

INTERIM STUDY PROPOSAL 2019-032

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

Filed with: Arkansas Legislative Council  
pursuant to A.C.A. §10-3-217.

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

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

2           (b)(1) Upon receipt of a written request by a person under subdivision  
3 (b)(2) of this section, a public school or school district shall provide a  
4 video camera to a public school that shall be used in the self-contained  
5 classroom for which the written request was made.

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

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

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

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

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

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

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

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

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

1           (3) No later than ten (10) days before the end of a school year,  
2 the public school shall notify every person eligible to make a request under  
3 subsection (b) of this section that the operation and maintenance of the  
4 video camera will be discontinued for the following school year unless a new  
5 request for the following school year is made under subsection (b) of this  
6 section.

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

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

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

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

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

22                   (ii) If a video camera placed in a self-contained  
23 classroom incidentally records the interior of a restroom or the interior of  
24 any other area in the self-contained classroom where a student changes his or  
25 her clothes while an individual is in the interior of the restroom or the  
26 interior of any other area where a student changes his or her clothes and  
27 while the video camera is monitoring a portion of the area immediately  
28 outside of the restroom or a portion of the area immediately outside of any  
29 other area in the self-contained classroom where a student changes his or her  
30 clothes as permitted under subdivision (d)(2)(B)(i) of this section, the  
31 recording of the interior of the restroom or of the interior of any other  
32 area in the self-contained classroom where a student changes his or her  
33 clothes is not subject to viewing under subsection (i) of this section unless  
34 necessary precautions have been taken to redact or segregate from the  
35 recording personally identifiable information or personally identifiable  
36 images captured during the recording of any individual in the interior of the

1 restroom or the interior of any other area in the self-contained classroom  
2 where a student changes his or her clothes, including without limitation  
3 blurring the face or other body part of any individual.

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

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

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

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

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

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

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

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

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

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

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

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

36 (g) This section does not:

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

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

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

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

8           (2) Use video recorded under this section for:

9                   (A) Teacher evaluations; or

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

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

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

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

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

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

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

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

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

1           (2) Retention of video recordings.

2           (k)(1) A public school or school district that receives a request  
3 under subsection (b) of this section shall begin operation and maintenance of  
4 a video camera under this section:

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

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

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

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

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

16           (l) A public school or school district shall:

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

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

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

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

33           (n) The Department of Education shall collect data relating to  
34 requests for a video camera made under this section and actions taken by a  
35 public school or school district in response to a request, including without  
36 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*

Referred by Representative Sorvillo

Prepared by: TNL/VJF