

HOUSE BILL REPORT

SHB 1085

As Passed House:
February 25, 2021

Title: An act relating to promoting a safe learning environment for students with seizure disorders.

Brief Description: Promoting a safe learning environment for students with seizure disorders.

Sponsors: House Committee on Education (originally sponsored by Representatives Kloba, Vick, Volz, Leavitt, Ramel, Hoff, Graham, Chopp, Lovick, Stokesbary and Pollet).

Brief History:

Committee Activity:

Education: 1/21/21, 2/15/21 [DPS].

Floor Activity:

Passed House: 2/25/21, 98-0.

Brief Summary of Substitute Bill

- Requires school districts to provide individual health plans (IHPs) for students with epilepsy or other seizure disorders and establishes related requirements.
- Directs the Washington State School Directors' Association to adopt a model policy and procedure that school districts may use to implement the IHP requirements for students with epilepsy or other seizure disorders.
- Provides criminal and civil immunity provisions for persons who, in good faith, provide assistance or services to students with epilepsy or other seizure disorders.

HOUSE COMMITTEE ON EDUCATION

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Santos, Chair; Dolan, Vice Chair; Ybarra, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Berg, Bergquist, Callan, McCaslin, McEntire, Ortiz-Self, Rude, Steele and Stonier.

Staff: Ethan Moreno (786-7386).

Background:

Administration of Medications to Students and Provisions Governing Care to Students with Epilepsy.

School districts and private schools may provide for the administration of medications to students who are in the custody of the school district or school at the time of administration, subject to specified requirements, including:

- adopting policies to address the designation of employees and parent-designated adults who may administer medications to students in accordance with received parent requests and instructions;
- seeking advice from one or more licensed physicians or nurses in developing the policies; and
- designating a licensed physician or nurse to delegate to, train, and supervise the designated school district personnel in proper medication procedures.

School districts that provide for the administration of medications to students with epilepsy must adhere to specified requirements. For example, the school district must designate a licensed physician or nurse to consult and coordinate with the student's parents and health care provider, and to train and supervise the appropriate school district personnel in proper procedures for care for students with epilepsy. The training may also be provided by a nationally certified epilepsy educator.

If the parents have designated a volunteering school employee who is not a nurse to administer medications to the student with epilepsy, the school employee must receive the epilepsy care training. If the parent-designated adult is not a school employee, he or she must show evidence of comparable training. Regardless of the person's employment status, parent-designated adults must:

- receive additional training from a health care professional or expert in epileptic seizure care selected by the parents;
- provide care that is consistent with the applicable individual health plan (IHP) for the student; and
- receive additional training for any additional care the parents have authorized him or her to provide.

Individual Health Plans for Students with Diabetes.

School districts are required to provide IHPs for students with diabetes. In satisfying this requirement, the districts must adopt policies that comply with delineated requirements,

including:

- the acquisition of parent requests and instructions;
- the acquisition of orders from licensed health professionals prescribing within the scope of their prescriptive authority for monitoring and treatment at school;
- the storage of medical equipment and medication provided by the parent;
- the development of individual emergency plans;
- the distribution of the IHP to appropriate staff based on the students' needs and staff level of contact with the student; and
- the possession of legal documents for parent-designated adults to provide care, if needed.

Provisions governing IHPs for students with diabetes also include provisions related to:

- consultation with medical professionals;
- designating adults who may provide care to students; and
- training requirements.

Washington State School Directors' Association.

Established by statute, the Washington State School Directors' Association (WSSDA) is the state agency that provides advice and assistance to local school boards. The WSSDA is charged with coordinating policymaking, control, and management of the state's school districts. Among other actions, the WSSDA adopts model policies and procedures, often in response to legislative directives, that school districts may adopt.

Immunity for Good Faith Provision of Assistance or Services to Students with Diabetes.

A school district, school district employee, agent, or parent-designated adult who, acting in good faith and in substantial compliance with the student's IHP and the instructions of the student's licensed health care professional, provides assistance or services to a student with diabetes is not liable in any criminal action or for civil damages as a result of the services provided.

Summary of Substitute Bill:

Individual Health Plans for Students with Epilepsy or other Seizure Disorders.

Existing provisions governing the care of public school students with epilepsy are replaced with new provisions requiring school districts, beginning in the 2022-23 school year, to provide IHPs for students with epilepsy or other seizure disorders.

In complying with IHP requirements, school districts must adopt and periodically revise policies that address specific subjects, examples of which include:

- the acquisition of parent requests and instructions;
- the acquisition of orders from licensed health professionals prescribing within the scope of their prescriptive authority for monitoring and treatment of seizure disorders at school;
- the storage of medical equipment and medication provided by the parent;

- the development of individual emergency plans;
- the distribution of the IHP to appropriate staff based on the students' needs and staff level of contact with the student; and
- the possession of legal documents for parent-designated adults to provide care, if needed.

School districts, in the course of developing the policies, must consult with one or more licensed physicians or nurses, or appropriate personnel from a national epilepsy organization that offers seizure training and education for school nurses and other school personnel.

School districts also must designate a medical professional to consult and coordinate with the student's parents and health care provider, and to train and supervise the appropriate school district personnel in proper procedures for the care for students with epilepsy or other seizure disorders. The required epilepsy or other seizure disorder training may be provided by a national organization that offers training for school nurses for managing students with seizures and seizure training for school personnel.

Parents may designate an adult who is or is not a school employee to provide care for the student that is consistent with the student's IHP. If the parent-designated adult is a school district employee, he or she must receive the epilepsy or other seizure disorder training. If the parent-designated adult is not a school employee, he or she must show evidence of training in proper procedures for care of students with epilepsy or other seizure disorders.

If the parent-designated adult is a school district employee who is not a licensed nurse, the district employee must file a voluntary written, current, and unexpired letter of intent stating the employee's willingness to be a parent-designated adult. If a school district employee chooses not to file a letter of intent, the employee may not be subject to any employer reprisal or disciplinary action for refusing to do so.

Immunity for Good Faith Provision of Assistance or Services to Students with Epilepsy or Other Seizure Disorders.

Provisions establishing criminal and civil liability immunity for persons who provide good faith assistance or services to students with diabetes are extended to persons who provide good faith assistance or services to students with epilepsy or other seizure disorders.

Model Policy and Procedure.

The WSSDA, in consultation with the Office of the Superintendent of Public Instruction, must adopt a model policy and procedure that school districts may use to implement the IHP requirements for students with epilepsy or other seizure disorders. The model policy and procedure, which must be developed by December 15, 2021, must be periodically reviewed by the WSSDA and may be revised as necessary.

Administration of Medications to Students.

School district and private school policies may not permit a school nurse to delegate the responsibility to administer student medications to a parent-designated adult who is not a school employee.

Provisions governing the administration of a nasal spray to public school students that is a legend drug or a controlled substance by school nurses, trained school employees, and parent-designated adults who are not school employees, are repealed. The repealed provisions include training requirements and obligations to summon emergency medical assistance.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill builds on the work of House Bill 2844, legislation that received a courtesy hearing in the 2020 Legislative Session. Decades ago, a family member left school in the fourth grade because of seizure issues. This bill addresses equity issues, as parents face barriers in accessing educational services for children with seizure disorders. In the absence of the IHPs required by the bill, the inequitable lack of access to education will continue, especially for parents of color and parents with fewer financial resources.

When parents of higher needs children send their children to school, it is vital that school staff know what to do. Most districts do not have enough funds for nurses, so it is important that staff be prepared and trained for an emergency. The bill also requires important training.

The idea for the bill originated in Kentucky and has been adopted in several other states. Seventy-five thousand people in Washington live with epilepsy, and 10,000 of those are persons under 18 years old. The impacts of epilepsy are broad, and some parents have opted to homeschool their children because of the concerns they have about a school's ability to respond to seizure issues. The Epilepsy Foundation has worked hard to make seizure training available.

This bill will educate staff, students, and communities regarding epilepsy and the proper training for responding to it.

Seizure-safe schools in Washington are important and overdue. Some students have been sent home immediately, exacerbating attendance issues. These actions also create social stigmatization for students. Seizures can lead to ridicule, but all children deserve a safe and

supportive school environment. Seizure response tools need to be readily available and accessible. This bill will help school staff to act promptly, knowledgeably, and with appropriate liability protections. This bill is timely for current era, as seizures are often triggered by screen use and online schooling requires significant screen time.

Seizure training is another tool in the toolbox for responding to students, especially if the student does not have a history of seizures and does not have an individualized education program or a 504 Plan. This bill clarifies the needed education for school staff to support students. Current law for students with epilepsy is vague and causes confusion. The bill removes the confusion and clarifies what is needed for students with epilepsy and seizure disorders.

The education required by the bill is vital and will increase knowledge and be especially helpful for racial and ethnic minority groups. Anxiety about seizures can be worse than the medical condition for some. Educators equipped with appropriate training can make a real difference for students.

(Opposed) None.

Persons Testifying: Representative Kloba, prime sponsor; Kevin Koppes, Epilepsy Foundation Washington; Callie Wyckoff; Zach Lombardo; Jeremy Kiniry; Rebecca Cavanaugh; Blake Hamamoto; Jonathan Lopez, Seattle Children's Hospital; and Devony Audet.

Persons Signed In To Testify But Not Testifying: None.