an employer to arbitrate any
6 claim related to a tort arising out of rape.

7 (b) PURPOSE.—The purpose of this Act is to evidence
8 the intent of Congress to preclude an employer from en-
9 forcing an agreement to arbitrate any claim related to a
10 tort arising out of rape.

11 **SEC. 3. ARBITRATION OF CERTAIN CONTROVERSIES.**

12 (a) IN GENERAL.—Notwithstanding any other provi-
13 sion of law, any agreement made between an employer and
14 an employee to arbitrate a dispute shall not be enforceable
15 with respect to any claim related to a tort arising out of
16 rape.

17 (b) RULE OF CONSTRUCTION.—This Act shall not be
18 construed to limit, in any way, the broad construction
19 given to the scope of employment under any Federal or
20 State workers’ compensation law.

21 (c) DEFINITIONS.—In this section:

22 (1) COMMERCE.—The term “commerce” means
23 trade, traffic, commerce, transportation, trans-
24 mission, or communication—

25 (A) among the several States;

1 (B) between a State and any place outside
2 thereof;

3 (C) within the District of Columbia or a
4 possession of the United States; or

5 (D) between points in the same State but
6 through a point outside thereof.

7 (2) INDUSTRY AFFECTING COMMERCE.—The
8 term “industry affecting commerce”—

9 (A) means any activity, business, or indus-
10 try in commerce or in which a labor dispute
11 would hinder or obstruct commerce or the free
12 flow of commerce;

13 (B) includes any activity or industry af-
14 fecting commerce, within the meaning of the
15 Labor-Management Reporting and Disclosure
16 Act of 1959 (29 U.S.C. 401 et seq.); and

17 (C) includes any governmental industry,
18 business, or activity.

19 (3) EMPLOYER.—The term “employer” means
20 a person engaged in an industry affecting commerce
21 who has 15 or more employees for each working day
22 in each of 20 or more calendar weeks in the current
23 or preceding calendar year, and any agent of such
24 a person, but such term does not include—

1 (A) the United States, a corporation wholly
2 owned by the Government of the United States,
3 or any department or agency of the District of
4 Columbia subject by statute to procedures of
5 the competitive service (as defined in section
6 2102 of title 5, United States Code); or

7 (B) a bona fide private membership club
8 (other than a labor organization) which is ex-
9 empt from taxation under section 501(c) of the
10 Internal Revenue Code of 1986.

11 (4) EMPLOYEE.—The term “employee” means
12 an individual employed by an employer, except that
13 the term “employee” shall not include any person
14 elected to public office in any State or political sub-
15 division of any State by the qualified voters thereof,
16 or any person chosen by such officer to be on such
17 officer’s personal staff, or an appointee on the policy
18 making level or an immediate adviser with respect to
19 the exercise of the constitutional or legal powers of
20 the office. The exemption set forth in the preceding
21 sentence shall not include employees subject to the
22 civil service laws of a State government, govern-
23 mental agency or political subdivision. With respect
24 to employment in a foreign country, such term in-

1 includes an individual who is a citizen of the United
2 States.

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