

116TH CONGRESS  
2D SESSION

# H. R. 3539

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2020

Received; read twice and referred to the Committee on Health, Education,  
Labor, and Pensions

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Behavioral Interven-  
3 tion Guidelines Act of 2020”.

4 **SEC. 2. BEST PRACTICES FOR BEHAVIORAL INTERVENTION**  
5 **TEAMS.**

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

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

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

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

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

24 “(b) ELEMENTS.—The best practices under sub-  
25 section (a)(1) shall include guidance on the following:

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

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

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

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

15                 “(B) ensure that such teams—

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

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

21                 “(C) use violence risk assessment.

22          “(4) How behavioral intervention teams can  
23          avoid—

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

1           “(B) inappropriately using a mental health  
2           assessment;

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

6           “(D) attempting to substitute the behav-  
7           ioral intervention process in place of a criminal  
8           process, or impede a criminal process, when an  
9           individual of concern’s behavior has potential  
10          criminal implications;

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

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

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

18               “(1) the Secretary of Education;

19               “(2) the Director of the National Threat As-  
20               sessment Center of the Department of Homeland  
21               Security;

22               “(3) the Attorney General of the United States;  
23               and

24               “(4) as appropriate, relevant stakeholders in-  
25               cluding—

1           “(A) teachers and other educators, prin-  
2           cipals, school administrators, school board  
3           members, school psychologists, mental health  
4           professionals, and parents of elementary school  
5           and secondary school students;

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

8           “(C) mental health mobile crisis providers;

9           “(D) child and adolescent psychiatrists;  
10          and

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

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

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

23          “(f) DEFINITIONS.—In this section:

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

1           “(A) are responsible for identifying and as-  
2           sessing individuals of concern; and

3           “(B) develop and facilitate implementation  
4           of evidence-based interventions to mitigate the  
5           threat of harm to self or others posed by indi-  
6           viduals of concern and address the mental and  
7           behavioral health needs of individuals of con-  
8           cern to reduce such threat.

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

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

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

20          “(5) The term ‘mental health assessment’  
21          means an evaluation, primarily focused on diagnosis,  
22          determining the need for involuntary commitment,  
23          medication management, and on-going treatment  
24          recommendations.

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

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

Passed the House of Representatives September 29,  
2020.

Attest:

CHERYL L. JOHNSON,

*Clerk.*