

## Union Calendar No.

116<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3539

[Report No. 116-]

To amend the Public Health Service Act to direct the Secretary of Health and Human Services to develop best practices for the establishment and use of behavioral intervention teams at schools, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2019

Mr. FERGUSON (for himself, Mr. BURGESS, Mr. KENNEDY, and Mr. PANNETTA) introduced the following bill; which was referred to the Committee on Energy and Commerce

SEPTEMBER --, 2020

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 27, 2019]

# **A BILL**

To amend the Public Health Service Act to direct the Secretary of Health and Human Services to develop best practices for the establishment and use of behavioral intervention teams at schools, 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 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Behavioral Intervention*  
5 *Guidelines Act of 2020”.*

6 **SEC. 2. BEST PRACTICES FOR BEHAVIORAL INTERVENTION**

7 **TEAMS.**

8 *The Public Health Service Act is amended by inserting*  
9 *after section 520G of such Act (42 U.S.C. 290bb–38) the*  
10 *following new section:*

11 **“SEC. 520H. BEST PRACTICES FOR BEHAVIORAL INTERVEN-**  
12 **TION TEAMS.**

13 *“(a) IN GENERAL.—The Secretary, acting through the*  
14 *Assistant Secretary, shall develop and periodically up-*  
15 *date—*

16 *“(1) best practices to assist elementary schools,*  
17 *secondary schools, and institutions of higher edu-*  
18 *cation in establishing and using behavioral interven-*  
19 *tion teams; and*

20 *“(2) a list of evidence-based threat assessment*  
21 *training providers to assist personnel in elementary*  
22 *schools, secondary schools, and institutions of higher*  
23 *education in implementing such best practices, in-*  
24 *cluding with respect to training behavioral interven-*  
25 *tion teams.*

1           “(b) *ELEMENTS.*—*The best practices under subsection*  
2 *(a)(1) shall include guidance on the following:*

3           “(1) *How behavioral intervention teams can op-*  
4 *erate effectively from an evidence-based, objective per-*  
5 *spective while protecting the constitutional and civil*  
6 *rights of individuals, including any individual of*  
7 *concern.*

8           “(2) *The use of behavioral intervention teams to*  
9 *identify individuals of concern, implement interven-*  
10 *tions, and manage risk through the framework of the*  
11 *school’s or institution’s rules or code of conduct, as*  
12 *applicable.*

13           “(3) *How behavioral intervention teams can,*  
14 *when assessing an individual of concern—*

15           “(A) *seek training on evidence-based, threat-*  
16 *assessment rubrics;*

17           “(B) *ensure that such teams—*

18           “(i) *have adequately trained, diverse*  
19 *stakeholders with varied expertise; and*

20           “(ii) *use cross validation by a wide-*  
21 *range of individual perspectives on the*  
22 *team; and*

23           “(C) *use violence risk assessment.*

24           “(4) *How behavioral intervention teams can*  
25 *avoid—*

1           “(A) attempting to predict future behavior  
2           by the concept of pre-crime;

3           “(B) inappropriately using a mental health  
4           assessment;

5           “(C) inappropriately limiting or restricting  
6           law enforcement’s jurisdiction over criminal  
7           matters;

8           “(D) attempting to substitute the behavioral  
9           intervention process in place of a criminal proc-  
10          ess, or impede a criminal process, when an indi-  
11          vidual of concern’s behavior has potential crimi-  
12          nal implications;

13          “(E) endangering an individual’s privacy  
14          by failing to ensure that all applicable Federal  
15          and State privacy laws are fully complied with;  
16          or

17          “(F) creating school-to-prison pipelines.

18          “(c) CONSULTATION.—In carrying out subsection  
19 (a)(1), the Secretary shall consult with—

20               “(1) the Secretary of Education;

21               “(2) the Director of the National Threat Assess-  
22          ment Center of the Department of Homeland Secu-  
23          rity;

24               “(3) the Attorney General of the United States;

25          and

1           “(4) as appropriate, relevant stakeholders includ-  
2           ing—

3                   “(A) teachers and other educators, prin-  
4                   cipals, school administrators, school board mem-  
5                   bers, school psychologists, mental health profes-  
6                   sionals, and parents of elementary school and  
7                   secondary school students;

8                   “(B) local law enforcement agencies and  
9                   campus law enforcement administrators;

10                  “(C) mental health mobile crisis providers;

11                  “(D) child and adolescent psychiatrists; and

12                  “(E) other education and mental health  
13                  professionals.

14                  “(d) *PUBLICATION.*—Not later than 2 years after the  
15                  date of enactment of this section, the Secretary shall publish  
16                  the best practices under subsection (a)(1) and the list under  
17                  subsection (a)(2) on a publicly accessible website of the De-  
18                  partment of Health and Human Services.

19                  “(e) *TECHNICAL ASSISTANCE.*—The Secretary shall  
20                  provide technical assistance to institutions of higher edu-  
21                  cation, elementary schools, and secondary schools to assist  
22                  such institutions and schools in implementing the best prac-  
23                  tices under subsection (a).

24                  “(f) *DEFINITIONS.*—In this section:

1           “(1) *The term ‘behavioral intervention team’*  
2           *means a team of qualified individuals who—*

3                     “(A) *are responsible for identifying and as-*  
4                     *sessing individuals of concern; and*

5                     “(B) *develop and facilitate implementation*  
6                     *of evidence-based interventions to mitigate the*  
7                     *threat of harm to self or others posed by individ-*  
8                     *uals of concern and address the mental and be-*  
9                     *havioral health needs of individuals of concern to*  
10                    *reduce such threat.*

11           “(2) *The terms ‘elementary school’, ‘parent’, and*  
12           *‘secondary school’ have the meanings given to such*  
13           *terms in section 8101 of the Elementary and Sec-*  
14           *ondary Education Act of 1965 (20 U.S.C. 7801).*

15           “(3) *The term ‘individual of concern’ means an*  
16           *individual whose behavior indicates a potential threat*  
17           *to self or others.*

18           “(4) *The term ‘institution of higher education’*  
19           *has the meaning given to such term in section 102 of*  
20           *the Higher Education Act of 1965 (20 U.S.C. 1002).*

21           “(5) *The term ‘mental health assessment’ means*  
22           *an evaluation, primarily focused on diagnosis, deter-*  
23           *mining the need for involuntary commitment, medi-*  
24           *cation management, and on-going treatment rec-*  
25           *ommendations.*

1           “(6) *The term ‘pre-crime’ means law-enforcement*  
2           *efforts and strategies to deter crime by predicting*  
3           *when and where criminal activity will occur.*

4           “(7) *The term ‘violence risk assessment’ refers to*  
5           *a broad determination of the potential risk of violence*  
6           *based on evidence-based literature.”.*