

**- MSCCA Testimony -HB 1195 support Senate March 27**

Uploaded by: Christina Peusch

Position: FAV



**Caring For Maryland's Most  
Important Natural Resource™**

## **Maryland State Child Care Association**

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*The Maryland State Child Care Association (MSCCA) is a non-profit, statewide, professional association incorporated in 1984 to promote the growth and development of child care and learning centers in Maryland. MSCCA has over 5000 members working in the field of child care/early childhood education. We believe children are our most important natural resource and work hard to advocate for children, families and for professionalism within the early childhood community.*

### **Testimony: HB 1195 Care Providers – Anaphylactic Food Allergies – Guidelines and Indemnity 3 (Elijah's Law)**

**Submitted to: Education, Energy and Environment Committee**

**March 27, 2024**

MSCCA fully supports HB 1195 and applauds Delegate Palakovich Carr for adding Maryland as part of the important, national lifesaving initiative for all states to adopt Elijah's Echo/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.

Safety is our priority. No child should be at risk with documented food allergens in child care settings due to lack of training, policies and resources that can easily be developed, adopted, and implemented in our state.

HB 1195 takes the concrete, necessary steps to create awareness and preparedness related to food allergens and emergency protocols which are critical for protecting health and saving lives, especially in child care environments.

The development of food allergen policies, protocols, and resources, including comprehensive guidelines for storage in tandem with administration of epinephrine is a critical support for the foundation of safety in child care settings.

HB 1139 also recognizes the need to include immunity of civil liability for acting in good faith or course of omission.

MSCCA urges a favorable report, our children and families are counting on it.

# **FARE HB1195 - FAV - Child Care Providers - Anaphyl**

Uploaded by: Jason Linde

Position: FAV



STATEMENT OF FARE (Food Allergy Research and Education) before the  
Maryland Senate Education, Energy, and the Environment Committee  
March 27, 2024

Position: **FAVORABLE HB 1195 – Child Care Providers – Anaphylactic Food Allergies –  
Guidelines and Indemnity (Elijah’s Law)**

Chair Feldman, Vice Chair Kagan, and members of the Senate Education, Energy, and the Environment Committee:

[FARE](#) (Food Allergy Research and Education), the nation’s leading non-profit organization engaged in food allergy advocacy and the largest private funder of food allergy research, strongly supports Del. Palakovich Carr’s legislation, HB 1195 – Child Care Providers – Anaphylactic Food Allergies – Guidelines and Indemnity (Elijah’s Law) on behalf of the approximately 29,000 Maryland children ages 0 to 5 with potentially life-threatening food allergies according to July 2023 census data.

Life-threatening food allergies are on the rise as the [Centers for Disease Control and Prevention \(CDC\)](#) found that over the past 20 years, the rates of children with food allergies has grown by 50% and for children with a peanut or tree nut allergy, it has tripled. Life-threatening food allergies and the risk of fatal [anaphylaxis](#) are growing at an even faster rate among [African-American, Latino, and Asian-American children](#). [The CDC has also found that food allergies impact nearly 8% of all children](#).

While food allergies are on the rise nationally, a [2020 study](#) found that children on Medicaid were less than one-tenth as likely as children on private health insurance to be diagnosed with a food allergy. This is especially troubling in Maryland as the Kaiser Family Foundation found in 2023 that [approximately 37.5% of the state’s children are on Medicaid/CHIP](#).

As you might imagine, this combination of underdiagnosis coupled with the dramatic increase in food allergy prevalence has led to two startling results: “Up to 25% of children with food allergies have their [first reaction at a child care or school setting](#)” and a [2016 study](#) reported that 25% of all anaphylactic attacks occurred in children with “no known food allergies.”

The dramatic rise of food allergies among the youngest and most vulnerable Marylanders – babies, toddlers, and children – means that parents and caregivers must be able to trust that the employees and volunteers providing day care are prepared and trained on how best to protect children with food allergies.

HB 1195 addresses this problem and builds on legislation that Del. Palakovich Carr introduced last year, [HB 78](#), that was supported by this Committee and signed into law. HB 78 tasked the state’s Department of Health and Department of Education to develop policies to reduce the risk of exposure to allergens at schools and HB 1195, now extends this responsibility to include the state’s more than 5,000 licensed child care providers.

HB 1195 is a solid step forward and offers a “win-win” for both food allergy parents and guardians and the state’s licensed child care providers because according to the Fiscal and Policy note, the bill will have no effect on state and local governments and a minimum one on small businesses. In addition, FARE offers for free on its training platform, Food Allergy Academy, an accredited course entitled, “[Stop. Look. Ask. Go.](#)”

[Food Allergy Education for Early Childhood Professionals](#)” used to educate child care providers in other states that have passed similar legislation referred to as “Elijah’s Law.”

This legislation was borne out of a child care tragedy in 2017 that took the life of three-year-old Elijah Silvera in New York. Elijah suffered an anaphylactic reaction after he took a bite of a grilled cheese sandwich at his daycare even though Elijah’s parents previously informed staff about their son’s life-threatening milk allergy and provided documents, instructions, and medicine on managing a food allergy emergency.

We are grateful that Del. Palakovich Carr and members of this Committee understand the importance that by passing HB 1195, we can ensure that the tragedy that took the life of Elijah Silvera does not happen here in Maryland.

FARE asks for a favorable report.

Thank you.

Jason Linde  
Senior Vice President, Advocacy  
Contact: [Jlinde@foodallergy.org](mailto:Jlinde@foodallergy.org)

# **Delegate Palakovich Carr Testimony - HB 1195 - Chi**

Uploaded by: Julie Palakovich Carr

Position: FAV



THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

**Testimony in Support of HB 1195  
Child Care Providers - Anaphylactic Food Allergies - Guidelines and Indemnity  
(Elijah's Law)**

This bill would protect the health and lives of children in child care by ensuring that child care providers are adequately informed and prepared to prevent life-threatening allergic reactions among the children they care for.

This bill builds upon our work from last year, when we passed [HB 78](#) to require 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 major food allergens in schools. The law also requires each county board of education to develop and implement a policy to protect K-12 students who have a severe food allergy.

Similarly, this bill requires MSDE and MDH to jointly develop guidelines to reduce the risk of exposure to major food allergens in child care settings and requires certain child care providers to adopt and implement a policy regarding food allergies. The bill would apply only to large family child care homes and child care centers.

HB 1195 passed the House of Delegates unanimously and is modeled after laws adopted in other states, including Virginia, New York, and Illinois.

**Food Allergies Can Be Deadly**

Food allergies impact about 8% of children in the United States, a proportion that has grown in recent decades.<sup>1,2</sup> Unfortunately, up to 25% of children with food allergies have their first reaction at a child care or school setting.<sup>3</sup>

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<sup>1</sup> "Food Allergies." Centers for Disease Control and Prevention.

<sup>2</sup> Food allergy among U.S. children: trends in prevalence and hospitalizations." Branum, et al. National Center for Health Statistics, 2008. <https://www.cdc.gov/nchs/products/databriefs/db10.htm>

<sup>3</sup> [Food Allergies in Childcare Centers | Center for Managing Chronic Disease](#)

Allergic reactions can be life-threatening for children with a severe allergy. Consequently, a severe food allergy is considered a disability under the Americans with Disabilities Act and students may be eligible for a 504 plan.

### **What the Bill Does**

The bill requires MSDE and MDH to jointly develop risk-reduction guidelines for child care providers—which shall include at least one free training resource for child care providers—as well as a model policy for use by child care facilities.

Under the bill, large family child care homes and child care centers would be required to do the following:

- Adopt and implement a policy on reducing the risk of exposure to major food allergens. A provider could use the model policy provided by MSDE and MDH.
- Provide a copy of the policy to the parent or guardian of each enrolled child each year.

The bill provides good samaritan protection that would ensure that, except for any willfully or grossly negligent act, a child care provider or employee who administers epinephrine in good faith to treat the anaphylactic reaction of a child is immune from civil liability. This mirrors existing good samaritan protections for public school personnel who respond to anaphylaxis in school settings.



# **Agudah Testimony - HB1195 -anaphylactgic - FAV W A**

Uploaded by: Rabbi Ariel Sadwin

Position: FWA



**SENATE EDUCATION, ENERGY & THE ENVIRONMENT COMMITTEE**

**HOUSE BILL 1195**

**CHILD CARE PROVIDERS - ANAPHYLACTIC FOOD ALLERGIES - GUIDELINES AND INDEMNITY  
(ELIJAH'S LAW)**

**MARCH 27, 2024**

**INFORMATIONAL WITH AMENDMENTS**

Agudath Israel of Maryland speaks on behalf of the Orthodox Jewish communities, families, and individuals across Maryland, including some twenty community child care facilities and their children, and the thousands of preschool-age children and their families within our community.

House Bill 1195 would require child care centers to adopt and implement policies on reducing the risk of exposure to anaphylactic major food allergens, following guidelines to be developed by the Maryland State Department of Education, and provides a “good faith” exemption from personal liability under certain circumstances.

The “good faith” exemption is understandably necessary in order to ensure that child care facilities and their employees are able to function responsibly. The original liability clause in this bill covered personal liability only. The House of Delegates added a “good faith” exemption to the care provider as such, in addition to that of the individual carer, and we respectfully request that this language be retained.

In regards to the storage and deployment of epinephrine: the importance of ensuring a safe environment for children at their child care facility is obvious and needs no elaboration. However, we do see possible cause for concern if the Maryland State Department of Education would in future craft policies regarding the storage of epinephrine in ways that would create difficulties and costs to child care centers, especially when bearing in mind that many of these child care centers operate on tight budgets. As such, we would respectfully ask that the bill be amended so that general storage should be optional rather than mandatory, allowing providers to determine best practices on a case-by-case basis, according to the needs of the situation at hand.

**Amendments to House Bill 1195**

**Amendment No. 1**

On Page 2, line 21, after “FOR”, insert “OPTIONAL”

**MD Catholic Conference\_HB 1195\_INFO SENATE CROSS.p**

Uploaded by: Garrett O'Day

Position: INFO



MARYLAND  
CATHOLIC  
CONFERENCE

March 27, 2024

**HB 1195  
Child Care Providers - Anaphylactic Food Allergies - Guidelines and Indemnity  
(Elijah's Law)**

**Senate Education, Energy & the Environment Committee**

**Position: INFORMATION w/ Amendment**

The Maryland Catholic Conference offers this informational testimony with amendments to House Bill 1195. The Catholic Conference is the public policy representative of the three (arch)dioceses serving Maryland, which together encompass over one million Marylanders. Statewide, their parishes, schools, hospitals and numerous charities combine to form our state's second largest social service provider network, behind only our state government.

House Bill 1195 requires child care centers to adopt and implement policies on reducing the risk of exposure to anaphylactic major food allergens. The guidelines would be developed at the discretion of the Maryland State Department of Education. The bill also dictates that, 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 pursuant to the bill's requirements 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.

Catholic parishes and other entities operate dozens of child care centers in Maryland. Our Catholic schools currently have very strong model policies for the storage and deployment of EpiPens, as well as other allergy-related policies. However, if the "emergency protocols" dictated in the bill are deemed by MSDE to include a sweeping policy on general use pens, the securing, storing, monitor, and implementing general use pens may be very difficult and costly over time. **Thus, we respectfully request that this bill be amended to make general storage optional**, based on the best interests of the program and the children on a case-by-case basis.

Additionally, the original liability clause in this bill only covered "personal" liability and not expressly that of the provider. **We respectfully request that that Senate retain the very important liability-related amendment put in by the House of Delegates.**

Thus, we respectfully urge the following amendments to House Bill 1195:

**Amendments to House Bill 1195**

**Amendment No. 1**

On Page 2, line 21, after “FOR”, insert “OPTIONAL”