

## **BILL ANALYSIS**

C.S.H.B. 1615  
By: Brown  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Nothing is more precious than the life of a child. When a parent leaves a child under the care of a third party, the parent is entrusting that party with the well-being of the child. Unfortunately, in some cases, a tragedy can occur resulting in serious harm to or the death of the child.

C.S.H.B. 1615 is filed in the memory of Nathan Michael King, who died when left unsupervised after a day-care facility administered a medication that had not been approved by his parents. The bill seeks to prevent such tragedies from occurring in the future by prohibiting certain employees and volunteers of certain child-care facilities from administering a medication to a child without parent or guardian permission and providing penalties for persons who violate this prohibition.

### **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. 1615 amends the Human Resources Code to establish provisions relating to the administering of medications to children in certain facilities and to provide a short title, Nathan's Law, for the purpose of citing its provisions. The bill prohibits a director, owner, operator, caretaker, employee, or volunteer of a day-care center, group day-care home, before-school or after-school program, school-age program, or family home, regardless of whether the facility or program is licensed, registered, or listed, from administering a medication to a child unless the child's parent or guardian has submitted to the child-care facility a signed and dated document that authorizes the facility to administer the medication for not longer than one year. The bill authorizes a facility or program to administer such an authorized medication if the medication is administered as stated on the label directions or as amended in writing by a physician and is not expired.

C.S.H.B. 1615 authorizes a director, owner, operator, caretaker, employee, or volunteer of an applicable child-care facility to administer medication to a child without a signed authorization if the child's parent or guardian submits to the child-care facility an authorization in an electronic format that is capable of being viewed and saved. The bill provides that the electronic authorization expires on the first anniversary of the date the authorization is provided to the child-care facility. The bill excludes from application of its provisions a person that administers a medication to a child in a medical emergency to prevent the death or serious bodily injury of the child if the medication is administered as prescribed, directed, or intended.

C.S.H.B. 1615 makes it a Class A misdemeanor offense to administer a medication to a child in violation of the bill's provisions and enhances the penalty for such an offense to a third degree felony if the child suffers serious bodily injury or death as a result of receiving the medication. The bill defines "medication" to mean a drug that may be obtained with or without a

prescription, excluding a topical ointment obtained without a prescription.

**EFFECTIVE DATE**

September 1, 2011.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1615 contains a provision not included in the original excluding a topical ointment obtained without a prescription from the definition of "medication." The substitute differs from the original, in the bill provision setting out as a condition for certain persons associated with a child-care facility to administer a medication to a child that the child's parent or guardian has submitted a signed and dated authorization document, by requiring that the document authorize the facility to administer the medication for not longer than one year, whereas the original requires that the document authorize the facility to administer the medication and indicate the time at which the medication is to be administered.

C.S.H.B. 1615 differs from the original by requiring the authorized medication to be administered as stated on the label directions or as amended by a physician, whereas the original requires the medication to be administered in an amount stated on the label directions or as amended by a physician. The substitute omits a provision contained in the original requiring an authorized medication to be in the original container with certain information written on the container and administered only to the child whose name is on the label.

C.S.H.B. 1615 differs from the original by specifying that an electronic authorization submitted to the child-care facility expires on the first anniversary of the date the authorization is provided to the facility, whereas the original specifies that the electronic authorization is valid only on the day that it is provided to the facility. The substitute contains a provision not included in the original excluding a person who administers a medication to a child in certain medical emergencies from application of its provisions.