

## **BILL ANALYSIS**

Senate Research Center  
85R11251 SRS-D

S.B. 1367  
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Higher Education  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Anaphylactic shock can cause life-threatening symptoms due to food or other types of allergic reactions. Because of these life-threatening symptoms, it is vital to react quickly and correctly to any episode of anaphylactic shock. The quickest and most efficient way to treat anaphylactic shock is epinephrine auto-injectors. In the 84th session, the legislature authorized school districts and charter schools to adopt and implement policies regarding the use of auto-injectors to treat individuals suffering from anaphylactic shock.

S.B. 1367 gives institutions of higher education the same authority by allowing universities and community colleges to develop and implement policies to administer epinephrine auto-injectors on campus or at campus-related events. University officials would have epinephrine auto-injectors prescribed to the school and would be allowed to store and manage the injectors in order to treat individuals suffering from anaphylactic shock. Universities that implement these policies would be required to have training for personnel and volunteers to learn how to correctly administer the auto injectors.

The purpose of this Act is to ensure individuals enrolled in higher education institutions and participating at affiliated events are able to get the treatment they may need in case of anaphylactic shock. S.B. 1367 also grants institutions immunity from civil or criminal liability for the use of epinephrine auto-injectors by university personnel.

As proposed, S.B. 1367 amends current law relating to policies and training regarding the use of epinephrine auto-injectors by public institutions of higher education, and provides immunity.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of state health services (commissioner) in SECTION 3 (Section 51.882, Education Code) of this bill.

Rulemaking authority is expressly and jointly granted to the Texas Higher Education Coordinating Board and the commissioner in SECTION 3 (Section 51.887, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 38.202, Education Code, by amending Subsections (a) and (b) and adding Subsection (e), as follows:

(a) Requires the commissioner of state health services (commissioner) to establish an advisory committee to examine and review the administration of epinephrine auto-injectors to a person experiencing an anaphylactic reaction on a campus of a school district, an open-enrollment charter school, or an institute of higher education (IHE).

(b) Requires the commissioner, in making appointments to the advisory committee, to ensure that:

(1) and (2) makes no changes to these subdivisions; and

(3) at least one member is an employee of an IHE.

(e) Defines "institution of higher education."

SECTION 2. Amends Section 38.207, Education Code, as follows:

Sec. 38.207. ADVISORY COMMITTEE: DUTIES. Requires the advisory committee to advise the commissioner on:

(1) the storage and maintenance of epinephrine auto-injectors on school campuses and campuses of IHEs;

(2) the training of personnel and volunteers at schools and IHEs in the administration of an epinephrine auto-injector, rather than the training of school personnel and school volunteers in the administration of an epinephrine auto-injector; and

(3) a plan for one or more personnel members or volunteers of a school or an IHE trained in the administration of an epinephrine auto-injector to be on each campus of a school or an IHE, rather than a plan for one or more school personnel members or school volunteers trained in the administration of an epinephrine auto-injector to be on each school campus.

SECTION 3. Amends Chapter 51, Education Code, by adding Subchapter Y-1, as follows:

#### SUBCHAPTER Y-1. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS

Sec. 51.881. DEFINITIONS. Defines "advisory committee," "anaphylaxis," "epinephrine auto-injector," "institution of higher education," "personnel," and "physician."

Sec. 51.882. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS. (a) Authorizes each IHE to adopt and implement a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors on the IHE's campus.

(b) Requires that a policy, if a policy is adopted under Subsection (a), provide that personnel who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis on the IHE's campus, and authorizes the policy to provide that personnel who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis at an off-campus event sponsored by the IHE.

(c) Requires the commissioner, in consultation with the Texas Higher Education Coordinating Board (THECB), and with advice from the advisory committee, to adopt rules regarding the administration of an epinephrine auto-injector on the campus of an IHE subject to a policy adopted under Subsection (a). Requires that the rules establish:

(1) the number of epinephrine auto-injectors available at each campus;

(2) the process for each IHE to check the inventory of epinephrine auto-injectors at regular intervals for expiration and replacement; and

(3) the amount of training required for personnel to administer an epinephrine auto-injector.

(d) Requires each IHE that adopts a policy under Subsection (a) to require that the IHE's campuses have personnel authorized and trained to administer an epinephrine auto-injector present.

(e) Requires that the supply of epinephrine auto-injectors at a campus be stored in a secure location and be easily accessible to personnel authorized and trained to administer an epinephrine auto-injector.

Sec. 51.883. REPORT ON ADMINISTERING EPINEPHRINE AUTO-INJECTOR. (a) Requires the IHE, not later than a certain date, to report the information required under Subsection (b) to THECB, the physician who prescribed the epinephrine auto-injector, and the commissioner.

(b) Requires that the required report include certain information.

Sec. 51.884. TRAINING. (a) Provides that each IHE that adopts a policy under Section 51.882(a) is responsible for training personnel in the administration of an epinephrine auto-injector.

(b) Requires that required training include certain information relating to anaphylaxis and epinephrine auto-injectors and be provided in a formal training session or through online education and be completed annually.

(c) Requires each IHE that adopts a policy under Section 51.882(a) to maintain records on the required training.

Sec. 51.885. PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS. (a) Authorizes a physician to prescribe epinephrine auto-injectors in the name of an IHE that adopts a policy under Section 51.882(a). Requires the physician to provide the IHE with a standing order for the administration of an epinephrine auto-injector to a person reasonably believed to be experiencing anaphylaxis.

(b) Provides that the standing order under Subsection (a) is not required to be patient specific, and authorizes the epinephrine auto-injector to be administered to a person without an established physician-patient relationship.

(c) Provides that, notwithstanding any other provisions of law, supervision or delegation by a physician is considered adequate if the physician periodically reviews the order and is available through direct telecommunication as needed for consultation, assistance, and direction.

(d) Requires that an order issued under this section contain certain information.

(e) Authorizes a pharmacist to dispense an epinephrine auto-injector to an IHE without requiring the name or any other identifying information relating to the user.

Sec. 51.886. GIFTS, GRANTS, AND DONATIONS. Authorizes an IHE to accept gifts, grants, donations, and federal funds to implement this subchapter.

Sec. 51.887. RULES. Requires THECB and the commissioner, except as otherwise provided by this subchapter, to jointly adopt rules necessary to implement this subchapter.

Sec. 51.888. IMMUNITY FROM LIABILITY. (a) Provides that, except in a case of reckless conduct or intentional, wilful, or wanton misconduct, a person is immune from civil or criminal liability or disciplinary action for any permitted or required conduct, including issuing certain orders relating to an epinephrine auto-injector, taking certain actions relating to an epinephrine auto-injector, providing or assisting in providing,

training, consultation, or advice in the development, adoption, or implementation of policies, guidelines, rules, or plans, or undertaking any other permitted or required act.

(b) Provides that the immunity provided by Subsection (a) is in addition to other immunity or limitations of liability provided by law.

(c) Provides that, notwithstanding any other law, this subchapter does not create a cause of action or liability against the personnel for the use of an epinephrine auto-injector as provided by this subchapter.

SECTION 4. Provides that this Act applies beginning with the 2017 fall semester.

SECTION 5. Effective date: upon passage or September 1, 2017.