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.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2019

Mr. Ferguson (for himself, Mr. Burgess, Mr. Kennedy, and Mr. Panetta) 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.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. BEST PRACTICES FOR BEHAVIORAL INTERVENTION
TEAMS.

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

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

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

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

“(2) a list of evidence-based threat assessment
training providers to assist personnel in elementary
schools, secondary schools, and institutions of higher
education in implementing such best practices, in-
cluding with respect to training behavioral interven-
tion teams.
“(b) ELEMENTS.—The best practices under subsection (a)(1) shall include guidance on the following:

“(1) How behavioral intervention teams can operate effectively from an evidence-based, objective perspective while protecting the constitutional and civil rights of individuals, including any individual of concern.

“(2) The use of behavioral intervention teams to identify individuals of concern, implement interventions, and manage risk through the framework of the school’s or institution’s rules or code of conduct, as applicable.

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

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

“(B) ensure that such teams—

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

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

“(C) use violence risk assessment.

“(4) How behavioral intervention teams can avoid—
“(A) attempting to predict future behavior
by the concept of pre-crime;
“(B) inappropriately using a mental health
assessment;
“(C) inappropriately limiting or restricting
law enforcement’s jurisdiction over criminal
matters;
“(D) attempting to substitute the behavioral
intervention process in place of a criminal proc-
ess, or impede a criminal process, when an indi-
vidual of concern’s behavior has potential crim-
inal implications;
“(E) endangering an individual’s privacy
by failing to ensure that all applicable Federal
and State privacy laws are fully complied with;
or
“(F) creating school-to-prison pipelines.
“(c) Consultation.—In carrying out subsection
(a)(1), the Secretary shall consult with—
“(1) the Secretary of Education;
“(2) the Director of the National Threat Assess-
ment Center of the Department of Homeland Secu-
rity;
“(3) the Attorney General of the United States;
and
“(4) as appropriate, relevant stakeholders including—

“(A) teachers and other educators, principals, school administrators, school board members, school psychologists, mental health professionals, and parents of elementary school and secondary school students;

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

“(C) mental health mobile crisis providers;

“(D) child and adolescent psychiatrists; and

“(E) other education and mental health professionals.

“(d) PUBLICATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall publish the best practices under subsection (a)(1) and the list under subsection (a)(2) on a publicly accessible website of the Department of Health and Human Services.

“(e) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to institutions of higher education, elementary schools, and secondary schools to assist such institutions and schools in implementing the best practices under subsection (a).

“(f) DEFINITIONS.—In this section:
“(1) The term ‘behavioral intervention team’ means a team of qualified individuals who—

“(A) are responsible for identifying and assessing individuals of concern; and

“(B) develop and facilitate implementation of evidence-based interventions to mitigate the threat of harm to self or others posed by individuals of concern and address the mental and behavioral health needs of individuals of concern to reduce such threat.

“(2) The terms ‘elementary school’, ‘parent’, and ‘secondary school’ have the meanings given to such terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

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

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

“(5) The term ‘mental health assessment’ means an evaluation, primarily focused on diagnosis, determining the need for involuntary commitment, medication management, and on-going treatment recommendations.
“(6) The term ‘pre-crime’ means law-enforcement efforts and strategies to deter crime by predicting when and where criminal activity will occur.

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