

BILL ANALYSIS

Senate Research Center

S.B. 1398
By: Lucio
Education
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 84th Regular Session, the legislature passed S.B. 507, which protected vulnerable students by providing for the installation of closed circuit video cameras in certain classrooms that serve students with special needs. Unfortunately, over the interim, the Texas attorney general offered an interpretation of the language of S.B. 507 that created a much broader mandate than was intended. Many districts and parents asked for guidance on this and other aspects of implementation in order to protect the students in these classroom environments while preserving a targeted approach to student safety.

S.B. 1398 removes this ambiguity, to ensure the legislature's original intent is met and the parents of Texas' most vulnerable children receive the peace of mind they deserve. Most importantly, the bill clarifies that a request for cameras is limited to classrooms where the requesting parent has a child in regular attendance. The bill also contains numerous additional provisions that address issues districts, parents, and other stakeholders have reported that stand in the way of the successful implementation of S.B. 507. These include guidance on how long a district must continue to operate a camera, clarification on who may view video recordings of an alleged incident, and a timeline for installing and activating equipment. The focused provisions and enhanced guidance provided in S.B. 1398 assist districts in achieving the original bill's intent to provide protection for students with special needs. (Original Author's / Sponsor's Statement of Intent)

S.B. 1398 amends current law relating to the placement and use of video cameras in certain self-contained classrooms or other settings providing special education services.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 29.022, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 29.022, Education Code, 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), (r), (s), (t), and (u), as follows:

(a) Requires a school district or open-enrollment charter school to, on receipt of a written request authorized under Subsection (a-1), provide certain equipment to the school or schools in the district or the charter school campus or campuses specified in the request, rather than requires a school district or open-enrollment charter school to, on request by a parent, trustee, or staff member, provide certain equipment 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, in order to promote student safety. Requires a school or campus that receives equipment as provided by this subsection to place, operate, and maintain one or more video cameras in self-contained classrooms and other special education settings in which a majority of the students are provided certain services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day, provided that certain conditions are met, rather than 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 are provided certain services and assigned to a self-contained classroom or other special education setting for at least 50 percent of the instructional day. Makes nonsubstantive changes.

(a-1) Provides that for purposes of Subsection (a):

(1) a parent of a child who receives certain special education services may request in writing that equipment be provided to the school or campus at which the child receives those services;

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

(3) the principal or assistant principal of a certain school or campus may request in writing that equipment be provided to the principal's or assistant principal's school or campus; and

(4) a staff member assigned to work with one or more children receiving certain special education services in certain settings may request in writing that equipment be provided to the school or campus at which the staff member works.

(a-2) Requires each school district or open-enrollment charter school to designate an administrator at the primary administrative office of the district or school with responsibility for coordinating the provision of equipment to schools and campuses in compliance with this section.

(a-3) Requires that a written request be submitted and acted on in a certain manner, depending on the persons submitting the request.

(b) Requires a certain school or campus to operate and maintain the video camera in the classroom or setting, as long as the classroom or setting continues to satisfy the requirements under Subsection (a), for the remainder of the school year in which the school or campus received the request, unless the requestor withdraws the request in writing. Requires the school or campus, if for any reason a school or campus will discontinue operation of a video camera during a school year, to, not later than a certain date, notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue unless requested by a person eligible to make a request under Subsection (a-1). Requires the school or campus, not later than the 10th school day before the end of each school year, to notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue during the following school year unless a person eligible to make a request for the next school year under Subsection (a-1) submits a new request.

(c) Requires that video cameras placed under this section be capable of covering all areas and recording audio from all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out, except as provided by Subsection (c-1). Deletes existing text prohibiting the inside of a bathroom or any area in the classroom or setting in which a student's clothes are changed from being visually monitored.

(c-1) Prohibits the inside of a bathroom or any area in the classroom or other special education setting in which a student's clothes are changed from being visually monitored, except for incidental coverage of a minor portion of a bathroom or changing area because of the layout of the classroom or setting.

(d) Requires the school or campus to provide written notice of the placement to all school or campus staff and to the parents of each student attending class or engaging in school activities in the classroom or setting before a school or campus activates a video camera in a certain setting, rather than 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 before the school or campus places a video camera in a certain setting.

(e) Requires a school district or open-enrollment charter school, except as provided by Subsection (e-1), to retain video recorded from a video camera placed under this section for at least three, rather than six, months after the date the video was recorded.

(e-1) Requires a school district or open-enrollment charter school, if a person described by Subsection (i) requests to view a video recording from a video camera placed under this section, to retain the recording from the date of receipt of the request until the person has viewed the recording and a determination has been made as to whether the recording documents an alleged incident. Requires the district or school, if the recording documents an alleged incident, to retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.

(i) Creates an exception provided by Subsection (i-1). Requires a school district or open-enrollment charter school to release a recording for viewing by certain concerned individuals or agencies. Makes nonsubstantive changes.

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

(j) Authorizes a recording believed to document a possible violation of district or school policy relating to the neglect or abuse of a student, rather than district or school policy, to be used as part of certain disciplinary actions and is required to be released at the request of the student's parent, rather than parent or guardian, in a legal proceeding. Makes conforming changes.

(l) Requires that a school district or open-enrollment charter school policy relating to the placement, operation, or maintenance of video cameras under this section meet certain requirements.

(m) Authorizes a school district, parent, staff member, or administrator to request an expedited review by the Texas Education Agency (TEA) of certain actions of the district.

(n) Requires TEA, if a school district, parent, staff member, or administrator requests an expedited review under Subsection (m), to notify all other interested parties of the request.

(o) Requires TEA, if an expedited review has been requested under Subsection (m), to issue a preliminary judgment as to whether the district is likely to prevail on the issue under a full review by TEA. Requires the district, if TEA determines that the district is not likely to prevail, to fully comply with this section notwithstanding an appeal of TEA's decision. Requires TEA to notify the requestor and the district, if the district is not the requestor, of TEA's determination.

(p) Provides that the commissioner of education:

(1) is required to adopt rules relating to an expedited review process under Subsections (m), (n), and (o), including standards for making a determination under Subsection (o); and

(2) is authorized to adopt rules relating to an expedited review process under Subsections (m), (n), and (o) for an open-enrollment charter school.

(q) Requires TEA to collect data relating to requests made under this section and actions taken by a school district or open-enrollment charter school in response to a request, including the number of requests made, authorized, and denied.

(r) Provides that a video recording is a governmental record only for purposes of Section 37.10 (Tampering With Governmental Record), Penal Code.

(s) Provides that this section applies to the placement, operation, and maintenance of a video camera in a self-contained classroom or other special education setting during the regular school year and extended school year services.

(t) Provides that a video camera placed under this section is not required to be in operation for the time during which students are not present in the classroom or other special education setting.

(u) Defines "parent," "school business day," "self-contained classroom," "staff member," and "time-out."

SECTION 2. Effective date: upon passage or September 1, 2017.