

LEGISLATIVE COMMITTEE MINUTES

HB1372

Bill as
Introduced

HB 1372 - AS INTRODUCED

2016 SESSION

16-2588
08/05

HOUSE BILL **1372**

AN ACT permitting a child with a disability to use audio or video recording devices in the classroom.

SPONSORS: Rep. Cordelli, Carr. 4; Rep. Grenier, Sull. 7; Rep. Boehm, Hills. 20; Rep. Massimilla, Graf. 1; Rep. Harris, Rock. 9; Rep. V. Sullivan, Hills. 16; Rep. Adams, Hills. 26; Sen. Avard, Dist 12; Sen. Stiles, Dist 24

COMMITTEE: Education

ANALYSIS

This bill permits a child with a disability to use audio or video recording devices in the classroom.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struckthrough~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Sixteen

AN ACT permitting a child with a disability to use audio or video recording devices in the classroom.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Student Information Protection and Privacy. Amend RSA 189:68, IV to read as follows:

2 IV. No school shall record in any way a school classroom for [any] *the purpose of teacher*
3 *evaluations* without school board approval after a public hearing, and without written consent of
4 the teacher and the parent or legal guardian of each affected student.

5 *V.(a) Nothing in this section shall preclude the use of audio or video recordings for*
6 *use with or by a child with a disability, or by such child's teacher or service provider when*
7 *the child's individualized education program or accommodation plan includes audio or*
8 *video recording as part of the child's special education, related services, assistive*
9 *technology service, or methodology, so long as such audio or video recordings are made,*
10 *used, and maintained in accordance with the Family Education Rights and Privacy Act,*
11 *20 U.S.C. section 1232g, and applicable state law.*

12 *(b) Nothing in this section shall preclude the use of audio or video recordings*
13 *for student instructional purposes.*

14 2 Effective Date. This act shall take effect upon its passage.

Amendments



Amendment to HB 1372

1 Amend RSA 189:68, V as inserted by section 1 of the bill by inserting after subparagraph (b) the
2 following new subparagraph:

3

4 *(c) Nothing in this section shall preclude the use of audio or video recordings*
5 *for use in the instruction of teacher interns or student teachers after written notification*
6 *to the parent or legal guardian of each affected student as to the purpose of, and privacy*
7 *policy for, the recordings.*

Speakers

Hearing Minutes

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING ON HB 1372

BILL TITLE: permitting a child with a disability to use audio or video recording devices in the classroom.

DATE: February 12, 2016

LOB ROOM: 207

Time Public Hearing Called to Order: 9:50 a.m.

Time Adjourned: 10:10 a.m.

Committee Members: Reps. Ladd, Balcom, Boehm, Cordelli, Grenier, Cook, Moore, Osborne, Wolf, Gile, J. Frazer, Myler and Heath

Bill Sponsors:

Rep. Cordelli
Rep. Massimilla
Rep. Adams

Rep. Grenier
Rep. Harris
Sen. Avard

Rep. Boehm
Rep. V. Sullivan
Sen. Stiles

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

(1.) **Rep. Cordelli** - Introduced Amendment 2016-0459h.

(2.) **Ellen Nuffer, Professor and Keene State College** - Supports Amendment. She represents institute of higher education and has testimony reflects feelings at teacher education community.

(3.) **Dean Michner** - Did not like the wording of Line 4 of Amendment, but supported the spirit of the Amendment.

(4.) **Bonnie Dunham** - Supports bill.

Respectfully submitted,



Rep. Jack Balcom, Vice Chairman
Acting Clerk

HOUSE COMMITTEE ON Education

PUBLIC HEARING ON HB 1372

BILL TITLE: permitting a child with a disability to use audio or video recording devices in the classroom.

DATE: 12 FEB 16

LOB ROOM: 207

Time Public Hearing Called to Order: 0950

Time Adjourned: 1010

Committee Members: Reps. Ladd, Balcom, Boehm, Cordelli, Grenier, Elliott, Adams, Cook Moore, Osborne, V. Sullivan, Wolf, Gilb, Gorman, J. Frazer, A. Schmidt, Myler, Rollo, Heath, Verschueren and ~~Stew~~

Bill Sponsors:

Rep. Cordelli
Rep. Massimilla
Rep. Adams
Sen. Stiles

Rep. Grenier
Rep. Harris
Rep. Kappler

Rep. Boehm
Rep. V. Sullivan
Sen. Avard

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Cordell: Introduced Amed, 2016-0459h.

Ellen Nuffer, Prof at Keene State College - supports Amendment, she represents institute of higher education & her testimony reflects feelings of teacher education community.

Dean Michner - Did not like the wording of line 4 of Amendment but supported the spirit of the Amendment.

Bonnie Denham - Supports bill.

Testimony

February 12, 2016

Re: HB 1372

Rep. Rick Ladd, Chair
House Education Committee
Legislative Office Building, Rm. 207
North State Street
Concord, NH 03301

Dear Representative Ladd and Members of the House Education Committee,

I am writing to encourage you to please support HB 1372, *"An Act permitting a child with a disability to use audio or video recording devices in the classroom"*.

HB 507, which was passed last year, included a section amending RSA 189:68 by inserting a new paragraph, *"IV. No school shall record in any way a school classroom for any purpose without school board approval after a public hearing, and without written consent of the teacher and the parent or legal guardian of each affected student."* This had an inadvertent and negative impact on the education of children with disabilities. Parents of children with disabilities, youth with disabilities, and teachers and service providers who work with children with disabilities identified numerous situations when this new requirement was cited as a reason why audio or video recording used by a child with a disability to access or benefit from educational experiences, and that were often a critical component of a child's special education program (either as part of the child's individualized education program (IEP) or accommodation plan under Section 504), would no longer be allowed.

To ensure that school districts are able to fulfill their responsibility to provide children with disabilities a free appropriate public education, including, when appropriate, through the use of audio or video recording, additional clarifying language was needed. Audio or video recordings may be an essential part of a child's special education program. Children with significant disabilities sometimes need to review videotapes that have been taken of them engaged in various activities as a way to improve their social, communication or adaptive skills. Similarly, some students with learning disabilities or other disabilities who cannot take notes may need to audiotape a classroom lecture so that they can review the material later (just as a student without a disability would review his/her own notes). This technology provides these students with an equal, but different way to retain the information that was presented in class. Without the audio or videotaping (which may be included in the child's IEP or 504 plan as a service, an accommodation or as assistive technology), these students are not able to receive or benefit from the special education services they need, or to fully access and participate in the general curriculum, which is their right under Federal and State special education law.

HB 1372 makes it clear that audio or video recordings for use with or by a child with a disability or by the child's teacher or service provider in accordance with the child's IEP or 504 plan is allowed under RSA 189:68, and establishes that these audio or video recordings are to be made, used and maintained in accordance with the Family Educational Rights and Privacy Act (FERPA) and applicable state law. It also states that *"nothing in this section shall preclude the use of audio or video recordings for student instructional purposes"*. This bill is good for children with disabilities, their parents and teachers; and it provides important clarity for school administrators and school boards.

I appreciate the opportunity to provide this input and again encourage you to please vote in support of HB 1372.

Sincerely,



Bonnie A. Dunham
16 Wren Court
Merrimack, NH 03054
Tel. (603) 860-5445 / Email Bsdunham12@gmail.com



Wisdom to make a difference.

Education Department
229 Main Street
Keene, NH 03435-2611
keene.edu

Testimony of Ellen L. Nuffer, Ed.D.
Department Chair and Professor, Education
Keene State College
Keene, NH 03435-2611
603 358 2298
enuffer@keene.edu

HB 1372, House Education Committee
February 12, 2015

Good morning Mr. Chairman and members of the committee. My name is Ellen Nuffer and I am the Department Chair and a Professor in the Education Department at Keene State College.

I am here on behalf of Keene State and the entire University System as well as the New Hampshire Institutions of Higher Education Network in support of the bill and specifically Representative Cordelli's amendment.

Let me begin by thanking Representative Cordelli and the bill's cosponsors for introducing HB 1372 to address some of the unintended consequences of the law passed last year. We appreciate the protections the current law provides for teachers and students, and support the amendments made by HB 1372 to ensure the law works for all stakeholders – in-service teachers and administrators, interns in pre-service educator preparation programs, families, school boards, and mostly – the children in our schools.

I specifically want to speak to the importance of the amendment Representative Cordelli is bringing today that would allow interns in educator preparation programs, including student teachers, the opportunity to use the powerful tools of audio or video recording as long as parents have advanced written notification and the chance to opt out.

Most educator preparation curricula require student teachers or interns to submit video or audio recordings of their in-school internship experiences as a means of providing on-going feedback and evaluating competence. As currently written the law creates a significant administrative burden for our school administrators and school boards, as well as for our pre-service students and education departments, in order to obtain the necessary approvals to meet this requirement. If unchanged, the law may make it more difficult to place student teachers in certain districts, and could jeopardize the pipeline of new teachers entering the state's schools. In fact, we know of schools that have refused to take student teachers specifically because they fear they will not correctly respond to all of the nuances of the law as written.

USNH institutions already send notice home to families that a student teacher will be present in their child's classroom and that audio or video recording will occur in connection with that experience. This notice gives families the chance to opt their student out, and provides an opportunity for them to ask questions of administrators and teachers as to how this might impact their child. We believe this is important information for families to have and that such a notification requirement strikes an appropriate balance to ensure children, pre-service students, school administrators, and in-service teachers are protected.

That said, if I may, I would like to mention one concern with the amendment's language, specifically the use of the words "instruction of teacher interns or student teachers". Our pre-service students are often asked to submit video of their classroom experience as part of the certification process as a requirement for earning their licenses. In this case instruction per se is no longer taking place, so a literal reading of the language might suggest that recordings could not be used for the purpose of certification without school board approval. To address this issue, the committee might consider adding language such as "or in connection with a teacher certification requirement" after the word "student teachers" on line ~~1~~ 5

Thank you again for the opportunity to speak with you today in support of this bill and I would be happy to answer any questions.

HB1372

Thank you Mr Chairman and colleagues -

HB1372 is a follow-up to a bill last year – HB507 that dealt with teacher privacy protections. One portion of that bill required that local board approval and written consent of the teacher and class parents be acquired if there was to be recording in the classroom.

That provision generated much discussion and interpretation during this past fall. It turned into a poster child for unintended consequences. HB1372 deals with those consequences.

First, is paragraph V(a) clarifies that use of a recording device by a special needs student with an IEP is not prohibited by this bill. This is the result of conversations with the department during the fall after they received calls. This is language that has been worked out with the department.

Paragraph V(b) clarifies that recording for instructional purposes is also acceptable. This language was agreed to with the lawyer for the school boards association.

Since this bill has been the legislation that keeps on giving, I am introducing this amendment which adds a paragraph V(c). This year I was contacted by UHN and the community college system with concerns about student teachers. My feeling is that if a student teacher is to be recorded, parents of the students in the class should, at least be notified. The language you see is acceptable to both UNH and the community college system.

It is my hope that you will support HB1372 - so that I can stop getting calls about recording in the classroom.

Thank you.

Voting Sheets

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 1372

BILL TITLE: permitting a child with a disability to use audio or video recording devices in the classroom.

DATE: February 18, 2016

LOB ROOM: 207

MOTIONS: OUGHT TO PASS

Moved by Rep. Cordelli

Seconded by Rep. V. Sullivan

Vote: 20-0

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Cordelli

Seconded by Rep. Elliott

AM Vote: 20-0

Amendment # 2016-0459h

Moved by Rep. Cordelli

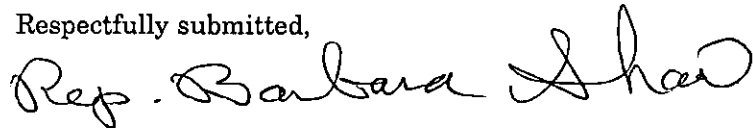
Seconded by Rep. Elliott

Vote: 20-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep Barbara Shaw, Clerk

HOUSE COMMITTEE ON Education

EXECUTIVE SESSION on HB 1372

BILL TITLE: permitting a child with a disability to use audio or video recording devices in the classroom.

DATE: 2-18-2016

LOB ROOM: 207

① amendment

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. Cordelli Seconded by Rep. Sullivan AM Vote: 20-0

Adoption of Amendment # 2016-0459h

Moved by Rep. Seconded by Rep. Elliot Vote:

Amendment Adopted Amendment Failed

②

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. Cordelli Seconded by Rep. Elliot AM Vote: 20-0

Adoption of Amendment # 2016-0459h

Moved by Rep. Seconded by Rep. Vote:

Amendment Adopted Amendment Failed

CONSENT CALENDAR: YES NO (Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Barbara Shaw Barbara Shaw, Committee Clerk

① amendment



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

12/31/2015 10:49:38 AM
Roll Call Committee Registers
Report

2016 SESSION

EDUCATION

Bill #: HB 1372 Title: permitted a child with a disability to use audio or video recording devices in the classroom
PH Date: 02/12/2016 Exec Session Date: 2/18/2016

Motion: OTP Amendment #: 0459h

MEMBER	YEAS	NAYS
Ladd, Rick M., Chairman	✓	
Balcom, John L., V Chairman	✓	
Boehm, Ralph G.	✓	
Cordelli, Glenn	✓	
Grenier, James L.	✓	
Elliott, Robert J.	✓	
Adams, Christopher R.	✓	
Cook, Allen W.	✓	
Moore, Josh	✓	
Osborne, Jason M.	✓	
Sullivan, Victoria L.	✓	
Wolf, Terry M.	✓	
Gile, Mary Stuart	✓	
Shaw, Barbara E., Clerk	✓	
Gorman, Mary J.		
Frazer, June M.	✓	
Schmidt, Andrew R.	✓	
Myler, Mel	✓	
Rollo, Deanna S.	✓	
Heath, Mary	✓	
Verschueren, James	✓	
TOTAL VOTE:		

20 + 0

2



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

12/31/2015 10:49:38 AM
Roll Call Committee Registers
Report

2016 SESSION

*Permitting a child with a disability to
use audio or video recording devices in
the classroom.*

EDUCATION

Bill #: HB1372

Title: the classroom.

PH Date: 02/12/2016

Exec Session Date: 02/18/2016

Motion: OTP/A

Amendment #: 0459h

MEMBER

YEAS

NAYS

Ladd, Rick M., Chairman	✓	
Balcom, John L., V Chairman	✓	
Boehm, Ralph G.	✓	
Cordelli, Glenn	✓	
Grenier, James L.	✓	
Elliott, Robert J.	✓	
Adams, Christopher R.	✓	
Cook, Allen W.	✓	
Moore, Josh	✓	
Osborne, Jason M.	✓	
Sullivan, Victoria L.	✓	
Wolf, Terry M.	✓	
Gile, Mary Stuart	✓	
Shaw, Barbara E., Clerk	✓	
Gorman, Mary J.		
Frazer, June M.	✓	
Schmidt, Andrew R.	✓	
Myler, Mel	✓	
Rollo, Deanna S.	✓	
Heath, Mary	✓	
Verschueren, James	✓	
TOTAL VOTE:		

20

0

Committee Report

CONSENT CALENDAR

February 24, 2016

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Education to which was referred HB
1372,**

**AN ACT permitting a child with a disability to use audio
or video recording devices in the classroom. Having
considered the same, report the same with the following
amendment, and the recommendation that the bill
OUGHT TO PASS WITH AMENDMENT.**

Rep. Glenn Cordelli

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Education
Bill Number:	HB 1372
Title:	permitting a child with a disability to use audio or video recording devices in the classroom.
Date:	February 24, 2016
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2016-0459h

STATEMENT OF INTENT

Last year HB 507 (Chapter 71, Laws of 2015) for teacher protections and privacy was passed and signed. A portion of the bill dealt with recordings in the classroom and it had unintended consequences. This bill clarifies that special needs students may use recording devices, if needed, and that recording for instructional purpose is also acceptable. As amended, it also allows recording of student teachers after notification to classroom parents.

Vote 20-0.

Rep. Glenn Cordelli
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Education

HB 1372, permitting a child with a disability to use audio or video recording devices in the classroom. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Glenn Cordelli for Education. Last year HB 507 (Chapter 71, Laws of 2015) for teacher protections and privacy was passed and signed. A portion of the bill dealt with recordings in the classroom and it had unintended consequences. This bill clarifies that special needs students may use recording devices, if needed, and that recording for instructional purpose is also acceptable. As amended, it also allows recording of student teachers after notification to classroom parents. **Vote 20-0.**

HB 1372 - Permitting a child with a disability to use audio or video recording devices in the classroom

Last year HB 507 for teacher protections and privacy was passed and signed. A portion of the bill dealt with recordings in the classroom and it ~~became the poster child for~~ unintended consequences. This bill clarifies that special needs students may use recording devices, if needed, and that recording for instructional purpose is also acceptable. As amended, it also allows recording of student teachers after notification to classroom parents.

**Rep. Glenn Cordelli
For the Committee
OTP/A - 20-0 - CC**

COMMITTEE REPORT

*ok
lead*

COMMITTEE: Education

BILL NUMBER: HB 1372

TITLE: Permitting a child with a disability to use audio or video recording devices in the classroom.

DATE: 2-18-2016 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. <u>0459h</u>

STATEMENT OF INTENT:

Last year HB 507 for teacher protections and privacy was passed and signed. A portion of the bill dealt with recordings in the classroom and it became the poster child for unintended consequences. HB 1372 clarifies that special needs ~~and~~ students may use recording devices, if needed, and that recording for instructional purposes is also acceptable. As amended, it also allows recording of student teachers after notification to classroom parents.

COMMITTEE VOTE: 30-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. _____
For the Committee

*Edited by
House Calendar*

CONSENT CALENDAR

February 24, 2016

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Education to which was referred HB
1372,**

**AN ACT permitting a child with a disability to use audio
or video recording devices in the classroom. Having
considered the same, report the same with the following
amendment, and the recommendation that the bill
OUGHT TO PASS WITH AMENDMENT.**

Rep. Glenn Cordelli

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Education
Bill Number:	HB 1372
Title:	permitting a child with a disability to use audio or video recording devices in the classroom.
Date:	February 24, 2016
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2016-0459h

STATEMENT OF INTENT

Last year HB 507 (Chapter 71, Laws of 2015) regarding teacher protections and privacy was passed and signed. A portion of the bill dealt with recordings in the classroom and it had unintended consequences. This bill clarifies that special needs students may use recording devices, if needed, and that recording for instructional purpose is also acceptable. As amended, it also allows recording of student teachers after notification to classroom parents.

Vote 20-0.

Rep. Glenn Cordelli
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Education

HB 1372, permitting a child with a disability to use audio or video recording devices in the classroom. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Glenn Cordelli for Education. Last year HB 507 (Chapter 71, Laws of 2015) regarding teacher protections and privacy was passed and signed. A portion of the bill dealt with recordings in the classroom and it had unintended consequences. This bill clarifies that special needs students may use recording devices, if needed, and that recording for instructional purpose is also acceptable. As amended, it also allows recording of student teachers after notification to classroom parents. **Vote 20-0.**