

BILL ANALYSIS

C.S.H.B. 2555
By: Parker
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Anaphylaxis is an acute allergic reaction that develops rapidly and can occur very quickly after exposure to an allergen. As anaphylaxis can be life-threatening, immediate treatment with epinephrine is critical to an afflicted individual's safety during an anaphylactic reaction. Reports indicate that approximately 5.6 million American children under the age of 18 have food allergies and that more than half of all fatal food allergy reactions are triggered by food consumed outside the home. Given the threat of a life-threatening reaction for public school students with serious food allergies, there have been calls to update the health guidelines used by public schools to further ensure the safety of students with food allergies at risk for anaphylaxis. C.S.H.B. 2555 seeks to do so by establishing a committee to assist the commissioner of state health services in regularly updating the Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 2555 amends the Education Code to require the commissioner of state health services to appoint members to an ad hoc committee to consult with the commissioner on updating the current guidelines for the care of students with food allergies at risk for anaphylaxis for purposes of incorporating and specifically referencing any new food-allergy management best practices and treatments, including new methods, treatments, and therapies to reduce the risk of allergic reactions.

C.S.H.B. 2555 sets out the composition of the ad hoc committee, requires the commissioner to appoint the committee members not later than October 1, 2019, and requires that committee members serve for a period determined by the commissioner. The bill requires the commissioner, on the resignation of a member of the committee or the removal of a member from the committee by the commissioner, to appoint a new member to the committee who qualifies for the committee in the same manner that the member who resigned or is removed qualified.

C.S.H.B. 2555 exempts the ad hoc committee from certain statutory provisions governing state agency advisory committees. The bill requires the physicians appointed to serve on the ad hoc committee to provide to the committee appropriate recommendations to be made to the commissioner on updating the current guidelines.

C.S.H.B. 2555 requires the commissioner to order a committee meeting to update the guidelines for purposes of incorporating any new food-allergy management best practices and treatments at least once every three years and authorizes the commissioner to order a committee meeting at any time the commissioner determines necessary for the committee to discuss the protection of students with food allergies at risk for anaphylaxis and to update the guidelines. The bill requires the commissioner, in consultation with the ad hoc committee, to update the guidelines as necessary not later than March 1, 2020.

C.S.H.B. 2555 revises the requirement for each public school district and open-enrollment charter school that implements a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis to review and revise the policy to ensure consistency with the guidelines by requiring that the district or school annually review and, as necessary, revise the policy to ensure consistency with the most current version of the guidelines as updated by the commissioner.

C.S.H.B. 2555 requires the guidelines posted on the Texas Education Agency (TEA) website with any other information relating to students with special health needs to include a summary of the guidelines and requires TEA annually to review and, as necessary, revise the summary and any other information to reflect the most current version of the guidelines. The bill requires the board of trustees of each district and the governing body of each charter school to post each school year a summary of the guidelines on the district's or charter school's website, including instructions on obtaining access to the complete guidelines document, and requires the applicable website to be accessible by each student enrolled in the district or charter school and a parent or guardian of each student.

C.S.H.B. 2555 requires any forms used by a district or charter school requesting information from a parent or guardian enrolling a child with a food allergy in the district or charter school to include information to access on the applicable website the summary of the guidelines and instructions on obtaining access to the complete guidelines document.

C.S.H.B. 2555 prohibits the guidelines from:

- requiring a district or charter school to purchase treatments approved by the U.S. Food and Drug Administration (FDA) or make any other expenditure that would result in a negative fiscal impact on the district or charter school; or
- requiring the personnel of a district or charter school to administer treatments approved by the FDA to a student unless the medication is prescribed for that student by the student's physician.

C.S.H.B. 2555 establishes that provisions relating to policies for the care of certain students at risk for anaphylaxis do not:

- waive any liability or immunity of a district or charter school or district or school officers or employees; or
- create any liability for those entities or individuals.

C.S.H.B. 2555 establishes that those provisions relating to such policies, including any information or materials developed and the dissemination of such information or material under the provisions, do not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides the basis for a cause of action.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2555 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes the following:

- a requirement that any forms used by a district or charter school requesting information from a parent or guardian enrolling a child with a food allergy include certain information;
- prohibitions against the guidelines requiring purchases of FDA-approved treatments, the administration of such treatments by district or charter school personnel, and any expenditures to be made that would result in a negative fiscal impact on a district or charter school;
- a provision relating to liability and immunity of districts, charter schools, or district or charter school officers or employees with regard to policies for the care of certain students at risk for anaphylaxis; and
- a requirement that physicians appointed to the ad hoc committee provide to the committee appropriate recommendations to be made to the commissioner on updating the current guidelines.

The substitute changes provisions relating to:

- the annual distribution of a guidelines summary by the board of trustees of each district and the governing body of each charter school; and
- the number of physicians on the ad hoc advisory committee.