MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Paden

To: Education;
Appropriations

HOUSE BILL NO. 710

AN ACT TO REQUIRE EACH SCHOOL IN EVERY SCHOOL DISTRICT TO HAVE EPINEPHRINE AUTO-INJECTORS IN EACH EDUCATIONAL BUILDING, CENTRAL ADMINISTRATIVE OFFICE AND CAFETERIA, STORED IN A SECURE AND EASILY ACCESSIBLE LOCATION WITHIN EACH RESPECTIVE BUILDING; TO DEFINE THE TERMS USED IN THIS ACT; TO REQUIRE EACH LOCAL SCHOOL BOARD TO ADOPT AND IMPLEMENT A POLICY REGARDING THE MAINTENANCE, STORAGE, ADMINISTRATION AND DISPOSAL OF EPINEPHRINE AUTO-INJECTORS; TO PRESCRIBE THE MINIMUM REQUIREMENTS OF THE POLICY; TO PROVIDE THAT ONLY LICENSED MEDICAL PROFESSIONALS OR SCHOOL PERSONNEL TRAINED BY LICENSED MEDICAL PROFESSIONALS ARE AUTHORIZED TO ADMINISTER AN EPINEPHRINE AUTO-INJECTOR FOR A PERSON IN EMERGENCY ANAPHYLAXIS; TO REQUIRE THE STATE DEPARTMENT OF HEALTH, IN CONSULTATION WITH THE STATE SUPERINTENDENT OF PUBLIC EDUCATION, TO ESTABLISH GUIDELINES FOR THE DEVELOPMENT OF POLICIES BY LOCAL SCHOOL DISTRICTS; TO REQUIRE THE STATE DEPARTMENT OF HEALTH TO ADOPT RULES REGARDING THE MAINTENANCE, STORAGE, ADMINISTRATION AND DISPOSAL OF EPINEPHRINE AUTO-INJECTORS; TO AMEND SECTION 37-11-71, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. As used in this act, the following terms have the meanings ascribed in this section unless the context clearly requires otherwise:

(a) "Anaphylaxis" means a sudden, severe and potentially life-threatening allergic reaction that occurs when a person is exposed to an allergen.

(b) "Epinephrine auto—injector" means a disposable medical drug delivery device that contains a premeasured single dose of epinephrine that is intended to be used to treat anaphylaxis.

(c) "Licensed medical professional" means a physician, physician assistant, advanced practice nurse, registered nurse or school nurse who is appropriately licensed by the State of Mississippi and is designated by a local school board to oversee the district's epinephrine administration and training program.

(d) "School" means a public elementary or secondary educational facility under the control of a local school board, including all the instructional and subsidiary buildings situated on the same campus, off-campus teaching locations and regional centers under the jurisdiction of the school board.

(e) "School personnel" means an individual who is a faculty or staff member of the local school district.

(f) "Trained designee" means a member of the school personnel trained by a licensed medical professional in the emergency administration of epinephrine via an auto-injector mechanism.

SECTION 2. All public school districts shall comply with all provisions of this act. Each school in every school district must have, in each educational building, central administrative office and cafeteria, epinephrine auto-injectors that are stored in a secure and easily accessible location within each respective

building to be used by a licensed medical professional or trained designee in the event of an emergency anaphylactic reaction.

SECTION 3. (1) Each school district shall adopt and implement a policy regarding the maintenance, storage, administration and disposal of epinephrine auto-injectors on school property.

(2) The adopted policy must provide:

(a) That licensed medical professionals or school personnel under the guidance of a licensed medical professional who are authorized and trained may administer an epinephrine auto—injector when the person, in good faith, reasonably believes that an individual is experiencing anaphylaxis on the school premises;

(b) That licensed medical professionals or school personnel under the guidance of a licensed medical professional 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 or while in transit to or from an off-campus event sponsored by the school district;

(c) That a trained designee is permitted to carry in a secure but easily accessible location a supply of epinephrine auto-injectors which is prescribed under a standing protocol from a licensed physician;

(d) That the licensed medical professional has responsibility for training designees in the administration of epinephrine via an auto-injector mechanism and distributing prescribed epinephrine auto-injectors to trained designees; and

(e) That a physician, physician assistant, advanced practice nurse, registered nurse or school nurse who is appropriately licensed by the State of Mississippi shall be designated to serve as the licensed medical professional authorized to:

(i) Establish and administer a standardized training protocol for the emergency administration of epinephrine by trained designees;

(ii) Ensure that trained designees have satisfactorily completed the training protocol;

(iii) Obtain a supply of epinephrine auto-injectors under a standing protocol from a licensed physician; and

(iv) Control distribution to trained designees of epinephrine auto-injectors.

(3) To become a trained designee, an individual must:

(a) Be eighteen (18) years of age or older;

(b) Have, or reasonably expect to have, responsibility for students and other persons as a result of the individual's occupational or volunteer status; and

(c) Have satisfactorily completed a standardized training protocol established and administered by a licensed medical professional in accordance with guidelines developed by the State Department of Health, in consultation with the State Superintendent of Public Education, in accordance with Section 4 of this act.

SECTION 4. The State Department of Health, in consultation with the State Superintendent of Public Education, shall establish guidelines for the development of a policy by local school districts for the emergency administration of epinephrine to students, school personnel and other persons for anaphylaxis. The guidelines must address issues including, but not limited to, the responsibilities of the school district, the licensed medical professional and the trained designee for the emergency administration of epinephrine. The department shall disseminate the guidelines to the superintendent of each public school district.

SECTION 5. (1) The State Department of Health shall adopt rules regarding the maintenance, storage, administration and disposal of epinephrine auto-injectors in schools subject to a policy adopted under Section 3 of this act. The rules must establish:

(a) The number of epinephrine auto-injectors available at each school;

(b) The process to be used by each school district to check the inventory of epinephrine auto-injectors at regular intervals for expiration and replacement; and

(c) The amount of training required for personnel or volunteers to administer an epinephrine auto—injector.

(2) A licensed medical professional, trained designee or physician providing a prescription under a standing protocol for epinephrine in accordance with this act may not be held liable for any good faith act or omission committed in accordance with the provisions of this act. Good faith does not include willful misconduct, gross negligence or recklessness.

SECTION 6. This act may not be construed to:

(a) Permit a trained designee to perform the duties or fill the position of a licensed medical professional;

(b) Prohibit the administration of an epinephrine auto-injector mechanism by a person acting pursuant to a lawful prescription; or

(c) Prevent a licensed and qualified member of a health care profession from administering an epinephrine auto-injector mechanism if the duties are consistent with the accepted standards of the member's profession.

SECTION 7. Section 37-11-71, Mississippi Code of 1972, is amended as follows:

37-11-71. (1) This section shall be known and may be cited as the "Mississippi Asthma and Anaphylaxis Child Safety Act."

(2) The Legislature finds:

(a) That anaphylaxis is a serious allergic reaction that is rapid in onset and may cause death. Common triggers of anaphylaxis include food, insect bites, certain medications, and latex, with food being the most common trigger in children. Forty percent (40%) to fifty percent (50%) of those diagnosed with a food allergy are judged to have a high risk of anaphylaxis, and children with an undiagnosed food allergy may experience a first reaction at school. In addition, children with asthma are more at risk for anaphylaxis. Over ten percent (10%) of Mississippi children ages zero (0) through seventeen (17) years are living with asthma.

(b) That epinephrine is the primary treatment for anaphylaxis with no absolute contraindication to its use for a life-threatening reaction. The National Institute of Allergy and Infectious Diseases recommends that epinephrine be given promptly to treat anaphylaxis because delays in the administration of epinephrine can result in rapid decline and death. The American Academy of Allergy, Asthma and Immunology recommends that epinephrine injectors should be included in all emergency medical treatment kits in schools. The American Academy of Pediatrics recommends that anaphylaxis medications should be kept in each school and made available to trained staff for administration in an emergency.

(c) Therefore, the Legislature declares it is the intent of this section to protect the health and life of children in their school environment through the use of protocols and standing orders for the emergency treatment of asthma, anaphylaxis, and all other life-threatening diseases.

(3) The school board of each local public school district and the governing body of each private and parochial school or school district shall permit the self-administration of asthma and anaphylaxis medication pursuant to the requirements of this section.

(4) As used in this section:

(a) "Parent" means parent or legal guardian.

(b) "Auto-injectable epinephrine" means a medical device for the immediate administration of epinephrine to a person at risk for anaphylaxis.

(c) "Asthma and anaphylaxis medication" means inhaled bronchodilator and auto-injectable epinephrine.

(d) "Self-administration of prescription asthma and/or anaphylaxis medication" means a student's discretionary use of prescription asthma and/or anaphylaxis medication.

(5) A student with asthma and/or anaphylaxis is entitled to possess and self-administer prescription asthma and/or anaphylaxis medication while on school property, on school-provided transportation, or at a school-related event or activity if:

(a) The prescription asthma and/or anaphylaxis medication has been prescribed for that student as indicated by the prescription label on the medication;

(b) The self-administration is done in compliance with the prescription or written instructions from the student's physician or other licensed health care provider; and

(c) A parent of the student provides to the school:

(i) Written authorization, signed by the parent, for the student to self-administer prescription asthma and/or anaphylaxis medication while on school property or at a school-related event or activity;

(ii) A written statement, signed by the parent, in which the parent releases the school district and its employees and agents from liability for an injury arising from the student's self-administration of prescription asthma and/or anaphylaxis medication while on school property or at a school-related event or activity unless in cases of wanton or willful misconduct;

(iii) A written statement from the student's physician or other licensed health care provider, signed by the physician or provider, that states:

1. That the student has asthma and/or anaphylaxis and is capable of self-administering the prescription asthma and/or anaphylaxis medication;

2. The name and purpose of the medication;

3. The prescribed dosage for the medication;

4. The times at which or circumstances under which the medication may be administered; and

5. The period for which the medication is prescribed.

(6) The physician's statement must be kept on file in the office of the school nurse of the school the student attends or, if there is not a school nurse, in the office of the principal of the school the student attends.

(7) If a student uses his/her medication in a manner other than prescribed, he/she may be subject to disciplinary action under the school codes. The disciplinary action shall not limit or restrict the student's immediate access to the medication.

(8) The school board of each local public school district *** * *** shall adopt a policy regarding auto-injectable epinephrine as required under Section 3 of House Bill No. , 2021 Regular Session. The governing body of each private and parochial school or school district shall adopt a policy authorizing a school nurse or trained school employee to administer auto-injectable epinephrine to a student who the school nurse or trained school employee, in good faith, believes is having an anaphylactic reaction, whether or not the student has a prescription for epinephrine.

(9) Each *** * *** private and parochial school may maintain a supply of auto-injectable epinephrine at the school in a locked, secure, and easily accessible location. A licensed physician,

including, but not limited to, Mississippi State Department of Health District Health Officers, may prescribe epinephrine auto-injectors in the name of the *** * *** school to be maintained for use when deemed necessary under the provisions of this section.

(10) Each *** * *** private and parochial school that maintains a supply of auto-injectable epinephrine at the school shall require at least one (1) employee at each school to receive training from a registered nurse or a licensed medical physician in the administration of auto-injectable epinephrine.

(11) The State Department of Education shall require each public school district to take the following actions relating to the management of asthma in the school setting:

(a) Require that each child with asthma have a current school asthma plan (SAP) on file at the child's school for use by the school nurse, teachers and staff. Parents and guardians of a child with asthma are to have the child's SAP developed and signed by the child's health care provider. The SAP should include the child's name, date, school, age, physician's signature, parent's signature, instructions to the school if coughing or wheezing, and indicate dosage and delivery method details. If pre-medication is required, the SAP shall indicate dosage and delivery method details. The SAP will recommend whether the student administers his or her own medication or that school personnel may administer medication. The SAP must be updated annually.

(b) Adopt an emergency protocol that includes instructions for all school staff to follow in case of a major medical emergency for asthma and all other life-threatening diseases.

(c) Fully implement subsections (3) through (7) of this section, which authorizes the self-administration of asthma medication at school by students.

(d) Provide comprehensive, in-service training on asthma for teachers, school nurses, and other staff appointed by school administration. The training should include instruction on the use of school asthma plans (SAPs), the requirements of this section, emergency protocols for asthma and policies in effect in that school relating to asthma.

(e) Require school nurses to attend certified asthma educators training. The cost of the training required for school nurses shall be paid by the American Lung Association.

(f) Require local school health councils to conduct a school health needs assessment that addresses and supports the implementation of the following: healthy school environment, physical activity, staff wellness, counseling/psychological services, nutrition services, family/community involvement, health education and health services. The results of the assessment must be used in the development of long-range maintenance plans that include specific indoor air quality components for each school building.

(g) Require local school health councils to adopt and support the implementation of a local school wellness policy that includes minimizing children's exposure to dust, gases, fumes and other pollutants that can aggravate asthma in the school setting. The policy must require the air quality and ventilation systems of schools to be assessed annually, which assessment may be accomplished with the Environmental Protection Agency's Tools for Schools Indoor Air Quality Checklist. The policy also must minimize the use of hazardous substances such as, but not limited to, chemical cleaning products and pesticides in and around school buildings during the hours that children are present at school. The policy must require all school construction projects to implement containment procedures for dusts, gases, fumes and other pollutants that trigger asthma.

(h) Implement an integrated pest management program that includes procedural guidelines for pesticide application, education of building occupants and inspection and monitoring of pesticide applications. The integrated pest management program may limit the frequency, duration and volume of pesticide application on school grounds.

(i) Require school bus operators to minimize the idling of school bus engines to prevent exposure of children and adults to diesel exhaust fumes.

(j) Allow schools and school districts, with a valid prescription, to accept donated auto-injectable epinephrine from

public or private entities, and seek and apply for grants to obtain funding for purchasing auto-injectable epinephrine.

SECTION 8. This act shall take effect and be in force from and after July 1, 2021.

ST: School districts; require all schools to have epinephrine auto-injectors in every building and cafeteria.