

BILL ANALYSIS

Senate Research Center
88R26854 CXP-F

C.S.S.B. 629
By: Menéndez
Education
4/27/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to the Centers for Disease Control (CDC), opioid-related deaths are one of the leading causes of injury-related death in the U.S. Between 2016 and 2017, deaths from synthetic opioids alone increased significantly, with many of them caused by drugs containing fentanyl, which has been known to be mixed with common street drugs such as cocaine, heroin, methamphetamine, MDMA, as well as commonly used prescription opioids.

Opioid abuse and misuse greatly affects adolescents and young adults in the U.S. The CDC reported that 15 percent of high school students reported having ever used illicit or injection drugs, and 14 percent of students reported misusing prescription opioids. According to the Comptroller of Public Accounts of the State of Texas, 342 million lethal doses of fentanyl have been seized since March 2021. However, much of it is already on the streets and mixed into other drugs, meaning there is a high risk of accidental overdose for individuals using illicit drugs.

The National Association of School Nurses has advocated for naloxone being incorporated into schools' emergency preparedness and response plans. Furthermore, the U.S. Department of Health and Human Services promotes increased access to overdose reversing drugs in their efforts to fight the opioid epidemic. Now is the time to increase access to opioid antagonists in our schools to prevent overdoses, not only in adults, but in children as well. Opioid antagonists are proven to save lives and schools play a role in ensuring children are safe and healthy.

C.S.S.B. 629 would require the commissioner of state health services to add opioid antagonists to an existing advisory committee that oversees administration of epinephrine auto-injectors on campuses of school districts, charter schools, private schools, and institutions of higher education.

It also permits school personnel and school volunteers to administer opioid antagonists if they are trained to do so, both on and off-campus.

- Makes it optional for schools to adopt Narcan policies (like in the originally filed bill);
- Allows for the purchase of opioid antagonists using the opioid abatement account from the state's fentanyl lawsuit; and
- Removes the ability for parents to withhold consent for their child to be administered Narcan.

C.S.S.B. 629 amends current law relating to the use of opioid antagonists on public and private school campuses and at or in transit to or from off-campus school events and to the permissible uses of money appropriated to a state agency from the opioid abatement account.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 7 (Section 38.208, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subchapter E, Chapter 38, Education Code, to read as follows:

SUBCHAPTER E. MAINTENANCE, ADMINISTRATION, AND DISPOSAL OF EPINEPHRINE AUTO-INJECTORS, OPIOID ANTAGONISTS, AND ASTHMA MEDICINE

SECTION 2. Amends Section 38.201, Education Code, by amending Subdivision (1) and adding Subdivision (3-a), to redefine "advisory committee" and to define "opioid antagonist" and "opioid-related drug overdose."

SECTION 3. Amends the heading to Section 38.202, Education Code, to read as follows:

Sec. 38.202. STOCK MEDICINE ADVISORY COMMITTEE: ESTABLISHMENT AND COMPOSITION.

SECTION 4. Amends Sections 38.202(a) and (b), Education Code, as follows:

(a) Requires the commissioner of state health services (commissioner) to establish a stock medicine advisory committee to examine and review the administration of epinephrine auto-injectors to a person experiencing an anaphylactic reaction, and opioid antagonists to a person experiencing an apparent opioid-related drug overdose, on a campus of a school district, an open-enrollment charter school, a private school, or institution of higher education.

(b) Requires the commissioner, in making appointments, to ensure that:

(1) a majority of the members are physicians with expertise in treating anaphylaxis or opioid-related drug overdoses, including physicians who specialize in the fields of pediatrics, allergies, asthma, drug use disorders, and immunology; and

(2)-(4) makes no changes to these subdivisions.

SECTION 5. Amends Section 38.207, Education Code, as follows:

Sec. 38.207. ADVISORY COMMITTEE: DUTIES. Requires the advisory committee to advise the commissioner on:

(1) the storage and maintenance of epinephrine auto-injectors and opioid antagonists on school campuses and campuses of institutions of higher education;

(2) the training of school personnel and school volunteers, and of personnel and volunteers at institutions of higher education, in the administration of an epinephrine auto-injector and opioid antagonist; and

(3) a plan for:

(A) makes a nonsubstantive change to this paragraph;

(B) one or more school personnel members or school volunteers trained in the administration of an opioid antagonist to be on each school campus;

(C) redesignates text of existing Paragraph (B) as Paragraph (C) and makes a nonsubstantive change; and

(D) one or more personnel members or volunteers of an institution of higher education trained in the administration of an opioid antagonist to be on each campus of an institution of higher education.

SECTION 6. Amends the heading to Section 38.208, Education Code, to read as follows:

Sec. 38.208. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS, OPIOID ANTAGONISTS, AND ASTHMA MEDICINE.

SECTION 7. Amends Sections 38.208(a), (b), (c), (d), and (e), Education Code, as follows:

(a) Authorizes each school district, open-enrollment charter school, and private school to adopt and implement a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors or opioid antagonists at each campus in the district or school.

(b) Provides that if a policy is adopted under Subsection (a), the policy, as applicable:

(1) is required to provide that school personnel and school volunteers who are authorized and trained are authorized to administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis, or an opioid antagonist to a person who is reasonably believed to be experiencing an opioid-related drug overdose, on a school campus; and

(2) is authorized to provide that school personnel and school volunteers who are authorized and trained are authorized to administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis, or an opioid antagonist to a person who is reasonably believed to be experiencing an opioid-related drug overdose, at an off-campus school event or while in transit to or from a school event.

(c) Requires the executive commissioner of the Health and Human Services Commission, in consultation with the commissioner of education, and with the advice from the advisory committee as appropriate, to adopt rules regarding the maintenance, administration, and disposal of an epinephrine auto-injector and opioid antagonist at a school campus subject to a policy adopted under Subsection (a) and the maintenance and administration of asthma medicine at a school campus subject to a policy adopted under Subsection (a-1) (relating to authorizing certain school nurses to maintain and administer asthma medication). Requires that the rules establish:

(1) the number of epinephrine auto-injectors and opioid antagonists available at each campus;

(2) makes no changes to this subdivision;

(3) the process for each school district, open-enrollment charter school, and private school to check the inventory of epinephrine auto-injectors, opioid antagonists, and asthma medicine at regular intervals for expiration and replacement; and

(4) the amount of training required for school personnel and school volunteers to administer an epinephrine auto-injector or opioid antagonist.

(d) Requires each school district, open-enrollment charter school, and private school that adopts a policy under Subsection (a) to require that each campus have one or more school personnel members or school volunteers authorized and trained to administer an epinephrine auto-injector or an opioid antagonist, as applicable, present during all hours the campus is open.

(e) Requires that the supply of epinephrine auto-injectors and opioid antagonists at each campus be stored in a secure location and be easily accessible to school personnel and school volunteers authorized and trained to administer an epinephrine auto-injector or opioid antagonist.

SECTION 8. Amends Section 38.209, Education Code, as follows:

Sec. 38.209. New heading: REPORT ON ADMINISTERING EPINEPHRINE AUTO-INJECTOR OR OPIOID ANTAGONIST. (a) Requires a school, not later than the 10th business day after the date a school personnel member or school volunteer administers an epinephrine auto-injector or opioid antagonist in accordance with a policy adopted under Section 38.208(a), to report the information required under Subsection (b) to certain persons, including the physician or other person who prescribed the epinephrine auto-injector or opioid antagonist.

(b) Requires that the report under this section include the following information:

(1)-(5) makes conforming changes to these subdivisions; and

(6) makes no changes to this subdivision.

SECTION 9. Amends Sections 38.210(a) and (b), Education Code, as follows:

(a) Provides that each school district, open-enrollment charter school, and private school that adopts a policy under Section 38.208(a) is responsible for training school personnel and school volunteers in the administration of an epinephrine auto-injector or opioid antagonist.

(b) Makes conforming changes to this subsection.

SECTION 10. Amends the heading to Section 38.211, Education Code, to read as follows:

Sec. 38.211. PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS, OPIOID ANTAGONISTS, AND ASTHMA MEDICINE.

SECTION 11. Amends Sections 38.211(a), (b), (c), (e), and (f), Education Code, as follows:

(a) Authorizes a physician or person who has been delegated prescriptive authority under Chapter 157 (Authority of Physician to Delegate Certain Medical Acts), Occupations Code, to prescribe epinephrine auto-injectors, opioid antagonists, or asthma medicine in the name of a school district, open-enrollment charter school, or private school.

(b) Requires a physician or other person who prescribes epinephrine auto-injectors, opioid antagonists, or asthma medicine under Subsection (a) to provide the school district, open-enrollment charter school, or private school with a standing order for the administration of, as applicable:

(1) makes a nonsubstantive change to this subdivision;

(2) an opioid antagonist to a person reasonably believed to be experiencing an opioid-related drug overdose; or

(3) creates this subdivision from existing text.

(c) Provides that the standing order under Subsection (b) is not required to be patient-specific, and the epinephrine auto-injector, opioid antagonist, or asthma medicine is authorized to be administered to a person without a previously established physician-patient relationship.

(e) Requires an order issued under this section to contain:

(1)-(2) makes no changes to these subdivisions;

(3) makes a conforming change to this subdivision;

(4) makes no changes to this subdivision.

(f) Authorizes a pharmacist to dispense an epinephrine auto-injector, opioid antagonist, or asthma medicine to a school district, open-enrollment charter school, or private school without requiring the name or any other identifying information relating to the user.

SECTION 12. Amends Section 38.212, Education Code, as follows:

Sec. 38.212. NOTICE TO PARENTS. (a) Creates this subsection from existing text. Requires each school district, open-enrollment charter school, or private school to provide written notice to a parent or guardian of each student enrolled in the district or school regarding any policies the district or school implements under this subchapter. Deletes existing text requiring a school district, open-enrollment charter school, or private school, if the district or school implements a policy under this subchapter, to provide written notice to a parent or guardian of each student enrolled in the district or school.

(b) Creates this subsection from existing text.

SECTION 13. Amends Section 38.215(a), Education Code, as follows:

(a) Provides that a person who in good faith takes, or fails to take, any action under this subchapter is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act, including:

(1) issuing an order for epinephrine auto-injectors, opioid antagonists, or asthma medicine;

(2) supervising or delegating the administration of an epinephrine auto-injector, an opioid antagonist, or asthma medicine;

(3) possessing, maintaining, storing, or disposing of an epinephrine auto-injector, an opioid antagonist, or asthma medicine;

(4) prescribing an epinephrine auto-injector, an opioid antagonist, or asthma medicine;

(5) dispensing:

(A) makes a nonsubstantive change to this paragraph;

(B) an opioid antagonist; or

(C) redesignates text of existing Paragraph (B) as Paragraph (C).

(6) makes a conforming change to this subdivision; or

(7)-(8) makes no changes to these subdivisions.

SECTION 14. Amends Section 403.505(d), Government Code, as follows:

(d) Authorizes a state agency to use money appropriated from the account only to:

(1) makes no changes to this subdivision;

(2) support efforts to prevent or reduce deaths from opioid overdoses or other opioid-related harms, including through increasing the availability or distribution of naloxone or other opioid antagonists for use by:

(A)-(D) creates these paragraphs from existing text and makes nonsubstantive changes;

(E) schools, including under a policy adopted under Subchapter E, Chapter 38, Education Code, regarding the maintenance, administration, and disposal of opioid antagonists; or

(F)-(H) creates these paragraphs from existing text and makes nonsubstantive changes; or

(3)-(9) makes no changes to these subdivisions.

SECTION 15. Provides that this Act applies beginning with the 2023–2024 school year.

SECTION 16. Effective date: upon passage or September 1, 2023.