

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 1078

By Senator Takubo

[Introduced February 23, 2026; referred
to the Committee on Health and Human Resources;
and then to the Committee on Education]

1 A BILL to amend and reenact §18-5-22c of the Code of West Virginia, 1931, as amended, relating
 2 to epinephrine administration in schools; and clarifying the requirements of possession
 3 and administration of epinephrine in schools.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

~~§18-5-22c. Providing for the maintenance and use of epinephrine auto-injectors; administration of injections; administration of injections; Possession and administration of epinephrine in schools; notice; indemnity from liability; rules.~~

1 (a) A public, private, parochial or denominational school located within this state may
 2 possess and maintain at the school a supply of epinephrine auto-injectors for use in emergency
 3 medical care or treatment for an anaphylactic reaction any formulation of epinephrine that is
 4 approved by the United States Food and Drug Administration (FDA) for the emergency treatment
 5 of anaphylaxis. A prior diagnosis for a student or school personnel requiring the use of epinephrine
 6 auto-injectors is not necessary to permit the school to stock epinephrine auto-injectors.
 7 Epinephrine auto-injectors shall be maintained by the school in a secure location which is only
 8 accessible by medical personnel and authorized nonmedical personnel and not by students.

9 (b) ~~An allopathic physician licensed to practice pursuant to the provisions of article three,~~
 10 ~~chapter thirty of this code or an osteopathic physician licensed to practice pursuant to the~~
 11 ~~provisions of article fourteen, chapter thirty of this code may prescribe within the course of his or~~
 12 ~~her professional practice standing orders and protocols for use when necessary by a school which~~
 13 ~~wishes to maintain epinephrine auto-injector pursuant to the provisions of this section. A licensed~~
 14 ~~health care provider pursuant to practice pursuant to §30-3-1 et seq. of this code, or osteopathic~~
 15 ~~physician licensed to practice licensed to practice pursuant to the provisions of article 14, may~~
 16 ~~issue a prescription or standing order to a county board or individual school authorizing the~~
 17 ~~acquisition, possession, and administration of epinephrine in any FDA approved form.~~

18 ~~(c) A school nurse, as set forth in section twenty-two of this article, may administer an~~
19 ~~epinephrine auto-injector to a student or school personnel during regular school hours or at a~~
20 ~~school function when the school nurse medically believes the individual is experiencing an~~
21 ~~anaphylactic reaction. A school nurse may use the school supply of epinephrine auto-injectors for~~
22 ~~a student or school personnel authorized to self-administer that meet the requirements of a~~
23 ~~prescription on file with the school. A school nurse, or a school employee designated and trained~~
24 under this section, may possess and administer epinephrine to a student, staff member, or visitor
25 whom the nurse or trained employee, in good faith, believes to be experiencing anaphylaxis,
26 regardless of whether the individual has a known allergy or a prior prescription.

27 (d) Nonmedical school personnel who have been trained in the administration of an
28 epinephrine ~~auto-injector~~ and who have been designated and authorized by the school or county
29 board to administer the epinephrine ~~auto-injector~~ are authorized to administer an epinephrine
30 ~~auto-injector~~ to a student or school personnel during regular school hours or at a school function
31 when the authorized and designated nonmedical school personnel reasonably believes, based
32 upon their training, that the individual is experiencing an anaphylactic reaction. Nonmedical school
33 personnel may use the school supply of epinephrine ~~auto-injectors~~ for a student or school
34 personnel authorized to self-administer that meet the requirements of a prescription on file with the
35 school.

36 (e) School transportation employees, including bus drivers, who have been trained in the
37 administration of an epinephrine ~~auto-injector~~ and who have been designated and authorized by
38 the school or county board to administer an epinephrine ~~auto-injector~~ may administer an
39 epinephrine ~~auto-injector~~ to a student or school personnel during transportation to or from a school
40 function when the school transportation employee reasonably believes, based upon his or her
41 training, that the individual is experiencing an anaphylactic reaction. A school transportation
42 employee may use the individual's personal supply of epinephrine ~~auto-injectors~~ or the school's
43 supply of epinephrine ~~auto-injectors~~ for a student or school personnel authorized to self-

44 administer that meet the requirements of a prescription on file with the school: *Provided*, That a
45 school transportation employee shall defer to an individual possessing a higher degree of medical
46 training or the parent of the child experiencing an anaphylactic reaction, if either are present at the
47 time of the reaction; *Provided, however*, That the school transportation employee, trained and
48 authorized to administer epinephrine auto-injectors, is not subject to the terms of section twenty-
49 two of this article.

50 (f) Prior notice to the parents of a student of the administration of the epinephrine auto-
51 injector is not required. Immediately following the administration of the epinephrine auto-injector,
52 the school shall provide notice to the parent of a student who received an auto-injection.

53 (g) A school nurse, a trained school transportation employee, or trained and authorized
54 nonmedical school personnel who ~~administer an epinephrine auto-injection to a student or to~~
55 ~~school personnel as provided in this section is immune from liability for any civil action arising out~~
56 ~~of an act or omission resulting from the administration of the epinephrine auto-injection unless the~~
57 ~~act or omission was the result of the school nurse, school transportation employee, or trained and~~
58 ~~authorized nonmedical school personnel's gross negligence or willful misconduct~~ administers
59 epinephrine in accordance with this section is immune from civil liability, criminal liability, and
60 professional disciplinary action, provided the administration was done in good faith and consistent
61 with training.

62 (h) For the purposes of this section, all county boards of education may participate in free
63 or discounted drug programs from pharmaceutical manufacturers to provide epinephrine ~~auto-~~
64 ~~injectors~~ to schools in their counties which choose to stock ~~auto-injectors~~ epinephrine.

65 (i) All county boards of education are (i) required to collect and compile aggregate data on
66 incidents of anaphylactic reactions resulting in the administration of school-maintained
67 epinephrine ~~auto-injectors~~ in their county during a school year and forward the data to the state
68 superintendent of schools. The state superintendent of schools shall prepare an annual report to

69 be presented to the Joint Committee on Government and Finance as set forth in article three,
70 chapter four of this code, by December 31 of each year.

71 (j) The State Board of Education, as defined in article two of this chapter, shall consult with
72 the state health officer, as defined in section four, article three, chapter thirty of this code, and
73 promulgate rules necessary to effectuate the provisions of this section in accordance with the
74 provisions of article three-b, chapter twenty-nine-a of this code. The rules shall provide, at a
75 minimum, for:

76 (1) The criteria for selection and minimum requirements of nonmedical school personnel
77 and school transportation employees who may administer epinephrine ~~auto-injectors~~ following the
78 necessary training;

79 (2) The training requirements necessary for nonmedical school personnel and school
80 transportation employees to be authorized to administer an epinephrine ~~auto-injection~~;

81 (3) Training on anaphylaxis and allergy awareness for food service workers in the school
82 system, if easily available locally;

83 (4) Storage requirements for maintaining the epinephrine ~~auto-injectors~~ within the schools;

84 (5) Comprehensive notice requirements to the parents of a student who was administered
85 a school maintained epinephrine ~~auto-injection~~ including who administered ~~the injection~~, the
86 rational for administering ~~the injection~~, the approximate time of ~~the injection~~ administration, and
87 any other necessary elements to make the student's parents fully aware of the circumstances
88 surrounding the administration of the ~~injection~~ medication;

89 (6) Any and all necessary documentation to be kept and maintained regarding receipt,
90 inventory, storage and usage of all epinephrine ~~auto-injectors~~;

91 (7) Detailed reporting requirements for county boards of education on incidents of use of
92 school maintained epinephrine ~~auto-injectors~~ during a school year; and

93 (8) Any other requirements necessary to fully implement this section.

NOTE: The purpose of this bill is to update who may possess and administer epinephrine in schools.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.