

1-1 By: Taylor of Collin S.B. No. 579  
 1-2 (In the Senate - Filed January 24, 2017; February 8, 2017,  
 1-3 read first time and referred to Committee on Education;  
 1-4 March 23, 2017, reported favorably by the following vote: Yeas 10,  
 1-5 Nays 0; March 23, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Taylor of Galveston	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Campbell			X	
1-11 Hall	X			
1-12 Huffines	X			
1-13 Hughes	X			
1-14 Seliger	X			
1-15 Taylor of Collin	X			
1-16 Uresti	X			
1-17 West	X			

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

1-21 relating to the use of epinephrine auto-injectors on private school  
 1-22 campuses and at or in transit to or from off-campus school events.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 38.201, Education Code, is amended by  
 1-25 amending Subdivision (5) and adding Subdivision (6) to read as  
 1-26 follows:

1-27 (5) "Private school" means a school that:  
 1-28 (A) offers a course of instruction for students  
 1-29 in one or more grades from prekindergarten through grade 12;  
 1-30 (B) is not operated by a governmental entity; and  
 1-31 (C) is not a school whose students meet the  
 1-32 definition provided by Section 29.916(a)(1).

1-33 (6) "School personnel" means an employee of a school  
 1-34 district, ~~or~~ open-enrollment charter school, or private school.  
 1-35 The term includes a member of the board of trustees of a school  
 1-36 district or the governing body of an open-enrollment charter school  
 1-37 or private school.

1-38 SECTION 2. Sections 38.202(a) and (b), Education Code, are  
 1-39 amended to read as follows:

1-40 (a) The commissioner of state health services shall  
 1-41 establish an advisory committee to examine and review the  
 1-42 administration of epinephrine auto-injectors to a person  
 1-43 experiencing an anaphylactic reaction on a campus of a school  
 1-44 district, ~~or~~ an open-enrollment charter school, or a private  
 1-45 school.

1-46 (b) The advisory committee shall be composed of members  
 1-47 appointed by the commissioner of state health services. In making  
 1-48 appointments, the commissioner shall ensure that:

1-49 (1) a majority of the members are physicians with  
 1-50 expertise in treating anaphylaxis, including physicians who  
 1-51 specialize in the fields of pediatrics, allergies, asthma, and  
 1-52 immunology; and

1-53 (2) at least one member is a registered nurse employed  
 1-54 by a school district, ~~or~~ open-enrollment charter school, or  
 1-55 private school as a school nurse.

1-56 SECTION 3. Sections 38.208(a), (c), and (d), Education  
 1-57 Code, are amended to read as follows:

1-58 (a) Each school district, ~~and~~ open-enrollment charter  
 1-59 school, and private school may adopt and implement a policy  
 1-60 regarding the maintenance, administration, and disposal of  
 1-61 epinephrine auto-injectors at each campus in the district or

2-1 school.

2-2 (c) The executive commissioner of the Health and Human  
 2-3 Services Commission [~~state health services~~], in consultation with  
 2-4 the commissioner of education, and with advice from the advisory  
 2-5 committee, shall adopt rules regarding the maintenance,  
 2-6 administration, and disposal of an epinephrine auto-injector at a  
 2-7 school campus subject to a policy adopted under Subsection (a). The  
 2-8 rules must establish:

2-9 (1) the number of epinephrine auto-injectors  
 2-10 available at each campus;

2-11 (2) the process for each school district, [~~and~~]  
 2-12 open-enrollment charter school, and private school to check the  
 2-13 inventory of epinephrine auto-injectors at regular intervals for  
 2-14 expiration and replacement; and

2-15 (3) the amount of training required for school  
 2-16 personnel and school volunteers to administer an epinephrine  
 2-17 auto-injector.

2-18 (d) Each school district, [~~and~~] open-enrollment charter  
 2-19 school, and private school that adopts a policy under Subsection  
 2-20 (a) must require that each campus have one or more school personnel  
 2-21 members or school volunteers authorized and trained to administer  
 2-22 an epinephrine auto-injector present during all hours the campus is  
 2-23 open.

2-24 SECTION 4. Section 38.209(a), Education Code, is amended to  
 2-25 read as follows:

2-26 (a) Not later than the 10th business day after the date a  
 2-27 school personnel member or school volunteer administers an  
 2-28 epinephrine auto-injector in accordance with a policy adopted under  
 2-29 Section 38.208(a), the school shall report the information required  
 2-30 under Subsection (b) to:

2-31 (1) the school district, [~~or~~] the charter holder if  
 2-32 the school is an open-enrollment charter school, or the governing  
 2-33 body of the school if the school is a private school;

2-34 (2) the physician or other person who prescribed the  
 2-35 epinephrine auto-injector;

2-36 (3) the commissioner of education; and

2-37 (4) the commissioner of state health services.

2-38 SECTION 5. Sections 38.210(a) and (c), Education Code, are  
 2-39 amended to read as follows:

2-40 (a) Each school district, [~~and~~] open-enrollment charter  
 2-41 school, and private school that adopts a policy under Section  
 2-42 38.208(a) is responsible for training school personnel and school  
 2-43 volunteers in the administration of an epinephrine auto-injector.

2-44 (c) Each school district, [~~and~~] open-enrollment charter  
 2-45 school, and private school shall maintain records on the training  
 2-46 required under this section.

2-47 SECTION 6. Sections 38.211(a), (b), (e), and (f), Education  
 2-48 Code, are amended to read as follows:

2-49 (a) A physician or person who has been delegated  
 2-50 prescriptive authority under Chapter 157, Occupations Code, may  
 2-51 prescribe epinephrine auto-injectors in the name of a school  
 2-52 district, [~~or~~] open-enrollment charter school, or private school.

2-53 (b) A physician or other person who prescribes epinephrine  
 2-54 auto-injectors under Subsection (a) shall provide the school  
 2-55 district, [~~or~~] open-enrollment charter school, or private school  
 2-56 with a standing order for the administration of an epinephrine  
 2-57 auto-injector to a person reasonably believed to be experiencing  
 2-58 anaphylaxis.

2-59 (e) An order issued under this section must contain:

2-60 (1) the name and signature of the prescribing  
 2-61 physician or other person;

2-62 (2) the name of the school district, [~~or~~]  
 2-63 open-enrollment charter school, or private school to which the  
 2-64 order is issued;

2-65 (3) the quantity of epinephrine auto-injectors to be  
 2-66 obtained and maintained under the order; and

2-67 (4) the date of issue.

2-68 (f) A pharmacist may dispense an epinephrine auto-injector  
 2-69 to a school district, [~~or~~] open-enrollment charter school, or

3-1 private school without requiring the name or any other identifying  
3-2 information relating to the user.

3-3 SECTION 7. Section 38.212, Education Code, is amended to  
3-4 read as follows:

3-5 Sec. 38.212. NOTICE TO PARENTS. If a school district, ~~[or]~~  
3-6 open-enrollment charter school, or private school implements a  
3-7 policy under this subchapter for the maintenance, administration,  
3-8 and disposal of epinephrine auto-injectors, the district or school  
3-9 shall provide written notice to a parent or guardian of each student  
3-10 enrolled in the district or school. Notice required under this  
3-11 section must be provided before the policy is implemented by the  
3-12 district or school and before the start of each school year.

3-13 SECTION 8. Section 38.213, Education Code, is amended to  
3-14 read as follows:

3-15 Sec. 38.213. GIFTS, GRANTS, AND DONATIONS. A school  
3-16 district, ~~[or]~~ open-enrollment charter school, or private school  
3-17 may accept gifts, grants, donations, and federal and local funds to  
3-18 implement this subchapter.

3-19 SECTION 9. Section 38.214, Education Code, is amended to  
3-20 read as follows:

3-21 Sec. 38.214. RULES. Except as otherwise provided by this  
3-22 subchapter, the commissioner of education and the executive  
3-23 commissioner of the Health and Human Services Commission ~~[state~~  
3-24 ~~health services]~~ shall jointly adopt rules necessary to implement  
3-25 this subchapter.

3-26 SECTION 10. Section 38.215(e), Education Code, is amended  
3-27 to read as follows:

3-28 (e) A school district, ~~[or]~~ open-enrollment charter school,  
3-29 or private school and school personnel and school volunteers are  
3-30 immune from suit resulting from an act, or failure to act, under  
3-31 this subchapter, including an act or failure to act under related  
3-32 policies and procedures.

3-33 SECTION 11. This Act applies beginning with the 2017-2018  
3-34 school year.

3-35 SECTION 12. This Act takes effect immediately if it  
3-36 receives a vote of two-thirds of all the members elected to each  
3-37 house, as provided by Section 39, Article III, Texas Constitution.  
3-38 If this Act does not receive the vote necessary for immediate  
3-39 effect, this Act takes effect September 1, 2017.

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