

INTERIM STUDY PROPOSAL 2023-134

State of Arkansas
94th General Assembly

A Bill

JMB/JMB
HOUSE BILL

By: Representative L. Johnson

Filed with: House Committee on Public Health, Welfare, and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO CLARIFY THE TYPES OF EPINEPHRINE FOR USE IN
ELEMENTARY AND SECONDARY SCHOOLS IN THIS STATE; AND
FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE TYPES OF EPINEPHRINE FOR
USE IN ELEMENTARY AND SECONDARY SCHOOLS
IN THIS STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 6-18-707 is amended to read as follows:

6-18-707. Prescription asthma inhaler or ~~auto-injectable~~ epinephrine –
Definitions.

(a) This section shall be known and may be cited as “Alex’s Law”.

(b) As used in this section:

(1) "Epinephrine" means a neurotransmitter and a hormone that
has been approved by the United States Food and Drug Administration,
including auto-injectable epinephrine and epinephrine inhalation;

(1)(A)(2)(A) “Medication” means a drug as that term is defined
in 21 U.S.C. § 321(g) of the Federal Food, Drug and Cosmetic Act as in
existence on January 1, 2005.

(B) “Medication” includes inhaled bronchodilators and
~~auto-injectable~~ epinephrine; and

1 ~~(2)~~(3) “Self-administration” means a person’s discretionary use
2 of a medication pursuant to a prescription or written direction from a
3 licensed healthcare practitioner.

4 (c)(1) The Division of Elementary and Secondary Education shall
5 develop guidelines for use in school districts that allow a student to carry
6 and use an asthma inhaler or ~~auto-injectable~~ epinephrine, or both, while in
7 school, at an on-site school-sponsored activity, or at an off-site school-
8 sponsored activity.

9 (2)(A) The procedure shall include at a minimum the following
10 provisions:

11 (i) The parent or guardian of a student who needs to
12 carry an asthma inhaler or ~~auto-injectable~~ epinephrine, or both, shall
13 provide the school with written authorization for the student to carry an
14 asthma inhaler or ~~auto-injectable~~ epinephrine, or both, on his or her person
15 for use while in school, at an on-site school-sponsored activity, or at an
16 off-site school-sponsored activity; and

17 (ii) The authorization shall be:

18 (a) Valid ~~valid~~ only for the duration of the
19 school year at the school that the student is attending at the time the
20 authorization is provided; and

21 (b) Renewed ~~The authorization must be renewed~~
22 for each school year or if the student changes schools in order for the
23 student to carry an asthma inhaler or ~~auto-injectable~~ epinephrine, or both,
24 on his or her person.

25 (B) The parent or guardian of a student who needs to carry
26 an asthma inhaler or ~~auto-injectable~~ epinephrine, or both, shall provide the
27 school with appropriate medical documentation, which shall include:

28 (i) Evidence that the asthma inhaler or ~~auto-~~
29 ~~injectable~~ epinephrine, or both, have been prescribed by a healthcare
30 practitioner with prescriptive privileges;

31 (ii) Evidence that the student needs to carry the
32 asthma inhaler or ~~auto-injectable~~ epinephrine, or both, on his or her person
33 due to a medical condition; and

34 (iii) A copy of an individualized healthcare plan
35 for the student.

36 (C) All medical documentation provided with regard to a

1 student who carries an asthma inhaler or ~~auto-injectable~~ epinephrine, or
2 both, shall be kept on file at the school the student attends in a location
3 that is readily accessible in the event of an asthma or anaphylaxis
4 emergency.

5 (D) A student's asthma inhaler or ~~auto-injectable~~
6 epinephrine, or both, shall be supplied by the student's parent or guardian
7 and shall be stored and transported in its original prescription-labeled
8 container.

9 (E) The student shall demonstrate to the healthcare
10 practitioner who wrote the prescription and the school nurse, if the school
11 nurse is available, the skill level and responsibility necessary to use and
12 administer the asthma inhaler or ~~auto-injectable~~ epinephrine, or both.

13 (F)(i) A student with asthma is not required by this
14 section or any related rule or school procedure to carry the student's asthma
15 inhaler or ~~auto-injectable~~ epinephrine, or both, on his or her person.

16 (ii) If a student with asthma does not carry the
17 student's asthma inhaler or ~~auto-injectable~~ epinephrine, or both, on his or
18 her person, then the student's parent or guardian shall provide the school
19 with appropriate medication in the event of an asthma or anaphylaxis
20 emergency, which shall be immediately available to the student in an
21 emergency.

22 (G) A student who carries the student's asthma inhaler or
23 ~~auto-injectable~~ epinephrine, or both, on his or her person may provide the
24 school with appropriate medication in the event of an asthma or anaphylaxis
25 emergency, which shall be immediately available to the student in an
26 emergency.

27 (H) A student is prohibited from sharing, transferring, or
28 in any way diverting his or her own medications to any other person.

29 (d)(1) A school district, school district employee, or agent of a
30 school district is not liable for injury to a student caused by his or her
31 use of a prescription inhaler or self-administration of medication.

32 (2)(A) Regardless of whether or not a student's parents have
33 signed a waiver of liability, when a school nurse or a school district or
34 public charter school employee who holds a certificate under subsection (f)
35 of this section administers ~~an~~ epinephrine ~~auto-injector~~ to a student whom
36 the school nurse or a school district or public charter school employee in

1 good faith professionally believes is having an anaphylactic reaction or when
2 a school nurse or a school district or public charter school employee
3 administers albuterol to a student who the school nurse or a school district
4 or public charter school employee in good faith professionally believes is in
5 perceived respiratory distress, the following persons are immune from any
6 damage, loss, or liability as a result of an injury arising from the
7 administration of ~~an~~ epinephrine ~~auto-injector~~ or albuterol:

8 (i) The school district or public charter school;

9 (ii) The employees and agents of the school district
10 or public charter school; and

11 (iii) A physician providing a standing protocol or
12 prescription for epinephrine ~~auto-injectors~~ or albuterol maintained at a
13 school.

14 (B) This subdivision (d)(2) does not provide immunity from
15 suit or liability for any damage, loss, injury, or liability caused by the
16 intentional or willful and wanton misconduct of a person in administering an
17 epinephrine ~~auto-injector~~ or albuterol to a student under this section.

18 (e)(1) A school district or public charter school shall adopt a policy
19 to authorize a school nurse or a school district or public charter school
20 employee to:

21 (A) Provide ~~an~~ epinephrine ~~auto-injector~~ or albuterol to a
22 student that meets the prescription on file or any personnel who holds a
23 certificate under subsections (f) and (g) of this section to administer an
24 epinephrine ~~auto-injector~~ or albuterol to the student;

25 (B) Administer ~~an~~ epinephrine ~~auto-injector~~ or albuterol
26 that meets the prescription on file to a student who has an individualized
27 healthcare plan that authorizes the use of ~~an~~ epinephrine ~~auto-injector~~ or
28 albuterol;

29 (C) Administer ~~an~~ epinephrine ~~auto-injector~~ to a student
30 who the school nurse or a school district or public charter school employee
31 who holds a certificate under subsection (f) of this section in good faith
32 professionally believes is having an anaphylactic reaction; and

33 (D) Administer albuterol to a student who the school nurse
34 or a school district or public charter school employee in good faith
35 professionally believes is in perceived respiratory distress.

36 (2) A school nurse shall administer ~~an~~ epinephrine ~~auto-injector~~

1 or albuterol under a standing protocol from a physician licensed to practice
2 medicine in this state.

3 (3) A school nurse who receives a supply of epinephrine ~~auto-~~
4 ~~injectors~~ under § 20-13-405 for use at a public school shall maintain the
5 supply of epinephrine ~~auto-injectors~~ at the school in a locked, secure
6 location.

7 (4) Each school district and public charter school shall develop
8 a health plan to implement a certificate from a licensed physician under
9 subsections (f) and (g) of this section.

10 (f)(1) A licensed physician shall issue a certificate under the Insect
11 Sting and Other Allergic Reactions Emergency Treatment Act, § 20-13-401 et
12 seq., authorizing a school nurse or a school district or public charter
13 school employee who is trained in the administration of epinephrine to
14 possess and administer epinephrine.

15 (2) The certificate shall specify the circumstances under which
16 epinephrine may be administered.

17 (g)(1) A physician who is licensed to practice medicine in this state,
18 an advanced practice registered nurse, or a physician assistant may issue a
19 certificate authorizing a school nurse or a school district or public charter
20 school employee who is trained in the administration of albuterol to possess
21 and administer albuterol.

22 (2) A school district or public charter school may:

23 (A) Acquire and stock a supply of albuterol as authorized
24 by subdivision (g)(1) of this section; and

25 (B) Enter into agreements with manufacturers of albuterol
26 to obtain the albuterol free of charge or at fair market or reduced prices.

27 (3) A school district or public charter school shall designate
28 an employee trained in the possession and administration of albuterol to be
29 responsible for the storage, maintenance, and distribution of albuterol
30 stocked by the school.

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Referred by Representative L. Johnson

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