

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Military Affairs, Space, and Domestic Security Committee

**BILL:** CS/CS/SB 494

**INTRODUCER:** Military Affairs, Space, and Domestic Security Committee, Education Pre-K - 12 Committee and Senator Negron

**SUBJECT:** Student Safety

**DATE:** February 16, 2012      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carrouth</u>	<u>deMarsh-Mathues</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Willar</u>	<u>Carter</u>	<u>MS</u>	<u>Fav/CS</u>
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The bill requires the agency responsible for notifying a school district for each type of emergency to be listed in each district school board's emergency response policy and in its model emergency management and preparedness procedures. The emergency response agencies listed must notify private schools in the school district of occurrences that threaten student safety, if the private school requests such notification by opting into the district school board's emergency notification procedures.

The bill authorizes both public and private schools to maintain a supply of epinephrine auto-injectors in a secure location for use in an emergency situation by authorized students and trained school personnel. Schools that choose to purchase and maintain a supply of epinephrine auto-injectors must adopt a protocol developed by a licensed physician for the administration of an epinephrine auto-injection by trained school personnel.

The bill also provides immunity from liability for public and private school employees and agents for any injury arising from the use of an epinephrine auto-injector administered by trained school personnel.

This bill amends sections 1002.20, 1002.42, and 1006.07 of the Florida Statutes.

## II. Present Situation:

### *Emergency Preparedness*

Florida law requires each district school board to establish emergency response policies and model emergency management and preparedness procedures. Emergency response policies must include procedures for responding to fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.<sup>1</sup> Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies.<sup>2</sup>

Florida law does not expressly require that school district emergency response policies and model emergency management and preparedness procedures list the agencies responsible for notifying the school district regarding emergencies. However, cooperation with emergency response agencies is incorporated into the *Safety and Security Best Practices*, a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies.<sup>3</sup> Among other best practices, the self-assessment suggests that school districts:

- Make arrangements to work with local emergency officials, including, without limitation, law enforcement, fire departments, emergency management, hospitals, mental health and health agencies, social services agencies, and court officials.
- Share comprehensive school safety plans and emergency procedures with appropriate emergency response agencies.
- Implement procedures for contacting all district schools simultaneously regarding an emergency.<sup>4</sup>

Private school emergency policies are not regulated by the state.<sup>5</sup> Private schools typically make arrangements to receive notification of emergencies from the appropriate emergency response agency.<sup>6</sup> Despite such arrangements, private schools do not always receive notification.<sup>7</sup> Florida law does not expressly authorize private schools to opt into district school board emergency

---

<sup>1</sup> s. 1006.07(4)(a), F.S.

<sup>2</sup> s. 1006.07(4)(b), F.S.

<sup>3</sup> s. 1006.07(6), F.S.

<sup>4</sup> s. 1006.07(6), F.S. Florida Department of Education, *District Safety and Security Best Practices*, <http://www.fldoe.org/EM/security-practices.asp>. The Best Practices are developed by the Office of Program Policy Analysis and Government Accountability. Each district school superintendent must make recommendations to the school board for improving emergency response policies based upon the self-assessment results. The self-assessment results and superintendent's recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent's recommendations must be reported to the Commissioner of Education within 30 days after the school board meeting. See <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=01-57>.

<sup>5</sup> s. 1002.42(2)(h), F.S., states, in part, "It is the intent of the Legislature not to regulate, control, approve, or accredit private educational institutions..."

<sup>6</sup> Telephone correspondence with the Executive Director, Florida Council of Independent Schools, February 2, 2012.

<sup>7</sup> *Id.*

notification procedures for the purpose of receiving notification of emergencies from an emergency response agency.<sup>8</sup>

#### *Epinephrine Auto-injection*

Epinephrine is prescribed by a physician to be used in emergencies to treat very serious allergic reactions (anaphylactic reaction) to insect stings or bites, foods, drugs, or other substances. It is normally administered by a one-dose auto-injector, known as an EpiPen or Twinject.<sup>9</sup> Epinephrine acts quickly to improve breathing, stimulate the heart, raise a dropping blood pressure, reverse hives, and reduce swelling of the face, lips, and throat. The effects of epinephrine are rapid, but not long-lasting.<sup>10</sup>

State Board of Education rule for the use of epinephrine auto-injectors dispensation is based solely on self-administration.<sup>11</sup> The rule provides that the auto-injector is a prescription medication in a specific dose-for-weight device that is packaged for self-delivery in the event of a life-threatening allergic reaction. Written authorization is required from the physician and parent for a student to carry an epinephrine auto-injector and self-administer epinephrine. The rule requires a school nurse to develop an annual child-specific action plan for an anticipated health emergency in the school setting.<sup>12</sup>

### **III. Effect of Proposed Changes:**

The bill requires the agency responsible for notifying a school district for each type of emergency to be listed in each district school board's emergency response policy and in its model emergency management and preparedness procedures. The emergency response agencies listed must notify private schools in the school district of occurrences that threaten student safety if the private school requests such notification by opting into the district school board's emergency notification procedures. This provision will ensure that all schools are notified in the event of an emergency.

The bill also authorizes both public and private schools to purchase from a wholesale distributor and maintain in a secure location a supply of epinephrine auto-injectors for use in an emergency situation by students authorized to self-administer epinephrine or by trained school personnel. An authorized student would be one who has previously been evaluated by a physician and prescribed epinephrine to be used in the event of a severe allergic reaction.

The bill requires school districts and private schools that choose to purchase and maintain a supply of epinephrine auto-injectors to adopt a protocol developed by a licensed physician for the administration by school personnel who are trained to recognize an anaphylactic reaction and to administer an epinephrine auto-injection. Public and private school employees and agents

---

<sup>8</sup> s. 1002.42, F.S.

<sup>9</sup> U.S. Department of Health and Human Services, National Institutes of Health, U.S. National Library of Medicine. See: <http://www.nlm.nih.gov/medlineplus/druginfo/meds/a603002.html>.

<sup>10</sup> *Id.*

<sup>11</sup> Rule 6A-6.0251, F.A.C., pursuant to s. 1002.20(3)(i), F.S.

<sup>12</sup> *Id.* The annual plan is developed in cooperation with the student, parent, healthcare provider, and school personnel for the student with life-threatening allergies and must specify that the emergency number 911 will be called immediately for an anaphylaxis event. It must also describe a plan of action if the student is unable to perform self-administration of the epinephrine auto-injector.

cannot be held liable for any injury arising from the use of an epinephrine auto-injector administered by trained school personnel who followed the adopted protocol and determined the need to administer the epinephrine. Additionally, the bill provides that public and private school employees and agents thereof cannot be held liable:

- Unless the action was willful and wanton;
- Notwithstanding that the parents or guardians of the student to whom the epinephrine was administered were not provided notice or did not sign a statement acknowledging that the school district is not liable; and
- Regardless of whether authorization was given by the student's parents or guardians or by the student's physician, physician's assistant, or advanced practice registered nurse.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The cost, if any, incurred by emergency response agencies to implement the bill is unknown.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Military Affairs, Space, and Domestic Security on February 16, 2012:**

The committee substitute:

- Removes language authorizing a physician to prescribe epinephrine auto-injectors in the name of a school;
- Specifies that public and private schools may purchase a supply of epinephrine auto injectors from a wholesale distributor as defined in s. 499.003, F.S.;
- Requires school districts and private schools that choose to maintain a supply of epinephrine auto-injectors to adopt a protocol for the administration of an epinephrine auto-injection; and
- Provides for immunity from liability for public and private school employees and agents for any injury arising from the use of an epinephrine auto-injector administered by trained school personnel.

**CS by Education Pre-K – 12 on February 6, 2012:**

The committee substitute:

- Authorizes both public and private schools to maintain a supply of epinephrine auto-injectors in a secure location for use by authorized students in an emergency situation; and
- Permits a physician to prescribe epinephrine auto-injectors to the school to be used in emergency situations for students authorized to self-administer the epinephrine.

- B. **Amendments:**

None.