

111TH CONGRESS
2^D SESSION

H. R. 6362

To amend the Elementary and Secondary Education Act of 1965 to improve school safety.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2010

Mrs. MCCARTHY of New York introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Elementary and Secondary Education Act of 1965 to improve school safety.

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 “Safe Schools Against
5 Violence in Education Act” or the “SAVE Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Secretary of Education reports that
9 from 2003 to 2009 there have never been more than

1 47 schools in the entire Nation reported annually as
2 persistently dangerous.

3 (2) The Office of the New York State Comp-
4 troller's May 2006 report found that at schools sam-
5 pled for this report more than 80 percent of the doc-
6 umented incidents were not reported to the State,
7 and in a number of instances the most serious types
8 of incidents, such as sexual offenses and incidents
9 involving the use of a weapon, were unreported.

10 (3) In December 2009, the National Center for
11 Education Statistics and the Bureau of Justice Sta-
12 tistics released a joint report that contains the most
13 recent data, based on self-reported information and
14 surveys, available on crime and student safety, titled
15 "Indicators of School Crime and Safety: 2009" (the
16 "Indicators" report).

17 (4) According to the "Indicators" report, in the
18 2007–2008 school year, there were an estimated
19 55,700,000 students in pre-kindergarten through
20 grade 12. The report shows that among youth ages
21 5 to 18, there were 43 school-associated violent
22 deaths from July 1, 2007, through June 30, 2008.
23 In 2007, among students ages 12 to 18, there were
24 about 1.5 million victims of nonfatal crimes at

1 school, including 826,800 thefts and 684,100 violent
2 crimes (simple assault and serious violent crime).

3 (5) In 2007, 10 percent of male students in
4 grade 9 through grade 12 reported being threatened
5 or injured with a weapon on school property in the
6 past year, compared to 5 percent of female students.

7 (6) The “Indicators” report states that in
8 2007, 5 percent of students ages 12 to 18 reported
9 that they had been afraid of attack at school.

10 (7) The “Indicators” report states in 2007, 32
11 percent of students ages 12 to 18 reported having
12 been bullied in schools during the school year.

13 (8) The National Incident-Based Reporting
14 System (NIBRS) was developed by the Federal Bu-
15 reau of Investigation as part of the Uniform Crime
16 Reporting (UCR) Program. NIBRS currently col-
17 lects data on all reported incidents of crime, includ-
18 ing crime occurring at school.

19 (9) Accurate data is important to meet the edu-
20 cational goal of safe climate for academic achieve-
21 ment. Accurate data enables administrators to as-
22 sess the impact of programs that have been imple-
23 mented to promote school safety and to assess
24 whether additional efforts are needed.

1 (10) Students involved in bullying are at a sig-
2 nificant risk of experiencing a wide spectrum of psy-
3 chosomatic symptoms, running away from home, al-
4 cohol and drug abuse, absenteeism and, above all,
5 self-inflicted, accidental or perpetrated injuries.

6 (11) Unlike traditional forms of bullying, youth
7 who are the targets of cyberbullying at school are at
8 greater risk for depression than are the youth who
9 bully them, according to a survey conducted by re-
10 searchers at the National Institutes of Health.

11 **SEC. 4. SCHOOL SAFETY CHOICE OPTION.**

12 (a) IN GENERAL.—Section 9532 of the Elementary
13 and Secondary Education Act of 1965 (20 U.S.C. 7912)
14 is amended to read as follows:

15 **“SEC. 9532. SAFE SCHOOL CLIMATE.**

16 “(a) STATE POLICIES AND REPORT.—

17 “(1) IN GENERAL.—As a condition of receiving
18 funds under part A of title I, a State shall—

19 “(A) establish and implement—

20 “(i) a statewide policy requiring
21 that—

22 “(I) a student described in para-
23 graph (2) be allowed to attend a pub-
24 lic elementary school or secondary
25 school (including a public charter

1 school) within a local educational
2 agency under the jurisdiction of the
3 State that has a safe climate for aca-
4 demic achievement; and

5 “(II) determinations with respect
6 to which public elementary schools
7 and secondary schools in the State do
8 not have a safe climate for academic
9 achievement are made in accordance
10 with subsection (b); and

11 “(ii) a statewide policy with respect to
12 offenders described in paragraph (3); and

13 “(B) report to the Secretary, on an annual
14 basis—

15 “(i) the number of schools determined
16 by the State to not have a safe climate for
17 academic achievement;

18 “(ii) the number of students who have
19 transferred from such schools; and

20 “(iii) the number of offenders who
21 have been removed from school pursuant
22 to this section.

23 “(2) DESCRIPTION OF STUDENT.—A student
24 described in this paragraph is a student—

1 “(A) who is attending a public elementary
2 school or secondary school that does not have a
3 safe climate for academic achievement, as deter-
4 mined by the State in accordance with sub-
5 section (b); or

6 “(B) who becomes a victim of a violent
7 criminal offense, as determined by State law—

8 “(i) while in or on the grounds of a
9 public elementary school or secondary
10 school that the student attends;

11 “(ii) at a school event or activity
12 under the control and supervision of such
13 school; or

14 “(iii) on a school bus under the con-
15 trol and supervision of such school.

16 “(3) POLICIES WITH RESPECT TO OFFEND-
17 ERS.—A State policy with respect to offenders
18 shall—

19 “(A) permit a public elementary or sec-
20 ondary school in which a violent criminal of-
21 fense described in paragraph (2)(B) occurs or,
22 in a case in which such offense did not occur
23 in or on school grounds, a public elementary
24 school or secondary school that had control and
25 supervision over the event or activity or on the

1 school bus where such offense occurred, to pro-
2 vide appropriate counseling and educational
3 services to the offender of the offense in an al-
4 ternative setting if removal of the offender from
5 the school is determined to be appropriate by
6 the school; and

7 “(B) require that a school described in
8 subparagraph (A) that knows that an offender
9 of a violent criminal offense described in para-
10 graph (2)(B) is returning to the school notify,
11 as soon as practicable prior to the offender’s re-
12 turn to the school, the parents of each victim
13 of the offense committed by the offender that
14 the offender is returning to the school.

15 “(b) DETERMINATIONS OF SAFE CLIMATE.—

16 “(1) IN GENERAL.—A State policy with respect
17 to determining which public elementary schools and
18 secondary schools in the State do not have a safe cli-
19 mate for academic achievement shall require that—

20 “(A) a State make such determinations—

21 “(i) by consulting with—

22 “(I) a representative sample of
23 local educational agencies, parent
24 groups, and local law enforcement
25 agencies; or

1 “(II) other experts in the area of
2 school safety;

3 “(ii) based, at a minimum, on school
4 crime statistics and data—

5 “(I) collected by the State pursu-
6 ant to section 4141 and under sub-
7 section (c) of this section; and

8 “(II) made available by the Fed-
9 eral Bureau of Investigation pursuant
10 to subsection (d); and

11 “(iii) in time to permit a local edu-
12 cational agency to allow a student enrolled
13 in a school that does not have a safe cli-
14 mate for academic achievement to instead
15 enroll, at least 45 days before the start of
16 the school year, at a school with a safe cli-
17 mate for academic achievement;

18 “(B) after making determinations in ac-
19 cordance with subparagraph (A), the State
20 shall—

21 “(i) notify each local educational
22 agency in the State serving schools that
23 are determined to not have a safe climate
24 for academic achievement of such schools;
25 and

1 “(ii) require that within a week of re-
2 ceiving notice under clause (i), a local edu-
3 cational agency shall provide to the parent
4 of each student enrolled in each such
5 school, a notice of the determination with
6 respect to the school that meets the re-
7 quirements of paragraph (2); and

8 “(C) a school determined under this para-
9 graph to not have a safe climate for academic
10 achievement develop, in consultation with par-
11 ents, students, school employees, local law en-
12 forcement, representatives of local public health
13 and mental health agencies, and experts in
14 school safety, an intervention plan to create a
15 safer school environment that is based on an
16 analysis of the data and school crime statistics
17 with respect to such school—

18 “(i) collected by the State under sec-
19 tion 4141 and subsection (c) of this sec-
20 tion; and

21 “(ii) made available by the Federal
22 Bureau of Investigation pursuant to sub-
23 section (d).

24 “(2) FORM OF NOTICE.—A notice to a parent
25 under paragraph (1)(B)(ii) shall—

1 “(A) describe the determination with re-
2 spect to the school in which the child of the
3 parent is enrolled and explain that, by reason of
4 the determination and pursuant to subsection
5 (a)(1)(A)(i), the child may attend a school that
6 has a safe climate for academic achievement
7 within the local educational agency; and

8 “(B) be written in an understandable and
9 uniform format and, to the extent practicable,
10 in a language that the parent can understand.

11 “(c) COLLECTION OF RELEVANT INFORMATION AND
12 SCHOOL CRIME STATISTICS.—

13 “(1) IN GENERAL.—As a condition of receiving
14 funds under part A of title I, a State shall—

15 “(A) collect the data described in para-
16 graph (2) for use in determinations of whether
17 a school has a safe climate for academic
18 achievement for purposes of subsection
19 (a)(1)(A)(i); and

20 “(B) not later than 1 year after the first
21 time information is collected under subpara-
22 graph (A) and annually thereafter—

23 “(i) prepare, publish, and distribute,
24 in a timely manner and through appro-
25 priate publications, mailings, or the Inter-

1 net, to all students enrolled in a public ele-
2 mentary school or secondary school in the
3 State, the families of such students, and
4 school staff, an annual report containing,
5 at a minimum, the school crime statistics
6 collected under paragraph (2)(G); and

7 “(ii) submit to the Secretary such sta-
8 tistics.

9 “(2) DESCRIPTION OF DATA.—The data de-
10 scribed in this paragraph include—

11 “(A) truancy rates with respect to each
12 public elementary school and secondary school
13 in the State;

14 “(B) the frequency, seriousness, and inci-
15 dence of bullying, cyberbullying, violence, and
16 drug-related offenses, at—

17 “(i) any event or activity under the
18 control and supervision of an public ele-
19 mentary school or secondary school in the
20 State; or

21 “(ii) on school buses under the control
22 and supervision of any such school or the
23 State;

24 “(C) suspension rates for 1 day or more,
25 including in-school suspensions, and expulsion

1 rates, desegregated by the categories described
2 in section 1111(b)(3)(C)(viii), with respect to
3 each elementary school and secondary school in
4 the State;

5 “(D) the types of violence prevention cur-
6 ricula, programs, and services provided by the
7 chief executive officer, the State educational
8 agency, and local educational agencies, in the
9 State;

10 “(E) the incidence and prevalence, age of
11 onset, perception of health risk, and perception
12 of social disapproval of drug use and violence
13 by youth in each public elementary school and
14 secondary school in the State and community
15 served by each such school;

16 “(F) the existence and implementation of
17 emergency preparedness plans in each elemen-
18 tary school and secondary school in the State;
19 and

20 “(G) the school crime statistics described
21 in paragraph (3) with respect to each public el-
22 ementary school and secondary school in the
23 State.

24 “(3) SCHOOL CRIME STATISTICS.—The school
25 crime statistics described in this paragraph include

1 statistics concerning the occurrence of any criminal
2 offenses reported to local police agencies that have
3 occurred at a school, on school grounds, or at
4 school-sponsored activities during the most recent
5 calendar year and the 2 preceding calendar years,
6 including—

7 “(A) murder;

8 “(B) sex offenses, forcible or nonforcible;

9 “(C) robbery;

10 “(D) aggravated assault;

11 “(E) burglary;

12 “(F) manslaughter;

13 “(G) arson; and

14 “(H) crimes for which a person has been
15 arrested or referred for disciplinary action, in-
16 cluding for liquor law violations, drug-related
17 violations, or weapons possession.

18 “(4) DATA COLLECTION REQUIREMENTS.—

19 Data collected by a State under paragraph (1) shall
20 be based on information that—

21 “(A) is verifiable and reported—

22 “(i) in a consistent and uniform man-
23 ner; and

1 “(ii) in a manner consistent with the
2 guidance provided under subsection (g);
3 and

4 “(B) allows for State-by-State comparison
5 and the evaluation described in subsection (i).

6 “(5) SECRETARIAL DUTIES.—The Secretary
7 shall—

8 “(A) review the school crime statistics sub-
9 mitted under paragraph (1)(B)(ii);

10 “(B) report to Congress on the school
11 crime statistics; and

12 “(C) make such information publicly avail-
13 able.

14 “(6) IDENTIFICATION OF INDIVIDUALS.—The
15 school crime statistics collected and published under
16 paragraph (1) may not identify victims of crimes or
17 persons accused of crimes.

18 “(7) INADMISSIBILITY OF EVIDENCE.—Not-
19 withstanding any other provision of law, evidence re-
20 garding compliance or noncompliance with this sub-
21 section shall not be admissible as evidence in any
22 proceeding of any court, agency, board, or other en-
23 tity, except with respect to an action to enforce this
24 subsection.

25 “(d) FBI INFORMATION.—

1 “(1) REPORT ON INDICATORS OF SCHOOL
2 CRIME AND SAFETY.—The Secretary shall request
3 the Director of the Federal Bureau of Investigation
4 to make available for inclusion in the annual report
5 on Indicators of School Crime and Safety, produced
6 jointly by the National Center for Education Statis-
7 tics and the Bureau of Justice Statistics of the De-
8 partment of Justice, any data or other information
9 the Federal Bureau of Investigation has available
10 through the Uniform Crime Reporting System or
11 National Incident-Based Reporting System on the
12 occurrence and incidence of school-related crime in
13 elementary schools and secondary schools.

14 “(2) AVAILABILITY TO STATES.—The Secretary
15 shall make available any data or other information
16 it receives from the Federal Bureau of Investigation
17 under paragraph (1) to the States for consideration
18 when determining which schools do not have a safe
19 climate for academic achievement for purposes of
20 subsection (a).

21 “(e) EVALUATIONS BY STATES.—As a condition of
22 receiving funds under part A of title I, each State shall,
23 on an ongoing basis, using verifiable documentation, mon-
24 itor and evaluate the extent to which local educational
25 agencies are in compliance with this section.

1 “(f) CERTIFICATION.—As a condition of receiving
2 funds under part A of title I, a State shall certify in writ-
3 ing to the Secretary that the data and crime statistics
4 used are verifiable and that the State is in compliance with
5 this section.

6 “(g) BEST PRACTICES.—The Secretary shall provide
7 to States guidance on best practices for implementing and
8 monitoring the policies required by this section.

9 “(h) HANDBOOK FOR SCHOOL CRIME, OFFENSE,
10 AND INCIDENT REPORTING.—

11 “(1) IN GENERAL.—Not later than 6 months
12 after the date of enactment of the SAVE Act, the
13 Secretary shall publish a handbook for school crime,
14 offense, and incident reporting, modeled after the
15 Handbook for Campus Crime Reporting published
16 by the Office of Postsecondary Education of the De-
17 partment of Education, to—

18 “(A) provide clear guidance to States and
19 local educational agencies on specifically which
20 crimes, offenses, and incidents must be reported
21 to meet the reporting and crime disclosure re-
22 quirements of this section;

23 “(B) provide assistance to States and local
24 educational agencies and explanations in a step-

1 by-step and readable manner with respect to
2 the reporting requirements;

3 “(C) provide contact information at the
4 Department of Education if further assistance
5 is necessary; and

6 “(D) recommendations of the Secretary on
7 using consistent national definitions for the
8 crimes, offenses, and incidents which are re-
9 quired to be reported pursuant to this section.

10 “(i) PERIODIC EVALUATION.—The Inspector General
11 of the Department of Education shall conduct an inde-
12 pendent annual evaluation of the extent to which States
13 are in compliance with this section. Each annual evalua-
14 tion shall cover a sample of States selected on a rotating
15 basis.

16 “(j) RULES OF CONSTRUCTION.—Nothing in this sec-
17 tion shall be construed to—

18 “(1) authorize the Secretary to require par-
19 ticular policies, procedures, or practices by schools
20 and local educational agencies with respect to crimes
21 committed at school, on school grounds, or at school-
22 sponsored activities;

23 “(2) confer a private right of action upon any
24 person to enforce this section;

1 “(3) require the reporting or disclosure of privi-
2 leged information;

3 “(4) create a cause of action against any school
4 or any employee of a school for any civil liability or
5 establish any standard of care; or

6 “(5) permit a school, or an officer, employee, or
7 agent of a school, participating in any program
8 under this Act to retaliate, intimidate, threaten, co-
9 erce, or otherwise discriminate against any indi-
10 vidual with respect to the implementation of any
11 provision of this section.

12 “(k) DEFINITIONS.—In this section:

13 “(1) BULLYING.—The term ‘bullying’ means
14 conduct that—

15 “(A) adversely affects the ability of one or
16 more students to participate in or benefit from
17 a school’s educational programs or activities by
18 placing the student (or students) in reasonable
19 fear of physical harm; and

20 “(B) includes conduct that is based on—

21 “(i) a student’s actual or perceived—

22 “(I) race;

23 “(II) color;

24 “(III) national origin;

25 “(IV) sex;

- 1 “(V) disability;
- 2 “(VI) sexual orientation;
- 3 “(VII) gender identity; or
- 4 “(VIII) religion;
- 5 “(ii) any other distinguishing charac-
- 6 teristics that may be defined by a State or
- 7 local educational agency; or
- 8 “(iii) association with a person or
- 9 group with one or more of the actual or
- 10 perceived characteristics listed in clause (i)
- 11 or (ii).

12 “(2) CYBERBULLYING.—The term

13 ‘cyberbullying’ means using the Internet, a cell phone

14 (such as by text messaging), a video game system,

15 or other technology to send or post text or images

16 intended to hurt or embarrass another individual.”.

17 (b) CONFORMING AMENDMENT.—The table of con-

18 tents at the beginning of such Act is amended by striking

19 the item relating to section 9532 and inserting the fol-

20 lowing:

“Sec. 9532. Safe School Climate.”.

21 **SEC. 5. GUN-FREE REQUIREMENTS.**

22 Section 4141 of the Elementary and Secondary Edu-

23 cation Act of 1965 (20 U.S.C. 7151) is amended—

24 (1) in subsection (d)—

1 (A) in paragraph (1) by striking “; and”
2 at the end;

3 (B) in paragraph (2)—

4 (i) in the matter preceding subpara-
5 graph (A), by inserting “or any modifica-
6 tions allowed under subsection (b) that re-
7 sult in removals or long-term suspensions
8 rather than expulsions,” after “subsection
9 (b),”;

10 (ii) in subparagraph (B), by inserting
11 “, removed, or suspended for a long term”
12 after “expelled”; and

13 (iii) in subparagraph (C), by striking
14 the period at the end and inserting “;
15 and”; and

16 (C) by adding at the end the following:

17 “(3) a description of the circumstances sur-
18 rounding every incident in which any person, includ-
19 ing a student or non-student, who is not legally per-
20 mitted to possess a firearm is determined to have
21 brought a firearm to, or to have possessed a firearm
22 at, a school served by such local education agency,
23 an event or activity under the control and super-
24 vision of the school or local educational agency, or

1 on a school bus under the control and supervision of
2 the school or local educational agency, including—

3 “(A) the name of the school concerned;

4 “(B) the number of persons, including stu-
5 dents and non-students, involved; and

6 “(C) the type of firearms concerned; and

7 “(4) a certification that the information in the
8 application is accurate and complete.”; and

9 (2) by adding at the end the following:

10 “(i) EVALUATIONS BY STATES.—Each State receiv-
11 ing Federal funds under any title of this Act shall, on an
12 ongoing basis, evaluate the extent to which local edu-
13 cational agencies are in compliance with this section. The
14 evaluation shall include an assessment of the accuracy of
15 the information provided under subsection (d). A local
16 educational agency that intentionally fails to report com-
17 plete and accurate information under subsection (d) shall
18 be determined to be noncompliant with this section and
19 shall not, during any period of noncompliance, receive any
20 funds made available to the State under any title of this
21 Act.

22 “(j) PERIODIC EVALUATION.—The Inspector General
23 of the Department of Education shall conduct an inde-
24 pendent annual evaluation of the extent to which States
25 are in compliance with this section. Each annual evalua-

1 tion shall cover a sample of States selected on a rotating
2 basis.”.

3 **SEC. 6. NATIONAL PROGRAMS.**

4 (a) SCHOOL CLIMATE SURVEY.—Section 4121(a) of
5 the Elementary and Secondary Education Act of 1965 (42
6 U.S.C. 7131) is amended—

7 (1) in the matter preceding paragraph (1)—

8 (A) by inserting “bullying and
9 cyberbullying and” after “prevent”; and

10 (B) by inserting “, including emergency
11 preparedness,” after “safety”;

12 (2) in paragraph (1)—

13 (A) by inserting “students,” after “par-
14 ents,”; and

15 (B) by inserting “, bullying and
16 cyberbullying prevention, and emergency pre-
17 paredness” after “violence prevention”;

18 (3) in paragraph (8) by striking “and” at the
19 end;

20 (4) by redesignating paragraph (9) as para-
21 graph (10); and

22 (5) by inserting after paragraph (8) the fol-
23 lowing:

1 “(9) the administration of a schoolwide climate
2 survey of students, parents, and school personnel
3 that—

4 “(A) should be used as a pre- or post-
5 intervention measure to—

6 “(i) promote student participation and
7 the recognition of the student voice;

8 “(ii) build authentic school-home-com-
9 munity partnerships;

10 “(iii) promote an authentic learning
11 community;

12 “(iv) prevent bullying and
13 cyberbullying, and

14 “(iv) create a collaborative plan for
15 school improvement; and

16 “(B) should measure—

17 “(i) the degree to which collaborative
18 leadership and a professional learning com-
19 munity exist, including—

20 “(I) the degree to which school
21 administrators are effective in com-
22 municating with different role groups
23 and in setting high performance ex-
24 pectations for teachers and students;

1 “(II) the establishment of an ef-
2 fective school leadership team; and

3 “(III) the amount and quality of
4 involvement of parents and commu-
5 nity members in the school;

6 “(ii) the personalization of the school
7 environment, including—

8 “(I) the quality of the inter-
9 personal and professional relation-
10 ships between teachers and students;

11 “(II) student self-discipline and
12 tolerance for others, including inci-
13 dents of bullying and cyberbullying;
14 and

15 “(III) students’ care and respect
16 for one another and their mutual co-
17 operation; and

18 “(iii) the strength of the curriculum,
19 instruction, and assessment, including—

20 “(I) student attention to task
21 and concern for achievement at
22 school;

23 “(II) the identification of a set of
24 essential knowledge and skills in core
25 academic areas in which students

1 must demonstrate achievement in
2 order to advance to the next level; and
3 “(III) the promotion of service
4 programs and student activities as in-
5 tegral to an education, providing op-
6 portunities that support and extend
7 academic learning for all students;
8 and”.

9 (b) FUNDING PRIORITY; DEFINITIONS.—Section
10 4121 of the Elementary and Secondary Education Act of
11 1965 (42 U.S.C. 7131) is amended by adding at the end
12 the following:

13 “(c) PRIORITY.—In determining which entities are to
14 receive grants, contracts, and cooperative agreements
15 under subsection (a), the Secretary shall consider the ex-
16 tent to which the proposed grant, contract, or cooperative
17 agreement will benefit schools determined under section
18 9532(b) to not have a safe climate for academic achieve-
19 ment and shall give extra weight to proposals that will
20 benefit such schools.

21 “(d) DEFINITIONS.—In this section, the terms ‘bul-
22 lying’ and ‘cyberbullying’ have the meanings given such
23 terms in section 9532(k).”.

1 SEC. 7. SENSE OF CONGRESS.

2 It is the sense of Congress that the amount author-
3 ized and appropriated for part A of title I of the Elemen-
4 tary and Secondary Education Act of 1965 (20 U.S.C.
5 6311 et seq.) should be increased by such sums as may
6 be necessary for States to carry out the requirements of
7 section 9532 of such Act.

8 SEC. 8. EFFECTIVE DATE.

9 This Act, and the amendments made by this Act,
10 shall take effect not later than 12 months after the date
11 of the enactment of this Act.

○