

118TH CONGRESS  
1ST SESSION

# S. 3214

To divert Federal funding away from supporting the presence of police in schools and toward evidence-based and trauma informed services that address the needs of marginalized students and improve academic outcomes, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 2, 2023

Mr. MURPHY (for himself, Ms. WARREN, Mr. BOOKER, Ms. DUCKWORTH, Mr. MARKEY, Mr. VAN HOLLEN, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To divert Federal funding away from supporting the presence of police in schools and toward evidence-based and trauma informed services that address the needs of marginalized students and improve academic outcomes, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Counseling Not Crim-  
5 inalization in Schools Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Over the last 50 years, our Nation's schools  
4 have become sites for increased criminalization and  
5 surveillance of young people, particularly Black, Na-  
6 tive American, and Latino students, immigrant stu-  
7 dents, students with disabilities, LGBTQI+ stu-  
8 dents, students experiencing homelessness, students  
9 involved in the foster care system, and other histori-  
10 cally marginalized students.

11 (2) Despite significant decreases in the rate of  
12 serious crimes and violence on school campuses over  
13 the past 20 years, improving upon already low rates,  
14 55 percent of high school students, 38 percent of  
15 middle school students, and 18 percent of elemen-  
16 tary school students attended a school with a police  
17 officer during the 2017–2018 school year.

18 (3) Since 1999, the Federal Government has in-  
19 vested more than \$1,000,000,000 to subsidize the  
20 placement of police in schools, resulting in more  
21 than 50,000 law enforcement officers patrolling the  
22 halls of elementary and secondary public schools  
23 across the Nation.

24 (4) A growing body of research has not found  
25 any evidence that police stationed on school cam-  
26 puses make schools safer, and the presence of police

1 has been shown to increase the likelihood that chil-  
2 dren will be arrested.

3 (5) Research has shown that schools with a des-  
4 ignated law enforcement officer on duty arrested  
5 students at 5 times the rate of comparable schools  
6 without such an officer.

7 (6) When police are present in schools, students  
8 of color face an increased risk of being assaulted by  
9 police. Student-recorded videos of police violence in  
10 schools regularly circulate through news channels,  
11 articles, and social media, exposing violence per-  
12 petrated by police within schoolhouse gates. Between  
13 2011 and 2021, news reports detailed at least 285  
14 police assaults of students.

15 (7) Black, Native American, and Latino stu-  
16 dents are more likely than their White peers to at-  
17 tend schools with police officers on campus and are  
18 more likely to be referred to law enforcement or ar-  
19 rested while in school.

20 (8) Black students represent 31 percent of all  
21 school-related arrests, despite making up only 15  
22 percent of all public school students. Native Amer-  
23 ican and Pacific Islander and Native Hawaiian stu-  
24 dents are more than twice as likely to be arrested as  
25 White students.

1           (9) Students with disabilities are more likely  
2 than their peers without disabilities to be referred to  
3 law enforcement or arrested. Students of color with  
4 disabilities are more likely to be referred to law en-  
5 forcement than either their White peers with disabil-  
6 ities, or their peers of color without disabilities.

7           (10) Students with disabilities are also dis-  
8 proportionately restrained and secluded in schools.  
9 Of the 74,813 students who were physically or me-  
10chanically restrained during the 2017–2018 school  
11 year, 78 percent received special education services.  
12 Of the 27,499 students who were secluded during  
13 the 2017–2018 school year, 77 percent received spe-  
14 cial education services. According to a 2020 Govern-  
15 ment Accountability Office report, 70 percent of  
16 school districts report zero incidents of restraint and  
17 seclusion, but only 30 of the Nation’s 17,000 school  
18 districts are required to verify the number of inci-  
19 dents of restraint and seclusion, likely resulting in a  
20 significant undercount of these harmful practices.

21           (11) According to the Department of Edu-  
22 cation, while Black girls comprise only 16 percent of  
23 girls in elementary and secondary schools, they make  
24 up 42 percent of girls receiving the most severe  
25 forms of school discipline and severe punishment,

1 such as corporal punishment, and represent 34 per-  
2 cent of girls arrested on campus. In the 2017–2018  
3 school year, Black girls were 4 times more likely  
4 than White girls to be suspended or expelled. Black  
5 girls were also 3 times more likely to be referred to  
6 law enforcement and over 3 times more likely to be  
7 arrested in school.

8 (12) Research shows that these racial dispari-  
9 ties in discipline rates are not a result of differences  
10 in student behavior, but instead reflect the ways in  
11 which students of color face more punitive discipline  
12 than their White peers for similar behavior.

13 (13) Students who are LGBTQI+ often have  
14 intersecting marginalized identities and experience  
15 exclusionary discipline at disproportionate rates that  
16 make it more likely they will interact with the juve-  
17 nile justice system than their non-LGBTQI+ peers.  
18 A survey of juvenile justice facilities found 40 per-  
19 cent of girls and 20 percent of all detained youth  
20 identified as LGBTQI+, and the overwhelming ma-  
21 jority (85 percent) of LGBTQI+ detained youth  
22 were youth of color.

23 (14) Students who are suspended or expelled  
24 are nearly 3 times more likely to be in contact with  
25 the juvenile justice system the following year.

1           (15) According to the Federal Bureau of Inves-  
2           tigation, more than 30,000 children under the age of  
3           10 were arrested since 2013. On school campuses,  
4           more than 290,000 students were referred to law en-  
5           forcement. The United States spends \$240 daily, on  
6           average, per youth detained in juvenile facilities.

7           (16) While schools should be sanctuaries for all  
8           students, reports have shown instances where police  
9           in schools collect tips and disciplinary information  
10          from teachers and school administrators and share  
11          it with U.S. Immigration and Customs Enforcement  
12          agents to build deportation cases against students  
13          and their families.

14          (17) School hardening, including the presence  
15          of law enforcement officers on campus, causes stu-  
16          dents to experience higher levels of fear, perpetuates  
17          the school to prison pipeline, and undermines the  
18          ability of schools and educators to build learning en-  
19          vironments based on mutual trust, respect, and safe-  
20          ty.

21          (18) Ninety percent of students are in public  
22          schools where the number of counselors, social work-  
23          ers, nurses, and psychologists do not meet rec-  
24          ommended professional standards. Professional  
25          standards recommend at least 1 counselor and 1 so-

1 cial worker for every 250 students and at least 1  
 2 nurse and 1 psychologist for every 750 students and  
 3 every 700 students, respectively.

4 (19) 1,700,000 students attend schools with po-  
 5 lice but not 1 counselor.

6 (20) 3,000,000 students attend schools with po-  
 7 lice but not 1 school nurse.

8 (21) 6,000,000 students attend schools with po-  
 9 lice but not 1 school psychologist.

10 (22) 10,000,000 students attend schools with  
 11 police but not 1 social worker.

12 **SEC. 3. PURPOSE.**

13 It is the purpose of this Act to—

14 (1) address the needs of marginalized students,  
 15 ensure schools are welcoming for students, and im-  
 16 prove academic outcomes by eliminating Federal  
 17 funding for maintaining the presence of covered law  
 18 enforcement officers in schools and establishing a  
 19 continuum of care and positive schoolwide systems  
 20 of services that are evidence-based, inclusive, racially  
 21 and gender responsive, and trauma informed; and

22 (2) support local educational agencies that  
 23 choose to terminate their contracts with local law en-  
 24 forcement agencies or, where applicable, dissolve or  
 25 disband district-based police departments, and invest

1 resources in personnel and services that create safe  
2 and inclusive schools for all students based on com-  
3 munity engagement and deliberative consultation.

4 **SEC. 4. DEFINITIONS.**

5 In this Act:

6 (1) **ESEA TERMS.**—The terms “elementary  
7 school”, “evidence-based”, “local educational agen-  
8 cy”, “parent”, “professional development”, “school  
9 leader”, “secondary school”, “Secretary”, and “spe-  
10 cialized instructional support personnel” have the  
11 meaning given those terms in section 8101 of the  
12 Elementary and Secondary Education Act of 1965  
13 (20 U.S.C. 7801).

14 (2) **COVERED PROGRAM.**—The term “covered  
15 program” means—

16 (A) all the operations of an elementary  
17 school, a secondary school, or a local edu-  
18 cational agency; or

19 (B) a program that serves children who re-  
20 ceive services for which financial assistance is  
21 provided in accordance with the Head Start Act  
22 (42 U.S.C. 9831 et seq.).

23 (3) **CREDIBLE MESSENGER.**—The term “cred-  
24 ible messenger” means any individual who serves as  
25 a mentor, is from the same communities in which



1 the students and families they serve live, and whose  
2 lived experiences serve as a credential in their work  
3 to provide guidance, empowerment, support, and en-  
4 couragement to students and their families with  
5 whom the credible messenger has shared or similar  
6 experiences. Shared experiences include being a per-  
7 son of color, being directly impacted or having in-  
8 volvement in the legal system, having involvement in  
9 the child welfare system, being directly impacted by  
10 exclusionary school discipline and policing in schools,  
11 having experienced housing instability, having a dis-  
12 ability, or identifying as LGBTQI+.

13 (4) POSITIVE BEHAVIORAL INTERVENTIONS  
14 AND SUPPORTS.—The term “positive behavioral  
15 interventions and supports” means—

16 (A) a schoolwide, systematic approach that  
17 embeds evidence-based practices and data-driv-  
18 en decisionmaking to improve school climate  
19 and culture in order to achieve improved aca-  
20 demic and social outcomes and increase learn-  
21 ing for all students (including students with the  
22 most complex and intensive behavioral needs);  
23 and

24 (B) encompasses a range of systemic and  
25 individualized positive strategies to teach and

1 reinforce school-expected behaviors, while dis-  
2 couraging and diminishing undesirable behav-  
3 iors.

4 (5) COVERED LAW ENFORCEMENT OFFICER.—

5 The term “covered law enforcement officer”—

6 (A) means any person who—

7 (i) is a State, Tribal, or local law en-  
8 forcement officer (as defined in section  
9 1204 of the Omnibus Crime Control and  
10 Safe Streets Act of 1968 (34 U.S.C.  
11 10284)); and

12 (ii) is assigned by the employing law  
13 enforcement agency to a covered program,  
14 who is contracting with a covered program,  
15 or who is employed by a covered program;  
16 and

17 (B) includes an individual referred to as a  
18 “school resource officer” if that individual  
19 meets the definition in subparagraph (A).

20 (6) TRAUMA-INFORMED SERVICES.—The term  
21 “trauma-informed services” means a service delivery  
22 approach that—

23 (A) recognizes and responds to the impacts  
24 of trauma with evidence-based supports and  
25 intervention;

1 (B) emphasizes physical, psychological, and  
2 emotional safety for both providers of services  
3 and survivors of trauma; and

4 (C) creates opportunities for survivors of  
5 trauma to rebuild a sense of healing and em-  
6 powerment.

7 **SEC. 5. PROHIBITION OF FEDERAL FUNDS FOR POLICE IN**  
8 **SCHOOLS.**

9 (a) FEDERAL FUNDS PROHIBITION.—Notwith-  
10 standing the Omnibus Crime Control and Safe Streets Act  
11 of 1968 (34 U.S.C. 10101 et seq.), including subpart 1  
12 of part E of title I of that Act (34 U.S.C. 10151 et seq.)  
13 (relating to the Edward Byrne Memorial Justice Assist-  
14 ance Grant Program) and part Q of title I of that Act  
15 (34 U.S.C. 13081 et seq.) (relating to the “Cops on the  
16 Beat” grant program), or any other provision of law, no  
17 Federal funds may be appropriated or used for hiring,  
18 maintaining, or training covered law enforcement officers  
19 in any capacity.

20 (b) COPS GRANT PROGRAM.—Section 1701 of title  
21 I of the Omnibus Crime Control and Safe Streets Act of  
22 1968 (34 U.S.C. 10381) is amended—

23 (1) in subsection (b)—

24 (A) by striking paragraph (12);

1 (B) by redesignating paragraphs (13)  
2 through (23) as paragraphs (12) through (22),  
3 respectively; and

4 (C) in paragraph (21), as so redesignated,  
5 by striking “through (21)” and inserting  
6 “through (20)”; and

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

8 “(n) PROHIBITION ON USE OF FUNDS FOR COVERED  
9 LAW ENFORCEMENT OFFICERS.—A recipient of a grant  
10 under this part may not use the grant funds for covered  
11 law enforcement officers (as defined in section 4 of the  
12 Counseling Not Criminalization in Schools Act).”.

13 **SEC. 6. SUPPORTING LOCAL EDUCATIONAL AGENCIES IN**  
14 **TRANSITIONING AWAY FROM POLICE IN**  
15 **SCHOOLS.**

16 (a) GRANT PROGRAM ESTABLISHED.—The Secretary  
17 of Education shall award grants, on a competitive and roll-  
18 ing basis, to local educational agencies to enable those  
19 local educational agencies—

20 (1) to replace covered law enforcement officers  
21 in elementary and secondary schools with personnel  
22 and services that support mental health and trauma-  
23 informed services; and

24 (2) to reform school safety and disciplinary  
25 policies so they reflect evidence-based practices that

1 do not rely on the criminal justice system and pro-  
2 vide the necessary staff training and support to im-  
3 plement such policies.

4 (b) APPLICATION.—A local educational agency desir-  
5 ing a grant under this section shall submit an application  
6 to the Secretary at such time, in such manner, and con-  
7 taining such information as the Secretary may require, in-  
8 cluding an assurance that—

9 (1) the local educational agency will not have  
10 covered law enforcement officers stationed on school  
11 campuses, including by terminating any existing con-  
12 tract with local law enforcement or, where applica-  
13 ble, dissolving school district-based police depart-  
14 ments, at least 30 days prior to the entity receiving  
15 funds under this section; and

16 (2) the local educational agency will not estab-  
17 lish any new contract with law enforcement or create  
18 its own school police department for the duration of  
19 the grant.

20 (c) PRIORITY.—In awarding grants under this sec-  
21 tion, the Secretary shall give priority to—

22 (1) local educational agencies that terminated  
23 their contract with local law enforcement or dis-  
24 solved their school district-based police department  
25 prior to submitting an application and provide assur-

1 ances that the local educational agency will not cre-  
2 ate or restart a contract with State or local law en-  
3 forcement, create or reinstate a school district police  
4 department, or create or restart a program of other  
5 law enforcement or armed school personnel during  
6 the duration of the grant;

7 (2) local educational agencies with a larger  
8 share of students who are economically disadvan-  
9 taged, in the event that funds are insufficient to  
10 award grants to all eligible applicants; and

11 (3) local educational agencies that—

12 (A) identify the uses of funds in subsection  
13 (d) based on meaningful community engage-  
14 ment; and

15 (B) establish ongoing stakeholder over-  
16 sight, guidance, and coordination of the pro-  
17 posed activities or policies with a broad group  
18 of stakeholders, including any groups of stu-  
19 dents, as well as their families, who have been  
20 disproportionately arrested, suspended, or ex-  
21 pelled, to ensure proposed activities and policies  
22 mitigate disparities in the use of exclusionary  
23 discipline and promote a positive school culture.

24 (d) USES OF FUNDS.—

1           (1) REQUIRED USE.—A local educational agen-  
2           cy receiving funds under this section shall use such  
3           grant funds to hire, maintain, or train school coun-  
4           selors, school psychologists, nurses, social workers,  
5           credible messengers, community health workers and  
6           trauma-informed personnel, dedicated staff specifi-  
7           cally trained in deescalation and violence interrup-  
8           tion practices, staff trained in anti-bias practices,  
9           doctoral level specialists in behavior planning and  
10          intervention, or other specialists or individuals with  
11          expertise in school climate and behavior.

12          (2) PERMITTED USES.—In addition to the re-  
13          quired use described in paragraph (1), a local edu-  
14          cational agency receiving funds under this section  
15          may also use grant funds to carry out 1 or more of  
16          the following:

17                (A) Implementing schoolwide positive be-  
18                havioral interventions and supports, restorative  
19                justice programs and interventions, mediators,  
20                social and emotional learning programs, or  
21                other evidence-based trauma-informed services.

22                (B) Providing ongoing professional devel-  
23                opment to teachers, teacher assistants, school  
24                leaders, counselors, specialized instructional

1 support personnel, credible messengers, and  
2 mental health professionals that—

3 (i) fosters safe, inclusive, and stable  
4 learning environments that support the so-  
5 cial, emotional, mental, and academic well-  
6 being of students and prevent and mitigate  
7 the effects of trauma, including through  
8 social and emotional learning;

9 (ii) improves school capacity to iden-  
10 tify, refer, and provide services to students  
11 in need of trauma support services;

12 (iii) reflects the best practices for  
13 trauma-informed identification, referral,  
14 and support developed by the Interagency  
15 Task Force on Trauma-Informed Care;

16 (iv) reduces the number of students  
17 with disabilities experiencing school dis-  
18 cipline for their disability-related behavior  
19 through specific training on the identifica-  
20 tion, development, and implementation of  
21 Behavior Intervention Plans (BIPs); and

22 (v) reduces the number of Black,  
23 Latino, Native American, and LGBTQI+  
24 students who are subjected to punitive dis-



1                   cipline practices rather than trauma-in-  
2                   formed services and supports.

3           (e) PROHIBITION.—No portion of any grant funds  
4 awarded under this section may be used for—

5                   (1) the development, establishment, implemen-  
6                   tation, or enforcement of punitive school discipline  
7                   policies, including the commission, contracting of, or  
8                   agreements with, law enforcement that support the  
9                   presence of police in schools, including formal or in-  
10                  formal partnerships or data and information sharing  
11                  agreements with the Department of Justice or Sec-  
12                  retary of Homeland Security, including U.S. Immi-  
13                  gration and Customs Enforcement or U.S. Customs  
14                  and Border Protection;

15                  (2) the purchase, maintenance, or installation  
16                  of surveillance equipment or programs, including  
17                  metal detectors, surveillance cameras, facial recogni-  
18                  tion technology, or software programs that monitor  
19                  or mine the social media use or technology use of  
20                  students; or

21                  (3) arming teachers, principals, school leaders,  
22                  or other school personnel.

23           (f) GRANT AMOUNTS.—The amount of grant funds  
24 received under this section by a local educational agency

1 shall be based on the number of students enrolled in the  
2 local educational agency.

3 (g) REPORTING.—

4 (1) IN GENERAL.—Each local educational agen-  
5 cy receiving a grant under this section shall prepare  
6 and submit an annual report to the Secretary con-  
7 taining the information described in paragraph (2).  
8 Such report shall be made publicly available.

9 (2) CONTENTS.—Subject to paragraph (3), the  
10 report described in paragraph (1) shall include infor-  
11 mation about—

12 (A) how the grant funds were used;

13 (B) the number and percentage of students  
14 who were arrested by or referred to law enforce-  
15 ment officers in the previous year compared to  
16 the number and percentage arrested or referred  
17 during the term of the grant;

18 (C) in the aggregate, the reasons for those  
19 arrests;

20 (D) demographic data of students arrested  
21 or referred to law enforcement officers,  
22 disaggregated and cross-tabulated by race, eth-  
23 nicity, age, gender, status as a child with a dis-  
24 ability, and whether the student is eligible for  
25 a free or reduced price lunch under the Richard

1 B. Russell National School Lunch Act (42  
2 U.S.C. 1751 et seq.);

3 (E) the number of metal detectors and  
4 surveillance cameras used by each school served  
5 by the local educational agency, as well as poli-  
6 cies governing the use of these devices;

7 (F) whether facial recognition technology  
8 is used by the local educational agency, and if  
9 so, the policies governing the use of such tech-  
10 nology; and

11 (G) whether software programs that mon-  
12 itor or mine the social media use or technology  
13 use of students or the families of students are  
14 used by, or at the direction of, the local edu-  
15 cational agency, and if so, the contract with the  
16 provider of those software programs as well as  
17 the policies governing the use of such programs.

18 (3) PERSONALLY IDENTIFIABLE INFORMA-  
19 TION.—Collection or disaggregation of information  
20 shall not be required under subparagraphs (B)  
21 through (D) of paragraph (2) to the extent that  
22 such collection or disaggregation would reveal per-  
23 sonally identifiable information about an individual  
24 student or otherwise violate privacy laws.

1       (h) SUPPLEMENT NOT SUPPLANT.—A local edu-  
2 cational agency shall use Federal funds received under this  
3 section only to supplement the funds that would, in the  
4 absence of such Federal funds, be made available from  
5 State and local sources for the activities described in sub-  
6 section (d), and not to supplant such funds

7       (i) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated to carry out this section  
9 \$5,000,000,000.

○