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98TH CONGRESS
1ST SESSION

H. R. 490

To amend title 28 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon acts or omissions of United States employees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1983

Mr. CHAPPELL introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon acts or omissions of United States employees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 1346(b) of title 28, United States Code, is
4 amended by striking the period at the end of the section and
5 adding the following: “, or where the claims sounding in tort
6 for money damages arise under the Constitution or statutes
7 of the United States, such liability to be determined in ac-
8 cordance with applicable Federal Law.”

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1 SEC. 2. Section 2672 of title 28, United States Code, is
2 amended by inserting in the first paragraph the following lan-
3 guage after the word "occurred" and before the colon: ", or
4 where the claims sounding in tort for money damages arise
5 under the Constitution or statutes of the United States, such
6 liability to be determined in accordance with applicable Fed-
7 eral law".

8 SEC. 3. Section 2674 of title 28, United States Code, is
9 amended by deleting the first paragraph and substituting the
10 following:

11 "The United States shall be liable in accordance with
12 the provisions of section 1346(b) of this title, but shall not be
13 liable for interest prior to judgment or for punitive damages:
14 *Provided*, That for claims arising under the Constitution or
15 statutes of the United States, recovery shall be restricted to
16 actual damages and, where appropriate, reasonable compen-
17 sation for general damages not to exceed \$5,000."

18 SEC. 4. Section 2679(b) of title 28, United States Code,
19 is amended to read as follows:

20 "(b) The remedy against the United States provided by
21 sections 1346(b) and 2672 of this title for injury or loss of
22 property, or personal injury or death caused by the negligent
23 or wrongful act or omission of any employee of the Govern-
24 ment while acting within the scope of his employment is ex-
25 clusive of any other civil action or proceeding arising out of

1 or relating to the same subject matter against the employee
2 whose act or omission gave rise to the claim, or against the
3 estate of such employee.”.

4 SEC. 5. Section 2679(d) of title 28, United States Code,
5 is amended by inserting in the first sentence the words
6 “office or” between “scope of his” and “employment.”.

7 SEC. 6. Section 2679(d) of title 28, United States Code,
8 is amended by deleting the second sentence and substituting
9 the following: “After removal the United States shall have
10 available all defenses to which it would have been entitled if
11 the action had originally been commenced against the United
12 States under the Federal Tort Claims Act. Should a United
13 States district court determine on a hearing on a motion to
14 remand held before a trial on the merits that the employee
15 whose act or omission gave rise to the suit was not acting
16 within the scope of his office or employment, the case shall
17 be remanded to the State court: *Provided*, That where such a
18 remedy is precluded because of the availability of a remedy
19 through proceedings for compensation or other benefits from
20 the United States as provided by any other law, the case
21 shall be dismissed, but in that event the running of any limi-
22 tation of time for commencing or filing any application of
23 claim in, such proceedings for compensation of other benefits
24 shall be deemed to have been suspended during the pendency
25 of the civil action or proceeding under this section.”.

1 SEC. 7. Section 2680(h) of title 28, United States Code,
2 is amended to read as follows: "Any claims arising out of
3 libel, slander, misrepresentation, deceit, or interference with
4 contract rights."

5 SEC. 8. Section 4116 of title 38, United States Code, is
6 repealed, as of the effective date of this Act.

7 SEC. 9. Section 223 of title II of the Public Health
8 Service Act (58 Stat. 682, as added by section 4 of the Act
9 of December 31, 1970, 84 Stat. 1870 (42 U.S.C. 233)), is
10 redesignated as section 224 and is amended to read as fol-
11 lows:

12 "AUTHORITY OF SECRETARY OF DESIGNEE TO HOLD
13 HARMLESS OR PROVIDE LIABILITY INSURANCE FOR
14 ASSIGNED OR DETAILED EMPLOYEES

15 "SEC. 224. The Secretary of Health and Human Serv-
16 ices, the Secretary of Defense, and the Administrator of Vet-
17 erans' Affairs, or their designees may, to the extent deemed
18 appropriate, hold harmless or provide liability insurance for
19 any officer or employee of their respective departments or
20 agencies for damage for personal injury, including death or
21 property damage, negligently caused by an officer or employ-
22 ee while acting within the scope of his office or employment
23 and as a result of the performance of medical, surgical,
24 dental, or related functions, including the conduct of clinical
25 studies or investigations, if such employee is assigned to a

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1 foreign country or detailed to other than a Federal agency or
2 institution, or if the circumstances are such as are likely to
3 preclude the remedies of third persons against the United
4 States described in section 2679(b) of title 28, for such
5 damage or injury.”.

6 SEC. 10. This Act shall become effective on the first day
7 of the third month which begins following the date of its en-
8 actment and shall apply to only those claims accruing on or
9 after the effective date.

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