

# HOUSE BILL 1195

F5, O4

4lr3132

---

By: **Delegate Palakovich Carr**

Introduced and read first time: February 8, 2024

Assigned to: Ways and Means

---

## A BILL ENTITLED

AN ACT concerning

### **Child Care Providers – Anaphylactic Food Allergies – Guidelines and Indemnity (Elijah’s Law)**

FOR the purpose of requiring the State Department of Education and the Maryland Department of Health jointly to develop guidelines to reduce the risk of exposure to anaphylactic major food allergens in child care settings; requiring the State Department of Education to create a certain model policy based on certain guidelines; requiring certain large family child care homes and child care centers to develop and adopt a certain policy on reducing the risk of exposure to anaphylactic major food allergens in child care settings; and generally relating to a policy on anaphylactic food allergies and child care providers.

BY adding to

Article – Education

Section 9.5–117

Annotated Code of Maryland

(2022 Replacement Volume and 2023 Supplement)

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

#### **Article – Education**

**9.5–117.**

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

(2) “ANAPHYLACTIC ALLERGY” HAS THE MEANING STATED IN § 7–426.1 OF THIS ARTICLE.

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



**(3) “AUTO-INJECTABLE EPINEPHRINE” HAS THE MEANING STATED IN § 7-426.2 OF THIS ARTICLE.**

**(4) “MAJOR FOOD ALLERGEN” HAS THE MEANING STATED IN § 7-426.1 OF THIS ARTICLE.**

**(B) (1) THE DEPARTMENT AND THE MARYLAND DEPARTMENT OF HEALTH JOINTLY SHALL DEVELOP GUIDELINES TO REDUCE THE RISK OF EXPOSURE TO ANAPHYLACTIC MAJOR FOOD ALLERGENS IN CHILD CARE SETTINGS.**

**(2) THE GUIDELINES DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL 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.**

**(C) BASED ON THE GUIDELINES DEVELOPED IN SUBSECTION (B) OF THIS SECTION, THE DEPARTMENT SHALL DEVELOP A MODEL POLICY FOR CHILD CARE PROVIDERS THAT, AT MINIMUM, INCLUDES:**

**(1) EMERGENCY PROTOCOLS;**

**(2) CROSS-CONTAMINATION PREVENTION STRATEGIES;**

**(3) STAFF NOTIFICATION OF A CHILD’S ANAPHYLACTIC ALLERGY;**

**AND**

**(4) CLEANING AND HAND WASHING.**

**(D) THE DEPARTMENT SHALL POST THE GUIDELINES, MODEL POLICY, AND TRAINING RESOURCES DEVELOPED UNDER THIS SECTION ON THE DEPARTMENT’S WEBSITE.**

**(E) (1) THIS SUBSECTION APPLIES TO THE FOLLOWING REGISTRANTS OR LICENSEES THAT HAVE AT LEAST ONE ENROLLED CHILD WITH A FOOD ALLERGY:**

**(I) A LARGE FAMILY CHILD CARE HOME REGISTERED UNDER SUBTITLE 3 OF THIS TITLE; AND**

**(II) A CHILD CARE CENTER LICENSED UNDER SUBTITLE 4 OF THIS TITLE.**

**(2) A REGISTERED LARGE FAMILY CHILD CARE HOME AND LICENSED CHILD CARE CENTER SHALL:**

**(I) 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 SUBSECTION (B) OF THIS SECTION;**

**(II) MONITOR UPDATES TO THE DEPARTMENT'S GUIDELINES AND UPDATE THE POLICY IN ACCORDANCE WITH THE DEPARTMENT'S REVISIONS; AND**

**(III) PROVIDE A COPY OF THE POLICY TO THE PARENT OR GUARDIAN OF EACH ENROLLED CHILD EACH YEAR.**

**(F) EXCEPT FOR ANY WILLFULLY OR GROSSLY NEGLIGENT ACT, A CHILD CARE PROVIDER WHO RESPONDS IN GOOD FAITH TO THE ANAPHYLACTIC REACTION OF A CHILD IN ACCORDANCE WITH THE GUIDELINES IMPLEMENTED UNDER THIS SECTION OR BY USE OF AUTO-INJECTABLE EPINEPHRINE MAY NOT BE HELD PERSONALLY LIABLE FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE REACTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024.