

By: Cortez

H.B. No. 1583

A BILL TO BE ENTITLED

AN ACT

relating to the use of epinephrine auto-injectors on private 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. Section 38.201, Education Code, is amended by amending Subdivision (5) and adding Subdivision (6) to read as follows:

(5) "Private school" means a school that:

(A) offers a course of instruction for students in one or more grades from prekindergarten through grade 12;

(B) is not operated by a governmental entity; and

(C) is not a school whose students meet the definition provided by Section 29.916(a)(1).

(6) "School personnel" means an employee of a school district, ~~or~~ open-enrollment charter school, or private school. The term includes a member of the board of trustees of a school district or the governing body of an open-enrollment charter school or private school.

SECTION 2. Sections 38.202(a) and (b), Education Code, are amended to read as follows:

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

1 district, ~~[or]~~ an open-enrollment charter school, or a private  
2 school.

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

6 (1) a majority of the members are physicians with  
7 expertise in treating anaphylaxis, including physicians who  
8 specialize in the fields of pediatrics, allergies, asthma, and  
9 immunology; and

10 (2) at least one member is a registered nurse employed  
11 by a school district, ~~[or]~~ open-enrollment charter school, or  
12 private school as a school nurse.

13 SECTION 3. Sections 38.208(a), (c), and (d), Education  
14 Code, are amended to read as follows:

15 (a) Each school district, ~~[and]~~ open-enrollment charter  
16 school, and private school may adopt and implement a policy  
17 regarding the maintenance, administration, and disposal of  
18 epinephrine auto-injectors at each campus in the district or  
19 school.

20 (c) The executive commissioner of the Health and Human  
21 Services Commission ~~[state health services]~~, in consultation with  
22 the commissioner of education, and with advice from the advisory  
23 committee, shall adopt rules regarding the maintenance,  
24 administration, and disposal of an epinephrine auto-injector at a  
25 school campus subject to a policy adopted under Subsection  
26 (a). The rules must establish:

27 (1) the number of epinephrine auto-injectors

1 available at each campus;

2 (2) the process for each school district, ~~[and]~~  
3 open-enrollment charter school, and private school to check the  
4 inventory of epinephrine auto-injectors at regular intervals for  
5 expiration and replacement; and

6 (3) the amount of training required for school  
7 personnel and school volunteers to administer an epinephrine  
8 auto-injector.

9 (d) Each school district, ~~[and]~~ open-enrollment charter  
10 school, and private school that adopts a policy under Subsection  
11 (a) must require that each campus have one or more school personnel  
12 members or school volunteers authorized and trained to administer  
13 an epinephrine auto-injector present during all hours the campus is  
14 open.

15 SECTION 4. Section 38.209(a), Education Code, is amended to  
16 read as follows:

17 (a) Not later than the 10th business day after the date a  
18 school personnel member or school volunteer administers an  
19 epinephrine auto-injector in accordance with a policy adopted under  
20 Section 38.208(a), the school shall report the information required  
21 under Subsection (b) to:

22 (1) the school district, ~~[or]~~ the charter holder if  
23 the school is an open-enrollment charter school, or the governing  
24 body of the school if the school is a private school;

25 (2) the physician or other person who prescribed the  
26 epinephrine auto-injector;

27 (3) the commissioner of education; and

1 (4) the commissioner of state health services.

2 SECTION 5. Sections 38.210(a) and (c), Education Code, are  
3 amended to read as follows:

4 (a) Each school district, ~~and~~ open-enrollment charter  
5 school, and private school that adopts a policy under Section  
6 38.208(a) is responsible for training school personnel and school  
7 volunteers in the administration of an epinephrine auto-injector.

8 (c) Each school district, ~~and~~ open-enrollment charter  
9 school, and private school shall maintain records on the training  
10 required under this section.

11 SECTION 6. Sections 38.211(a), (b), (e), and (f), Education  
12 Code, are amended to read as follows:

13 (a) A physician or person who has been delegated  
14 prescriptive authority under Chapter 157, Occupations Code, may  
15 prescribe epinephrine auto-injectors in the name of a school  
16 district, ~~or~~ open-enrollment charter school, or private school.

17 (b) A physician or other person who prescribes epinephrine  
18 auto-injectors under Subsection (a) shall provide the school  
19 district, ~~or~~ open-enrollment charter school, or private school  
20 with a standing order for the administration of an epinephrine  
21 auto-injector to a person reasonably believed to be experiencing  
22 anaphylaxis.

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

24 (1) the name and signature of the prescribing  
25 physician or other person;

26 (2) the name of the school district, ~~or~~  
27 open-enrollment charter school, or private school to which the

1 order is issued;

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

4 (4) the date of issue.

5 (f) A pharmacist may dispense an epinephrine auto-injector  
6 to a school district, ~~or~~ open-enrollment charter school, or  
7 private school without requiring the name or any other identifying  
8 information relating to the user.

9 SECTION 7. Section 38.212, Education Code, is amended to  
10 read as follows:

11 Sec. 38.212. NOTICE TO PARENTS. If a school district, ~~or~~  
12 open-enrollment charter school, or private school implements a  
13 policy under this subchapter for the maintenance, administration,  
14 and disposal of epinephrine auto-injectors, the district or school  
15 shall provide written notice to a parent or guardian of each student  
16 enrolled in the district or school. Notice required under this  
17 section must be provided before the policy is implemented by the  
18 district or school and before the start of each school year.

19 SECTION 8. Section 38.213, Education Code, is amended to  
20 read as follows:

21 Sec. 38.213. GIFTS, GRANTS, AND DONATIONS. A school  
22 district, ~~or~~ open-enrollment charter school, or private school  
23 may accept gifts, grants, donations, and federal and local funds to  
24 implement this subchapter.

25 SECTION 9. Section 38.214, Education Code, is amended to  
26 read as follows:

27 Sec. 38.214. RULES. Except as otherwise provided by this

1 subchapter, the commissioner of education and the executive  
2 commissioner of the Health and Human Services Commission [~~state~~  
3 ~~health services~~] shall jointly adopt rules necessary to implement  
4 this subchapter.

5 SECTION 10. Section 38.215(e), Education Code, is amended  
6 to read as follows:

7 (e) A school district, ~~or~~ open-enrollment charter school,  
8 or private school and school personnel and school volunteers are  
9 immune from suit resulting from an act, or failure to act, under  
10 this subchapter, including an act or failure to act under related  
11 policies and procedures.

12 SECTION 11. This Act applies beginning with the 2017-2018  
13 school year.

14 SECTION 12. This Act takes effect immediately if it  
15 receives a vote of two-thirds of all the members elected to each  
16 house, as provided by Section 39, Article III, Texas Constitution.  
17 If this Act does not receive the vote necessary for immediate  
18 effect, this Act takes effect September 1, 2017.