

BILL ANALYSIS

S.B. 294
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Public Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, respiratory distress medication, including asthma medication, is difficult to administer in schools because the law requires an authorized health care provider at the school to issue the medication to the student. Studies have shown that access to emergency albuterol, a type of asthma medication, remains low since evidence indicates that only 14 percent of children had access to quick-relief medication at school. Furthermore, it has been reported that there were a total of 192 asthma-related deaths among children in 2018, with delayed albuterol administration reported in one-third of these deaths, and a third of the delays were attributed to a lack of medication. Since respiratory distress, including asthma, may be sudden, unexpected, and life-threatening, access to albuterol can be lifesaving, as can an expanded number of personnel authorized to provide respiratory distress medication at any time. S.B. 294 seeks to address this issue by expanding the respiratory distress medications which may be administered at a public school, open-enrollment charter school, or private school and the personnel who are authorized and trained to administer the medications.

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. 294 amends the Education Code to revise the policy voluntarily adopted and implemented by a school district, open-enrollment charter school, or private school that provides for the maintenance and administration of asthma medicine at a campus. Accordingly, the bill sets out provisions that, rather than being applicable to asthma medicine in general, are applicable to the use of medication for respiratory distress as defined by the bill. The bill, among other provisions, expands the locations at which such medication may be administered and the people who may administer it, subject to training requirements. The bill does the following:

- authorizes the administration of medication for respiratory distress by any school personnel and school volunteers who are applicably authorized and trained to administer medication for respiratory distress and does the following in regard to a school nurse:
 - removes a school nurse as the sole person authorized to maintain and administer the applicable medicine at any campus in the district or school; and
 - removes a school nurse as the sole person authorized to administer, with the applicable written notification and permission from a parent, prescription asthma medication to a student at a school campus;

- authorizes the applicable personnel and volunteers to administer such medication for respiratory distress to any person reasonably believed to be experiencing respiratory distress;
- removes a school campus as the sole location for administering such medication and accordingly authorizes such administration either on a school campus or at a school-sponsored or school-related activity on or off school property;
- includes providing for the disposal of medication for respiratory distress as an additional policy component applicable to each campus in the district or school;
- requires each district or school that adopts the policy to have present during regular school hours at each campus one or more school personnel or school volunteers authorized and trained to administer the medication;
- prohibits a school personnel member or school volunteer from being subject to any penalty or disciplinary action for refusing to administer or receive training to administer epinephrine auto-injectors or medication for respiratory distress, as applicable, in accordance with the policy;
- requires the supply of the medication to be stored in a secure location and be easily accessible to authorized school personnel and school volunteers; and
- defines "medication for respiratory distress" as:
 - albuterol;
 - levalbuterol; or
 - another medication designated by the executive commissioner of the Health and Human Services Commission (HHSC) under the bill's provisions as a type of medication for treatment of respiratory distress.

S.B. 294 requires the school, if the medication is administered to a student whose parent or guardian has not provided notification that the student has been diagnosed with asthma, to refer the student to the student's primary care provider on the day the medication is administered and inform the student's parent or guardian regarding the referral. The bill requires the referral to include the symptoms of respiratory distress observed, the name of the medication for respiratory distress administered to the student, and any patient care instructions given to the student. For a student who has received such medication and does not have a primary care provider or the parent or guardian of the student has not engaged a primary care provider for the student, the student's parent or guardian must receive information to assist the parent or guardian in selecting a primary care provider for the student.

S.B. 294 includes certain rules, subsequently described, for the administration of medication for respiratory distress among the rules the executive commissioner of HHSC must adopt in consultation with the commissioner of education and with advice from the advisory committee originally established to examine and review the administration of epinephrine auto-injectors that, under the bill's provisions, also examines and reviews medication for respiratory distress. Accordingly, those rules must address the following:

- the disposal of medication for respiratory distress;
- the amount of medication for respiratory distress available at each campus;
- expiration and replacement procedures;
- the amount of training required for personnel and volunteers to administer medication for respiratory distress; and
- the types of medication that may be administered under the bill's provisions to a person experiencing respiratory distress, based on a review of the best available medical evidence.

S.B. 294 requires the school, not later than the 10th business day after the date a school personnel member or school volunteer administers medication for respiratory distress to a person experiencing respiratory distress in accordance with the policy, to report the following information to the district, the charter holder of a charter school, or the governing body of the

private school; the physician or other person who prescribed the medication for respiratory distress; and the commissioner of state health services:

- the age of the person who received the administration of the medication;
- whether the person who received the medication was a student, a school personnel member or school volunteer, or a visitor;
- the dosage of the medication administered;
- the title of the person who administered the medication; and
- any other information required by the commissioner of education.

S.B. 294 establishes that each district, charter school, and private school that adopts the policy is responsible for training school personnel and school volunteers in the administration of medication for respiratory distress. The bill requires training to include information on the following, as applicable:

- recognizing the signs and symptoms of respiratory distress;
- administering medication for respiratory distress;
- implementing emergency procedures, if necessary, after administering the medication; and
- proper sanitization, reuse, and disposal of medication for respiratory distress.

The bill clarifies that statutory provisions applicable to prescriptions and standing orders for asthma medicine generally are applicable to medication for respiratory distress, as defined by the bill. In addition, a person who in good faith takes or fails to take action under applicable provisions regarding the maintenance and administration of medication for respiratory distress, as defined by the bill, is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act.

S.B. 294 adds a requirement to current law, with respect to the policy adopted by a school district, charter school, or private school for the use of epinephrine auto-injectors and medication designated for treatment of respiratory distress, to obtain written consent from a parent or guardian of each student on the student's enrollment in the district or school to administer an epinephrine auto-injector or medication for respiratory distress, as applicable, to the student in accordance with the policy. However, the bill establishes that the requirement does not prohibit a school personnel member or school volunteer from administering in good faith an epinephrine auto-injector to a student reasonably believed to be experiencing anaphylaxis or medication for respiratory distress to a student reasonably believed to be experiencing respiratory distress, as applicable, in accordance with the policy, regardless of whether the student's parent or guardian has provided written consent.

S.B. 294 requires the advisory committee originally established to examine and review the administration of epinephrine auto-injectors that, under the bill's provisions, also examines and reviews medication for respiratory distress to advise the commissioner on the following, for purposes of examining and reviewing the administration of medication for respiratory distress as defined by the bill:

- the storage and maintenance of such medication on applicable campuses;
- the training of school personnel and school volunteers, and of personnel and volunteers at institutions of higher education, in the administration of the medication;
- a plan for one or more school personnel members or school volunteers trained in the administration of the medication to be on each applicable campus; and
- a plan for one or more personnel members or volunteers of an institution of higher education trained in the administration of medication for respiratory distress to be on each campus of an institution of higher education.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.