

1-1 By: Zaffirini S.B. No. 28  
 1-2 (In the Senate - Filed November 10, 2014; January 26, 2015,  
 1-3 read first time and referred to Committee on State Affairs;  
 1-4 April 15, 2015, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 15, 2015,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 28 By: Zaffirini

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to immunity from liability for public and open-enrollment  
 1-22 charter school campuses that maintain a supply of epinephrine  
 1-23 auto-injectors for emergency use.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. The heading to Section 38.0151, Education Code,  
 1-26 is amended to read as follows:

1-27 Sec. 38.0151. POLICIES FOR CARE OF CERTAIN STUDENTS AT RISK  
 1-28 FOR ANAPHYLAXIS; MAINTENANCE OF EPINEPHRINE AUTO-INJECTOR SUPPLY.

1-29 SECTION 2. Section 38.0151, Education Code, is amended by  
 1-30 adding Subsections (b-1), (b-2), and (d-1) and amending Subsection  
 1-31 (d) to read as follows:

1-32 (b-1) Each school district and open-enrollment charter  
 1-33 school may maintain at each campus a supply of epinephrine  
 1-34 auto-injectors that may be administered to a person on campus or at  
 1-35 an off-campus school-sanctioned event experiencing an anaphylactic  
 1-36 reaction. For epinephrine auto-injectors to satisfy this  
 1-37 subsection, the auto-injectors may not have expiration dates that  
 1-38 have passed.

1-39 (b-2) The administration of an epinephrine auto-injector in  
 1-40 accordance with the requirements of this section does not  
 1-41 constitute the unlawful practice of any health care profession.

1-42 (d) This section does not:

1-43 (1) waive any [~~liability or~~] immunity from liability  
 1-44 of a governmental entity or its officers or employees; [~~or~~]

1-45 (2) create any liability for or a cause of action  
 1-46 against a governmental entity or its officers or employees;

1-47 (3) waive any immunity from liability under Section  
 1-48 74.151, Civil Practice and Remedies Code, including immunity from  
 1-49 liability to which a school district, open-enrollment charter  
 1-50 school, or district or school employee is entitled under that  
 1-51 section for an act associated with the administration of an  
 1-52 epinephrine auto-injector to a person on campus or at an off-campus  
 1-53 school-sanctioned event experiencing an anaphylactic reaction; or

1-54 (4) create any liability or standard of care for or a  
 1-55 cause of action against a governmental entity or its officers or  
 1-56 employees who in good faith administer or fail to administer an  
 1-57 epinephrine auto-injector unless the act is wilfully or wantonly  
 1-58 negligent.

1-59 (d-1) A person who in good faith prescribes, dispenses, or  
 1-60 administers a non-patient specific epinephrine auto-injector or

2-1 provides training, advice, or supervision on the use of an  
2-2 epinephrine auto-injector is immune from liability in a criminal,  
2-3 civil, disciplinary, or administrative action, including immunity  
2-4 from liability for civil damages, resulting from that action or  
2-5 failure to act.

2-6 SECTION 3. This Act takes effect immediately if it receives  
2-7 a vote of two-thirds of all the members elected to each house, as  
2-8 provided by Section 39, Article III, Texas Constitution. If this  
2-9 Act does not receive the vote necessary for immediate effect, this  
2-10 Act takes effect September 1, 2015.

2-11

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