

111TH CONGRESS
1ST SESSION

S. 2915

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

DECEMBER 18, 2009

Mr. CORKER (for himself, Mr. ALEXANDER, Mr. CRAPO, and 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 the “Rape Victims Act of
5 2009”.

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

1 arbitrate unless Congress “has evinced an intention
2 to preclude” such agreements for the disputes at
3 issue. See *Gilmer v. Interstate/Johnson Lane Corp.*,
4 500 U.S. 20, 26 (1991).

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

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

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

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

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

22 (c) DEFINITIONS.—In this section:

23 (1) COMMERCE.—The term “commerce” means
24 trade, traffic, commerce, transportation, trans-
25 mission, or communication among the several States;

1 or between a State and any place outside thereof; or
2 within the District of Columbia, or a possession of
3 the United States; or between points in the same
4 State but through a point outside thereof.

5 (2) INDUSTRY AFFECTING COMMERCE.—The
6 term “industry affecting commerce” means any ac-
7 tivity, business, or industry in commerce or in which
8 a labor dispute would hinder or obstruct commerce
9 or the free flow of commerce and includes any activ-
10 ity or industry “affecting commerce” within the
11 meaning of the Labor-Management Reporting and
12 Disclosure Act of 1959, and further includes any
13 governmental industry, business, or activity.

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

20 (A) the United States, a corporation wholly
21 owned by the Government of the United States,
22 or any department or agency of the District of
23 Columbia subject by statute to procedures of
24 the competitive service (as defined in section
25 2102 of title 5 of the United States Code); or

1 (B) a bona fide private membership club
2 (other than a labor organization) which is ex-
3 empt from taxation under section 501(c) of the
4 Internal Revenue Code of 1954.

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

○