

1 INTERIM STUDY PROPOSAL 2019-032

2 State of Arkansas As Engrossed: H2/11/19 H3/11/19 H3/25/19

3 92nd General Assembly

A Bill

4 Regular Session, 2019

HOUSE BILL 1019

5
6 By: Representative Sorvillo

7 By: Senator B. Davis

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

For An Act To Be Entitled

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

Subtitle

15 TO REQUIRE VIDEO CAMERAS IN CERTAIN
17 CLASSROOMS UPON REQUEST.

18
19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 SECTION 1. Arkansas Code Title 6, Chapter 41, Subchapter 1, is amended
23 to add an additional section to read as follows:

24 6-41-105. Video cameras in classrooms.

25 (a) As used in this section:

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

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

31 (B) Another student;

32 (2) "Self-contained classroom" means a classroom at a public
33 school that is comprised of students with disabilities, as defined in the
34 Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., who
35 spend less than forty percent (40%) of the school day in a regular classroom
36 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