

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: H2/11/19 H3/11/19 H3/25/19*
92nd General Assembly **A Bill**
Regular Session, 2019

HOUSE BILL 1019

By: Representative Sorvillo

By: *Senator B. Davis*

For An Act To Be Entitled

AN ACT TO REQUIRE VIDEO CAMERAS IN CERTAIN CLASSROOMS
UPON REQUEST; AND FOR OTHER PURPOSES.

Subtitle

*TO REQUIRE VIDEO CAMERAS IN CERTAIN
CLASSROOMS UPON REQUEST.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 41, Subchapter 1, is amended to add an additional section to read as follows:

6-41-105. Video cameras in classrooms.

(a) As used in this section:

(1) "Incident" means an event or circumstance that involves the abuse, neglect, sexual abuse, or sexual exploitation, as those terms are defined in § 12-18-103 of the Child Maltreatment Act, § 12-18-101 et seq., of a student by:

(A) An employee of a public school or school district; or

(B) Another student;

(2) "Self-contained classroom" means a classroom at a public school that is comprised of students with disabilities, as defined in the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., who spend less than forty percent (40%) of the school day in a regular classroom environment; and

(3) "Special education" means the same as defined in § 6-41-203.

(b)(1) Upon receipt of a written request by a person under subdivision



(b)(2) of this section, a public school or school district shall provide a video camera to a public school that shall be used in the self-contained classroom for which the written request was made.

(2) A request under subdivision (b)(1) of this section may be made by a:

(A) Parent or legal guardian of a student who is assigned to the self-contained classroom for which the parent or legal guardian requests a video camera;

(B) School employee who is assigned to work with one (1) or more students in the self-contained classroom for which the school employee requests a video camera;

(C) Superintendent, principal, or assistant principal of the public school or school district; or

(D) Member of the board of directors of the public school or school district.

(3) A request made under subdivision (b)(1) of this section shall be made to the principal of the public school.

(c)(1)(A) A public school that receives a video camera under subsection (b) of this section shall operate and maintain the video camera in the self-contained classroom for which the video camera was requested for the remainder of the school year for which the public school received the request, unless the person who requested the video camera withdraws the request in writing.

(B) A public school shall not continue to operate and maintain the video camera in the self-contained classroom for the following school year unless a person makes a new request under subsection (b) for a video camera to be operated and maintained in the following school year.

(2) If a public school intends to discontinue the operation and maintenance of a video camera under this section for any reason, no later than five (5) days before the operation and maintenance of the video camera is to be discontinued the public school shall notify every person eligible to make a request under subsection (b) of this section that the operation and maintenance of the video camera will be discontinued unless a new request for the school year is made under subsection (b) of this section.

(3) No later than ten (10) days before the end of a school year, the public school shall notify every person eligible to make a request under

subsection (b) of this section that the operation and maintenance of the video camera will be discontinued for the following school year unless a new request for the following school year is made under subsection (b) of this section.

(d)(1) A video camera placed in a self-contained classroom shall be capable of:

(A) Monitoring all areas of the self-contained classroom, including without limitation a room attached to the self-contained classroom and used for time-outs or other purposes; and

(B) Recording audio from all areas of the self-contained classroom, including without limitation a room attached to the self-contained classroom and used for a time-out or other purpose.

(2)(A) A video camera placed in a self-contained classroom shall not monitor the interior of a restroom or the interior of any other area in the self-contained classroom where a student changes his or her clothes.

(B)(i) However, a video camera placed in a self-contained classroom may monitor a portion of the area immediately outside of a restroom or a portion of the area immediately outside of any other area in the self-contained classroom where a student changes his or her clothes.

(ii) If a video camera placed in a self-contained classroom incidentally records the interior of a restroom or the interior of any other area in the self-contained classroom where a student changes his or her clothes while an individual is in the interior of the restroom or the interior of any other area where a student changes his or her clothes and while the video camera is monitoring a portion of the area immediately outside of the restroom or a portion of the area immediately outside of any other area in the self-contained classroom where a student changes his or her clothes as permitted under subdivision (d)(2)(B)(i) of this section, the recording of the interior of the restroom or of the interior of any other area in the self-contained classroom where a student changes his or her clothes is not subject to viewing under subsection (i) of this section unless necessary precautions have been taken to redact or segregate from the recording personally identifiable information or personally identifiable images captured during the recording of any individual in the interior of the restroom or the interior of any other area in the self-contained classroom where a student changes his or her clothes, including without limitation

blurring the face or other body part of any individual.

(3) A video camera placed in a self-contained classroom is not required to be in operation during the time in which students are not present in the self-contained classroom.

(e) Before a public school places a video camera in a self-contained classroom, the public school shall provide written notice of the placement to:

(1) The parent or legal guardian of a student who is assigned to the self-contained classroom;

(2) A student who is assigned to the self-contained classroom;

(3) Members of the board of directors of the public school or school district; and

(4) A school employee who is assigned to work with one (1) or more students in the self-contained classroom.

(f)(1) A public school shall retain video recorded from a camera placed under this section for at least thirty (30) days after the date the video was recorded.

(2) If a person requests to view a recording under subsection (j) of this section, the public school shall retain the recording from the date of the request until:

(A)(i) Except as provided in subdivision (f)(2)(A)(ii) of this section, the person views the recording.

(ii) A person who requests to view a recording shall make himself or herself available for viewing the recording within thirty (30) days after being notified by the public school that the person's request has been granted; and

(B) Any investigation and any administrative or legal proceedings that result from the recording have been completed, including without limitation the exhaustion of all appeals.

(3) If a request to view a recording under subsection (j) of this section has not been made within thirty (30) days of the date the video was recorded, the recording shall be erased or otherwise destroyed within thirty (30) days after the first thirty-day period has expired.

(g) This section does not:

(1) Waive any immunity from liability of a public school district or employee of a public school district; or

(2) Create any liability for a cause of action against a public school or school district or employee of a public school or school district.

(h) A public school or school district shall not:

(1) Allow regular, continuous, or continual monitoring of video recorded under this section; or

(2) Use video recorded under this section for:

(A) Teacher evaluations; or

(B) Any purpose other than the promotion of the health, well-being, and safety of students receiving special education in a self-contained classroom.

(i) Within seven (7) days of receiving a request, a public school or school district shall allow viewing of a video recording by:

(1) A public school or school district employee who is involved in an alleged incident that is documented by the video recording and has been reported to the public school or school district;

(2) An employee of a public school or school district as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the public school or school district;

(3) Appropriate personnel as part of an ethics investigation under § 6-17-428 of an alleged incident that is documented by the video recording and for which an ethics complaint has been reported to the Professional Licensure Standards Board;

(4) Appropriate personnel as part of an investigation under the Child Maltreatment Act, § 12-18-101 et seq.; or

(5) A law enforcement officer as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the law enforcement agency.

(j) A contractor or other employee of a public school or school district who is not specifically permitted to view a video recording under subsection (i) of this section may incidentally view a video recording under this section if the contractor or employee of a public school or school district is performing job duties related to the:

(1) Installation, operation, or maintenance of video equipment;

or

(2) Retention of video recordings.

(k)(1) A public school or school district that receives a request

under subsection (b) of this section shall begin operation and maintenance of a video camera under this section:

(A) If the request is made during the summer break, no later than the tenth school day of the fall semester; or

(B) If the request is made at any time other than the summer break, no later than forty-five (45) school days after receiving the request.

(2) The Commissioner of Education may grant a public school or school district an extension of time under subdivision (k)(1) of this section:

(A) In unusual and limited circumstances, as determined by the commissioner; and

(B) Upon request of the public school or school district.

(1) A public school or school district shall:

(1) Take necessary precautions to conceal the identity of a student who appears in a video recording but is not involved in the alleged incident documented by the video recording for which the public school allows viewing under subsection (i) of this section, including without limitation blurring the face or other body part of the uninvolved student; and

(2) Provide procedures to protect the confidentiality of student records contained in a video recording in accordance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, or any other law.

(m)(1) A person who is eligible to make a request for a video camera under subsection (b) of this section may appeal to the State Board of Education an action by a public school or school district that the person believes to be in violation of this section.

(2) The state board shall grant a hearing on an appeal under subdivision (m)(1) of this section within forty-five (45) days of receiving the appeal.

(n) The Department of Education shall collect data relating to requests for a video camera made under this section and actions taken by a public school or school district in response to a request, including without limitation the number of requests:

(1) Made;

(2) Authorized; and

(3) Denied.

(o) A public school or school district may accept gifts, grants, or donations for the purpose of fulfilling a request made under subsection (b) of this section.

(p) The Division of Youth Services of the Department of Human Services is exempt from this section.

/s/Sorvillo