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To: Public Health and
Welfare

SENATE BILL NO. 2218
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 37-11-71 AND 73-25-37, MISSISSIPPI
2 CODE OF 1972, TO RECODIFY AND REVISE PROVISIONS REQUIRING SCHOOL
3 DISTRICTS TO TAKE CERTAIN ACTIONS RELATING TO CHILDREN WITH ASTHMA
4 AND ANAPHYLAXIS, TO BE REFERRED TO AS THE "MISSISSIPPI ASTHMA AND
5 ANAPHYLAXIS CHILD SAFETY ACT"; TO REPEAL SECTION 41-79-31,
6 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE
7 SELF-ADMINISTRATION OF ASTHMA MEDICATION AT SCHOOL; AND FOR
8 RELATED PURPOSES.

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

10 **SECTION 1.** Section 37-11-71, Mississippi Code of 1972, is
11 amended as follows:

12 37-11-71. (1) This act shall be known and may be cited as
13 the "Mississippi Asthma and Anaphylaxis Child Safety Act."

14 (2) The Legislature finds:

15 (a) That anaphylaxis is a serious allergic reaction
16 that is rapid in onset and may cause death. Common triggers of
17 anaphylaxis include food, insect bites, certain medications, and
18 latex, with food being the most common trigger in children. Forty
19 percent (40%) to fifty percent (50%) of those diagnosed with a
20 food allergy are judged to have a high risk of anaphylaxis, and
21 children with an undiagnosed food allergy may experience a first



22 reaction at school. In addition, children with asthma are more at
23 risk for anaphylaxis. Over ten percent (10%) of Mississippi
24 children ages zero (0) through seventeen (17) years are living
25 with asthma.

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

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

43 (3) The school board of each local public school district
44 and the governing body of each private and parochial school or
45 school district shall permit the self-administration of asthma and



46 anaphylaxis medication pursuant to the requirements of this
47 section.

48 (4) As used in this section:

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

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

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

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

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

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

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

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

69 (i) Written authorization, signed by the parent,
70 for the student to self-administer prescription asthma and/or



71 anaphylaxis medication while on school property or at a
72 school-related event or activity;

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

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

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

85 2. The name and purpose of the medication;

86 3. The prescribed dosage for the medication;

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

89 5. The period for which the medication is
90 prescribed.

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



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

99 (8) The school board of each local public school district
100 and the governing body of each private and parochial school or
101 school district shall adopt a policy authorizing a school nurse or
102 trained school employee to administer auto-injectable epinephrine
103 to a student who the school nurse or trained school employee, in
104 good faith, believes is having an anaphylactic reaction, whether
105 or not the student has a prescription for epinephrine.

106 (9) Each public, private and parochial school may maintain a
107 supply of auto-injectable epinephrine at the school in a locked,
108 secure, and easily accessible location. A licensed physician,
109 including, but not limited to, Mississippi State Department of
110 Health District Health Officers, may prescribe epinephrine
111 auto-injectors in the name of the school system or the individual
112 school to be maintained for use when deemed necessary under the
113 provisions of this section.

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



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

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

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

139 (c) Fully implement Section 41-79-31, which authorizes
140 the self-administration of asthma medication at school by
141 students.

142 (d) Provide comprehensive, in-service training on
143 asthma for teachers, * * * school nurses, * * * and other staff



144 appointed by school administration. The training should include
145 instruction on the use of * * * school asthma plans (SAPs), the
146 requirements of Section 41-79-31, emergency protocols for asthma
147 and policies in effect in that school relating to asthma.

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

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

160 (g) Require local school health councils to adopt and
161 support the implementation of a local school wellness policy that
162 includes minimizing children's exposure to dust, gases, fumes and
163 other pollutants that can aggravate asthma in the school setting.
164 The policy must require the air quality and ventilation systems of
165 schools to be assessed annually, which assessment may be
166 accomplished with the Environmental Protection Agency's Tools for
167 Schools Indoor Air Quality Checklist. The policy also must * * *
168 minimize the use of hazardous substances such as, but not limited



169 to, chemical cleaning products and pesticides in and around school
170 buildings during the hours that children are present at school.
171 The policy must require all school construction projects to
172 implement containment procedures * * * for dusts, gases, fumes and
173 other pollutants that trigger asthma.

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

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

183 (j) * * * Allow schools and school districts, with a
184 valid prescription, to accept donated auto-injectable epinephrine
185 from public or private entities, and seek and apply for grants to
186 obtain funding for purchasing auto-injectable epinephrine.

187 * * *

188 **SECTION 2.** Section 73-25-37, Mississippi Code of 1972, is
189 amended as follows:

190 73-25-37. (1) No duly licensed, practicing physician,
191 physician assistant, dentist, registered nurse, licensed practical
192 nurse, certified registered emergency medical technician, or any
193 other person who, in good faith and in the exercise of reasonable



194 care, renders emergency care to any injured person at the scene of
195 an emergency, or in transporting the injured person to a point
196 where medical assistance can be reasonably expected, shall be
197 liable for any civil damages to the injured person as a result of
198 any acts committed in good faith and in the exercise of reasonable
199 care or omissions in good faith and in the exercise of reasonable
200 care by such persons in rendering the emergency care to the
201 injured person.

202 (2) (a) Any person who in good faith, with or without
203 compensation, renders emergency care or treatment by the use of an
204 Automated External Defibrillator (AED) in accordance with the
205 provisions of Sections 41-60-31 through 41-60-35, as well as the
206 person responsible for the site where the AED is located if the
207 person has provided for compliance with the provisions of Sections
208 41-60-31 through 41-60-35, shall be immune from civil liability
209 for any personal injury as a result of that care or treatment, or
210 as a result of any act, or failure to act, in providing or
211 arranging further medical treatment, where the person acts as an
212 ordinary, reasonably prudent person would have acted under the
213 same or similar circumstances and the person's actions or failure
214 to act does not amount to willful or wanton misconduct or gross
215 negligence.

216 (b) A person who has not complied with the provisions
217 of Sections 41-60-31 through 41-60-35, but who has access to an
218 AED and uses it in good faith in an emergency as an ordinary



219 prudent person would have done in the same or similar
220 circumstances, shall be immune from civil liability for any
221 personal injury as a result of an act or omission related to the
222 operation of or failure to operate an AED if the person's actions
223 or failure to act do not amount to willful or wanton misconduct or
224 gross negligence.

225 (3) Any employee of a local public school district, a
226 private school, or parochial school, trained in the administration
227 of auto-injectable epinephrine, who provides, administers, or
228 assists in the administration of auto-injectable epinephrine, in
229 accordance with the provisions of Section 37-11-71, to a student
230 believed in good faith to be having an anaphylactic reaction,
231 shall be immune from civil liability for any personal injury as a
232 result of that care or treatment if the employee's actions or
233 failure to act do not amount to willful or wanton misconduct or
234 gross negligence.

235 (* * *4) The immunity from civil liability for any personal
236 injury under subsection (2) of this section includes the licensed
237 physician who authorizes, directs or supervises the installation
238 or provision of AED equipment in or on any premises or conveyance
239 other than a medical facility, the owner of the premises where an
240 AED is used, the purchaser of the AED, a person who uses an AED
241 during an emergency for the purpose of attempting to save the life
242 of another person who is or who appears to be in cardiac arrest,
243 and the person who provides the CPR and AED training.



244 (5) The immunity from civil liability for any personal
245 injury under subsection (3) of this section includes the licensed
246 physician who prescribes the auto-injectable epinephrine, the
247 school district, or any other entity, that legally obtained the
248 auto-injectable epinephrine, and the person who provides the
249 training in the administration of auto-injectable epinephrine.

250 (* * *6) The immunity from civil liability under subsection
251 (2) and subsection (3) of this section does not apply if the
252 personal injury results from the gross negligence or willful or
253 wanton misconduct of the person rendering the emergency care.

254 **SECTION 3.** Section 41-79-31, Mississippi Code of 1972, which
255 provides for the self-administration of asthma medication at
256 school, is hereby repealed.

257 **SECTION 4.** This act shall take effect and be in force from
258 and after July 1, 2014.

