

HOUSE BILL 26

F1

9lr0720

(PRE-FILED)

By: **Delegate Kullen**

Requested: October 2, 2008

Introduced and read first time: January 14, 2009

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

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

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

13 BY adding to

14 Article – Education

15 Section 7–426.1

16 Annotated Code of Maryland

17 (2008 Replacement Volume)

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

20 **Article – Education**

21 **7–426.1.**

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
23 MEANINGS INDICATED.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

4 (3) **“EMPLOYEE” MEANS AN INDIVIDUAL WHO IS EMPLOYED BY A**
5 **LOCAL BOARD OF EDUCATION, INCLUDING PART-TIME EMPLOYEES, CERTIFIED**
6 **AND NONCERTIFIED SUBSTITUTE TEACHERS EMPLOYED BY THE LOCAL BOARD**
7 **OF EDUCATION FOR AT LEAST 7 DAYS EACH SCHOOL YEAR, MAINTENANCE**
8 **WORKERS, AND ADMINISTRATIVE STAFF.**

9 (4) **“SELF-ADMINISTER” MEANS THE APPLICATION OR**
10 **CONSUMPTION OF MEDICATIONS IN A MANNER PRESCRIBED BY A HEALTH**
11 **PRACTITIONER WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED**
12 **UNDER THE HEALTH OCCUPATIONS ARTICLE TO PRESCRIBE MEDICATIONS AND**
13 **MEDICATION DELIVERY DEVICES BY THE INDIVIDUAL FOR WHOM THE**
14 **MEDICATION WAS PRESCRIBED WITHOUT ADDITIONAL ASSISTANCE OR**
15 **DIRECTION.**

16 **(B) THE PRINCIPAL OF A PUBLIC SCHOOL THAT HAS A CHILD**
17 **ATTENDING THE SCHOOL WHO HAS BEEN IDENTIFIED TO THE SCHOOL AS**
18 **HAVING AN ANAPHYLACTIC ALLERGY SHALL:**

19 (1) **MONITOR THE STRATEGIES DEVELOPED IN ACCORDANCE**
20 **WITH THE MARYLAND STATE SCHOOL HEALTH SERVICE GUIDELINES TO**
21 **REDUCE THE RISK OF EXPOSURE TO ANAPHYLACTIC CAUSATIVE AGENTS IN**
22 **CLASSROOMS AND COMMON AREAS;**

23 (2) **DISSEMINATE INFORMATION ON LIFE-THREATENING**
24 **ALLERGIES TO PARENTS, GUARDIANS, PUPILS, AND EMPLOYEES OF THE**
25 **SCHOOL, INCLUDING NOTICE IN A CONSPICUOUS PLACE AT EACH POINT OF**
26 **ENTRY AND IN THE CAFETERIA STATING THAT A STUDENT IN THE SCHOOL HAS A**
27 **SEVERE FOOD ALLERGY;**

28 (3) **DESIGNATE A PEANUT- AND TREE NUT-FREE TABLE IN THE**
29 **CAFETERIA; AND**

30 (4) **IN CONSULTATION WITH APPROPRIATE PROFESSIONAL**
31 **MEDICAL ORGANIZATIONS, REQUIRE TRAINING REGARDING**
32 **LIFE-THREATENING ALLERGIES FOR EMPLOYEES AND OTHER INDIVIDUALS**
33 **WHO ARE IN DIRECT CONTACT WITH THESE STUDENTS ON A REGULAR BASIS.**

34 **(C) (1) A SCHOOL PRINCIPAL SHALL MONITOR FOR EACH CHILD WITH**
35 **AN ANAPHYLACTIC ALLERGY A ROUTINELY UPDATED FILE THAT CONTAINS:**

1 (I) CURRENT TREATMENT GUIDELINES;

2 (II) COPIES OF ANY PRESCRIPTIONS AND INSTRUCTIONS
3 FROM A PHYSICIAN OR NURSE; AND

4 (III) A CURRENT EMERGENCY CONTACT LIST.

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

7 (D) (1) A SCHOOL PRINCIPAL, IN CONSULTATION WITH THE PARENT
8 OR GUARDIAN OF THE CHILD, THE CHILD'S PHYSICIAN, ANY HEALTH CARE
9 PROFESSIONAL EMPLOYED BY THE SCHOOL, AND, IF APPROPRIATE, THE CHILD,
10 SHALL MONITOR AN INDIVIDUALIZED HEALTH PLAN FOR THE CHILD.

11 (2) EMPLOYEES OF THE SCHOOL SHALL HAVE ACCESS TO THE
12 PLAN AT ALL TIMES.

13 (E) AN INDIVIDUALIZED HEALTH PLAN SHALL:

14 (1) ESTABLISH PROCEDURES FOR NOTIFYING EMPLOYEES WHO
15 ARE IN DIRECT CONTACT WITH THE CHILD ON A REGULAR BASIS ABOUT
16 INFORMATION REGARDING THE TYPE OF ALLERGY, MONITORING AND
17 AVOIDANCE STRATEGIES, AND APPROPRIATE TREATMENT;

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

20 (I) EMERGENCY CONTACT INFORMATION, UPDATED AT
21 LEAST ANNUALLY, WITH CURRENT CONTACT NAMES AND PHONE NUMBERS;

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

24 (III) EMERGENCY INTERVENTION NEEDED, INCLUDING
25 MEDICATIONS PRESCRIBED, DOSAGES, AND MODE OF ADMINISTRATION;

26 (IV) PROCEDURES FOR THE PLACEMENT OF A CHILD'S
27 PRESCRIBED EMERGENCY MEDICATION IN A SAFE AND SECURE LOCATION
28 EASILY ACCESSED TO ENSURE IMMEDIATE ACCESSIBILITY AT SCHOOL, ON A
29 FIELD TRIP, ON A SCHOOL BUS OR OTHER SCHOOL-COORDINATED
30 TRANSPORTATION, OR AT A SCHOOL-SPONSORED ACTIVITY OR EVENT; AND

31 (V) EACH LOCATION OF THE EMERGENCY MEDICATION;

1 **(3) INCLUDE PRECISE INSTRUCTIONS REGARDING THE STORAGE**
2 **OF EPINEPHRINE AUTO-INJECTORS; AND**

3 **(4) MEET THE NEEDS OF THE CHILD, INCLUDING ESTABLISHING**
4 **PROCEDURES FOR SELF-ADMINISTRATION OF MEDICATION BY THE CHILD IF**
5 **THE CHILD IS DETERMINED TO BE CAPABLE OF AND RESPONSIBLE FOR**
6 **SELF-ADMINISTRATION BY THE PRINCIPAL, PARENT OR GUARDIAN OF THE**
7 **CHILD, AND PHYSICIAN OF THE CHILD.**

8 **(F) A SCHOOL MAY REVOKE THE AUTHORITY OF A CHILD TO**
9 **SELF-ADMINISTER MEDICATION IF THE CHILD ENDANGERS HIMSELF OR**
10 **HERSELF OR ANOTHER CHILD THROUGH MISUSE OF THE MEDICATION.**

11 **(G) EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, AN**
12 **EMPLOYEE WHO RESPONDS IN GOOD FAITH TO THE ANAPHYLACTIC REACTION**
13 **OF A CHILD IN ACCORDANCE WITH THIS SECTION IS IMMUNE FROM CIVIL**
14 **LIABILITY FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE**
15 **REACTION.**

16 **(H) IF A CHILD HAS AUTHORITY TO SELF-ADMINISTER MEDICATION IN**
17 **ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, A LOCAL COUNTY BOARD**
18 **MAY REQUIRE THE PARENT OR GUARDIAN OF THE CHILD TO SIGN A STATEMENT**
19 **ACKNOWLEDGING THAT:**

20 **(1) THE SCHOOL INCURS NO LIABILITY AS A RESULT OF INJURY**
21 **ARISING FROM SELF-ADMINISTRATION BY THE CHILD; AND**

22 **(2) THE PARENT OR GUARDIAN SHALL INDEMNIFY AND HOLD**
23 **HARMLESS AN EMPLOYEE OF THE SCHOOL AGAINST ANY CLAIMS ARISING FROM**
24 **SELF-ADMINISTRATION BY THE CHILD.**

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