

# SENATE BILL REPORT

## SHB 1085

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As Passed Senate, April 3, 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:** Passed House: 2/25/21, 98-0.

**Committee Activity:** Early Learning & K-12 Education: 3/22/21, 3/24/21 [DP].

**Floor Activity:** Passed Senate: 4/3/21, 46-0.

### Brief Summary of 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 IHP requirements.
- Provides criminal and civil immunity provisions for persons who, in good faith, provide assistance or services to students with epilepsy or other seizure disorders.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** Do pass.

Signed by Senators Wellman, Chair; Nobles, Vice Chair, K-12; Wilson, C., Vice Chair, Early Learning; Hawkins, Ranking Member; Dozier, Hunt, McCune, Mullet and Pedersen.

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*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.*

**Staff:** Alexandra Fairfortune (786-7416)

**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 physician or nurse to develop 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, they 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 consistent with the applicable individual health plan (IHP) for the student; and
- receive additional training for any additional care the parents have authorized them to provide.

Individual Health Plans for Students with Diabetes. School districts are required to provide IHPs for students with diabetes. In satisfying this requirement, districts must adopt policies that comply with delineated requirements, such as acquiring parent requests and instructions, acquiring orders from licensed healthcare professionals, storing medical equipment, developing emergency plans, and distributing the IHP to appropriate staff.

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 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 of students with epilepsy or other seizure disorders. The required epilepsy or other seizure disorder training may be provided by a certain 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 consistent with the student's IHP. If the parent-designated adult is a school district employee, they must receive the epilepsy or other seizure disorder training. If the parent-designated adult is not a school employee, they 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. 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 Washington State School Directors' Association (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.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: There have been many advancements regarding seizure disorders and that information needs to get into the hands of educators. This is an equity issue. There are parents who have the resources and power to make sure their child gets the assistance they need, but other parents experience language, resource, and time barriers. One in ten people will have a seizure in their lifetime, and one in 26 currently have epilepsy. People can have seizures for other reasons as well. That is why it is important that the state leads the way and has required training for school staff. There is now the ability to complete training online so it is more accessible than ever. When students have seizures some teachers freeze up or think that the student is simply misbehaving. If teachers knew how to handle these situations it would limit the physical and emotional trauma of students. The bill also removes epilepsy language from the "administration of medication" statute, as the language is vague and has caused confusion for districts.

**Persons Testifying:** PRO: Representative Shelley Kloba, Prime Sponsor; Edward Novotny, Seattle Children's Hospital; Rebecca Cavanaugh; Callie Wyckoff; Honor

Warburg.

**Persons Signed In To Testify But Not Testifying:** No one.