

By: Lucio, et al.

S.B. No. 1398

A BILL TO BE ENTITLED

AN ACT

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

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

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

(a) In order to promote student safety, on receipt of a written request authorized under Subsection (a-1) [~~by a parent, trustee, or staff member~~], a school district or open-enrollment charter school shall provide equipment, including a video camera, to the [each] school or schools in the district or the [each] charter school campus or campuses specified in the request [~~in which a student who receives special education services in a self-contained classroom or other special education setting is enrolled~~]. A [Each] school or campus that receives equipment as provided by this subsection shall place, operate, and maintain one or more video cameras in [each] self-contained classrooms and [classroom or] other special education settings [~~setting~~] in which a majority of the students in regular attendance are [~~+~~ [~~(1)~~] provided special education and related 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 in writing that equipment be provided to the  
4 principal's 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 video 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. If  
9 for any reason a school or campus will discontinue operation of a  
10 video camera during a school year, not later than the fifth business  
11 day before the date the operation of the video camera will be  
12 discontinued, the school or campus must notify the parents of each  
13 student in regular attendance in the classroom or setting that  
14 operation of the video camera will not continue unless requested by  
15 a person eligible to make a request under Subsection (a-1). At the  
16 end of each school year, the school or campus must notify the  
17 parents of each student in regular attendance in the classroom or  
18 setting that operation of the video camera will not continue during  
19 the following school year unless a person eligible to make a request  
20 for the next school year under Subsection (a-1) submits a new  
21 request.

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

24 (1) covering all areas of the classroom or other  
25 special education setting, including a room attached to the  
26 classroom or setting used for time-out [~~except that the inside of a~~  
27 ~~bathroom or any area in the classroom or setting in which a~~

1 ~~student's clothes are changed may not be visually monitored~~]; and

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

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

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

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

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

1 resolved, including the exhaustion of all appeals.

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

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

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

16 (3) appropriate Department of Family and Protective  
17 Services personnel as part of an investigation under Section  
18 [261.406](#), Family Code;

19 (4) [~~(3)~~] a peace officer, a school nurse, a district  
20 or school administrator trained in de-escalation and restraint  
21 techniques as provided by commissioner rule, or a human resources  
22 staff member designated by the board of trustees of the school  
23 district or the governing body of the open-enrollment charter  
24 school in response to a report of an alleged incident [~~complaint~~] or  
25 an investigation of district or school personnel or a report  
26 [~~complaint~~] of alleged abuse committed by a student; or

27 (5) [~~(4)~~] appropriate agency or State Board for

1 Educator Certification personnel or agents as part of an  
2 investigation.

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

7 (j) If a person described by Subsection (i)(4) [~~(i)(3)~~] or  
8 (5) [~~(4)~~] who views the video recording believes that the recording  
9 documents a possible violation under Subchapter E, Chapter 261,  
10 Family Code, the person shall notify the Department of Family and  
11 Protective Services for investigation in accordance with Section  
12 261.406, Family Code. If any person described by Subsection (i)(3)  
13 [~~(i)(2)~~], [~~(3), or~~] (4), or (5) who views the recording believes  
14 that the recording documents a possible violation of district or  
15 school policy, the person may allow access to the recording to  
16 appropriate legal and human resources personnel. A recording  
17 believed to document a possible violation of district or school  
18 policy may be used as part of a disciplinary action against district  
19 or school personnel and shall be released at the request of the  
20 student's parent or guardian in a legal proceeding. This  
21 subsection does not limit the access of a student's parent to a  
22 record regarding the student under the Family Educational Rights  
23 and Privacy Act of 1974 (20 U.S.C. Section 1232g) or other law.

24 (1) A district or school policy relating to the placement,  
25 operation, or maintenance of video cameras under this section must:

26 (1) include information on how a person may appeal an  
27 action by the district or school that the person believes to be in

1 violation of this section, including the appeals process under  
2 Section 7.057;

3 (2) require that a school district or open-enrollment  
4 charter school provide a response to a request made under this  
5 section not later than the seventh school business day after  
6 receipt of the request by the person to whom it must be submitted  
7 under Subsection (a-3) that authorizes the request or states the  
8 reason for denying the request;

9 (3) except as provided by Subdivision (5), require  
10 that a school or a campus begin operation of a video camera in  
11 compliance with this section not later than the 45th school  
12 business day after the request is authorized unless the agency  
13 grants the district an extension of time;

14 (4) permit the parent or guardian of a student whose  
15 admission, review, and dismissal committee has determined that the  
16 student's placement for the following school year will be in a  
17 classroom or other special education setting in which a video  
18 camera may be placed under this section to make a request for the  
19 video camera by the later of:

20 (A) the date on which the current school year  
21 ends; or

22 (B) the 10th school business day after the date  
23 of the placement determination by the admission, review, and  
24 dismissal committee; and

25 (5) if a request is made by a parent or guardian in  
26 compliance with Subdivision (4), require that a school or campus  
27 begin operation of a video camera in compliance with this section



1 not later than the later of:

2 (A) the 10th school day of the fall semester; or

3 (B) the 45th school business day after the date  
4 the request is made.

5 (m) A school district may request an expedited review by the  
6 agency of the district's:

7 (1) denial of a request made under this section;

8 (2) request for an extension of time to begin  
9 operation of a video camera under Subsection (1)(3); or

10 (3) determination to not release a video recording to  
11 a person described by Subsection (i).

12 (n) If a school district requests an expedited review under  
13 Subsection (m), the agency shall issue a preliminary judgment as to  
14 whether the district is likely to prevail on the issue under a full  
15 review by the agency. If the agency determines that the district is  
16 not likely to prevail, the district must fully comply with this  
17 section notwithstanding an appeal of the agency's decision.

18 (o) The commissioner may adopt rules relating to an  
19 expedited review process under Subsections (m) and (n) for an  
20 open-enrollment charter school.

21 (p) The agency shall collect data relating to requests made  
22 under this section and actions taken by a school district or  
23 open-enrollment charter school in response to a request, including  
24 the number of requests made, authorized, and denied.

25 (q) A video recording under this section is a governmental  
26 record only for purposes of Section 37.10, Penal Code.

27 (r) In this section:

1           (1) "School business day" means a day that campus or  
2 school district administrative offices are open.

3           (2) "Self-contained classroom" does not include a  
4 classroom that is a resource room instructional arrangement under  
5 Section [42.151](#).

6           (3) "Staff member" means a teacher, related service  
7 provider, paraprofessional, counselor, or educational aide  
8 assigned to work in a self-contained classroom or other special  
9 education setting.

10           (4) "Time-out" has the meaning assigned by Section  
11 [37.0021](#).

12           SECTION 2. This Act takes effect immediately if it receives  
13 a vote of two-thirds of all the members elected to each house, as  
14 provided by Section [39](#), Article III, Texas Constitution. If this  
15 Act does not receive the vote necessary for immediate effect, this  
16 Act takes effect September 1, 2017.