

HOUSE BILL 715

F1

1l2556
CF 1l2508

By: **Delegate Guyton**

Introduced and read first time: January 26, 2021

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Public Schools – Self-Contained Special Education Classrooms – Use of Video**
3 **Recording Devices**

4 FOR the purpose of requiring each county board of education, beginning in a certain school
5 year, to install certain video recording devices in self-contained special education
6 classrooms; requiring a certain video recording device to record certain areas at
7 certain times; prohibiting a certain video recording device to record certain areas;
8 requiring a county board to provide notice of the use of video recording devices in
9 self-contained special education classrooms in a certain manner; prohibiting a
10 county board from storing a certain video recording for a certain amount of time
11 except under certain circumstances; requiring a county board to store a certain video
12 recording for a certain amount of time under certain circumstances; requiring a
13 certain person to submit a certain report to the principal of a certain school under
14 certain circumstances; requiring the principal to maintain a certain report for a
15 certain amount of time; establishing that a certain video recording is confidential
16 and may not be viewed, shared, or disseminated except under certain circumstances;
17 authorizing certain persons to view a certain video recording under certain
18 circumstances; requiring a school administration to review a certain video recording
19 by a certain time under certain circumstances; requiring a school administration or
20 a representative of Child Protective Services to make a certain video recording
21 available only to a certain law enforcement agency under certain circumstances;
22 authorizing a school administration to share a certain video recording with certain
23 parties at the conclusion of a certain investigation under certain circumstances;
24 requiring a certain employee to report certain actions under certain circumstances
25 and in a certain manner; requiring a principal to notify a parent or legal guardian of
26 a certain student of a certain report within a certain amount of time; requiring a
27 county board to make a reasonable attempt to conceal the identity of a certain
28 student under certain circumstances; prohibiting the State Department of
29 Education, a county board, a school, or a principal from using a certain video
30 recording device for a certain purpose; authorizing a county board to solicit and
31 accept certain funds for a certain purpose; requiring certain video recording devices

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



to comply with certain fire and safety standards; requiring a county board to collect certain data each year; requiring a county board, beginning in a certain year and each year thereafter, to submit a certain report to the Department; requiring the Department to adopt certain regulations; defining certain terms; and generally relating to the use of video recording devices in self-contained special education classrooms.

BY adding to

Article – Education

Section 7–447

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – Education

Section 8–401(a)(1) and (5)

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Education

7–447.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “EXCLUSION AREA” MEANS A SUPERVISED AREA TO WHICH A STUDENT WHO RECEIVES INSTRUCTION IN A SELF-CONTAINED SPECIAL EDUCATION CLASSROOM IS TAKEN FOR A LIMITED PERIOD OF TIME TO REGAIN SELF-CONTROL.

(3) “SPECIAL EDUCATION” HAS THE MEANING STATED IN § 8–401 OF THIS ARTICLE.

(4) “SPECIAL EDUCATION CLASSROOM” MEANS A CLASSROOM IN A PUBLIC SCHOOL IN WHICH A MAJORITY OF THE REGULARLY ATTENDING STUDENTS ARE PROVIDED SPECIAL EDUCATION INSTRUCTION, INCLUDING STUDENTS WHO ARE CLASSIFIED PRIMARILY AS CERTIFICATE TRACK, ARE PRIMARILY NONVERBAL, AND ARE PARTICIPATING IN LIFE SKILLS OR COMMUNITY-BASED PROGRAMMING.

(B) (1) BEGINNING IN THE 2021–2022 SCHOOL YEAR, EACH COUNTY BOARD SHALL INSTALL AT LEAST ONE VIDEO RECORDING DEVICE IN EACH SELF-CONTAINED SPECIAL EDUCATION CLASSROOM.

1 **(2) A VIDEO RECORDING DEVICE UNDER THIS SUBSECTION SHALL**
2 **RECORD:**

3 **(I) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
4 **SUBSECTION, ALL AREAS OF THE SELF-CONTAINED SPECIAL EDUCATION**
5 **CLASSROOM, INCLUDING ALL EXCLUSION AREAS; AND**

6 **(II) DURING SCHOOL HOURS AND AT ANY TIME THE**
7 **SELF-CONTAINED SPECIAL EDUCATION CLASSROOM OR EXCLUSION AREA IS IN USE.**

8 **(3) A VIDEO RECORDING DEVICE UNDER THIS SECTION MAY NOT**
9 **RECORD INSIDE BATHROOM AREAS OR IN AREAS THAT STUDENTS USE TO CHANGE**
10 **CLOTHING.**

11 **(C) EACH COUNTY BOARD SHALL PROVIDE NOTICE OF THE USE OF A VIDEO**
12 **RECORDING DEVICE IN A SELF-CONTAINED SPECIAL EDUCATION CLASSROOM BY:**

13 **(1) POSTING A SIGN IN A CONSPICUOUS LOCATION OUTSIDE EACH**
14 **SELF-CONTAINED SPECIAL EDUCATION CLASSROOM WHERE A VIDEO RECORDING**
15 **DEVICE IS USED;**

16 **(2) PROVIDING A WRITTEN NOTICE TO THE PARENT OR LEGAL**
17 **GUARDIAN OF EACH STUDENT WHO RECEIVES INSTRUCTION IN A SELF-CONTAINED**
18 **SPECIAL EDUCATION CLASSROOM; AND**

19 **(3) PROVIDING WRITTEN NOTICE IN THE STUDENT HANDBOOK OF**
20 **THE USE OF VIDEO RECORDING DEVICES.**

21 **(D) (1) UNLESS A COUNTY BOARD RECEIVES A REQUEST TO VIEW OR**
22 **STORE A PARTICULAR VIDEO RECORDING, THE COUNTY BOARD MAY NOT STORE A**
23 **VIDEO RECORDING MADE UNDER THIS SECTION FOR MORE THAN 6 MONTHS AFTER**
24 **THE DATE OF THE RECORDING.**

25 **(2) IF A REQUEST IS MADE UNDER PARAGRAPH (1) OF THIS**
26 **SUBSECTION, THE COUNTY BOARD SHALL STORE THE VIDEO RECORDING UNTIL THE**
27 **REASON FOR THE REQUEST IS RESOLVED.**

28 **(3) IF A VIDEO RECORDING IS TO BE USED AS EVIDENCE TO SUPPORT**
29 **OR REFUTE A COMPLAINT AGAINST A STUDENT, AN EMPLOYEE, OR A CONTRACTOR,**
30 **THE COUNTY BOARD SHALL RETAIN THE PORTION OF THE VIDEO RECORDING**
31 **RELATED TO THE COMPLAINT FOR AT LEAST 1 YEAR AFTER THE DATE THE**
32 **COMPLAINT IS MADE.**

(E) (1) IF A PERSON DISCOVERS THAT THE OPERATION OF A VIDEO RECORDING DEVICE HAS BEEN INTERRUPTED, THE PERSON SHALL SUBMIT A WRITTEN REPORT TO THE PRINCIPAL OF THE SCHOOL THAT INCLUDES A DESCRIPTION OF:

(I) HOW THE INTERRUPTION WAS DISCOVERED AND THE LENGTH OF THE INTERRUPTION; AND

(II) THE REASON FOR THE INTERRUPTION, IF KNOWN.

(2) A PRINCIPAL SHALL MAINTAIN A REPORT SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR 1 YEAR AFTER THE DATE OF THE SUBMISSION OF THE REPORT.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A VIDEO RECORDING MADE IN ACCORDANCE WITH THIS SECTION IS CONFIDENTIAL AND MAY NOT BE VIEWED, SHARED, OR DISSEMINATED IN ANY MANNER.

(2) EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, THE FOLLOWING PERSONS MAY VIEW A VIDEO RECORDING MADE UNDER THIS SECTION:

(I) A MEMBER OF THE SCHOOL ADMINISTRATION;

(II) A SCHOOL RESOURCE OFFICER;

(III) A REPRESENTATIVE FROM CHILD PROTECTIVE SERVICES;

AND

(IV) A LAW ENFORCEMENT AGENCY.

(G) (1) ON COMPLAINT OR REPORT TO THE SCHOOL, COUNTY BOARD, OR OTHER LEGAL AUTHORITY FROM AN EMPLOYEE, A CONTRACTED EMPLOYEE, A PARENT, OR ANY OTHER INTERESTED PARTY REGARDING AN INCIDENT THAT OCCURRED IN THE SELF-CONTAINED SPECIAL EDUCATION CLASSROOM WHILE THE VIDEO DEVICE WAS RECORDING, THE SCHOOL ADMINISTRATION SHALL REVIEW THE VIDEO RECORDING NOT MORE THAN 3 DAYS AFTER THE DATE THE COMPLAINT OR REPORT WAS MADE.

(2) AFTER REVIEW OF THE VIDEO RECORDING, IF THE SCHOOL ADMINISTRATION OR, IF APPLICABLE, A REPRESENTATIVE FROM CHILD PROTECTIVE SERVICES BELIEVES THAT THE VIDEO RECORDING SHOWS POTENTIAL CRIMINAL CONDUCT, THE VIDEO SHALL BE MADE AVAILABLE ONLY TO A LAW

1 ENFORCEMENT AGENCY FOR AN INVESTIGATION.

2 (3) AT THE CONCLUSION OF AN INVESTIGATION BY A LAW
3 ENFORCEMENT AGENCY UNDER PARAGRAPH (2) OF THIS SUBSECTION, AND ON
4 REQUEST OF THE STUDENT OR PARENT OF THE STUDENT TO WHOM THE VIDEO
5 RECORDING DIRECTLY RELATES, THE SCHOOL ADMINISTRATION SHALL ALLOW THE
6 STUDENT OR PARENT TO INSPECT AND REVIEW THE VIDEO RECORDING.

7 (H) (1) IF A SCHOOL ADMINISTRATOR OR OTHER EMPLOYEE OF A SCHOOL
8 OBSERVES AN ACTION THAT COULD BE CONSIDERED THE ABUSE OR NEGLECT OF A
9 STUDENT IN A SELF-CONTAINED SPECIAL EDUCATION CLASSROOM OR EXCLUSION
10 AREA, THE SCHOOL ADMINISTRATOR OR EMPLOYEE SHALL REPORT THE ACTION IN
11 ACCORDANCE WITH ANY APPLICABLE CHILD ABUSE AND NEGLECT REPORTING
12 GUIDELINES.

13 (2) ON RECEIVING A REPORT UNDER PARAGRAPH (1) OF THIS
14 SUBSECTION, A PRINCIPAL SHALL NOTIFY A PARENT OR LEGAL GUARDIAN OF THE
15 STUDENT WHO IS THE SUBJECT OF THE REPORT WITHIN 24 HOURS AFTER
16 RECEIVING THE REPORT.

17 (I) A COUNTY BOARD SHALL MAKE A REASONABLE ATTEMPT TO CONCEAL
18 THE IDENTITY OF ANY STUDENT WHO APPEARS IN A VIDEO RECORDING MADE UNDER
19 THIS SECTION WHO IS NOT INVOLVED IN THE INCIDENT FOR WHICH THE VIDEO
20 RECORDING IS BEING VIEWED.

21 (J) THE DEPARTMENT, A COUNTY BOARD, A SCHOOL, OR A PRINCIPAL MAY
22 NOT USE A VIDEO RECORDING DEVICE TO MONITOR THE PERFORMANCE OF SCHOOL
23 EMPLOYEES.

24 (K) A COUNTY BOARD MAY SOLICIT AND ACCEPT GIFTS, GRANTS, AND
25 DONATIONS FROM ANY PERSON TO BE USED TOWARD THE INSTALLATION AND
26 OPERATION OF A VIDEO RECORDING DEVICE UNDER THIS SECTION.

27 (L) ALL VIDEO RECORDING DEVICES UNDER THIS SECTION SHALL COMPLY
28 WITH FEDERAL FIRE AND SAFETY STANDARDS.

29 (M) (1) EACH YEAR, A COUNTY BOARD SHALL COLLECT DATA ON:

30 (I) THE NUMBER OF REQUESTS TO VIEW A VIDEO RECORDING
31 MADE UNDER THIS SECTION; AND

32 (II) THE IDENTITY OF THE PERSON THAT MADE A REQUEST.

(2) BEGINNING JANUARY 1, 2022, AND EACH JANUARY 1 THEREAFTER, A COUNTY BOARD SHALL SUBMIT A REPORT TO THE DEPARTMENT ON THE DATA COLLECTED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

(N) THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

8-401.

(a) (1) In this subtitle the following words have the meanings indicated.

(5) "Special education" means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including:

(i) Instruction in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.