

BILL ANALYSIS

Senate Research Center

S.B. 507
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Education
6/29/2015
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Every instance of abuse and bullying in school is unacceptable. Unfortunately, when the victim is a nonverbal special needs student, such incidents often go unreported. With their victims unable to speak for themselves and with no way to prove the abuse, those who would prey on these most vulnerable children frequently continue their abusive behavior with no fear of repercussion. In these instances, video footage of misconduct can serve as a child's only cry for help.

To ensure the safety interests of these children, S.B. 507 affords them the opportunity for special protection by placing cameras in their classrooms and certain other settings under very limited circumstances. The presence of cameras only in the self-contained, unique learning environments of nonverbal students may deter incidences of abuse against these vulnerable children, and also protect special education teachers from unfounded claims of misconduct.

S.B. 507 amends current law relating to the placement and use of video cameras in self-contained classrooms or other settings providing special education services.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 2 (Section 29.022, Education Code) and SECTION 3 (Section 42.2528, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 26.009(b), Education Code, as follows:

(b) Provides that an employee of a school district is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or authorize the recording of a child's voice if the videotape or voice recording is to be used only for certain purposes, including for a purpose related to the promotion of student safety under Section 29.022. Makes nonsubstantive changes.

SECTION 2. Amends Subchapter A, Chapter 29, Education Code, by adding Section 29.022, as follows:

Sec. 29.022. VIDEO SURVEILLANCE OF SPECIAL EDUCATION SETTINGS. (a) Requires a school district or open-enrollment charter school, in order to promote student safety on request by a parent, trustee, or staff member, to provide equipment, including a video camera, to each school in the district or each charter school campus in which a student who receives special education services in a self-contained classroom or other special education setting is enrolled. Requires each school or campus that receives equipment to place, operate, and maintain one or more video cameras in each self-contained classroom or other special education setting in which a majority of the students in regular attendance are:

(1) provided special education and related services; and

(2) assigned to a self-contained classroom or other special education setting for at least 50 percent of the instructional day.

(b) Requires a school or campus that places a video camera in a classroom or other special education setting in accordance with Subsection (a) to operate and maintain the camera in the classroom or setting as long as the classroom or setting continues to satisfy the requirements under Subsection (a).

(c) Requires that video cameras placed under this section be capable of:

(1) covering all areas of the classroom or other special education setting, except that the inside of a bathroom or any area in the classroom or setting in which a student's clothes are changed may not be visually monitored; and

(2) recording audio from all areas of the classroom or other special education setting.

(d) Requires a school or campus, before the school or campus places a video camera in a classroom or other special education setting under this section, to provide written notice of the placement to all school or campus staff and to the parents of a student receiving special education services in the classroom or setting.

(e) Requires a school district or open-enrollment charter school to retain video recorded from a camera placed under this section for at least six months after the date the video was recorded.

(f) Authorizes a school district or open-enrollment charter school to solicit and accept gifts, grants, and donations from any person for use in placing video cameras in classrooms or other special education settings under this section.

(g) Provides that this section does not:

(1) waive any immunity from liability of a school district or open-enrollment charter school, or of district or school officers or employees; or

(2) create any liability for a cause of action against a school district or open-enrollment charter school or against district or school officers or employees.

(h) Prohibits a school district or open-enrollment charter school from:

(1) allowing regular or continual monitoring of video recorded under this section;
or

(2) using video recorded under this section for teacher evaluation or for any other purpose other than the promotion of safety of students receiving special education services in a self-contained classroom or other special education setting.

(i) Provides that a video recording of a student made according to this section is confidential and is prohibited from being released or viewed except as provided by this subsection or Subsection (j). Requires a school district or open-enrollment charter school to release a recording for viewing by:

(1) a school district employee or a parent or guardian of a student who is involved in an incident documented by the recording for which a complaint has been reported to the district, on request of the employee, parent, or guardian, respectively;

(2) appropriate Department of Family and Protective Services (DFPS) personnel as part of an investigation under Section 261.406 (Investigations in Schools), Family Code;

(3) a peace officer, a school nurse, a district administrator trained in de-escalation and restraint techniques as provided by commissioner of education (commissioner) rule, or a human resources staff member designated by the board of trustees of the school district or the governing body of the open-enrollment charter school in response to a complaint or an investigation of district or school personnel or a complaint of abuse committed by a student; or

(4) appropriate agency or State Board for Educator Certification personnel or agents as part of an investigation.

(j) Requires a person described by Subsection (i)(3) or (4) who views the video recording believes that the recording documents a possible violation under Subchapter E (Investigations of Abuse, Neglect, or Exploitation in Certain Facilities), Chapter 261, Family Code, to notify DFPS for investigation in accordance with Section 261.406, Family Code. Authorizes any person described by Subsection (i)(2), (3), or (4) who views the recording believes that the recording documents a possible violation of district or school policy to allow access to the recording to appropriate legal and human resources personnel. Authorizes a recording believed to document a possible violation of district or school policy to be used as part of a disciplinary action against district or school personnel and requires it to be released at the request of the student's parent or guardian in a legal proceeding. Provides that this subsection does not limit the access of a student's parent to a record regarding the student under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or other law.

(k) Authorizes the commissioner to adopt rules to implement and administer this section, including rules regarding the special education settings to which this section applies.

SECTION 3. Amends Subchapter E, Chapter 42, Education Code, by adding Section 42.2528, as follows:

Sec. 42.2528. EXCESS FUNDS FOR VIDEO SURVEILLANCE OF SPECIAL EDUCATION SETTINGS. (a) Requires the commissioner by rule, notwithstanding any other provision of law, if the commissioner determines that the amount appropriated for the purposes of the Foundation School Program exceeds the amount to which school districts are entitled under this chapter, to establish a grant program through which excess funds are awarded as grants for the purchase of video equipment, or for the reimbursement of costs for previously purchased video equipment, used for monitoring special education classrooms or other special education settings required under Section 29.022.

(b) Requires the commissioner, in awarding grants under this section, to give highest priority to districts with maintenance and operations tax rates at the greatest rates permitted by law. Requires the commissioner to also give priority to:

(1) districts with maintenance and operations tax rates at least equal to the state maximum compressed tax rate, as defined by Section 42.101(a), and lowest amounts of maintenance and operations tax revenue per weighted student; and

(2) districts with debt service tax rates near or equal to the greatest rates permitted by law.

(c) Authorizes the commissioner to adopt rules to implement and administer this section.

SECTION 4. (a) Requires the commissioner of education, subject to the availability of funds, to distribute grant funds in accordance with Section 42.2528, Education Code, as added by this Act, beginning with the 2015-2016 school year.

(b) Provides that the change in law made by Section 29.022, Education Code, as added by this Act, applies beginning with the 2016-2017 school year.

SECTION 5. Effective date: upon passage or September 1, 2015.