

By: Hinojosa
(Crownover, Herrero)

S.B. No. 66

A BILL TO BE ENTITLED

AN ACT

relating to the use of epinephrine auto-injectors on public school and open-enrollment charter school campuses and at or in transit to or from off-campus school events.

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

SECTION 1. This Act shall be known as the Cameron Espinosa Act.

SECTION 2. Chapter 38, Education Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE

AUTO-INJECTORS

Sec. 38.201. DEFINITIONS. In this subchapter:

(1) "Advisory committee" means the committee established under Section 38.202.

(2) "Anaphylaxis" means a sudden, severe, and potentially life-threatening allergic reaction that occurs when a person is exposed to an allergen.

(3) "Epinephrine auto-injector" means a disposable medical drug delivery device that contains a premeasured single dose of epinephrine that is intended to be used to treat anaphylaxis.

(4) "Physician" means a person who holds a license to practice medicine in this state.

Sec. 38.202. ADVISORY COMMITTEE: ESTABLISHMENT AND

1 COMPOSITION. (a) The commissioner of state health services shall
2 establish an advisory committee to examine and review:

3 (1) the administration of epinephrine auto-injectors
4 on a person experiencing an anaphylactic reaction on a campus of a
5 school district or an open-enrollment charter school or at or in
6 transit to or from an off-campus school event; and

7 (2) the maintenance and disposal of epinephrine
8 auto-injectors by a school district or an open-enrollment charter
9 school.

10 (b) The advisory committee shall be composed of members
11 appointed by the commissioner of state health services. In making
12 appointments, the commissioner shall ensure that:

13 (1) a majority of the members are physicians with
14 expertise in treating anaphylaxis, including physicians who
15 specialize in the fields of pediatrics, allergies, asthma, and
16 immunology; and

17 (2) at least one member is a registered nurse employed
18 by a school district or open-enrollment charter school as a school
19 nurse.

20 (c) A member of the advisory committee serves at the
21 pleasure of the commissioner of state health services.

22 (d) A vacancy on the advisory committee is filled by the
23 commissioner of state health services in the same manner as other
24 appointments to the advisory committee.

25 Sec. 38.203. ADVISORY COMMITTEE: PRESIDING OFFICER. The
26 advisory committee shall elect a presiding officer.

27 Sec. 38.204. ADVISORY COMMITTEE: COMPENSATION AND

1 EXPENSES. Members of the advisory committee serve without
2 compensation but are entitled to reimbursement for travel expenses.

3 Sec. 38.205. ADVISORY COMMITTEE: APPLICABILITY OF OTHER
4 LAW. Chapter 2110, Government Code, does not apply to the advisory
5 committee.

6 Sec. 38.206. ADVISORY COMMITTEE: OPEN MEETINGS. Meetings
7 of the advisory committee are subject to Chapter 551, Government
8 Code.

9 Sec. 38.207. ADVISORY COMMITTEE: DUTIES. The advisory
10 committee shall advise the commissioner of state health services
11 on:

12 (1) the storage of epinephrine auto-injectors on
13 school campuses;

14 (2) the maintenance of epinephrine auto-injectors
15 while in transit to or from an off-campus school event;

16 (3) the training of school personnel in the
17 administration of an epinephrine auto-injector; and

18 (4) a plan for one or more school personnel members
19 trained in the administration of an epinephrine auto-injector to be
20 on each school campus.

21 Sec. 38.208. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE
22 AUTO-INJECTORS. (a) Each school district and open-enrollment
23 charter school shall adopt and implement a policy requiring the
24 maintenance, administration, and disposal of epinephrine
25 auto-injectors at each campus in the district or school.

26 (b) The policy adopted under Subsection (a) must provide
27 that school personnel who are authorized and trained may administer

1 an epinephrine auto-injector to a person who is reasonably believed
2 to be experiencing anaphylaxis on a school campus or at an
3 off-campus school event.

4 (c) The commissioner of state health services, in
5 consultation with the commissioner of education, and with advice
6 from the advisory committee, shall adopt rules regarding the
7 maintenance, administration, and disposal of an epinephrine
8 auto-injector at a school campus or while students are at an
9 off-campus school event or in transit to or from an off-campus
10 school event. The rules must establish:

11 (1) the number of epinephrine auto-injectors
12 available:

13 (A) at each campus; and

14 (B) while students are at an off-campus school
15 event or in transit to or from an off-campus school event;

16 (2) the process for each school district and
17 open-enrollment charter school to check the inventory of
18 epinephrine auto-injectors at regular intervals for expiration and
19 replacement; and

20 (3) the amount of training required for school
21 personnel to administer an epinephrine auto-injector.

22 (d) Each school district and open-enrollment charter school
23 must have a plan requiring that each campus have one or more school
24 personnel members authorized and trained to administer an
25 epinephrine auto-injector present during all hours the campus is
26 open.

27 (e) The supply of epinephrine auto-injectors must:

1 (1) be stored in a secure location on campus and
2 securely maintained while at an off-campus school event or in
3 transit to or from an off-campus school event; and

4 (2) be easily accessible to school personnel
5 authorized and trained to administer an epinephrine auto-injector.

6 Sec. 38.209. REPORT ON ADMINISTERING EPINEPHRINE
7 AUTO-INJECTOR. (a) Not later than the 10th business day after the
8 date a school personnel member administers an epinephrine
9 auto-injector, the school shall report the information required
10 under Subsection (b) to:

11 (1) the school district or the charter holder if the
12 school is an open-enrollment charter school;

13 (2) the physician who prescribed the epinephrine
14 auto-injector;

15 (3) the commissioner of education; and

16 (4) the commissioner of state health services.

17 (b) The report required under this section must include the
18 following information:

19 (1) the age of the person who received the
20 administration of the epinephrine auto-injector;

21 (2) whether the person who received the administration
22 of the epinephrine auto-injector was a student, a school personnel
23 member, or a visitor;

24 (3) the physical location where the epinephrine
25 auto-injector was administered;

26 (4) the number of doses of epinephrine auto-injector
27 administered;

1 (5) the title of the person who administered the
2 epinephrine auto-injector; and

3 (6) any other information required by the commissioner
4 of education.

5 Sec. 38.210. TRAINING. (a) Each school district and
6 open-enrollment charter school is responsible for training school
7 personnel in the administration of an epinephrine auto-injector.

8 (b) Training required under this section must:

9 (1) include information on:

10 (A) recognizing the signs and symptoms of
11 anaphylaxis;

12 (B) administering an epinephrine auto-injector;

13 (C) implementing emergency procedures, if
14 necessary, after administering an epinephrine auto-injector; and

15 (D) properly disposing of used or expired
16 epinephrine auto-injectors; and

17 (2) be provided in a formal training session or
18 through online education and be completed annually.

19 (c) Each school district and open-enrollment charter school
20 shall maintain records on the training required under this section.

21 (d) School personnel who have received training under this
22 section, in accordance with the provisions of this subchapter, may:

23 (1) take an epinephrine auto-injector from a location
24 described by Section 38.208(e)(1); and

25 (2) administer the epinephrine auto-injector.

26 Sec. 38.211. PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS.

27 (a) A physician may prescribe epinephrine auto-injectors in the

1 name of a school district or open-enrollment charter school.

2 (b) The physician shall provide the school district or
3 open-enrollment charter school with a standing order for the
4 administration of an epinephrine auto-injector to a person
5 reasonably believed to be experiencing anaphylaxis.

6 (c) The standing order under Subsection (b) is not required
7 to be patient-specific, and the epinephrine auto-injector may be
8 administered to a person without a previously established
9 physician-patient relationship.

10 (d) Notwithstanding any other provisions of law,
11 supervision or delegation by a physician is considered adequate if
12 the physician:

- 13 (1) periodically reviews the order; and
14 (2) is available through direct telecommunication as
15 needed for consultation, assistance, and direction.

16 (e) An order issued under this section must contain:

17 (1) the name and signature of the prescribing
18 physician;

19 (2) the name of the school district or open-enrollment
20 charter school to which the order is issued;

21 (3) the quantity of epinephrine auto-injectors to be
22 obtained and maintained under the order; and

23 (4) the date of issue.

24 (f) A pharmacist may dispense an epinephrine auto-injector
25 to a school district or open-enrollment charter school without
26 requiring the name or any other identifying information relating to
27 the user.

1 Sec. 38.212. FUNDING. (a) A school district or
2 open-enrollment charter school is required to comply with this
3 subchapter only if sufficient funds are available.

4 (b) A school district or open-enrollment charter school may
5 accept gifts, grants, donations, and federal and local funds to
6 implement this subchapter.

7 Sec. 38.213. UNANTICIPATED LOSS OF EPINEPHRINE
8 AUTO-INJECTORS. If a school district or open-enrollment charter
9 school cannot maintain an inventory of epinephrine auto-injectors
10 because of a manufacturer's recall or any other unanticipated loss
11 or reduction, the district or school is not required to comply with
12 this subchapter.

13 Sec. 38.214. NOTICE TO PARENTS. (a) Before each school
14 year, a school district or open-enrollment charter school shall
15 provide written notice to a parent or guardian of each student
16 enrolled in the district or school stating whether the district or
17 school will implement a policy under this subchapter for the
18 maintenance, administration, and disposal of epinephrine
19 auto-injectors.

20 (b) If a school district or open-enrollment charter school
21 will implement a policy under this subchapter, the district or
22 school must provide the notice required under Subsection (a) before
23 implementing the policy.

24 Sec. 38.215. RULES. Except as otherwise provided by this
25 subchapter, the commissioner of education and the commissioner of
26 state health services shall jointly adopt rules necessary to
27 implement this subchapter.

1 Sec. 38.216. IMMUNITY FROM LIABILITY. (a) A person who in
2 good faith takes, or fails to take, any action under this subchapter
3 is immune from civil or criminal liability or disciplinary action
4 resulting from that action or failure to act, including:

5 (1) issuing an order for epinephrine auto-injectors;

6 (2) supervising or delegating the administration of an
7 epinephrine auto-injector;

8 (3) possessing, maintaining, or disposing of an
9 epinephrine auto-injector;

10 (4) prescribing an epinephrine auto-injector;

11 (5) dispensing an epinephrine auto-injector;

12 (6) administering, or assisting in administering, an
13 epinephrine auto-injector;

14 (7) providing, or assisting in providing, training,
15 consultation, or advice in the development, adoption, or
16 implementation of policies, guidelines, rules, or plans; or

17 (8) undertaking any other act permitted or required
18 under this subchapter.

19 (b) The immunities and protections provided by this
20 subchapter are in addition to other immunity or limitations of
21 liability provided by law.

22 (c) Notwithstanding any other law, this subchapter does not
23 create a civil, criminal, or administrative cause of action or
24 liability or create a standard of care, obligation, or duty that
25 provides a basis for a cause of action or liability.

26 (d) A cause of action does not arise from an act or omission
27 described by this section.

1 (e) The immunities and protections provided by this
2 subchapter shall continue in full force and effect, regardless of
3 whether a school district or open-enrollment charter school is
4 excused under Section 38.212 or 38.213 from complying with this
5 subchapter.

6 SECTION 3. Section 38.0151, Education Code, is amended by
7 adding Subsection (f) to read as follows:

8 (f) A school district or open-enrollment charter school
9 that provides for the maintenance, administration, and disposal of
10 epinephrine auto-injectors under Subchapter E is not required to
11 comply with this section.

12 SECTION 4. This Act applies beginning with the 2015-2016
13 school year.

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