



December 3, 2021

Support Safe, Healthy, and Inclusive School Climates for All Students:

Oppose S.1383/H.R.2877 the Behavioral Intervention Guidelines Act (BIG Act) and S.111/H.R.750 the Luke and Alex School Safety Act

Dear Member of Congress,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 220 national organizations to promote and protect the civil and human rights of all persons in the United States, and the 24 organizations, we strongly urge you to **oppose S.1383/H.R.2877 the Behavioral Intervention Guidelines Act (BIG Act) and S.111/H.R.750 the Luke and Alex School Safety Act**. If enacted, these bills would criminalize children, further harm marginalized communities, and interfere with proven and evidence-based solutions that foster positive school climates conducive to learning and child wellbeing. Our children deserve positive solutions to keep them safe in schools, but the BIG Act and the Luke and Alex School Safety Act take misguided approaches that would work counter to the strategies that we know make schools safer and help students to thrive.

All children deserve to feel safe and supported in schools. Building positive school climates is essential to ensuring the safety and wellbeing of everyone in the school building, and as the [Civil Rights Principles for Safe, Healthy, and Inclusive School Climates](#) demonstrates, there is considerable evidence about how to create these learning environments. However, the BIG Act and the Luke and Alex School Safety Act rest on flawed assumptions about preventing violence and as a result, would create new opportunities to marginalize children without ensuring their safety.

Among the BIG Act's many troubling provisions, including its heightened focus on school hardening, our primary concerns are the bill's provisions regarding "behavioral intervention teams," and the potential role of law enforcement involvement in those intervention teams. The bill's largely discretionary language suggests that "behavioral intervention teams" could report "concerning" student behavior to criminal authorities rather than pivoting to evidence-based strategies that make students safer in schools. 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 harmful school environments.¹

¹ "[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).

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Furthermore, we have significant concerns about the unnecessary and dangerous involvement of law enforcement as a first line of response for ill-defined “concerning” behavior. Several studies have 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 (e.g., suspension, expulsion, seclusion and restraint), which lead to long-term behavioral and mental health impacts and disproportionately impact students of color and students with disabilities.² Police should enforce criminal laws, while schools are supposed to nurture students and help them grow.³ Evidence has shown negative outcomes for children when there was an increased presence of law enforcement in schools;⁴ and for children who are undocumented, contact with law enforcement can place them on a path to deportation.⁵ Students of color are already penalized at higher rates and are punished more severely than their White peers for lesser infractions, with non-White students far more likely to be arrested in school than their White counterparts for similar behaviors.⁶ Students with disabilities, particularly those who are students of color, are punished most severely.⁷ Black girls are 1.5 times more likely to be arrested in school than White boys.⁸ These statistics suggest that increasing the engagement of law enforcement in schools will perpetuate the cycle of bias against marginalized students and will result in unnecessary interruptions to education for behaviors that do not pose a threat to safety.

The Luke and Alex School Safety Act furthers a misguided view of school safety by giving the Department of Homeland Security (DHS) authority to infuse itself into school safety efforts. DHS — an agency charged with focusing on counterterrorism and border security — is not the appropriate institution to lead school safety efforts. Trained professionals — including counselors, school psychologists, and educators — caregivers, and communities are best suited to ensure that students are supported in their journeys through school. These stakeholders, as well as guidance counselors, social workers, health professionals, and other trained professionals with support from state education agencies and the U.S. Department of Education, are best positioned to implement evidence-based strategies that keep schools safe and allow students to thrive. Additionally, the Luke and Alex School Safety Act’s consultation provisions fail to appropriately consider the views and needs of those who will be most impacted. For example, the legislation does not require consultation with a diverse set of stakeholders across the categories of race, ethnicity, geography, or disability and does not require collaboration or consultation with individuals in the community who have unique perspectives on the needs of students — and are most familiar with the risks marginalized children face.

What students need from Congress is more support for safe, positive, and inclusive learning environments. Violence against children requires action and serious investments in evidence-based school safety measures,⁹ including comprehensive action to address the further criminalization of marginalized children and the increase in over-policing of students in schools and communities. For example, we know

² See: <https://advancementproject.org/wecametolearn/>.

³ *Id.*

⁴ See: <https://chalkbeat.org/posts/us/2019/02/14/police-schools-research-parkland/>.

⁵ See: <https://advancementproject.org/resources/webinar-mini-action-kit-stopping-school-deportationpipeline-combatting-ice-enforcement-public-schools/school-to-deportation-pipeline-action-kit-finalcompressed/>.

⁶ See: <https://www.nytimes.com/2017/09/25/opinion/black-students-little-rock-punishment.html>.

⁷ See: <https://www2.ed.gov/about/offices/list/ocr/docs/school-climate-and-safety.pdf>.

⁸ See: <https://www.edweek.org/ew/articles/2017/01/25/black-students-more-likely-to-be-arrested.html?r=912298458>.

⁹ See: http://lawcenter.giffords.org/wp-content/uploads/2018/03/Protecting-Parkland-Generation_3.6.18.pdf.

from federal data sources that school counselors play a central role in the lives of students and positively contribute to decreasing school dropout rates,¹⁰ while there is a lack of evidence showing that school resource officers keep students safe (and evidence showing the harm their presence causes). Yet, 1.6 million students attend a school with some type of law enforcement agent, but without a school counselor.¹¹ Congress should be investing more in solutions and strategies to create positive school climates where there is meaningful improvement to school safety, including counselors, improved student engagement, and additional mental health support.¹²

In order to advance safe communities and safe schools, and to prevent efforts to undermine the safety and wellbeing of children, we urge you to oppose the BIG Act and the Luke and Alex School Safety Act and instead invest in positive solutions to promote safe and supportive learning environments for our nation's students. If you have any questions, please contact Steven Almazán, K12 Program Manager, at almazan@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
American Civil Liberties Union (ACLU)
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
Center for Learner Equity
Center For Popular Democracy
Clearinghouse on Women's Issues
Disability Rights Education & Defense Fund
Education Law Center
Feminist Majority Foundation
Girls Inc.
GLSEN
Lawyers' Committee for Civil Rights Under Law
Michigan Teacher of the Year Network
National Association of Councils on Developmental Disabilities
National Center for Learning Disabilities
National Center for Youth Law
National Education Association
National Juvenile Defender Center
National Urban League
National Women's Law Center
Public Advocacy for Kids (PAK)
The Advocacy Institute
The Arc of the United States
The Education Trust

¹⁰ See: <https://www.theatlantic.com/education/archive/2016/09/the-neglected-link-in-the-high-school-to-collegepipeline/500213/>.

¹¹ See: <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>.

¹² See:

https://www.nasponline.org/Documents/Research%20and%20Policy/Advocacy%20Resources/Rethinking_School_Safety_Key_Message.pdf.