

BILL ANALYSIS

Senate Research Center

S.B. 629
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Education
6/30/2023
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to the Centers for Disease Control (CDC), opioid-related deaths are one of the leading causes of injury-related death in the U.S. Between 2016 and 2017, deaths from synthetic opioids alone increased significantly, with many of them caused by drugs containing fentanyl, which has been known to be mixed with common street drugs such as cocaine, heroin, methamphetamine, MDMA, as well as commonly used prescription opioids.

Opioid abuse and misuse greatly affects adolescents and young adults in the U.S. The CDC reported that 15 percent of high school students reported having ever used illicit or injection drugs, and 14 percent of students reported misusing prescription opioids. According to the Comptroller of Public Accounts of the State of Texas, 342 million lethal doses of fentanyl have been seized since March 2021. However, much of it is already on the streets and mixed into other drugs, meaning there is a high risk of accidental overdose for individuals using illicit drugs.

The National Association of School Nurses has advocated for naloxone being incorporated into schools' emergency preparedness and response plans. Furthermore, the U.S. Department of Health and Human Services promotes increased access to overdose reversing drugs in their efforts to fight the opioid epidemic. Now is the time to increase access to opioid antagonists in our schools to prevent overdoses, not only in adults, but in children as well. Opioid antagonists are proven to save lives and schools play a role in ensuring children are safe and healthy.

C.S.S.B. 629 would require the commissioner of state health services to add opioid antagonists to an existing advisory committee that oversees administration of epinephrine auto-injectors on campuses of school districts, charter schools, private schools, and institutions of higher education.

It also permits school personnel and school volunteers to administer opioid antagonists if they are trained to do so, both on and off-campus.

- Makes it optional for schools to adopt Narcan policies (like in the originally filed bill);
- Allows for the purchase of opioid antagonists using the opioid abatement account from the state's fentanyl lawsuit; and
- Removes the ability for parents to withhold consent for their child to be administered Narcan.

S.B. 629 amends current law relating to the maintenance, administration, and disposal of opioid antagonists on public and private school campuses and to the permissible uses of money appropriated to a state agency from the opioid abatement account.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Sections 38.222 and 38.228, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Sections 38.222 and 38.228, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 38, Education Code, by adding Subchapter E-1, as follows:

SUBCHAPTER E-1. MAINTENANCE, ADMINISTRATION, AND DISPOSAL OF OPIOID ANTAGONISTS

Sec. 38.221. DEFINITIONS. Defines "opioid antagonist," "opioid-related drug overdose," and "physician."

Sec. 38.222. MAINTENANCE, ADMINISTRATION, AND DISPOSAL OF OPIOID ANTAGONISTS. (a) Provides that each school district is required to adopt and implement a policy regarding the maintenance, administration, and disposal of opioid antagonists at each campus in the district that serves students in grades 6 through 12 and is authorized to adopt and implement such a policy at each campus in the district, including campuses serving students in a grade level below grade 6.

(b) Authorizes an open-enrollment charter school or private school to adopt and implement a policy regarding the maintenance, administration, and disposal of opioid antagonists. Authorizes a school, if the school adopts a policy under this subsection, to apply the policy:

(1) only at campuses of the school serving students in grades 6 through 12; or

(2) at each campus of the school, including campuses serving students in a grade level below grade 6.

(c) Requires that a policy adopted under this section:

(1) provide that school personnel and school volunteers who are authorized and trained are authorized to administer an opioid antagonist to a person who is reasonably believed to be experiencing an opioid-related drug overdose;

(2) require that each school campus subject to a policy adopted under this section have one or more school personnel members or school volunteers authorized and trained to administer an opioid antagonist present during regular school hours;

(3) establish the number of opioid antagonists that are required to be available at each campus at any given time; and

(4) require that the supply of opioid antagonists at each school campus subject to a policy adopted under this section is required to be stored in a secure location and be easily accessible to school personnel and school volunteers authorized and trained to administer an opioid antagonist.

(d) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner), in consultation with the commissioner of education (commissioner), to adopt rules regarding the maintenance, administration, and disposal of opioid antagonists at a school campus subject to a policy adopted under this section. Requires that the rules establish:

(1) the process for checking the inventory of opioid antagonists at regular intervals for expiration and replacement; and

(2) the amount of training required for school personnel and school volunteers to administer an opioid antagonist.

Sec. 38.223. REPORT ON ADMINISTERING OPIOID ANTAGONIST. (a) Requires a school, not later than the 10th business day after the date a school personnel member or school volunteer administers an opioid antagonist in accordance with a policy adopted under Section 38.222(a) or (b), to report the information required under Subsection (b) of this section to:

- (1) the school district, the charter holder if the school is an open-enrollment charter school, or the governing body of the school if the school is a private school;
- (2) the physician or other person who prescribed the opioid antagonist; and
- (3) the commissioner of state health services.

(b) Requires that the report required under this section include the following information:

- (1) the age of the person who received the administration of the opioid antagonist;
- (2) whether the person who received the administration of the opioid antagonist was a student, a school personnel member or school volunteer, or a visitor;
- (3) the physical location where the opioid antagonist was administered;
- (4) the number of doses of opioid antagonist administered;
- (5) the title of the person who administered the opioid antagonist; and
- (6) any other information required by the commissioner.

Sec. 38.224. TRAINING. (a) Provides that each school district, open-enrollment charter school, and private school that adopts a policy under Section 38.222(a) or (b) is responsible for training school personnel and school volunteers in the administration of an opioid antagonist.

(b) Requires that training required under this section:

- (1) include information on:
 - (A) recognizing the signs and symptoms of an opioid-related drug overdose;
 - (B) administering an opioid antagonist;
 - (C) implementing emergency procedures, if necessary, after administering an opioid antagonist; and
 - (D) properly disposing of used or expired opioid antagonists;
- (2) be provided in a formal training session or through online education; and
- (3) be provided in accordance with the policy adopted under Section 21.4515 (Annual Adoption of Professional Development Policy).

(c) Requires each school district, open-enrollment charter school, or private school that adopts a policy under Section 38.222(a) or (b) to maintain records on the training required under this section.

Sec. 38.225. **PRESCRIPTION OF OPIOID ANTAGONISTS.** (a) Authorizes a physician or person who has been delegated prescriptive authority under Chapter 157 (General Authority of Physician to Delegate), Occupations Code, to prescribe opioid antagonists in the name of a school district, open-enrollment charter school, or private school.

(b) Requires a physician or other person who prescribes opioid antagonists under Subsection (a) to provide the school district, open-enrollment charter school, or private school with a standing order for the administration of an opioid antagonist to a person reasonably believed to be experiencing an opioid-related drug overdose.

(c) Provides that the standing order under Subsection (b) is not required to be patient-specific, and the opioid antagonist is authorized to be administered to a person without a previously established physician-patient relationship.

(d) Provides that supervision or delegation by a physician, notwithstanding any other provisions of law, is considered adequate if the physician:

(1) periodically reviews the order; and

(2) is available through direct telecommunication as needed for consultation, assistance, and direction.

(e) Requires that an order issued under this section contain:

(1) the name and signature of the prescribing physician or other person;

(2) the name of the school district, open-enrollment charter school, or private school to which the order is issued;

(3) the quantity of opioid antagonists to be obtained and maintained under the order; and

(4) the date of issue.

(f) Authorizes a pharmacist to dispense an opioid antagonist to a school district, open-enrollment charter school, or private school without requiring the name or any other identifying information relating to the user.

Sec. 38.226. **GIFTS, GRANTS, AND DONATIONS.** Authorizes a school district, open-enrollment charter school, or private school to accept gifts, grants, donations, and federal and local funds to implement this subchapter.

Sec. 38.227. **IMMUNITY FROM LIABILITY.** (a) Provides that a person who in good faith takes, or fails to take, any action under this subchapter is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act, including:

(1) issuing an order for opioid antagonists;

(2) supervising or delegating the administration of an opioid antagonist;

(3) possessing, maintaining, storing, or disposing of an opioid antagonist;

(4) prescribing an opioid antagonist;

- (5) dispensing an opioid antagonist;
- (6) administering, or assisting in administering, an opioid antagonist;
- (7) providing, or assisting in providing, training, consultation, or advice in the development, adoption, or implementation of policies, guidelines, rules, or plans; or
- (8) undertaking any other act permitted or required under this subchapter.

(b) Provides that the immunities and protections provided by this subchapter are in addition to other immunities or limitations of liability provided by law.

(c) Provides that this subchapter, notwithstanding any other law, does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides a basis for a cause of action for an act or omission under this subchapter.

(d) Provides that a cause of action does not arise from an act or omission described by this section.

(e) Provides that a school district, open-enrollment charter school, or private school and school personnel and school volunteers are immune from suit resulting from an act, or failure to act, under this subchapter, including an act or failure to act under related policies and procedures.

(f) Provides that an act or failure to act by school personnel or a school volunteer under this subchapter, including an act or failure to act under related policies and procedures, is the exercise of judgment or discretion on the part of the school personnel or school volunteer and is not considered to be a ministerial act for purposes of liability of the school district, open-enrollment charter school, or private school.

Sec. 38.228. RULES. Requires the commissioner and the executive commissioner to jointly adopt rules necessary to implement this subchapter, except as otherwise provided by this subchapter.

SECTION 2. Amends Section 403.505(d), Government Code, as follows:

(d) Authorizes a state agency to use money appropriated from the opioid abatement account only to:

- (1) makes no changes to this subdivision;
- (2) support efforts to prevent or reduce deaths from opioid overdoses or other opioid-related harms, including through increasing the availability or distribution of naloxone or other opioid antagonists for use by:
 - (A)-(D) creates these paragraphs from existing text;
 - (E) schools, including under a policy adopted under Subchapter E-1, Chapter 38, Education Code, regarding the maintenance, administration, and disposal of opioid antagonists; or
 - (F)-(H) creates these paragraphs from existing text; or
- (3)-(9) makes no changes to these subdivisions.

SECTION 3. Provides that not later than November 1, 2023:

(1) the executive commissioner, in consultation with the commissioner, is required to adopt rules required under Section 38.222, Education Code, as added by this Act; and

(2) the commissioner and the executive commissioner are required to jointly adopt rules necessary to implement Subchapter E-1, Chapter 38, Education Code, as added by this Act.

SECTION 4. Provides that a school district, notwithstanding the effective date of this Act, is not required to comply with Section 38.222, Education Code, as added by this Act, before January 1, 2024.

SECTION 5. Effective date: upon passage or September 1, 2023.