

BILL ANALYSIS

S.B. 869
By: Zaffirini
Public Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Anaphylaxis is an acute, possibly life-threatening, allergic reaction that develops rapidly and requires immediate treatment with epinephrine. 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 possibility 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. S.B. 869 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

S.B. 869 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.

S.B. 869 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.

S.B. 869 exempts the ad hoc committee from certain statutory provisions governing state agency advisory committees. The bill requires any recommendations on updating the current guidelines regarding medical treatment or therapies to be submitted by physicians serving on the committee directly to the commissioner, provided that those recommendations may only be submitted to the commissioner if approved by a majority of the physicians.

S.B. 869 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 specifies that the guidelines and any recommendation to update the guidelines regarding medical treatment or therapy must be scientifically valid. The bill requires the commissioner, in consultation with the ad hoc committee, to update the guidelines as necessary not later than March 1, 2020.

S.B. 869 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.

S.B. 869 requires the guidelines for the care of students with food allergies at risk for anaphylaxis 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.

S.B. 869 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.

S.B. 869 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.

S.B. 869 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.

S.B. 869 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.