

HOUSE BILL 26

F1

(9lr0720)

ENROLLED BILL

—Ways and Means/Education, Health, and Environmental Affairs—

Introduced by **Delegate Kullen**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Public Schools – Children with Anaphylactic Allergies – Reduction of Risk**

3 FOR the purpose of requiring, *in consultation with a school health professional,*
4 principals of public schools that have children attending the schools who have
5 been identified as having certain allergies to take certain actions to reduce
6 certain risks; ~~requiring school principals or their designees to monitor certain~~
7 ~~files; requiring the monitoring of certain individualized health plans;~~
8 authorizing public schools to revoke the authority of certain children to
9 self-administer certain medications; granting certain immunity to certain
10 individuals under certain circumstances; authorizing local county boards of
11 education to require parents or guardians to sign certain statements; defining
12 certain terms; and generally relating to the reduction of risk to the health of
13 children with anaphylactic allergies in public schools.

14 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 Article – Education
2 Section 7–426.1
3 Annotated Code of Maryland
4 (2008 Replacement Volume)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Education**

8 **7–426.1.**

9 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
10 MEANINGS INDICATED.

11 (2) “ANAPHYLACTIC ALLERGY” MEANS A FOOD ALLERGY THAT
12 CAUSES A SEVERE, SYSTEMATIC REACTION RESULTING IN CIRCULATORY
13 COLLAPSE OR SHOCK THAT MAY BE FATAL.

14 (3) “EMPLOYEE” MEANS AN INDIVIDUAL WHO IS EMPLOYED BY A
15 LOCAL BOARD OF EDUCATION, INCLUDING PART–TIME EMPLOYEES, CERTIFIED
16 AND NONCERTIFIED SUBSTITUTE TEACHERS EMPLOYED BY THE LOCAL BOARD
17 OF EDUCATION FOR AT LEAST 7 DAYS EACH SCHOOL YEAR, MAINTENANCE
18 WORKERS, AND ADMINISTRATIVE STAFF.

19 (4) “SELF–ADMINISTER” MEANS THE APPLICATION OR
20 CONSUMPTION OF MEDICATIONS IN A MANNER PRESCRIBED BY A HEALTH
21 PRACTITIONER WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED
22 UNDER THE HEALTH OCCUPATIONS ARTICLE TO PRESCRIBE MEDICATIONS AND
23 MEDICATION DELIVERY DEVICES BY THE INDIVIDUAL FOR WHOM THE
24 MEDICATION WAS PRESCRIBED WITHOUT ADDITIONAL ASSISTANCE OR
25 DIRECTION.

26 (B) ~~THE~~ IN CONSULTATION WITH A SCHOOL HEALTH PROFESSIONAL,
27 THE PRINCIPAL OF A PUBLIC SCHOOL THAT HAS A CHILD ATTENDING THE
28 SCHOOL WHO HAS BEEN IDENTIFIED TO THE SCHOOL AS HAVING AN
29 ANAPHYLACTIC ALLERGY SHALL:

30 (1) MONITOR THE STRATEGIES DEVELOPED IN ACCORDANCE
31 WITH THE MARYLAND STATE SCHOOL HEALTH SERVICE GUIDELINES TO
32 REDUCE THE RISK OF EXPOSURE TO ANAPHYLACTIC CAUSATIVE AGENTS IN
33 CLASSROOMS AND COMMON AREAS;

1 ~~(2) DISSEMINATE INFORMATION ON LIFE-THREATENING~~
2 ~~ALLERGIES TO PARENTS, GUARDIANS, PUPILS, AND EMPLOYEES OF THE~~
3 ~~SCHOOL, INCLUDING NOTICE IN A CONSPICUOUS PLACE AT EACH POINT OF~~
4 ~~ENTRY AND IN THE CAFETERIA STATING THAT A STUDENT IN THE SCHOOL HAS A~~
5 ~~SEVERE FOOD ALLERGY;~~

6 ~~(3) (2) DESIGNATE A PEANUT- AND TREE NUT-FREE TABLE IN~~
7 ~~THE CAFETERIA; AND~~

8 ~~(4) IN CONSULTATION WITH APPROPRIATE PROFESSIONAL~~
9 ~~MEDICAL ORGANIZATIONS, REQUIRE TRAINING REGARDING~~
10 ~~LIFE-THREATENING ALLERGIES FOR EMPLOYEES AND OTHER INDIVIDUALS~~
11 ~~WHO ARE IN DIRECT CONTACT WITH THESE STUDENTS ON A REGULAR BASIS.~~

12 ~~(c) (1) A SCHOOL PRINCIPAL OR THE PRINCIPAL'S DESIGNEE SHALL~~
13 ~~MONITOR FOR EACH CHILD WITH AN ANAPHYLACTIC ALLERGY A ROUTINELY~~
14 ~~UPDATED FILE THAT CONTAINS:~~

15 ~~(i) CURRENT TREATMENT GUIDELINES;~~

16 ~~(ii) COPIES OF ANY PRESCRIPTIONS AND INSTRUCTIONS~~
17 ~~FROM A PHYSICIAN OR NURSE; AND~~

18 ~~(iii) A CURRENT EMERGENCY CONTACT LIST.~~

19 ~~(2) IT IS THE RESPONSIBILITY OF THE PARENT OR GUARDIAN OF~~
20 ~~THE CHILD TO ENSURE THAT THE INFORMATION IN THE FILE IS CURRENT.~~

21 ~~(d) (1) A SCHOOL PRINCIPAL OR THE PRINCIPAL'S DESIGNEE, IN~~
22 ~~CONSULTATION WITH THE PARENT OR GUARDIAN OF THE CHILD, THE CHILD'S~~
23 ~~PHYSICIAN, ANY HEALTH CARE PROFESSIONAL EMPLOYED BY THE SCHOOL,~~
24 ~~AND, IF APPROPRIATE, THE CHILD, SHALL MONITOR AN INDIVIDUALIZED~~
25 ~~HEALTH PLAN FOR THE CHILD.~~

26 ~~(2) EMPLOYEES OF THE SCHOOL SHALL HAVE ACCESS TO THE~~
27 ~~PLAN AT ALL TIMES.~~

28 ~~(e) AN INDIVIDUALIZED HEALTH PLAN SHALL:~~

29 ~~(1) ESTABLISH PROCEDURES FOR NOTIFYING EMPLOYEES WHO~~
30 ~~ARE IN DIRECT CONTACT WITH THE CHILD ON A REGULAR BASIS ABOUT~~
31 ~~INFORMATION REGARDING THE TYPE OF ALLERGY, MONITORING AND~~
32 ~~AVOIDANCE STRATEGIES, AND APPROPRIATE TREATMENT;~~

1 ~~(2) ESTABLISH A READILY ACCESSIBLE EMERGENCY RESPONSE~~
2 ~~PLAN FOR THE CHILD, INCLUDING:~~

3 ~~(I) EMERGENCY CONTACT INFORMATION, UPDATED AT~~
4 ~~LEAST ANNUALLY, WITH CURRENT CONTACT NAMES AND PHONE NUMBERS;~~

5 ~~(II) SIGNS AND SYMPTOMS FOR WHICH EMERGENCY CARE~~
6 ~~MAY BE NEEDED THAT ARE SPECIFIC TO THE CHILD'S HEALTH CONDITION;~~

7 ~~(III) EMERGENCY INTERVENTION NEEDED, INCLUDING~~
8 ~~MEDICATIONS PRESCRIBED, DOSAGES, AND MODE OF ADMINISTRATION;~~

9 ~~(IV) PROCEDURES FOR THE PLACEMENT OF A CHILD'S~~
10 ~~PRESCRIBED EMERGENCY MEDICATION IN A SAFE AND SECURE LOCATION~~
11 ~~EASILY ACCESSED TO ENSURE IMMEDIATE ACCESSIBILITY AT SCHOOL, ON A~~
12 ~~FIELD TRIP, ON A SCHOOL BUS OR OTHER SCHOOL COORDINATED~~
13 ~~TRANSPORTATION, OR AT A SCHOOL SPONSORED ACTIVITY OR EVENT; AND~~

14 ~~(V) EACH LOCATION OF THE EMERGENCY MEDICATION;~~

15 ~~(3) INCLUDE PRECISE INSTRUCTIONS REGARDING THE STORAGE~~
16 ~~OF EPINEPHRINE AUTO-INJECTORS; AND~~

17 ~~(4) (3) MEET THE NEEDS OF THE CHILD, INCLUDING~~
18 ~~ESTABLISHING~~ ESTABLISH PROCEDURES FOR SELF-ADMINISTRATION OF
19 MEDICATION BY THE CHILD IF THE CHILD IS DETERMINED TO BE CAPABLE OF
20 AND RESPONSIBLE FOR SELF-ADMINISTRATION BY THE PRINCIPAL, PARENT OR
21 GUARDIAN OF THE CHILD, AND PHYSICIAN OF THE CHILD.

22 ~~(F) (C)~~ A SCHOOL MAY REVOKE THE AUTHORITY OF A CHILD TO
23 SELF-ADMINISTER MEDICATION IF THE CHILD ENDANGERS HIMSELF OR
24 HERSELF OR ANOTHER CHILD THROUGH MISUSE OF THE MEDICATION.

25 ~~(G) (D)~~ EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, AN
26 EMPLOYEE WHO RESPONDS IN GOOD FAITH TO THE ANAPHYLACTIC REACTION
27 OF A CHILD IN ACCORDANCE WITH THIS SECTION IS IMMUNE FROM CIVIL
28 LIABILITY FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE
29 REACTION.

30 ~~(H) (E)~~ IF A CHILD HAS AUTHORITY TO SELF-ADMINISTER
31 MEDICATION IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, A LOCAL
32 COUNTY BOARD MAY REQUIRE THE PARENT OR GUARDIAN OF THE CHILD TO
33 SIGN A STATEMENT ACKNOWLEDGING THAT:

1 (1) ~~THE~~ THE SCHOOL OR ITS EMPLOYEE INCURS NO LIABILITY AS
 2 A RESULT OF INJURY ARISING FROM SELF-ADMINISTRATION BY THE CHILD;
 3 AND.

4 (2) ~~THE PARENT OR GUARDIAN SHALL INDEMNIFY AND HOLD~~
 5 ~~HARMLESS AN EMPLOYEE OF THE SCHOOL AGAINST ANY CLAIMS ARISING FROM~~
 6 ~~SELF-ADMINISTRATION BY THE CHILD.~~

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 8 October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.