

BILL ANALYSIS

S.B. 1367
By: Menéndez
Higher Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties suggest that public institutions of higher education are currently not equipped to provide the necessary resources in the event of a student experiencing anaphylaxis, which the parties explain is most effectively treated with epinephrine auto-injectors. S.B. 1367 seeks to ensure that institutions of higher education can respond appropriately to such an event by providing for those resources.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 of this bill.

ANALYSIS

Section 531.0055, Government Code, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of health and human services by the health and human services system. Certain recently enacted legislation provides for a phased transition of the health and human services system, including the abolishment and consolidation of certain agencies and entities. To the extent practicable, this bill analysis is written to accurately reflect rulemaking authority within the health and human services system and to update references as necessary to an agency's or entity's authority with respect to a particular health and human services program.

S.B. 1367 amends the Education Code to authorize each public institution of higher education to adopt and implement a policy regarding the maintenance, storage, administration, and disposal of epinephrine auto-injectors on the institution's campus. The bill requires such a policy to provide that personnel or volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis on the institution's campus and authorizes the policy to provide that personnel or volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis at an off-campus event or while in transit to or from an off-campus event sponsored by the institution.

S.B. 1367 requires the executive commissioner of the Health and Human Services Commission, with advice from the advisory committee established by the commissioner of state health services for the examination and review of the administration of epinephrine auto-injectors on public school district and open-enrollment charter school campuses, to adopt rules regarding the maintenance, storage, administration, and disposal of an epinephrine auto-injector on the campus

of an institution of higher education subject to such a policy and sets out certain standards the rules must establish. The bill expands the advisory committee's duties to include examining and reviewing the administration of epinephrine auto-injectors to a person on an institution of higher education campus and requires the commissioner of state health services to ensure, in making appointments to the committee, that at least one member is an employee of a general academic teaching institution and at least one member is an employee of a public junior college or a public technical institute.

S.B. 1367 requires each institution of higher education that adopts a policy to require that the institution's campuses have personnel or volunteers authorized and trained to administer an epinephrine auto-injector present. The bill requires the supply of epinephrine auto-injectors at a campus to be stored in a secure location and be easily accessible to personnel or volunteers authorized and trained to administer an epinephrine auto-injector. The bill requires an institution of higher education, not later than the 10th business day after the date a personnel member or volunteer administers an epinephrine auto-injector in accordance with the institution's policy, to report specified information regarding the incident to the physician who prescribed the epinephrine auto-injector and the commissioner of state health services. The bill sets out personnel and volunteer training requirements for each institution of higher education that adopts such a policy and requires the institution to maintain records on the training.

S.B. 1367 authorizes a physician to prescribe epinephrine auto-injectors in the name of an institution that adopts a policy under the bill's provisions. The bill requires the physician to provide the institution with a standing order for the administration of an epinephrine auto-injector to a person reasonably believed to be experiencing anaphylaxis, expressly does not require the standing order to be patient-specific, and authorizes the epinephrine auto-injector to be administered to a person without an established physician-patient relationship. The bill sets out the required contents of such an order and the conditions under which the supervision or delegation by a physician is considered to be adequate. The bill authorizes a pharmacist to dispense an epinephrine auto-injector to the institution of higher education without requiring the name or any other identifying information relating to the user. The bill authorizes an institution of higher education to accept gifts, grants, donations, and federal funds to implement the bill's provisions relating to the maintenance, storage, administration, and disposal of epinephrine auto-injectors and requires the executive commissioner to adopt rules necessary to implement those provisions.

S.B. 1367 grants a person who in good faith takes or fails to take any action under the bill's provisions relating to the maintenance, storage, administration, and disposal of epinephrine auto-injectors immunity from civil or criminal liability or disciplinary action resulting from that act or failure to act and establishes that this immunity is in addition to other immunity or limitations of liability provided by law. The bill expressly does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides the basis for a cause of action for an act or omission under the bill's applicable provisions. The bill grants an institution of higher education or a campus of an institution of higher education immunity from suit resulting from an act, or failure to act, under the bill's applicable provisions and establishes that a cause of action does not arise from such an act or omission. The bill applies beginning with the 2018 spring semester.

EFFECTIVE DATE

September 1, 2017.