

Coalition FOR Smart Safety

GUN VIOLENCE IS NOT A MENTAL HEALTH ISSUE



August 9, 2021

Majority Leader Chuck Schumer
U.S. Senate
Washington, DC 20510

Chair Patty Murray
Senate Health, Education, and Labor Committee
Washington, DC 20510

Minority Leader Mitch McConnell
U.S. Senate
Washington, DC 20510

Ranking Member Richard Burr
Senate Health, Education, and Labor Committee
Washington, DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Chair Murray, and Ranking Member Burr:

The undersigned members of the Coalition for Smart Safety and allies write in strong opposition to the Behavioral Intervention Guidelines Act ([S.1383/H.R.2877](#)) or the “BIG Act”. The Coalition for Smart Safety and allies include disability rights, civil rights, education, privacy, and faith organizations working together to stop the false association of gun violence and violence generally with psychiatric disability.

We oppose this legislation’s promotion of the use of threat assessments, violence risk assessments, and the preemptive use of law enforcement, including School Resource Officers, to address student behaviors that are deemed problematic. Collectively, these measures do little more than harden schools and put the well-being of students, especially students of color and students with disabilities, at risk of further marginalization and in some cases serious physical injury or even death.

We are fundamentally opposed to the notion that behavioral interventions in schools begin with the assumption that the student is a threat and that a threat must be mitigated. Students of color are over policed and disproportionately disciplined in schools and we should curb this problem rather than further entrenching ineffective and discriminatory systems such as violence risk assessments and police in schools. Threat assessments have similarly swept in disproportionate numbers of children of color and children with disabilities.¹ Additionally, the bill does not address how it would interact with students covered under the Individuals with Disabilities

¹ For example, in Albuquerque Public Schools, one of the few districts that keeps statistics on race and threat assessments, Black students represented 10% of total threat assessments, but only 2.6% of total students in 2018-19. Children with disabilities represented 56% of total threat assessments conducted, but only 18% of the student population. Ike Swetlitz, *Who’s the Threat?*, Searchlight New Mexico (Oct. 15, 2019), <https://searchlightnm.org/whos-the-threat/>.

Education Act and Section 504 of the Rehabilitation Act which is of great concern, particularly since threat assessments have frequently resulted in children being removed from school for prolonged periods of time due to disability-related behaviors that could and should be addressed through special education and other school-based services.

In addition to our overarching concern about the focus of the BIG Act on school hardening, we have specific concerns about some of the bill's key provisions, including provisions regarding "behavioral intervention teams." The bill encourages the use of threat assessments and violence risk assessments despite the fact that the evidence regarding the efficacy of these practices is sparse at best. In a similar vein, the bill urges these teams to "access training on evidence-based, threat-assessment rubrics." We are not aware of any evidence that these rubrics exist for a K-12 setting nor are we aware of any objective evidence that these rubrics are effective.

The bill goes on to encourage the behavioral intervention teams to explore ways they can avoid "inappropriately limiting or restricting law enforcement's jurisdiction over criminal matters; attempting to substitute the behavioral intervention process in place of a criminal process, or impede a criminal process, when an individual's behavior has potential criminal implications;". This suggests that behavioral intervention teams should report concerning student behavior or behavior that has "potential" criminal implications first to criminal authorities rather than initiating an in-school process to identify and address the root cause of this behavior. Training behavioral assessment teams to default to the criminal process rather than school-based behavioral assessment and intervention would do little to address violence in schools and would likely foster rather than prevent a violent school environment.²

While certain provisions of the bill urge the behavioral intervention teams to not involve law enforcement unnecessarily when student behavior does not have criminal implications, history has shown that far too many student behaviors have been inappropriately characterized as having such implications. Studies and reports have consistently shown that the presence of law enforcement in schools and the involvement of law enforcement in school based disciplinary proceedings increased rates of exclusionary discipline, which disproportionately impact students of color. This compounds the already troubling situation highlighted by decades of evidence and most recently by the United States Commission on Civil Rights: disciplinary measures in schools are used on students of color and students with disabilities at higher rates than their peers, although these students do not have higher rates of misbehavior.³ By making the criminal process one of the frontline responses for student discipline, this bill will only serve to *increase* the number of students of color and students with disabilities in the juvenile justice system.

² "[C]reating an unwelcoming, almost jail-like, heavily scrutinized environment, may foster the violence and disorder school administrators hope to avoid." Catherine Y. Kim, *Policing School Discipline*, 77 Brook. L. Rev. 892 (2012), citing Matthew J. Mayer & Peter E. Leone, A Structural Analysis of School Violence and Disruption: Implications for Creating Safer Schools, 22 Educ. & Treatment of Children 333, 349 (1999).

³ U.S. Commission on Civil Rights, "Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities" (July 2019) <https://www.usccr.gov/pubs/2019/07-23-Beyond-Suspensions.pdf>.

Schools, educators, caregivers, and communities are in the best position to notice and address concerning student behavior. Experts agree behavioral interventions are most effective at reducing behavioral problems when they incorporate educators' knowledge of their students, are non-punitive, and avoid removal from school.⁴ The Department of Education has a variety of evidenced based resources outlining effective discipline practices and strategies to address problematic behaviors in schools, emphasizing the need for positive behavior interventions and supports and finding that “[e]vidence-based, multi-tiered behavioral frameworks . . . can help improve overall school climate and safety.”⁵ Federal policies should support these resources in schools rather than ineffective threat assessments and law enforcement in schools.

Congress should focus its efforts on strategies that we know improve school climate such as providing funding for schools to provide Positive Behavior Interventions and Supports (PBIS) and to build positive school cultures and alternatives to exclusionary discipline and criminalization. This could also include increased funding to hire guidance counselors, social workers, and health professionals and funding for the implementation of restorative justice, culturally responsive practices, and community based services.

Again, we write in strong opposition to this bill and we urge you not to move this piece of legislation.

Respectfully,

Association of University Centers on Disabilities (AUCD)
Advocacy Without Borders
American Association of People with Disabilities
American Civil Liberties Union
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
Center for American Progress
Center for Disability Rights
Center for Learner Equity
Children's Mental Health Network
Church of Scientology National Affairs Office
Clearinghouse on Women's Issues
College & Community Fellowship
Connecticut Legal Rights Project, Inc.
Council of Parent Attorneys and Advocates
Defending Rights & Dissent
Disability Rights Advocates

⁴ “Interventions, school-wide and individual, that use proactive, preventative approaches, address the underlying cause or purpose of the behavior, and reinforce positive behaviors, have been associated with increases in academic engagement, academic achievement, and reductions in suspensions and school dropouts.” U.S. Department of Education, “School Climate and Discipline” (last updated Jan. 4, 2017) <https://www2.ed.gov/policy/gen/guid/school-discipline/index.html#suspension-101>.

⁵ *Id.*

Disability Rights Education & Defense Fund (DREDF)
Epilepsy Foundation
Feminist Majority Foundation
Foundations for Divergent Minds
Hispanic Federation
Life for Pot
Mental Health America
Muslim Justice League
National Association for Rights Protection and Advocacy
National Association for Rural Mental Health
National Association of County Behavioral Health and Developmental Disability Directors
National Center for Learning Disabilities
National Center for Youth Law
National Coalition for MH Recovery
National Council of Churches
National Council on Independent Living
National Crittenton
National Disability Rights Network (NDRN)
National Network for Arab American Communities (NNAAC)
National Parents Union
New York Association of Psychiatric Rehabilitation Services
Rebuilding Independence My Style
The Advocacy Institute
The Arc of the United States
The Coelho Center for Disability Law, Policy and Innovation
The Honorable Anthony "Tony" Coelho
Transgender Law Center
National Organization for Rights Protection and Advocacy
Children's Rights Clinic
MadFreedom, Inc.
National Women's Law Center
National Education Association
Autism National Committee (AutCom)