

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 2366

By Delegates Crouse and Steele

[Introduced January 11, 2023; Referred to the
Committee on Education then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §18-9H-1, §18-9H-2, §18-9H-3, §18-9H-4, §18-9H-5, §18-9H-6, §18-9H-7, and
3 §18-9H-8, all relating to video cameras in public classrooms; authorizing county boards to
4 adopt a policy to install video cameras in public classrooms; defining the term “incident”;
5 providing requirements for such cameras; requiring a written explanation if operation of
6 such cameras is interrupted; requiring county boards to retain such explanation for a
7 specified time period; requiring county boards to provide written notice of the installation of
8 such cameras to certain individuals; providing requirements for retaining and deleting
9 video recordings; prohibiting schools and county boards from certain actions regarding
10 such recordings; providing that school principals are custodians of such cameras and
11 recordings; specifying requirements for viewing such recordings; providing for an appeal
12 process; setting forth limitations on liability; requiring the State Board of Education to
13 collect specified information; and authorizing the State Board of Education to promulgate
14 rules.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9H. VIDEO CAMERAS IN PUBLIC SCHOOLS.

§18-9H-1. Video Cameras in Public School Classrooms.

1 (a) A county board may adopt a policy to install video cameras in classrooms within the
2 county school district.

3 (b) Each video camera installed in a classroom must be located at the front of the
4 classroom and be capable of all of the following:

5 (1) Visually monitoring and recording all areas of the classroom; and

6 (2) Recording audio from all areas of the classroom.

7 (c) A video camera may not monitor a restroom or any other area in the classroom where a
8 student changes his or her clothes, except for the entryway, exitway, or hallway outside a restroom
9 or any other area where a student changes his or her clothes because of the layout of the

10 classroom.

11 (d) A video camera is not required to be in operation when students are not present in the
12 classroom.

13 (e) If there is an interruption in the operation of the video camera for any reason, an
14 explanation must be submitted in writing to the school principal and the county board to explain the
15 reason for and duration of the interruption. The written explanation must be retained at the county
16 board office for at least one year.

§18-9H-2. Definitions.

1 As used in this section, the term “incident” means an event, a circumstance, an act, or an
2 omission that results in the abuse or neglect of a student by:

3 (1) an employee of a public school or the county board; or

4 (2) another student.

§18-9H-3. Written Notice.

1 Before a school initially installs a video camera in a classroom pursuant to this section, the
2 county board shall provide written notice of the installation of such video camera to all of the
3 following:

4 (1) The parent of each student who is assigned to such classroom;

5 (2) Each student who is assigned to such classroom; and

6 (3) Each school employee who is assigned to work in such classroom.

§18-9H-4. Retention of video recordings; regular monitoring of video recordings.

1 (a) A school with video cameras installed in classrooms shall:

2 (1) Retain video recordings pursuant to this section for at least three months after the date
3 the video was recorded, after which time the video recording shall be deleted or otherwise made
4 unretrievable; or

5 (2) Retain the video recording until the conclusion of any investigation or any
6 administrative or legal proceedings that result from the video recording have been completed,

7 including, without limitation, the exhaustion of all appeals.

8 (b) A school or county board may not:

9 (1) Allow regular, continuous, or continual monitoring of video recorded under this section;

10 or

11 (2) Use video recorded under this section for classroom teacher evaluations or any
12 purpose other than for ensuring the health, safety, and well-being of students in the classroom.

§18-9H-5. Custodian of video recordings; access to video recordings.

1 (a) The principal of the school is the custodian of a video camera operated pursuant to this
2 article, all video recordings generated by that video camera, and access to such video recordings.

3 (b) Within seven days after receiving a request to view a video recorded under this article,
4 a school or county board shall allow the following individuals to view such recording:

5 (1) A school or county board employee who is involved in an alleged incident that is
6 documented by the video recording as part of the investigative process;

7 (2) A parent of a student who is involved in an alleged incident that is documented by the
8 video recording and has been reported to the school or county board;

9 (3) A school or county board employee as part of an investigation into an alleged incident
10 that is documented by the video recording and has been reported to the school or county board;

11 (4) A law-enforcement officer as part of an investigation into an alleged incident that is
12 documented by the video recording and has been reported to the law-enforcement agency; or

13 (5) The Department of Health and Human Resources as part of a child abuse or neglect
14 investigation.

15 (c) A person who requests to view a video recording shall make himself or herself available
16 for viewing the video recording within 30 days after being notified by the school or school district
17 that the person's request has been granted.

18 (d) A person who views the video recording and suspects that child abuse has occurred
19 must report the suspected child abuse to the Department of Health and Human Resources.

§18-9H-6. Appeal.

1 (a) Any individual may appeal to the State Board of Education an action by a school or
2 county board which the individual alleges to be in violation of this article.

3 (b) The state board shall grant a hearing on an appeal under this section within 45 days
4 after receiving the appeal.

§18-9H-7. Limitations on liability; collection of information relating to video recordings.

1 (a) A school or county board does not violate section five of this article if a contractor or
2 other employee of the school or county board incidentally views a video recorded under this
3 section in connection with the performance of his or her duties related to any of the following:

4 (1) The installation, operation, or maintenance of video equipment;

5 (2) The retention of video recordings.

6 (b) This article does not:

7 (1) Limit the access of a parent of a student, under the Family Educational Rights and
8 Privacy Act (FERPA), 20 U.S.C. §1232g, or any other law, to a video recording regarding his or her
9 student;

10 (2) Waive any immunity from liability of a county board or an employee of a county board;
11 or

12 (3) Create any liability for a cause of action against a school or county board or an
13 employee of a school or county board carrying out the duties and responsibilities required by this
14 article.

15 (c) The State Board of Education shall collect information relating to the installation and
16 maintenance of video cameras under this article.

§18-9H-8. Rulemaking authority.

1 The State Board of Education shall promulgate rules to implement this article.

NOTE: The purpose of this bill is to allow video cameras to be installed in public

classrooms; authorizing county boards to adopt a policy to install video cameras in classrooms; defining the term "incident"; providing requirements for such cameras; requiring a written explanation if the operation of such cameras is interrupted; requiring county boards to retain such explanation for a specified time period; requiring county boards to provide written notice of the installation of such cameras to certain individuals; providing requirements for retaining and deleting video recordings; prohibiting schools and county boards from certain actions regarding such recordings; providing that school principals are custodians of such cameras and recordings and allowing access to such recordings; setting forth requirements for the viewing such recordings; providing for an appeal process; specifying limitations on liability; requiring the State Board of Education to collect specified information; and authorizing the State Board of Education to promulgate rules.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.