

# 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

---

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2009

---

CHAPTER \_\_\_\_\_

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 or their designees to  
6 monitor certain files; requiring the monitoring of certain individualized health  
7 plans; 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**

---

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.



1 **7-426.1.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
3 MEANINGS INDICATED.

4 (2) "ANAPHYLACTIC ALLERGY" MEANS A FOOD ALLERGY THAT  
5 CAUSES A SEVERE, SYSTEMATIC REACTION RESULTING IN CIRCULATORY  
6 COLLAPSE OR SHOCK THAT MAY BE FATAL.

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

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

19 (B) THE PRINCIPAL OF A PUBLIC SCHOOL THAT HAS A CHILD  
20 ATTENDING THE SCHOOL WHO HAS BEEN IDENTIFIED TO THE SCHOOL AS  
21 HAVING AN ANAPHYLACTIC ALLERGY SHALL:

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

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

31 (3) DESIGNATE A PEANUT- AND TREE NUT-FREE TABLE IN THE  
32 CAFETERIA; AND

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

1           (C)   (1)   A SCHOOL PRINCIPAL OR THE PRINCIPAL'S DESIGNEE SHALL  
2 MONITOR FOR EACH CHILD WITH AN ANAPHYLACTIC ALLERGY A ROUTINELY  
3 UPDATED FILE THAT CONTAINS:

4                   (I)   CURRENT TREATMENT GUIDELINES;

5                   (II) COPIES OF ANY PRESCRIPTIONS AND INSTRUCTIONS  
6 FROM A PHYSICIAN OR NURSE; AND

7                   (III) A CURRENT EMERGENCY CONTACT LIST.

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

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

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

17          (E)   AN INDIVIDUALIZED HEALTH PLAN SHALL:

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

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

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

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

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

30                           (IV) PROCEDURES FOR THE PLACEMENT OF A CHILD'S  
31 PRESCRIBED EMERGENCY MEDICATION IN A SAFE AND SECURE LOCATION

1 EASILY ACCESSED TO ENSURE IMMEDIATE ACCESSIBILITY AT SCHOOL, ON A  
2 FIELD TRIP, ON A SCHOOL BUS OR OTHER SCHOOL-COORDINATED  
3 TRANSPORTATION, OR AT A SCHOOL-SPONSORED ACTIVITY OR EVENT; AND

4 (V) EACH LOCATION OF THE EMERGENCY MEDICATION;

5 (3) INCLUDE PRECISE INSTRUCTIONS REGARDING THE STORAGE  
6 OF EPINEPHRINE AUTO-INJECTORS; AND

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

12 (F) A SCHOOL MAY REVOKE THE AUTHORITY OF A CHILD TO  
13 SELF-ADMINISTER MEDICATION IF THE CHILD ENDANGERS HIMSELF OR  
14 HERSELF OR ANOTHER CHILD THROUGH MISUSE OF THE MEDICATION.

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

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

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

26 (2) THE PARENT OR GUARDIAN SHALL INDEMNIFY AND HOLD  
27 HARMLESS AN EMPLOYEE OF THE SCHOOL AGAINST ANY CLAIMS ARISING FROM  
28 SELF-ADMINISTRATION BY THE CHILD.

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