

118TH CONGRESS
1ST SESSION

S. 1072

To create a Council on Emergency Response Protocols to ensure the establishment of accessible, developmentally appropriate, culturally aware, and trauma-informed emergency response protocols in public schools, early child care and education settings, and institutions of higher education, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 30, 2023

Mr. CASEY (for himself and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To create a Council on Emergency Response Protocols to ensure the establishment of accessible, developmentally appropriate, culturally aware, and trauma-informed emergency response protocols in public schools, early child care and education settings, and institutions of higher education, 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 “Promoting Responsible
3 Emergency Protocols for All Students Act” or the “PREP
4 for All Students Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) The lack of accessible, developmentally ap-
8 propriate, culturally aware, and trauma-informed
9 emergency response protocols for children and youth
10 in public schools, early child care and education set-
11 tings, and institutions of higher education is not a
12 trivial issue:

13 (A) In 2016, there were 12,032,000 chil-
14 dren from ages 3 to 5 enrolled in preprimary
15 education programs, and almost one-quarter of
16 children under the age of 5 are in some form
17 of child care arrangement, including nurseries,
18 child care centers, and preschools.

19 (B) In the 2017–2018 school year—

20 (i) 14 percent of students in grades
21 kindergarten through grade 12 had a dis-
22 ability; and

23 (ii) 11 percent of students in
24 postbaccalaureate programs self-identified
25 as having a disability.

1 (2) As of the date of enactment of this Act, lit-
2 tle has been done to integrate specific populations,
3 such as children and youth at various developmental
4 stages or children and youth with disabilities, into
5 emergency preparedness planning.

6 (3) In 2018 alone, there were 108 natural dis-
7 asters in the United States, including severe thun-
8 derstorms, floods, wildfires, droughts, earthquakes,
9 and other extreme weather.

10 (4) During the 16 academic years from 2000
11 through 2015, there were 85 fatal fires in dor-
12 mitories, fraternities, sororities, and off-campus
13 housing, resulting in 118 fatalities—an average of
14 approximately 7 per school year.

15 (5) The risks associated with natural and man-
16 made disasters have a disproportionate impact on in-
17 dividuals with disabilities. People with disabilities
18 are 2 to 4 times more likely to die or sustain critical
19 injuries during a disaster than people without dis-
20 abilities.

21 (6) Technology plays an increasingly vital role
22 in emergency communications but remains largely
23 inaccessible for many individuals with disabilities.

24 (7) The rise of gun violence and gun violence-
25 related deaths has contributed to the expansion of

1 school security technologies and devices. While such
2 technologies and devices have the potential to save
3 lives, they have largely been developed without con-
4 sideration of the needs of students at various devel-
5 opmental stages or students with disabilities. Thus,
6 there may be inherent biases within these tech-
7 nologies and devices that disadvantage or create bias
8 toward specific populations.

9 (8) As of the date of enactment of this Act, 92
10 percent of schools nationwide have an active shooter
11 lockdown protocol. More than 1,000,000 elementary-
12 age children experienced a lockdown in the 2017–
13 2018 school year, and among that group, at least
14 220,000 were in kindergarten or prekindergarten.

15 (9) While the Department of Homeland Secu-
16 rity active shooter emergency guidelines recommend
17 that students and personnel in school and early child
18 care and education settings “Run, Hide, and Fight”,
19 these strategies can exacerbate danger for young
20 children in prekindergarten and child care centers,
21 and can exclude and put at risk students with a
22 wide range of disabilities.

23 (10) At the height of the 2019 novel
24 coronavirus (COVID–19) pandemic, emergency clo-
25 sures of early education centers, elementary schools,

1 secondary schools, and institutions of higher edu-
2 cation created great disruptions in learning and cast
3 a light on educational institutions' lack of prepared-
4 ness protocols for public health emergencies.

5 (11) During the pandemic, early child care and
6 education remains indispensable for the development
7 of children and for millions of health care workers,
8 first responders, educators, and essential personnel,
9 and it is imperative that early child care and edu-
10 cation centers and schools have emergency prepared-
11 ness plans to ensure the safety of students and edu-
12 cators.

13 (12) Emergency preparation drills and real-life
14 lockdowns where danger may be external can create
15 undue stress, fear, and trauma in children, youth,
16 employees, and other specific populations in schools,
17 early child care and education settings, and institu-
18 tions of higher education.

19 (13) Traumatic events have a long-lasting and
20 profound sensory impact on young children, as birth
21 to age 5 is a critical developmental age. Frightening
22 visual stimuli, loud noises, violent movements, and
23 other sensations associated with an unpredictable
24 frightening event, such as in an emergency prepara-
25 tion drill or lockdown, can cause substantial stress.

1 Unlike older children, young children cannot express
2 in words whether they feel afraid, overwhelmed, or
3 helpless, and may have difficulty regulating their be-
4 havior and emotions after experiencing trauma.

5 (14) There is an increasing need to ensure the
6 establishment of accessible, developmentally appro-
7 priate, culturally aware, and trauma-informed emer-
8 gency response protocols, including gun violence re-
9 sponse and prevention protocols, natural disaster
10 preparedness procedures, fire drills, and other emer-
11 gency preparation drills or lockdown procedures, in
12 public schools, early child care and education set-
13 tings, and institutions of higher education.

14 **SEC. 3. DEFINITIONS.**

15 In this Act:

16 (1) ESEA DEFINITIONS.—The terms “elemen-
17 tary school”, “local educational agency”, “para-
18 professional”, “school leader”, “secondary school”,
19 and “specialized instructional support personnel”
20 have the meanings given the terms in section 8101
21 of the Elementary and Secondary Education Act of
22 1965 (20 U.S.C. 7801).

23 (2) ACCESSIBLE.—The term “accessible”, when
24 used with respect to an emergency response protocol,
25 means a protocol that—

1 (A) is developed in full compliance with
2 title II of the Americans with Disabilities Act of
3 1990 (42 U.S.C. 12131 et seq.) and the Reha-
4 bilitation Act of 1973 (29 U.S.C. 701 et seq.);
5 and

6 (B) accounts for a comprehensive range of
7 disabilities, including children and youth who
8 use nonspeech modes of communication.

9 (3) COUNCIL.—The term “Council” means the
10 Council on Emergency Response Protocols estab-
11 lished under section 4.

12 (4) CULTURALLY AWARE.—The term “cul-
13 turally aware”, when used with respect to an emer-
14 gency response protocol, means a protocol that—

15 (A)(i) incorporates the roles of first re-
16 sponder personnel, law enforcement personnel,
17 school resource officers, and other authorities in
18 the communities where the students live and at-
19 tend school;

20 (ii) takes into account the use and preva-
21 lence of firearms in such communities; and

22 (iii) is cognizant of the ways in which Afri-
23 can-American students and students of other
24 racial or ethnic minority groups are more likely
25 to face disciplinary action in schools;

1 (B) is designed to be sensitive to and re-
2 spect cultural differences and differences in cus-
3 toms and worldview; and

4 (C) considers the ways in which certain
5 emergency events have disparate impact on Af-
6 rican Americans, Native peoples, and other ra-
7 cial and ethnic minorities.

8 (5) DEVELOPMENTALLY APPROPRIATE.—The
9 term “developmentally appropriate”, when used with
10 respect to an emergency response protocol, means a
11 protocol that is appropriate for children’s ages and
12 physical, social, sensory, and emotional develop-
13 mental statuses.

14 (6) DISABILITY.—The term “disability” has the
15 meaning given the term in section 3 of the Ameri-
16 cans with Disabilities Act of 1990 (42 U.S.C.
17 12102).

18 (7) INSTITUTION OF HIGHER EDUCATION.—The
19 term “institution of higher education” has the
20 meaning given the term in section 102 of the Higher
21 Education Act of 1965 (20 U.S.C. 1002).

22 (8) TRAUMA-INFORMED.—The term “trauma-
23 informed”, when used with respect to an emergency
24 response protocol, means a protocol that—

1 (A) recognizes the prevalence of trauma
2 and the role that trauma plays in the lives of
3 children, youth, and survivors of trauma;

4 (B) considers the physical, psychological,
5 and emotional well-being of individuals during
6 and after an emergency event; and

7 (C) takes an approach that actively com-
8 bats the traumatization or retraumatization of
9 children, youth, and survivors of trauma.

10 **SEC. 4. ESTABLISHMENT OF COUNCIL ON EMERGENCY RE-**
11 **SPONSE PROTOCOLS.**

12 (a) ESTABLISHMENT.—There is established a Council
13 on Emergency Response Protocols.

14 (b) COMPOSITION.—

15 (1) CHAIRPERSON.—The Secretary of Edu-
16 cation, in an expeditious manner, shall appoint an
17 individual who represents one of the categories de-
18 scribed in paragraph (2) to serve as a member and
19 chairperson of the Council.

20 (2) APPOINTED MEMBERS.—By not later than
21 90 days after the date of enactment of this Act, the
22 chairperson of the Council shall appoint a member
23 to the Council for each of the following categories
24 (except for the category represented by the chair-
25 person):

1 (A) An executive director or a representa-
2 tive from a national organization representing
3 individuals with disabilities.

4 (B) An executive director or a representa-
5 tive from a national organization representing
6 early child care educators.

7 (C) The executive director or a representa-
8 tive from a national organization representing
9 law enforcement officials.

10 (D) The executive director or a representa-
11 tive from an organization focused on emergency
12 preparedness training in early child care.

13 (E) A member of an organization rep-
14 resenting teachers, school leaders, specialized
15 instructional support personnel, and paraprofes-
16 sionals.

17 (F) A member of an organization rep-
18 resenting school-based child welfare and mental
19 health professionals.

20 (G) An individual with a physical, sensory,
21 intellectual, developmental, mental health, or
22 other disability who has demonstrated disability
23 advocacy experience in kindergarten through
24 grade 12 education.

1 (H) An individual with a physical, sensory,
 2 intellectual, developmental, mental health, or
 3 other disability who has been enrolled in an in-
 4 stitution of higher education for at least a year
 5 during the 5 years prior to the date of the indi-
 6 vidual's appointment to the Council.

7 (I) An individual with a physical, sensory,
 8 intellectual, developmental, mental health, or
 9 other disability who has been enrolled in an in-
 10 stitution of higher education for a year prior to
 11 the date of the individual's appointment to the
 12 Council.

13 (J) A parent or guardian of a child in an
 14 early child care and education program.

15 (K) A parent or guardian of a child with
 16 a physical, sensory, intellectual, or develop-
 17 mental disability in—

18 (i) an early child care and education
 19 program; or

20 (ii) a public elementary school or sec-
 21 ondary school.

22 (3) FEDERAL MEMBERS.—

23 (A) DEPARTMENT OF EDUCATION MEM-
 24 BERS.—The following officers of the Depart-

1 ment of Education shall serve as members of
2 the Council:

3 (i) The Assistant Secretary of the Of-
4 fice of Planning, Evaluation and Policy
5 Development.

6 (ii) The Assistant Secretary of the Of-
7 fice of Special Education and Rehabilita-
8 tive Services.

9 (iii) The Assistant Secretary for Civil
10 Rights.

11 (iv) The Director of the Office of In-
12 novation and Early Learning.

13 (v) The Director of the Office of Spe-
14 cial Education Programs.

15 (B) HEALTH AND HUMAN SERVICES MEM-
16 BERS.—The following officers of the Adminis-
17 tration for Children and Families of the De-
18 partment of Health and Human Services shall
19 serve as members of the Council:

20 (i) The Director of the Office of Child
21 Care.

22 (ii) The Director of the Office of
23 Head Start.

1 (C) FEMA MEMBER.—The Administrator
2 of the Federal Emergency Management Agency
3 shall serve as a member of the Council.

4 (4) ADDITIONAL REQUIREMENTS FOR REP-
5 RESENTATION.—The chairperson shall, to the best
6 of the chairperson’s ability, promote representation
7 among the membership of the Council, including—

8 (A) ensuring that not less than one of the
9 members appointed under paragraph (2) has di-
10 rectly experienced, as a student, gun violence or
11 another emergency event in which a lockdown
12 protocol was enforced in an educational setting
13 that was the primary target of the emergency
14 event; and

15 (B) ensuring diversity among members ap-
16 pointed under such paragraph with regard to
17 race, ethnicity, disability, gender identity and
18 expression, age, sexual orientation, primary lan-
19 guage, and other demographic characteristics.

20 (c) MEETINGS.—

21 (1) INITIAL MEETING.—The Council shall hold
22 its first meeting not later than 90 days after the
23 date of enactment of this Act.

24 (2) FREQUENCY.—The Council shall meet at
25 the call of the chairperson.

1 (3) QUORUM.—A majority of the members of
2 the Council shall constitute a quorum, but a lesser
3 number of members may hold hearings.

4 **SEC. 5. DUTIES.**

5 (a) HEARING.—The Council shall hold a hearing with
6 relevant stakeholders, including students and educators,
7 principals and other school leaders, child care experts, dis-
8 ability advocates, civil rights advocates, law enforcement
9 personnel, security experts, and others, not later than 120
10 days after the date of enactment of this Act.

11 (b) STUDY AND REVIEW.—The Council shall—

12 (1) study emergency response protocols, includ-
13 ing gun violence response and prevention protocols,
14 natural disaster preparedness procedures, fire drills,
15 and other emergency preparation drills or lockdown
16 procedures, for educational settings including early
17 child care and education settings, elementary schools
18 and secondary schools, and institutions of higher
19 education; and

20 (2) conduct a complete and thorough review of
21 the relevant literature and research surrounding
22 emergency response protocols in such educational
23 settings and the impact that emergency response
24 protocols can have on specific populations of chil-

1 dren, youth, and employees, including the effects on
2 children living in poverty and children of color.

3 (c) RECOMMENDATIONS AND GUIDELINES.—After
4 completing the study and review described in subsection
5 (b), the Council shall provide—

6 (1) recommendations that ensure that States,
7 early child care and education settings, local edu-
8 cational agencies, and institutions of higher edu-
9 cation are provided with accurate information about
10 the needs of specific populations of children, youth,
11 and employees during emergencies;

12 (2) guidelines for States, early child care and
13 education settings, local educational agencies, and
14 institutions of higher education to use in developing
15 and implementing emergency response protocols, in-
16 cluding gun violence response and prevention proto-
17 cols, natural disaster preparedness procedures, fire
18 drills, and other emergency preparation drills or
19 lockdown procedures, that are inclusive and acces-
20 sible; and

21 (3) guidelines—

22 (A) for the development and implementa-
23 tion of accessible, developmentally appropriate,
24 culturally aware, and trauma-informed emer-
25 gency response protocols, including gun violence

1 response and prevention protocols, natural dis-
2 aster preparedness procedures, fire drills, and
3 other emergency preparation drills or lockdown
4 procedures, that include information about—

5 (i) preparedness drills, including dis-
6 cussions and seminars on emergency pre-
7 paredness, workshops, and full-scale emer-
8 gency simulations;

9 (ii) emergency communications;

10 (iii) training for educators, early child
11 care and education staff, administrators,
12 and support personnel, including—

13 (I) training addressing implicit
14 biases on the basis of race, national
15 origin, socioeconomic status, religion,
16 disability, and sex (including sexual
17 orientation and gender identity); and

18 (II) other training to ensure the
19 nondiscriminatory application of pro-
20 tocols and treatment of students;

21 (iv) the use of technology; and

22 (v) other issues determined appro-
23 priate by the Council;

24 (B) for the use of Federal funds by States,
25 early child care and education programs, local

1 educational agencies, and institutions of higher
2 education to develop and implement emergency
3 response protocols, including gun violence re-
4 sponse and prevention protocols, natural dis-
5 aster preparedness procedures, fire drills, and
6 other emergency preparation drills or lockdown
7 procedures, that are inclusive and accessible;
8 and

9 (C) for States to create and develop rec-
10 ommendations for oversight for public elemen-
11 tary schools and secondary schools, early child
12 care and education settings, and institutions of
13 higher education to ensure any emergency re-
14 sponse protocols—

15 (i) are inclusive and accessible;

16 (ii) protect student privacy; and

17 (iii) avoid exacerbating risk for chil-
18 dren and youth with disabilities, young
19 children, employees, and other specific pop-
20 ulations.

21 (d) REPORT.—By not later than 18 months after the
22 date of enactment of this Act, the Council shall prepare
23 and submit to Congress a detailed report that contains—

24 (1) findings from stakeholders related to the
25 challenges faced by children and youth with disabil-

1 ities, young children, and other specific populations
2 with regard to emergency response protocols, includ-
3 ing gun violence response and prevention protocols,
4 natural disaster preparedness procedures, fire drills,
5 and other emergency preparation drills or lockdown
6 procedures; and

7 (2) the recommendations and guidelines de-
8 scribed in subsection (c).

9 **SEC. 6. POWERS OF COUNCIL.**

10 (a) HEARINGS.—The Council may hold such hear-
11 ings, sit and act at such times and places, take such testi-
12 mony, and receive such evidence as the Council considers
13 advisable to carry out this Act.

14 (b) INFORMATION FROM FEDERAL AGENCIES.—

15 (1) IN GENERAL.—The Council may secure di-
16 rectly from a Federal department or agency such in-
17 formation as the Council considers necessary to
18 carry out this Act.

19 (2) FURNISHING INFORMATION.—On request of
20 the chairperson of the Council, the head of the de-
21 partment or agency shall furnish the information to
22 the Council.

23 (c) POSTAL SERVICES.—The Council may use the
24 United States mails in the same manner and under the

1 same conditions as other departments and agencies of the
2 Federal Government.

3 **SEC. 7. COUNCIL PERSONNEL MATTERS.**

4 (a) COMPENSATION OF MEMBERS.—Only members of
5 the Council representing categories described in subpara-
6 graphs (G) through (K) of section 4(b)(2) shall be com-
7 pensated for their work for the Council. Such members
8 may receive compensation at a rate equal to the daily
9 equivalent of the annual rate of basic pay prescribed for
10 level IV of the Executive Schedule under section 5315 of
11 title 5, United States Code, for each day (including travel
12 time) during which the members are engaged in the per-
13 formance of the duties of the Council.

14 (b) TRAVEL EXPENSES.—A member of the Council
15 shall be allowed travel expenses, including per diem in lieu
16 of subsistence, at rates authorized for employees of agen-
17 cies under subchapter I of chapter 57 of title 5, United
18 States Code, while away from their homes or regular
19 places of business in the performance of services for the
20 Council.

21 (c) STAFF.—

22 (1) IN GENERAL.—The chairperson of the
23 Council may, without regard to the civil service laws
24 (including regulations), appoint and terminate an ex-
25 ecutive director and such other additional personnel

1 as may be necessary to enable the Council to per-
2 form its duties, except that the employment of an
3 executive director shall be subject to confirmation by
4 the Council.

5 (2) COMPENSATION.—The chairperson of the
6 Council may fix the compensation of the executive
7 director and other personnel without regard to chap-
8 ter 51 and subchapter III of chapter 53 of title 5,
9 United States Code, relating to classification of posi-
10 tions and General Schedule pay rates, except that
11 the rate of pay for the executive director and other
12 personnel may not exceed the rate payable for level
13 V of the Executive Schedule under section 5316 of
14 that title.

15 (d) DETAIL OF GOVERNMENT EMPLOYEES.—A Fed-
16 eral Government employee may be detailed to the Council
17 without reimbursement, and such detail shall be without
18 interruption or loss of civil service status or privilege.

19 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-
20 TENT SERVICES.—The chairperson of the Council may
21 procure temporary and intermittent services under section
22 3109(b) of title 5, United States Code, at rates for individ-
23 uals that do not exceed the daily equivalent of the annual
24 rate of basic pay prescribed for level V of the Executive
25 Schedule under section 5316 of that title.

1 **SEC. 8. TERMINATION OF COUNCIL.**

2 The Council shall terminate 60 days after the date
3 on which the Council submits the report required under
4 section 5(d).

5 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

6 (a) **IN GENERAL.**—There is authorized to be appro-
7 priated to the Council to carry out this Act a total of
8 \$500,000 for fiscal years 2024 and 2025.

9 (b) **AVAILABILITY.**—Any sums appropriated under
10 subsection (a) shall remain available, without fiscal year
11 limitation, until expended.

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