

By: Lucio

S.B. No. 1398

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the placement and use of video cameras in certain
3 self-contained classrooms or other settings providing special
4 education services.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 29.022, Education Code, is amended by
7 amending Subsections (a), (b), (c), (d), (i), and (j) and adding
8 Subsections (a-1), (a-2), (a-3), (c-1), (i-1), (l), and (m) to read
9 as follows:

10 (a) In order to promote student safety, on receipt of a
11 written request authorized under Subsection (a-1) [~~by a parent,~~
12 ~~trustee, or staff member~~], a school district or open-enrollment
13 charter school shall provide equipment, including a video camera,
14 to the [~~each~~] school or schools in the district or the [~~each~~]
15 charter school campus or campuses specified in the request [~~in~~
16 ~~which a student who receives special education services in a~~
17 ~~self-contained classroom or other special education setting is~~
18 ~~enrolled~~]. A [~~Each~~] school or campus that receives equipment as
19 provided by this subsection shall place, operate, and maintain one
20 or more video cameras in [~~each~~] self-contained classrooms and
21 [~~classroom or~~] other special education settings [~~setting~~] in which
22 a majority of the students in regular attendance are[+]

23 [~~(1)~~] provided special education and related
24 services[+] and are

1 ~~[(2)]~~ assigned to one or more ~~[a]~~ self-contained
2 classrooms ~~[classroom]~~ or other special education settings
3 ~~[setting]~~ for at least 50 percent of the instructional day,
4 provided that:

5 (1) a school or campus that receives equipment as a
6 result of the request by a parent or staff member is required to
7 place equipment only in classrooms or settings in which the
8 parent's child is in regular attendance or to which the staff member
9 is assigned, as applicable; and

10 (2) a school or campus that receives equipment as a
11 result of the request by a board of trustees, governing body,
12 principal, or assistant principal is required to place equipment
13 only in classrooms or settings identified by the requestor, if the
14 requestor limits the request to specific classrooms or settings
15 subject to this subsection.

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

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

22 (2) a board of trustees or governing body may request
23 in writing that equipment be provided to one or more specified
24 schools or campuses at which one or more children receive special
25 education services in self-contained classrooms or other special
26 education settings;

27 (3) the principal or assistant principal of a school

1 or campus at which one or more children receive special education
2 services in self-contained classrooms or other special education
3 settings may request that equipment be provided to the principal's
4 or assistant principal's school or campus; and

5 (4) a staff member assigned to work with one or more
6 children receiving special education services in self-contained
7 classrooms or other special education settings may request in
8 writing that equipment be provided to the school or campus at which
9 the staff member works.

10 (a-2) Each school district or open-enrollment charter
11 school shall designate an administrator at the primary
12 administrative office of the district or school with responsibility
13 for coordinating the provision of equipment to schools and campuses
14 in compliance with this section.

15 (a-3) A written request must be submitted and acted on as
16 follows:

17 (1) a parent, staff member, or assistant principal
18 must submit a request to the principal or the principal's designee
19 of the school or campus addressed in the request, and the principal
20 or designee must provide a copy of the request to the administrator
21 designated under Subsection (a-2);

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

24 (3) a board of trustees or governing body must submit a
25 request to the administrator designated under Subsection (a-2), and
26 the administrator must provide a copy of the request to the
27 principal or the principal's designee of the school or campus

1 addressed in the request.

2 (b) A school or campus that places a video camera in a
3 classroom or other special education setting in accordance with
4 Subsection (a) shall operate and maintain the camera in the
5 classroom or setting, as long as the classroom or setting continues
6 to satisfy the requirements under Subsection (a), for the remainder
7 of the school year in which the school or campus received the
8 request, unless the requestor withdraws the request in writing. At
9 the end of each school year, the school or campus must notify the
10 parents of each student in regular attendance in the classroom or
11 setting that operation of the video camera will not continue during
12 the following school year unless a person who is eligible to make a
13 request for the next school year under Subsection (a-1) submits a
14 new request.

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

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

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

25 (c-1) The inside of a bathroom or any area in the classroom
26 or setting in which a student's clothes are changed may not be
27 visually monitored, except for incidental coverage of a minor

1 portion of a bathroom or changing area because of the layout of the
2 classroom or setting.

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

9 (i) A video recording of a student made according to this
10 section is confidential and may not be released or viewed except as
11 provided by this subsection or Subsection (i-1) or (j). A school
12 district or open-enrollment charter school shall release a
13 recording for viewing by:

14 (1) an [~~a school district~~] employee [~~or a parent or~~
15 ~~guardian of a student~~] who is involved in an alleged incident that
16 is documented by the recording and [~~for which a complaint~~] has been
17 reported to the district or school, on request of the employee [~~r~~
18 ~~parent, or guardian, respectively~~];

19 (2) a parent or guardian of a student who is involved
20 in an alleged incident that is documented by the recording and has
21 been reported to the district or school, on request of the parent or
22 guardian;

23 (3) appropriate Department of Family and Protective
24 Services personnel as part of an investigation under Section
25 [261.406](#), Family Code;

26 (4) [~~(3)~~] a peace officer, a school nurse, a district
27 or school administrator trained in de-escalation and restraint

1 techniques as provided by commissioner rule, or a human resources
2 staff member designated by the board of trustees of the school
3 district or the governing body of the open-enrollment charter
4 school in response to a report of an alleged incident [~~complaint~~] or
5 an investigation of district or school personnel or a report
6 [~~complaint~~] of alleged abuse committed by a student; or

7 (5) [~~(4)~~] appropriate agency or State Board for
8 Educator Certification personnel or agents as part of an
9 investigation.

10 (i-1) A contractor or employee performing job duties
11 relating to the installation, operation, or maintenance of video
12 equipment or the retention of video recordings who incidentally
13 views a video recording is not in violation of Subsection (i).

14 (j) If a person described by Subsection (i)(4) [~~(i)(3)~~] or
15 (5) [~~(4)~~] who views the video recording believes that the recording
16 documents a possible violation under Subchapter E, Chapter 261,
17 Family Code, the person shall notify the Department of Family and
18 Protective Services for investigation in accordance with Section
19 261.406, Family Code. If any person described by Subsection (i)(3)
20 [~~(i)(2)~~], [~~(3), or~~] (4), or (5) who views the recording believes
21 that the recording documents a possible violation of district
22 policy or school procedures [~~policy~~], the person may allow access
23 to the recording to appropriate legal and human resources
24 personnel. A recording believed to document a possible violation
25 of district policy or school procedures [~~policy~~] may be used as part
26 of a disciplinary action against district or school personnel and
27 shall be released at the request of the student's parent or guardian

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

5 (1) A district policy or school procedure relating to the
6 placement, operation, or maintenance of video cameras under this
7 section must:

8 (1) include information on how a person may appeal an
9 action by the district or school that the person believes to be in
10 violation of this section, including the appeals process under
11 Section 7.057;

12 (2) require that a school district or open-enrollment
13 charter school provide a response to a request made under this
14 section not later than the seventh school day after receipt of the
15 request by the person to whom it must be submitted under Subsection
16 (a-3) that authorizes the request or states the reason for denying
17 the request; and

18 (3) require that a school or a campus begin operation
19 of a video camera in compliance with this section not later than the
20 45th calendar day after the request is authorized.

21 (m) In this section:

22 (1) "Staff member" means a teacher, related service
23 provider, paraprofessional, counselor, or educational aide
24 assigned to work in a self-contained classroom or other special
25 education setting.

26 (2) "Time-out" has the meaning assigned by Section
27 37.0021.

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