

A BILL TO BE ENTITLED

AN ACT

relating to immunity from liability for public and open-enrollment charter school campuses that maintain a supply of epinephrine auto-injectors for emergency use.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 38.0151, Education Code, is amended to read as follows:

Sec. 38.0151. POLICIES FOR CARE OF CERTAIN STUDENTS AT RISK FOR ANAPHYLAXIS; MAINTENANCE OF EPINEPHRINE AUTO-INJECTOR SUPPLY.

SECTION 2. Section 38.0151, Education Code, is amended by adding Subsections (b-1), (b-2), (d-1), and (f) and amending Subsection (d) to read as follows:

(b-1) Each school district and open-enrollment charter school may maintain at each campus a supply of epinephrine auto-injectors that may be administered to a person on campus or at an off-campus school-sanctioned event experiencing an anaphylactic reaction. For epinephrine auto-injectors to satisfy this subsection, the auto-injectors may not have expiration dates that have passed.

(b-2) The administration of an epinephrine auto-injector in accordance with the requirements of this section does not constitute the unlawful practice of any health care profession.

(d) This section does not:

(1) waive any [~~liability or~~] immunity from liability

1 of a governmental entity or its officers or employees; ~~or~~

2 (2) create any liability for or a cause of action
3 against a governmental entity or its officers or employees;

4 (3) waive any immunity from liability under Section
5 74.151, Civil Practice and Remedies Code, including immunity from
6 liability to which a school district, open-enrollment charter
7 school, or district or school employee is entitled under that
8 section for an act associated with the administration of an
9 epinephrine auto-injector to a person on campus or at an off-campus
10 school-sanctioned event experiencing an anaphylactic reaction; or

11 (4) create any liability or standard of care for or a
12 cause of action against a governmental entity or its officers or
13 employees who in good faith administer or fail to administer an
14 epinephrine auto-injector unless the act is wilfully or wantonly
15 negligent.

16 (d-1) A person who in good faith prescribes, dispenses, or
17 administers a non-patient specific epinephrine auto-injector or
18 provides training, advice, or supervision on the use of an
19 epinephrine auto-injector is immune from liability in a criminal,
20 civil, disciplinary, or administrative action, including immunity
21 from liability for civil damages, resulting from that action or
22 failure to act.

23 (f) If a school district or open-enrollment charter school
24 maintains a supply of epinephrine auto-injectors as provided by
25 Subsection (b-1), the district or school shall provide written
26 notice to a parent or guardian of each student enrolled in the
27 district or school. Notice required under this subsection must be

1 provided before the district or school obtains a supply of
2 epinephrine auto-injectors and before the start of each school
3 year.

4 SECTION 3. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2015.