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EXEMPT

(Reprinted with amendments adopted on April 17, 2019)

FIRST REPRINT

S.B. 109

SENATE BILL NO. 109—SENATOR HAMMOND

PREFILED JANUARY 28, 2019

Referred to Committee on Education

SUMMARY—Requires cameras to be installed in certain classrooms within a public school which are used for special education. (BDR 34-10)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 1)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted-material] is material to be omitted.

AN ACT relating to education; requiring public schools to install cameras in certain classrooms within a school which are used for special education; prescribing the length of time such a recording may be retained; specifying the circumstances under which such a recording may be released; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a crime to engage in surreptitious electronic surveillance on the property of a public school without the knowledge of the person being observed, unless for law enforcement purposes or as part of an installed system of security. (NRS 393.400) **Section 1** of this bill requires each public school, including, without limitation, a charter school, to install, operate and maintain one or more video cameras that are capable of recording audio in each classroom within the school in which a majority of the pupils in regular attendance receive special education for a certain percentage of the instructional day. **Section 1**, however, further requires a school that only provides special education to install a video camera in every classroom. **Section 1** provides that a video camera may only be used to record a classroom during a regular school day. **Section 1** also requires that written notice of the video camera be provided to each person likely to be recorded by the video camera, including, without limitation, the parent or legal guardian of a pupil receiving such special education at the school, and posted at the entrance to the classroom. In addition, before assigning an employee of a public school to a classroom in the school where a video camera is installed, **section 1** requires the principal of a public school to ensure that the employee receives certain training.



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Section 1 further provides that a recording made pursuant to **section 1** is confidential and may only be viewed, released or used if consent is obtained from all persons who appear in the recording, or: (1) based on certain complaints or investigations; (2) based on possible criminal activity; (3) for use by the parent or legal guardian of a pupil in a legal proceeding; (4) in response to a subpoena; or (5) by an employee or contractor of the school district to ensure that the video camera is operating properly. Finally, **section 1** requires a recording to be retained by the public school for at least 45 days unless required to retain the recording for a longer period by a court order, subpoena or other provision of law. **Sections 3 and 4** of this bill make conforming changes.

Section 5 of this bill provides for the required installation of video cameras over a period of time. Public elementary schools are allowed to begin installing video cameras where required on July 1, 2020, and must complete such installations by June 30, 2022. Public middle schools, junior high schools and high schools may begin installing video cameras where required on July 1, 2022, and must complete such installations by June 30, 2024.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, each school district and the governing body of each charter school, as applicable, shall provide equipment, including, without limitation, one or more video cameras with the capability of recording sound, to each public school which has a classroom in which a majority of the pupils who regularly are present in the classroom receive special education pursuant to the provisions of this section and NRS 388.417 to 388.469, inclusive:

(a) For pupils who are 6 to 21 years of age, for 60 percent or more of the instructional day; and

(b) For pupils who are 3 to 5 years of age, for 50 percent or more of the instructional day.

2. Each school district and the governing body of each charter school, as applicable, that has a public school that only enrolls pupils who receive special education pursuant to the provisions of this section and NRS 388.417 to 388.469, inclusive, shall ensure that each classroom in the school has the equipment described in subsection 1.

3. A public school that receives equipment pursuant to subsection 1 or 2 shall install one or more video cameras with the capability of recording sound in each classroom described in the applicable subsection. The video cameras installed in such a classroom must record:

(a) The classroom only during a regular school day that is part of the regular school year; and



(b) All areas of the classroom, except that the video camera must not record the interior of a bathroom or any other area in which a pupil may change or remove his or her clothing.

4. The principal of a public school shall:

(a) Provide written notice that a video camera has been or will be installed pursuant to this section to each parent or legal guardian of a pupil who receives such special education at the school and to any other person likely to be recorded by the video camera, including, without limitation, an employee of the school who will be assigned to work with one or more pupils in the classroom; and

(b) Post at the entrance to any classroom in which a video camera is installed pursuant to this section notice that the classroom is under video and audio surveillance.

5. Before assigning any employee who provides services to pupils at a public school to provide such services in a classroom in which a video camera has been installed pursuant to subsection 3, the principal of the school shall ensure that the employee has received appropriate training concerning the use of the video camera, the rights and responsibilities of the employee regarding the video camera and the other provisions of this section.

6. Except as authorized by this subsection, a public school shall not allow the regular monitoring of a recording made by a video camera pursuant to this section by any person. A public school may allow an employee or independent contractor to regularly monitor a recording made by a video camera pursuant to this section to ensure that the video camera is operating properly.

7. A public school shall retain any recording that is made pursuant to this section for at least 45 days, unless required to do so for a longer period by a court order, subpoena or pursuant to law.

8. The board of trustees of a school district and the governing body of a charter school may solicit or accept gifts, grants or donations from any person to support the purchase and installation of video cameras in public schools pursuant to this section.

9. A recording made pursuant to this section is confidential and is not a public book or record within the meaning of NRS 239.010. Except as otherwise provided in subsection 8, subsections 6 and 10, a recording may not be viewed, released or used by any person unless the board of trustees of the school district or the governing body of the charter school that made the recording obtains the written consent of each person who appears in the recording or, for a pupil who appears in the recording, the parent or legal guardian of the pupil.

10. To the extent not prohibited by federal law and in accordance with any regulations adopted by the State Board, a



public school shall release a recording made pursuant to this section to:

(a) The parent or legal guardian of a pupil or an employee of the school, as applicable, who appears in a recording relating to a complaint filed with the Department.

(b) An employee designated by the Department to investigate a complaint relating to the recording.

(c) An agency which provides child welfare services as defined in NRS 432B.030 as part of an investigation of a report concerning the abuse or neglect of a child.

(d) A peace officer as part of a criminal investigation.

(e) A parent or legal guardian of a pupil who appears in the recording, for use in a legal proceeding.

(f) A court of competent jurisdiction in response to a subpoena issued by the court.

11. This section does not:

(a) Create a cause of action; or

(b) Waive any immunity from liability or limitation on liability of a school district or a charter school, or an officer or employee of a school district or charter school that is otherwise provided by law.

12. The State Board may adopt such regulations as it deems necessary to carry out the provisions of this section.

13. As used in this section, "complaint" means a complaint filed with the Department pursuant to 20 U.S.C. § 1415, 34 C.F.R. §§ 300.151 et seq. and NRS 388.463.

Sec. 2. NRS 388.417 is hereby amended to read as follows:

388.417 As used in NRS 388.417 to 388.515, inclusive **[H]**, *and section 1 of this act:*

1. "Communication mode" means any system or method of communication used by a person with a disability, including, without limitation, a person who is deaf or whose hearing is impaired, to facilitate communication which may include, without limitation:

(a) American Sign Language;

(b) English-based manual or sign systems;

(c) Oral and aural communication;

(d) Spoken and written English, including speech reading or lip reading; and

(e) Communication with assistive technology devices.

2. "Dyslexia" means a neurological learning disability characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language.

3. "Dyslexia intervention" means systematic, multisensory intervention offered in an appropriate setting that is derived from evidence-based research.



4. “Individualized education program” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

5. “Individualized education program team” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

6. “Provider of special education” means a school within a school district or charter school that provides education or services to pupils with disabilities or any other entity that is responsible for providing education or services to a pupil with a disability for a school district or charter school.

7. “Pupil who receives early intervening services” means a person enrolled in kindergarten or grades 1 to 12, inclusive, who is not a pupil with a disability but who needs additional academic and behavioral support to succeed in a regular school program.

8. “Pupil with a disability” means a “child with a disability,” as that term is defined in 20 U.S.C. § 1401(3)(A), who is under 22 years of age.

9. “Response to scientific, research-based intervention” means a collaborative process which assesses a pupil’s response to scientific, research-based intervention that is matched to the needs of a pupil and that systematically monitors the level of performance and rate of learning of the pupil over time for the purpose of making data-based decisions concerning the need of the pupil for increasingly intensified services.

10. “Specific learning disability” means a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language which is not primarily the result of a visual, hearing or motor impairment, intellectual disability, serious emotional disturbance, or an environmental, cultural or economic disadvantage. Such a disorder may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or perform mathematical calculations. The term includes, without limitation, perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.

Sec. 3. NRS 393.400 is hereby amended to read as follows:

393.400 1. Except as otherwise provided in subsection 2, it is unlawful for a person to engage in any kind of surreptitious electronic surveillance on any property of a public school without the knowledge of the person being observed.

2. Subsection 1 does not apply to any electronic surveillance:

(a) Authorized by a court order issued to a public officer, based upon a showing of probable cause to believe that criminal activity is occurring on the property of the public school under surveillance;

(b) By a law enforcement agency pursuant to a criminal investigation;

(c) By a peace officer pursuant to NRS 289.830;



(d) Which is necessary as part of a system of security used to protect and ensure the safety of persons on the property of the public school ~~§~~, *including, without limitation, a video camera installed, operated and maintained pursuant to section 1 of this act;* or

(e) Of a class or laboratory when authorized by the teacher of the class or laboratory.

Sec. 4. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153,



1 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400,
2 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280,
3 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534,
4 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195,
5 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665,
6 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720,
7 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866,
8 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240,
9 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063,
10 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575,
11 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040,
12 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098,
13 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265,
14 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425,
15 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425,
16 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
17 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,
18 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185,
19 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485,
20 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600,
21 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090,
22 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760,
23 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625,
24 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225,
25 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320,
26 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067,
27 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275,
28 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340,
29 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190,
30 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410,
31 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306,
32 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490,
33 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536,
34 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550,
35 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,
36 710.159, 711.600, *and section 1 of this act*, sections 35, 38 and 41 of
37 chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391,
38 Statutes of Nevada 2013 and unless otherwise declared by law to be
39 confidential, all public books and public records of a governmental
40 entity must be open at all times during office hours to inspection by
41 any person, and may be fully copied or an abstract or memorandum
42 may be prepared from those public books and public records. Any
43 such copies, abstracts or memoranda may be used to supply the
44 general public with copies, abstracts or memoranda of the records or
45 may be used in any other way to the advantage of the governmental



entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 5. Notwithstanding the provisions of section 1 of this act:

1. The video cameras required to be installed in an elementary school pursuant to section 1 of this act may be installed on or after July 1, 2020, but must be installed not later than June 30, 2022.

2. The video cameras required to be installed in a middle school, junior high school or high school pursuant to section 1 of this act may be installed on or after July 1, 2022, but must be installed not later than June 30, 2024.

Sec. 6. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 7. This act becomes effective upon passage and approval for the purpose of adopting any regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act and on July 1, 2020, for all other purposes.

