

BILL ANALYSIS

Senate Research Center

S.B. 579
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Education
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Epinephrine auto-injectors are medical devices for injecting measured doses of epinephrine for the treatment of anaphylaxis, an allergic reaction that may cause death. Some brands of auto-injectors include EpiPen, Allerjet, and Auvi-Q. These devices are used to treat severe allergic reactions to insect bites and stings, foods, and medications. According to the American Academy of Pediatrics, anaphylactic reactions in schools, although not frequent, are not uncommon events.

In 2015, the 84th Legislature passed S.B. 66 authorizing each school district and open-enrollment charter school to adopt and implement a policy regarding the use of epinephrine auto-injectors. The intent of this legislation was to enable public schools and charter schools to treat individuals suffering from anaphylaxis that may have an undiagnosed food allergy and are without a prescribed epinephrine auto-injector. Those school districts and charter schools that adopt an epinephrine policy must have a trained, authorized epinephrine administrator on each school campus, and maintain a supply of epinephrine auto-injectors. Physicians may prescribe epinephrine auto-injectors to participating schools, and those schools with an epinephrine policy would be immune from civil or criminal liability relating to the use of auto-injectors.

While the 2015 bill authorized public school districts and open-enrollment charter schools to adopt an epinephrine policy, the act did not apply to private schools. As introduced, S.B. 579 allows the governing body of a private school to adopt the same epinephrine policy authorized for public and open-enrollment charter schools. If a private school's governing body elects to adopt such a policy, the school would be required to follow the same epinephrine auto-injector requirements applicable to public and charter schools. Further, participating private schools would be able to be prescribed epinephrine auto-injectors by a physician, and be immune from civil or criminal liability for epinephrine auto-injector use.

S.B. 579 amends current law relating to the use of epinephrine auto-injectors on private school campuses and at or in transit to or from off-campus school events.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the commissioner of state health services is transferred to the executive commissioner of the Health and Human Services Commission and modified in SECTION 3 (Section 38.208, Education Code) and SECTION 9 (Section 38.214, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 38.201, Education Code, by amending Subdivision (5) to define "private school" and by adding Subdivision (6) to redefine "school personnel" to include private school employees and members of the board of trustees or governing body of a private school.

SECTION 2. Amends Sections 38.202(a) and (b), Education Code, as follows:

- (a) Requires the commissioner of state health services (commissioner) to establish an advisory committee to examine and review the administration of epinephrine auto-injectors (injectors) to a person experiencing an anaphylactic reaction on a campus of a

school district, an open-enrollment charter school (charter school), or a private school, rather than on a campus of a school district or a charter school.

(b) Makes conforming changes.

SECTION 3. Amends Sections 38.208(a), (c), and (d), Education Code, as follows:

(a) Authorizes each school district, charter school, and private school to adopt and implement a policy regarding the maintenance, administration, and disposal of injectors at each campus in the district or school.

(c) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner), rather than the commissioner, in consultation with the commissioner of education, and with the advice from the advisory committee, to adopt rules regarding the maintenance, administration, and disposal of an injector at a school campus. Makes conforming and nonsubstantive changes.

(d) Makes conforming changes.

SECTION 4. Amends Section 38.209(a), Education Code, to require the school, by a certain date, to report information regarding administration of an injector to the school district, the charter holder if the school is a charter school, or the governing body of the school if the school is a private school, among certain persons.

SECTION 5. Amends Sections 38.210(a) and (c), Education Code, to make conforming changes.

SECTION 6. Amends Sections 38.211(a), (b), (e), and (f), Education Code, as follows:

(a) Authorizes a physician or person who has been delegated prescriptive authority to prescribe injectors in the name of a school district, charter school, or private school.

(b) Makes conforming changes.

(e) Requires that an order issued under this section contain the name of the school district, charter school, or private school to which the order is issued. Makes conforming changes.

(f) Authorizes a pharmacist to dispense an injector to a school district, charter school, or private school without requiring certain information. Makes conforming changes.

SECTION 7. Amends Section 38.212, Education Code, to require that a school district, charter school, or private school, if the district or school implements a policy for the maintenance, administration, and disposal of injectors, provide written notice to a parent or guardian of each enrolled student.

SECTION 8. Amends Section 38.213, Education Code, to authorize a school district, charter school or private school to accept gifts, grants, donations, and certain funds to implement this subchapter (Maintenance, Administration, and Disposal of Epinephrine Auto-Injectors).

SECTION 9. Amends Section 38.214, Education Code, to require the commissioner of education and the executive commissioner, rather than the commissioner of education and the commissioner, to jointly adopt the rules necessary to implement this subchapter, except as otherwise provided by this subchapter.

SECTION 10. Amends Section 38.215(e), Education Code, to provide that a school district, charter school, or private school and school personnel and volunteers are immune from certain suits.

SECTION 11. Provides that this Act applies beginning with the 2017-2018 school year.

SECTION 12. Effective date: upon passage or September 1, 2017.