

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 747 Treatment of Diabetes
SPONSOR(S): PreK-12 Policy Committee
TIED BILLS: **IDEN./SIM. BILLS:** CS for SB 896

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	PreK-12 Policy Committee	11 Y, 0 N, As CS	Davis	Ahearn
1)	Education Policy Council	15 Y, 0 N, As CS	White	Lowell
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

Committee Substitute for Committee Substitute for House Bill 747 prohibits school districts from restricting the assignment of a student who has diabetes to a particular school on the basis that the student has diabetes, that the school does not have a full-time nurse, or that the school does not have trained diabetes personnel. The bill permits diabetic students, whose parent and physician provide their written authorization to the school principal, to carry diabetic supplies and equipment on their person and attend to the management and care of their diabetes while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities to the extent authorized by the parent and physician and within the parameters set forth by State Board of Education rule.

The parent of a student authorized to carry diabetic supplies or equipment must indemnify the school district, county health department, and public-private partner, and the employees and volunteers of those entities, from any and all liability with respect to the student's use of such supplies and equipment.

The State Board of Education (SBE), in cooperation with the Department of Health (DOH), must adopt rules for the management and care of diabetes by students in schools that must include provisions to protect the safety of all students from the misuse or abuse of diabetic supplies or equipment. The SBE, in cooperation with the DOH, must also adopt rules to encourage every school in which a student with diabetes is enrolled to have personnel trained in routine and emergency diabetes care.

The bill adds a representative from the Florida Academy of Family Physicians to the Diabetes Advisory Council.

The bill does not appear to have a fiscal impact on state and local government revenues or expenditures.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

Administering Medication in School

Current law provides that district school board personnel, who are authorized by the school principal, may assist students in the administration of prescription medication when they have been trained by a registered nurse, licensed practical nurse, physician, or physician's assistant.¹ Each district school board must adopt policies and procedures governing the administration of prescription medication by district school board personnel. These policies and procedures must include the requirement that, for each prescription medication, parents must provide the school principal with a written statement granting the school principal or his or her designee permission to assist in administering the child's medication. Parents must also explain why it is necessary for the medication to be provided during the school day, including any occasion when the student is away from school property on official school business.²

Any prescribed medication to be administered by district school board personnel must be received, counted, and stored in its original container. When it is not in use, the medication must be stored in its original container in a secure fashion under lock and key in a location designated by the school principal.³

There is no liability for civil damages as a result of the administration of medication when the person administering the medication acts as an ordinarily reasonably prudent person would have acted under the same or similar circumstances.⁴

Asthmatic and Severely Allergic Students

Current law permits asthmatic students to carry a metered dose inhaler on their person while in school. The student's parent and physician must provide their approval to the school principal.⁵

¹ s. 1006.062(1)(a), F.S.

² s. 1006.062(1)(b), F.S.

³ s. 1006.062(1)(b)2., F.S.

⁴ s. 1006.062(2), F.S.

⁵ s. 1002.20(3)(h), F.S.

Students who have experienced or are at risk for life-threatening allergic reactions may carry and self-administer an epinephrine auto-injector while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities if parental and physician authorization has been provided to the school. The law requires the State Board of Education (SBE), in cooperation with the Department of Health (DOH), to adopt rules for such use of epinephrine auto-injectors. These rules must include provisions to protect the safety of all students from the misuse or abuse of auto-injectors. The parent must indemnify the school district, county health department, public-private partner, and their employees and volunteers from any and all liability with respect to the student's use of an epinephrine auto-injector.⁶

Diabetes

Type 1 diabetes is usually diagnosed in children and young adults.⁷ Approximately one in every 400 to 600 children and adolescents have Type 1 diabetes. One in six overweight adolescents ages 12-19 have pre-diabetes.⁸ In Type 1 diabetes, the body does not produce insulin. Insulin is a hormone that is needed to convert sugar, starches and other food into energy needed for daily life. Only five to 10 percent of people with diabetes have this form of the disease.⁹

Type 2 diabetes is the most common form of diabetes. Millions of Americans have been diagnosed with Type 2 diabetes. With Type 2 diabetes, either the body does not produce enough insulin or the cells ignore the insulin, which is necessary for the body to be able to use glucose for energy.¹⁰

Children and teens with diabetes must meet their diabetes needs around the clock, including at school, on field trips, or at school sponsored activities.¹¹ While each student with diabetes has different needs, the basics of diabetes care are similar. Careful tracking of food intake, monitoring of physical activity, insulin or medication dosing, and several daily blood glucose checks enhances the ability to maintain blood glucose levels within target range.¹²

Effect of Proposed Changes

The bill prohibits school districts from restricting the assignment of a student who has diabetes to a particular school on the basis that the student has diabetes, that the school does not have a full-time nurse, or that the school does not have trained diabetes personnel. It permits diabetic students, whose parent and physician provide their written authorization to the school principal, to carry diabetic supplies and equipment on their person and attend to the management and care of their diabetes while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities to the extent authorized by the parent and physician and within the parameters set forth by SBE rule. This written authorization must identify the diabetic supplies and equipment that the student is authorized to carry and must describe the activities the child is capable of performing without assistance, such as performing blood-glucose level checks and urine ketone testing; administering insulin through the insulin-delivery system used by the student; and treating hypoglycemia and hyperglycemia.

The SBE, in cooperation with the DOH, is required to adopt rules for the management and care of diabetes by students in schools which must include provisions to protect the safety of all students from the misuse or abuse of diabetic supplies or equipment. The SBE, in cooperation with the DOH, must also adopt rules to encourage every school in which a student with diabetes is enrolled to have personnel trained in routine and emergency diabetes care.

⁶ S. 1002.20(3)(i), F.S.

⁷ <http://www.diabetes.org/diabetes-basics/type-1/>, American Diabetes Association.

⁸ <http://www.diabetes.org/diabetes-basics/diabetes-statistics/>, American Diabetes Association.

⁹ <http://www.diabetes.org/diabetes-basics/type-1/>, American Diabetes Association.

¹⁰ <http://www.diabetes.org/diabetes-basics/type-2/>, American Diabetes Association.

¹¹ <http://www.diabetes.org/living-with-diabetes/parents-and-kids/diabetes-care-at-school/safe-at-school/>, American Diabetes Association.

¹² <http://www.diabetes.org/living-with-diabetes/parents-and-kids/diabetes-care-at-school/>, American Diabetes Association.

The parent of a student authorized to carry diabetic supplies or equipment must indemnify the school district, county health department, and public-private partner, and the employees and volunteers of those entities, from any and all liability with respect to the student's use of such supplies and equipment.

Current Law

Diabetes Advisory Council

The Diabetes Advisory Council (DAC) is a Governor-appointed group that serves as the advisory unit to the Department of Health, other governmental agencies, professional and other organizations, and the general public. The DAC provides statewide leadership to continuously improve the lives of Floridians with diabetes and reduce the burden of diabetes; serves as a forum for the discussion and study of issues related to the public health approach for the delivery of health care services to persons with diabetes; and annually meets with the State Surgeon General or designee to make specific recommendations regarding the prevention and control of diabetes.¹³

The council is composed of 25 members as follows:

- Five interested citizens, three of whom are affected by diabetes; and
- Twenty members, who must include one representative from each of the following areas: nursing with diabetes-educator certification; dietary with diabetes educator certification; podiatry; ophthalmology or optometry; psychology; pharmacy; adult endocrinology; pediatric endocrinology; the American Diabetes Association (ADA); the Juvenile Diabetes Foundation (JDF); a community health center; a county health department; an American Diabetes Association recognized community education program; each medical school in the state; an osteopathic medical school; the insurance industry; a Children's Medical Services diabetes regional program; and an employer.¹⁴

Effect of Proposed Changes

The bill adds a representative from the Florida Academy of Family Physicians to the Diabetes Advisory Council.

B. SECTION DIRECTORY:

Section 1. Amends s. 385.203, F.S., revising the Diabetes Advisory Council membership.

Section 2. Amends s. 1002.20, F.S., adding new language preventing school districts from restricting the school assignment of a student who has diabetes; allowing diabetic students to carry and use diabetic supplies and equipment at school with authorization from parent and physician and as restricted by rule; requiring the SBE, in cooperation with the DOH, to adopt rules for such use; and providing indemnification from any and all liability of school districts, county health departments, and others by the parents of such students.

Section 2. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

¹³ s. 385.203, F.S.

¹⁴ *Id.*

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The SBE, in cooperation with the DOH, is required to adopt rules for the management and care of diabetes by students in schools that must include provisions to protect the safety of all students from the misuse or abuse of diabetic supplies or equipment. The SBE, in cooperation with the DOH, must also adopt rules to encourage every school in which a student with diabetes is enrolled to have personnel trained in routine and emergency diabetes care.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The indemnity provision does not prohibit a person from filing a lawsuit. This provision merely provides that the school district, county health department, and public-private partner, and the employees and volunteers of those entities, may recover from the parent of the student authorized to carry diabetic supplies or equipment.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 25, 2010, the PreK-12 Policy Committee adopted three amendments to the Proposed Committee Substitute (PCS) for HB 747 and reported the bill favorably as a Committee Substitute (CS). The differences between the PCS and CS are as follows:

- The CS adds “participating in school-sponsored activities, or in transit to or from school or school-sponsored activities” as situations in which a student with diabetes, whose parent and physician provide written authorization, may carry diabetic supplies and equipment on their

person and attend to the management and care of their diabetes.

- The CS adds a requirement for the SBE, in cooperation with the DOH, to adopt rules encouraging every school in which a student with diabetes is enrolled to have personnel trained in routine and emergency diabetes care.
- The CS adds a representative from the Florida Academy of Family Physicians to the Diabetes Advisory Council.

On April 7, 2010, the Education Policy Council adopted one amendment to CS/HB 747 and reported the bill favorably as a CS. The amendment technically clarified that the bill's indemnification provision applies to all of the employees and volunteers of a school district, county health department, and public-private partner.