

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1195

(Delegate Palakovich Carr)

Ways and Means

Education, Energy, and the Environment

Child Care Providers - Anaphylactic Food Allergies - Guidelines and Indemnity
(Elijah's Law)

This bill requires the Maryland State Department of Education (MSDE) and the Maryland Department of Health (MDH) to jointly develop guidelines to reduce the risk of exposure to anaphylactic major food allergens in child care settings. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: MSDE and MDH can develop the guidelines with existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The guidelines must identify at least one free training resource on reducing the risk of exposure to anaphylactic major food allergens that is appropriate for child care providers. Based on the guidelines, MSDE must develop a model policy for child care providers that, at a minimum, includes (1) emergency protocols, including comprehensive guidelines for storage and administration of epinephrine; (2) cross-contamination prevention strategies; and (3) notification of a child's anaphylactic allergy to staff who come in contact with the child and child care provider administrators. MSDE must post the guidelines, model policy, and training resources on its website. A registered large family child care home or licensed child care center with at least one enrolled child with a food

allergy must (1) adopt and implement a policy on reducing the risk of exposure to anaphylactic major food allergens in child care settings in accordance with the guidelines developed under the bill; (2) monitor updates to MSDE’s guidelines and update the policy in accordance with MSDE’s revisions; and (3) provide a copy of the policy to the parent or guardian of each enrolled child each year.

Except for any willfully or grossly negligent act, a child care provider (or employee of a provider) who responds in good faith to the anaphylactic reaction of a child in accordance with the guidelines implemented pursuant to the bill’s requirements or by use of auto-injectable epinephrine is immune from civil liability for any act or omission in the course of responding to the reaction.

Current Law: “Anaphylactic allergy” means a food allergy that causes a severe, systematic reaction resulting in circulatory collapse or shock that may be fatal. “Major food allergen” means milk, eggs, fish, crustacean shellfish, tree nuts, wheat, peanuts, soybeans, and sesame. “Auto-injectable epinephrine” means a portable, disposable drug delivery device that contains a premeasured single dose of epinephrine that is used to treat anaphylaxis in an emergency situation.

Subject to limited exception, large family child care homes and child care centers may not operate in the State unless they are registered/licensed. The State Board of Education is required to adopt regulations that relate to the registration of large family child care homes and the licensing and operation of child care centers. A large family child care home is a residence in which family child care is provided for at least 9 children but not more than 12 children. A child care center is an agency, institution, or establishment that, for part or all of a day, or on a 24-hour basis on a regular schedule, and at least twice a week, offers or provides child care to children who do not have the same parentage except as otherwise provided for in law or regulation.

Chapter 770 of 2023 requires MSDE and MDH to jointly update the Maryland State School Health Services guidelines to reduce the risk of exposure to anaphylactic major food allergens in classrooms and common areas. Each local board of education must make a good faith effort to adopt and implement the updated guidelines before the 2023-2024 school year but must do so before the 2024-2025 school year. Each public school must develop a system to disclose, within a reasonable time before service, the foods served in the school and the major food allergens contained in them. The principal of a public school that has a child attending with an anaphylactic allergy must implement, as necessary, the strategies developed in accordance with the Maryland State School Health Services guidelines and monitor and implement the guidelines ultimately adopted and implemented by the local board. The guidelines are available on [MSDE’s website](#).

Additional Comments: MSDE advises that current regulations for all provider types (child care centers, family child care homes, large family child care homes, and letter of compliance programs) require six hours of medication administration training, which includes a training component related to allergies and anaphylaxis. In addition, there is a mandatory, three-hour training requirement for all family child care providers and child care center staff that must be met within 90 days of their hire date. This training also includes a unit focused on allergies and anaphylaxis.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland State Department of Education; Maryland Department of Health; Department of Legislative Services

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