

HOUSE BILL 226

F1
HB 715/21 – W&M

2lr1528
CF 2lr2161

By: **Delegates Guyton and Luedtke**

Introduced and read first time: January 13, 2022

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Public Schools – Self-Contained Special Education Classroom – 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 a video recording device in each self-contained special education
6 classroom; providing for the installation, operation, notification, and use of a video
7 recording device and the viewing, use, and confidentiality of system recordings;
8 requiring the school administration to notify the appropriate law enforcement
9 agency on receipt of a complaint of alleged neglect or abuse of a student under certain
10 circumstances; requiring a school administrator or other employee of a school to
11 report observed actions that could be considered the abuse or neglect of a certain
12 student under certain circumstances; requiring each county board to collect certain
13 data regarding video recording devices and system recordings for certain school
14 years; requiring the State Department of Education to evaluate the use of video
15 recording devices in self-contained special education classrooms and make a certain
16 determination; and generally relating to the use of video recording devices in
17 self-contained special education classrooms.

18 BY adding to
19 Article – Education
20 Section 7–450
21 Annotated Code of Maryland
22 (2018 Replacement Volume and 2021 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article – Education
25 Section 8–401(a)(1) and (5)
26 Annotated Code of Maryland
27 (2018 Replacement Volume and 2021 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



That the Laws of Maryland read as follows:

Article – Education

7-450.

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

(2) “DIGITAL EVIDENCE MANAGEMENT SYSTEM” MEANS A CLOUD-BASED STORAGE SYSTEM USED TO STORE ALL RECORDINGS FROM A VIDEO RECORDING DEVICE LOCATED IN A SELF-CONTAINED SPECIAL EDUCATION CLASSROOM.

(3) “DIVISION” MEANS THE DIVISION OF EARLY INTERVENTION AND SPECIAL EDUCATION SERVICES WITHIN THE DEPARTMENT.

(4) “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.

(5) “SELF-CONTAINED SPECIAL EDUCATION CLASSROOM” MEANS A CLASSROOM IN A PUBLIC SCHOOL IN WHICH THE REGULARLY ATTENDING STUDENTS HAVE A DISABILITY AND ARE PROVIDED SPECIAL EDUCATION INSTRUCTION FOR AT LEAST 50% OF THE INSTRUCTIONAL DAY, INCLUDING STUDENTS WHO ARE CLASSIFIED PRIMARILY AS CERTIFICATE TRACK AND CANNOT RELY ON SPEECH ALONE TO BE HEARD AND UNDERSTOOD.

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

(7) “SYSTEM RECORDING” MEANS ALL VIDEO CAPTURED AND UPLOADED FROM A VIDEO RECORDING DEVICE LOCATED IN A SELF-CONTAINED SPECIAL EDUCATION CLASSROOM.

(B) (1) EACH COUNTY BOARD SHALL INSTALL AT LEAST ONE VIDEO RECORDING DEVICE IN EACH SELF-CONTAINED SPECIAL EDUCATION CLASSROOM IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

(2) THE INSTALLATION SHALL BE DONE AT THE DISCRETION OF THE DIVISION ON THE FOLLOWING SCHEDULE:

(I) BEGINNING IN THE 2022-2023 SCHOOL YEAR, INSTALLATION IN AT LEAST 50% OF THE SELF-CONTAINED SPECIAL EDUCATION

1 CLASSROOMS WITHIN THE LOCAL SCHOOL SYSTEM; AND

2 (II) BEGINNING IN THE 2023-2024 SCHOOL YEAR,
3 INSTALLATION IN 100% OF THE SELF-CONTAINED SPECIAL EDUCATION
4 CLASSROOMS WITHIN THE LOCAL SCHOOL SYSTEM.

5 (3) A VIDEO RECORDING DEVICE UNDER THIS SUBSECTION SHALL
6 RECORD:

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

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

12 (4) A VIDEO RECORDING DEVICE UNDER THIS SECTION MAY NOT
13 RECORD INSIDE BATHROOM AREAS OR IN AREAS THAT STUDENTS USE TO CHANGE
14 CLOTHING.

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

17 (1) POSTING A SIGN IN A CONSPICUOUS LOCATION OUTSIDE EACH
18 SELF-CONTAINED SPECIAL EDUCATION CLASSROOM WHERE A VIDEO RECORDING
19 DEVICE IS USED;

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

23 (3) PROVIDING WRITTEN NOTICE IN THE STUDENT HANDBOOK OF
24 THE USE OF VIDEO RECORDING DEVICES.

25 (D) (1) ALL SYSTEM RECORDINGS SHALL BE UPLOADED TO A DIGITAL
26 EVIDENCE MANAGEMENT SYSTEM AND SHALL REMAIN THE PROPERTY OF THE
27 COUNTY BOARD.

28 (2) UNLESS A COUNTY BOARD RECEIVES A REQUEST TO VIEW OR
29 STORE A PARTICULAR VIDEO RECORDING, THE COUNTY BOARD SHALL STORE A
30 VIDEO RECORDING MADE UNDER THIS SECTION FOR AT LEAST 3 MONTHS AND NOT
31 MORE THAN 6 MONTHS AFTER THE DATE OF THE RECORDING.

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

(4) IF A VIDEO RECORDING IS TO BE USED AS EVIDENCE TO SUPPORT OR REFUTE A COMPLAINT AGAINST AN EMPLOYEE OR A CONTRACTOR, THE COUNTY BOARD SHALL RETAIN THE PORTION OF THE VIDEO RECORDING RELATED TO THE COMPLAINT FOR AT LEAST 1 YEAR AFTER THE DATE THE 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) THE COUNTY BOARD 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 SUBSECTIONS (G) AND (L) OF THIS SECTION AND 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) THE FOLLOWING PERSONS MAY VIEW A VIDEO RECORDING MADE UNDER THIS SECTION:

(I) A MEMBER OF THE SCHOOL ADMINISTRATION;

(II) A SUPERVISOR FROM THE ADMINISTRATION OF THE SCHOOL SYSTEM;

**(III) A REPRESENTATIVE FROM CHILD PROTECTIVE SERVICES;
AND**

(IV) A LAW ENFORCEMENT AGENCY.

(G) (1) THE SCHOOL ADMINISTRATION SHALL NOTIFY THE APPROPRIATE LAW ENFORCEMENT AGENCY IN ACCORDANCE WITH § 5-704 OF THE FAMILY LAW

1 ARTICLE ON RECEIPT OF A COMPLAINT OF ALLEGED NEGLECT OR ABUSE OF A
2 STUDENT THAT OCCURRED IN A SELF-CONTAINED SPECIAL EDUCATION
3 CLASSROOM WHILE A VIDEO RECORDING DEVICE WAS RECORDING.

4 (2) THE SCHOOL ADMINISTRATION AND A REPRESENTATIVE FROM
5 THE SUPERINTENDENT'S OFFICE SHALL REVIEW THE VIDEO RECORDING WITH THE
6 APPROPRIATE LAW ENFORCEMENT AGENCY WITHIN 3 DAYS AFTER THE DATE THE
7 COMPLAINT OR REPORT WAS MADE.

8 (3) AT THE CONCLUSION OF AN INVESTIGATION CONDUCTED BY A
9 LAW ENFORCEMENT AGENCY RELATED TO A COMPLAINT NOTIFICATION RECEIVED
10 UNDER PARAGRAPH (1) OF THIS SUBSECTION, AND ON REQUEST OF THE STUDENT,
11 PARENT, OR LEGAL GUARDIAN OF THE STUDENT TO WHOM THE VIDEO RECORDING
12 DIRECTLY RELATES, THE SUPERINTENDENT'S OFFICE SHALL ALLOW THE STUDENT,
13 PARENT, OR LEGAL GUARDIAN TO INSPECT AND REVIEW THE VIDEO RECORDING.

14 (H) (1) IF A SCHOOL ADMINISTRATOR OR OTHER EMPLOYEE OF A SCHOOL
15 OBSERVES AN ACTION THAT COULD BE CONSIDERED THE ABUSE OR NEGLECT OF A
16 STUDENT IN A SELF-CONTAINED SPECIAL EDUCATION CLASSROOM OR EXCLUSION
17 AREA, THE SCHOOL ADMINISTRATOR OR EMPLOYEE SHALL REPORT THE ACTION IN
18 ACCORDANCE WITH ANY APPLICABLE CHILD ABUSE AND NEGLECT REPORTING
19 GUIDELINES.

20 (2) ON RECEIVING A REPORT UNDER PARAGRAPH (1) OF THIS
21 SUBSECTION, A PRINCIPAL SHALL NOTIFY A PARENT OR LEGAL GUARDIAN OF THE
22 STUDENT WHO IS THE SUBJECT OF THE REPORT WITHIN 24 HOURS AFTER
23 RECEIVING THE REPORT.

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

28 (J) THE DEPARTMENT, A COUNTY BOARD, A SCHOOL, OR A PRINCIPAL MAY
29 NOT USE A VIDEO RECORDING DEVICE TO MONITOR THE PROFESSIONAL
30 PERFORMANCE OF SCHOOL EMPLOYEES.

31 (K) THE DEPARTMENT, A COUNTY BOARD, A SCHOOL, OR A PRINCIPAL MAY
32 NOT USE A VIDEO RECORDING:

33 (1) AS EVIDENCE IN A COMPLAINT AGAINST A STUDENT THAT IS NOT
34 RELATED TO A CRIMINAL COMPLAINT; OR

1 **(2) IN THE OBSERVATION OR EVALUATION OF A STUDENT FOR**
2 **STUDENT PLACEMENT DECISIONS.**

3 **(L) NOTHING IN THIS SECTION PRECLUDES THE USE OF A VIDEO**
4 **RECORDING IN ACCORDANCE WITH A DISCIPLINARY ACTION OR AN INVESTIGATION**
5 **OF ABUSE OR NEGLECT WITHIN THE SCHOOL SYSTEM.**

6 **(M) A COUNTY BOARD MAY SOLICIT AND ACCEPT GIFTS, GRANTS, AND**
7 **DONATIONS FROM ANY PERSON TO BE USED TOWARD THE INSTALLATION AND**
8 **OPERATION OF A VIDEO RECORDING DEVICE UNDER THIS SECTION.**

9 **(N) ALL VIDEO RECORDING DEVICES UNDER THIS SECTION SHALL COMPLY**
10 **WITH FEDERAL FIRE AND SAFETY STANDARDS.**

11 **(O) (1) BEGINNING IN THE 2022–2023 SCHOOL YEAR THROUGH THE**
12 **2025–2026 SCHOOL YEAR, EACH COUNTY BOARD SHALL COLLECT DATA ON:**

13 **(I) THE NUMBER OF VIDEO RECORDING DEVICES INSTALLED IN**
14 **SELF-CONTAINED SPECIAL EDUCATION CLASSROOMS, AGGREGATED BY SCHOOL**
15 **LEVEL;**

16 **(II) THE NUMBER OF COMPLAINTS RESULTING IN THE VIEWING**
17 **OF A VIDEO RECORDING MADE UNDER THIS SECTION, AGGREGATED BY SCHOOL**
18 **LEVEL;**

19 **(III) THE IDENTITY OF THE PERSON THAT MADE A REQUEST TO**
20 **VIEW A VIDEO RECORDING;**

21 **(IV) THE REASON FOR THE REQUEST TO VIEW A VIDEO**
22 **RECORDING; AND**

23 **(V) THE RESOLUTION OF THE COMPLAINT THAT WAS THE**
24 **SUBJECT OF THE VIDEO RECORDING.**

25 **(2) ON OR BEFORE JULY 1, 2023, AND ON OR BEFORE EACH JULY 1**
26 **THEREAFTER THROUGH AND INCLUDING JULY 1, 2026, EACH COUNTY BOARD SHALL**
27 **SUBMIT A REPORT TO THE DEPARTMENT ON THE DATA COLLECTED UNDER**
28 **PARAGRAPH (1) OF THIS SUBSECTION FOR THE IMMEDIATELY PRECEDING SCHOOL**
29 **YEAR.**

30 **(3) ON RECEIPT OF THE FINAL REPORT UNDER PARAGRAPH (2) OF**
31 **THIS SUBSECTION, THE DEPARTMENT SHALL EVALUATE THE USE OF VIDEO**
32 **RECORDING DEVICES IN SELF-CONTAINED SPECIAL EDUCATION CLASSROOMS AND**

1 DETERMINE WHETHER TO USE THE DEVICES IN OTHER SPECIAL EDUCATION
2 CLASSROOMS.

3 (P) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE
4 PROVISIONS OF THIS SECTION.

5 8-401.

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

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

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

11 (ii) Instruction in physical education.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
13 1, 2022.