

BILL ANALYSIS

C.S.H.B. 742
By: Hunter
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, approximately 185,000 children in Texas have food allergies, most of which are not life threatening but some of which can require immediate medical attention. Although individual districts are relied on to promote policies on how to deal with severe food allergies, teachers, teacher's aides, and substitute teachers sometimes are unaware of children under their care who have potentially deadly allergies. C.S.H.B. 742 seeks to provide an added layer of security for students who have severe food allergies.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 742 amends the Education Code to require a school district, on enrollment of a child in a public school, to request, by providing a form or otherwise, that a parent or other person with legal control of the child under a court order disclose whether the child has a food allergy or a severe food allergy that, in the judgment of the parent or other person with legal control, should be disclosed to the district to enable the district to take any necessary precautions regarding the child's safety and specify the food to which the child is allergic and the nature of the allergic reaction. The bill requires a school district to maintain the confidentiality of such information and authorizes the district to disclose the information to teachers, school counselors, school nurses, and other appropriate school personnel only to the extent consistent with district policy and permissible under the federal Family Educational Rights and Privacy Act of 1974. The bill requires information regarding a child's food allergy, except as otherwise provided and regardless of how it is received by the school or school district, to be retained in the child's student records but prohibits the information from being placed in the medical records maintained for the child by the school district. The bill requires documentation of a food allergy, if the school receives such documentation from a physician, to be placed in the medical records maintained for the child by the school district.

C.S.H.B. 742 defines "severe food allergy" as a dangerous or life-threatening reaction of the human body to a food-borne allergen introduced by inhalation, ingestion, or skin contact that requires immediate medical attention. The bill makes its provisions applicable beginning with the 2011-2012 school year.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 742 differs from the original by requiring information regarding a child's food allergy,

regardless of how it is received by a school or school district, to be retained in the child's student records and by prohibiting such information from being placed in the medical records maintained for the child by the school district, whereas the original requires such information to be placed in the child's medical records. The substitute contains a provision not included in the original requiring documentation of a food allergy that the school receives from a physician to be placed in the medical records maintained for the child by the school district.

C.S.H.B. 742 omits a provision contained in the original requiring a public school to post a sign in each elementary school classroom in which a child with a severe food allergy is placed if a parent or a person with legal control of a child under a court order indicates to the school district that the child has a severe food allergy or if a parent, a person with legal control of a child, a caregiver of the child, or the child notifies a school administrator, nurse, or teacher that the child has a severe food allergy. The substitute omits provisions included in the original requiring such a sign to conspicuously include the phrase "Severe Food Allergy" and prohibiting the sign from identifying a child in the classroom with a severe food allergy, the food or foods to which a child is allergic, or the nature of the allergic reaction.