

1 State of Arkansas As Engrossed: H2/11/19 H3/11/19

2 92nd General Assembly

# A Bill

3 Regular Session, 2019

HOUSE BILL 1019

4

5 By: Representative Sorvillo

6 By: Senator B. Davis

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## For An Act To Be Entitled

9 AN ACT TO REQUIRE VIDEO CAMERAS IN CERTAIN CLASSROOMS  
10 UPON REQUEST; TO DECLARE AN EMERGENCY; AND FOR OTHER  
11 PURPOSES.

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## Subtitle

15 TO REQUIRE VIDEO CAMERAS IN CERTAIN  
16 CLASSROOMS UPON REQUEST; AND TO DECLARE  
17 AN EMERGENCY.

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

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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 video camera placed in a self-contained classroom shall  
16 not monitor a restroom or any other area in the self-contained classroom  
17 where a student changes his or her clothes except for incidental monitoring  
18 of a minor portion of a restroom or other area where a student changes his or  
19 her clothes because of the layout of the self-contained classroom.

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

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

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

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

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

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

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

36           (2) If a person requests to view a recording under subsection

1 (j) of this section, the public school shall retain the recording from the  
2 date of the request until:

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

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

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

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

16 (g) This section does not:

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

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

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

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

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

25 (A) Teacher evaluations; or

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

29 (i)(1) Except as provided under subsections (j) and (k) of this  
30 section, a video recording of a student made under this section is  
31 confidential and shall not be released or viewed.

32 (2) A video recording of a student under this section is an  
33 education record under the Family Educational Rights and Privacy Act, 20  
34 U.S.C. § 1232(g), as it existed on January 1, 2019, only if the video  
35 recording is directly related to the student.

36 (j) Within seven (7) days of receiving a request, a public school or

1 school district shall allow viewing of a video recording by:

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

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

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

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

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

17 (k) It is not a violation of subsection (i) of this section if a  
18 contractor or other employee of a public school or school district  
19 incidentally views a video recording under this section if the contractor or  
20 employee of a public school or school district is performing job duties  
21 related to the:

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

24 (2) Retention of video recordings.

25 (1)(1) A public school or school district that receives a request  
26 under subsection (b) of this section shall begin operation and maintenance of  
27 a video camera under this section:

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

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

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

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

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

2 (m) A public school or school district shall:

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

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

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

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

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

23 (1) Made;

24 (2) Authorized; and

25 (3) Denied.

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

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

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32 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
33 General Assembly of the State of Arkansas that the safety of students is of  
34 the utmost importance; that parents should be able to monitor their children  
35 while their children are at school and hold accountable those responsible for  
36 their children while their children are at school; and that this act is

1 immediately necessary to protect students who are currently in school from  
2 any inappropriate or unwanted action from those who are responsible for the  
3 students at school. Therefore, an emergency is declared to exist, and this  
4 act being immediately necessary for the preservation of the public peace,  
5 health, and safety shall become effective on:

6 (1) The date of its approval by the Governor;

7 (2) If the bill is neither approved nor vetoed by the Governor,  
8 the expiration of the period of time during which the Governor may veto the  
9 bill; or

10 (3) If the bill is vetoed by the Governor and the veto is  
11 overridden, the date the last house overrides the veto.

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13 /s/Sorvillo  
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