

1-1 By: Lucio S.B. No. 1398  
 1-2 (In the Senate - Filed March 7, 2017; March 16, 2017, read  
 1-3 first time and referred to Committee on Education; April 26, 2017,  
 1-4 reported adversely, with favorable Committee Substitute by the  
 1-5 following vote: Yeas 10, Nays 0; April 26, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Taylor of Galveston	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Campbell	X			
1-11 Hall	X			
1-12 Huffines	X			
1-13 Hughes	X			
1-14 Seliger	X			
1-15 Taylor of Collin	X			
1-16 Uresti	X			
1-17 West			X	

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 1398 By: Lucio

1-20 A BILL TO BE ENTITLED  
 1-21 AN ACT

1-22 relating to the placement and use of video cameras in certain  
 1-23 self-contained classrooms or other settings providing special  
 1-24 education services.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 29.022, Education Code, is amended by  
 1-27 amending Subsections (a), (b), (c), (d), (e), (i), and (j) and  
 1-28 adding Subsections (a-1), (a-2), (a-3), (c-1), (e-1), (i-1), (l),  
 1-29 (m), (n), (o), (p), (q), and (r) to read as follows:

1-30 (a) In order to promote student safety, on receipt of a  
 1-31 written request authorized under Subsection (a-1) ~~[by a parent,~~  
 1-32 ~~trustee, or staff member]~~, a school district or open-enrollment  
 1-33 charter school shall provide equipment, including a video camera,  
 1-34 to the ~~[each]~~ school or schools in the district or the ~~[each]~~  
 1-35 charter school campus or campuses specified in the request ~~[in~~  
 1-36 ~~which a student who receives special education services in a~~  
 1-37 ~~self-contained classroom or other special education setting is~~  
 1-38 ~~enrolled]~~. A ~~[Each]~~ school or campus that receives equipment as  
 1-39 provided by this subsection shall place, operate, and maintain one  
 1-40 or more video cameras in ~~[each]~~ self-contained classrooms and  
 1-41 ~~[classroom or]~~ other special education settings ~~[setting]~~ in which  
 1-42 a majority of the students in regular attendance are ~~[+]~~  
 1-43 ~~[(1)]~~ provided special education and related  
 1-44 services ~~[+]~~ and are  
 1-45 ~~[(2)]~~ assigned to one or more ~~[a]~~ self-contained  
 1-46 classrooms ~~[classroom]~~ or other special education settings  
 1-47 ~~[setting]~~ for at least 50 percent of the instructional day,  
 1-48 provided that:

1-49 (1) a school or campus that receives equipment as a  
 1-50 result of the request by a parent or staff member is required to  
 1-51 place equipment only in classrooms or settings in which the  
 1-52 parent's child is in regular attendance or to which the staff member  
 1-53 is assigned, as applicable; and

1-54 (2) a school or campus that receives equipment as a  
 1-55 result of the request by a board of trustees, governing body,  
 1-56 principal, or assistant principal is required to place equipment  
 1-57 only in classrooms or settings identified by the requestor, if the  
 1-58 requestor limits the request to specific classrooms or settings  
 1-59 subject to this subsection.

1-60 (a-1) For purposes of Subsection (a):

2-1 (1) a parent of a child who receives special education  
 2-2 services in one or more self-contained classrooms or other special  
 2-3 education settings may request in writing that equipment be  
 2-4 provided to the school or campus at which the child receives those  
 2-5 services;

2-6 (2) a board of trustees or governing body may request  
 2-7 in writing that equipment be provided to one or more specified  
 2-8 schools or campuses at which one or more children receive special  
 2-9 education services in self-contained classrooms or other special  
 2-10 education settings;

2-11 (3) the principal or assistant principal of a school  
 2-12 or campus at which one or more children receive special education  
 2-13 services in self-contained classrooms or other special education  
 2-14 settings may request in writing that equipment be provided to the  
 2-15 principal's or assistant principal's school or campus; and

2-16 (4) a staff member assigned to work with one or more  
 2-17 children receiving special education services in self-contained  
 2-18 classrooms or other special education settings may request in  
 2-19 writing that equipment be provided to the school or campus at which  
 2-20 the staff member works.

2-21 (a-2) Each school district or open-enrollment charter  
 2-22 school shall designate an administrator at the primary  
 2-23 administrative office of the district or school with responsibility  
 2-24 for coordinating the provision of equipment to schools and campuses  
 2-25 in compliance with this section.

2-26 (a-3) A written request must be submitted and acted on as  
 2-27 follows:

2-28 (1) a parent, staff member, or assistant principal  
 2-29 must submit a request to the principal or the principal's designee  
 2-30 of the school or campus addressed in the request, and the principal  
 2-31 or designee must provide a copy of the request to the administrator  
 2-32 designated under Subsection (a-2);

2-33 (2) a principal must submit a request by the principal  
 2-34 to the administrator designated under Subsection (a-2); and

2-35 (3) a board of trustees or governing body must submit a  
 2-36 request to the administrator designated under Subsection (a-2), and  
 2-37 the administrator must provide a copy of the request to the  
 2-38 principal or the principal's designee of the school or campus  
 2-39 addressed in the request.

2-40 (b) A school or campus that places a video camera in a  
 2-41 classroom or other special education setting in accordance with  
 2-42 Subsection (a) shall operate and maintain the video camera in the  
 2-43 classroom or setting, as long as the classroom or setting continues  
 2-44 to satisfy the requirements under Subsection (a), for the remainder  
 2-45 of the school year in which the school or campus received the  
 2-46 request, unless the requestor withdraws the request in writing. If  
 2-47 for any reason a school or campus will discontinue operation of a  
 2-48 video camera during a school year, not later than the fifth business  
 2-49 day before the date the operation of the video camera will be  
 2-50 discontinued, the school or campus must notify the parents of each  
 2-51 student in regular attendance in the classroom or setting that  
 2-52 operation of the video camera will not continue unless requested by  
 2-53 a person eligible to make a request under Subsection (a-1). At the  
 2-54 end of each school year, the school or campus must notify the  
 2-55 parents of each student in regular attendance in the classroom or  
 2-56 setting that operation of the video camera will not continue during  
 2-57 the following school year unless a person eligible to make a request  
 2-58 for the next school year under Subsection (a-1) submits a new  
 2-59 request.

2-60 (c) Except as provided by Subsection (c-1), video [Video]  
 2-61 cameras placed under this section must be capable of:

2-62 (1) covering all areas of the classroom or other  
 2-63 special education setting, including a room attached to the  
 2-64 classroom or setting used for time-out [except that the inside of a  
 2-65 bathroom or any area in the classroom or setting in which a  
 2-66 student's clothes are changed may not be visually monitored]; and

2-67 (2) recording audio from all areas of the classroom or  
 2-68 other special education setting, including a room attached to the  
 2-69 classroom or setting used for time-out.

3-1 (c-1) The inside of a bathroom or any area in the classroom  
 3-2 or other special education setting in which a student's clothes are  
 3-3 changed may not be visually monitored, except for incidental  
 3-4 coverage of a minor portion of a bathroom or changing area because  
 3-5 of the layout of the classroom or setting.

3-6 (d) Before a school or campus activates [places] a video  
 3-7 camera in a classroom or other special education setting under this  
 3-8 section, the school or campus shall provide written notice of the  
 3-9 placement to all school or campus staff and to the parents of each  
 3-10 [a] student attending class or engaging in school activities  
 3-11 [receiving special education services] in the classroom or setting.

3-12 (e) Except as provided by Subsection (e-1), a [A] school  
 3-13 district or open-enrollment charter school shall retain video  
 3-14 recorded from a video camera placed under this section for at least  
 3-15 three [six] months after the date the video was recorded.

3-16 (e-1) If a person described by Subsection (i) requests to  
 3-17 view a video recording from a video camera placed under this  
 3-18 section, a school district or open-enrollment charter school must  
 3-19 retain the recording from the date of receipt of the request until  
 3-20 the person has viewed the recording and a determination has been  
 3-21 made as to whether the recording documents an alleged incident. If  
 3-22 the recording documents an alleged incident, the district or school  
 3-23 shall retain the recording until the alleged incident has been  
 3-24 resolved, including the exhaustion of all appeals.

3-25 (i) A video recording of a student made according to this  
 3-26 section is confidential and may not be released or viewed except as  
 3-27 provided by this subsection or Subsection (i-1) or (j). A school  
 3-28 district or open-enrollment charter school shall release a  
 3-29 recording for viewing by:

3-30 (1) an [a school district] employee [or a parent or  
 3-31 guardian of a student] who is involved in an alleged incident that  
 3-32 is documented by the recording and [for which a complaint] has been  
 3-33 reported to the district or school, on request of the employee[,  
 3-34 parent, or guardian, respectively];

3-35 (2) a parent or guardian of a student who is involved  
 3-36 in an alleged incident that is documented by the recording and has  
 3-37 been reported to the district or school, on request of the parent or  
 3-38 guardian;

3-39 (3) appropriate Department of Family and Protective  
 3-40 Services personnel as part of an investigation under Section  
 3-41 261.406, Family Code;

3-42 (4) [(3)] a peace officer, a school nurse, a district  
 3-43 or school administrator trained in de-escalation and restraint  
 3-44 techniques as provided by commissioner rule, or a human resources  
 3-45 staff member designated by the board of trustees of the school  
 3-46 district or the governing body of the open-enrollment charter  
 3-47 school in response to a report of an alleged incident [complaint] or  
 3-48 an investigation of district or school personnel or a report  
 3-49 [complaint] of alleged abuse committed by a student; or

3-50 (5) [(4)] appropriate agency or State Board for  
 3-51 Educator Certification personnel or agents as part of an  
 3-52 investigation.

3-53 (i-1) A contractor or employee performing job duties  
 3-54 relating to the installation, operation, or maintenance of video  
 3-55 equipment or the retention of video recordings who incidentally  
 3-56 views a video recording is not in violation of Subsection (i).

3-57 (j) If a person described by Subsection (i)(4) [(i)(3)] or  
 3-58 (5) [(4)] who views the video recording believes that the recording  
 3-59 documents a possible violation under Subchapter E, Chapter 261,  
 3-60 Family Code, the person shall notify the Department of Family and  
 3-61 Protective Services for investigation in accordance with Section  
 3-62 261.406, Family Code. If any person described by Subsection (i)(3)  
 3-63 [(i)(2)], [(3), or] (4), or (5) who views the recording believes  
 3-64 that the recording documents a possible violation of district or  
 3-65 school policy, the person may allow access to the recording to  
 3-66 appropriate legal and human resources personnel. A recording  
 3-67 believed to document a possible violation of district or school  
 3-68 policy may be used as part of a disciplinary action against district  
 3-69 or school personnel and shall be released at the request of the

4-1 student's parent or guardian in a legal proceeding. This  
4-2 subsection does not limit the access of a student's parent to a  
4-3 record regarding the student under the Family Educational Rights  
4-4 and Privacy Act of 1974 (20 U.S.C. Section 1232g) or other law.

4-5 (1) A district or school policy relating to the placement,  
4-6 operation, or maintenance of video cameras under this section must:  
4-7 (1) include information on how a person may appeal an  
4-8 action by the district or school that the person believes to be in  
4-9 violation of this section, including the appeals process under  
4-10 Section 7.057;  
4-11 (2) require that a school district or open-enrollment  
4-12 charter school provide a response to a request made under this  
4-13 section not later than the seventh school business day after  
4-14 receipt of the request by the person to whom it must be submitted  
4-15 under Subsection (a-3) that authorizes the request or states the  
4-16 reason for denying the request;  
4-17 (3) except as provided by Subdivision (5), require  
4-18 that a school or a campus begin operation of a video camera in  
4-19 compliance with this section not later than the 45th school  
4-20 business day after the request is authorized unless the agency  
4-21 grants the district an extension of time;  
4-22 (4) permit the parent or guardian of a student whose  
4-23 admission, review, and dismissal committee has determined that the  
4-24 student's placement for the following school year will be in a  
4-25 classroom or other special education setting in which a video  
4-26 camera may be placed under this section to make a request for the  
4-27 video camera by the later of:  
4-28 (A) the date on which the current school year  
4-29 ends; or  
4-30 (B) the 10th school business day after the date  
4-31 of the placement determination by the admission, review, and  
4-32 dismissal committee; and  
4-33 (5) if a request is made by a parent or guardian in  
4-34 compliance with Subdivision (4), require that a school or campus  
4-35 begin operation of a video camera in compliance with this section  
4-36 not later than the later of:  
4-37 (A) the 10th school day of the fall semester; or  
4-38 (B) the 45th school business day after the date  
4-39 the request is made.  
4-40 (m) A school district may request an expedited review by the  
4-41 agency of the district's:  
4-42 (1) denial of a request made under this section;  
4-43 (2) request for an extension of time to begin  
4-44 operation of a video camera under Subsection (1)(3); or  
4-45 (3) determination to not release a video recording to  
4-46 a person described by Subsection (i).  
4-47 (n) If a school district requests an expedited review under  
4-48 Subsection (m), the agency shall issue a preliminary judgment as to  
4-49 whether the district is likely to prevail on the issue under a full  
4-50 review by the agency. If the agency determines that the district is  
4-51 not likely to prevail, the district must fully comply with this  
4-52 section notwithstanding an appeal of the agency's decision.  
4-53 (o) The commissioner may adopt rules relating to an  
4-54 expedited review process under Subsections (m) and (n) for an  
4-55 open-enrollment charter school.  
4-56 (p) The agency shall collect data relating to requests made  
4-57 under this section and actions taken by a school district or  
4-58 open-enrollment charter school in response to a request, including  
4-59 the number of requests made, authorized, and denied.  
4-60 (q) A video recording under this section is a governmental  
4-61 record only for purposes of Section 37.10, Penal Code.  
4-62 (r) In this section:  
4-63 (1) "School business day" means a day that campus or  
4-64 school district administrative offices are open.  
4-65 (2) "Self-contained classroom" does not include a  
4-66 classroom that is a resource room instructional arrangement under  
4-67 Section 42.151.  
4-68 (3) "Staff member" means a teacher, related service  
4-69 provider, paraprofessional, counselor, or educational aide

5-1 assigned to work in a self-contained classroom or other special  
5-2 education setting.

5-3 (4) "Time-out" has the meaning assigned by Section  
5-4 37.0021.

5-5 SECTION 2. This Act takes effect immediately if it receives  
5-6 a vote of two-thirds of all the members elected to each house, as  
5-7 provided by Section 39, Article III, Texas Constitution. If this  
5-8 Act does not receive the vote necessary for immediate effect, this  
5-9 Act takes effect September 1, 2017.

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