

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 457

Introduced by Bostar, 29.

Read first time January 21, 2025

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to public health and welfare; to amend section
2 71-1908, Revised Statutes Cumulative Supplement, 2024; to require
3 the Department of Health and Human Services in consultation with the
4 State Department of Education to develop model policies relating to
5 anaphylaxis for use in school districts and licensed child care
6 programs as prescribed; to change provisions of the Child Care
7 Licensing Act; to require school districts to adopt a policy
8 relating to anaphylaxis as prescribed; to provide powers and duties
9 to the Department of Health and Human Services and the State
10 Department of Education; to limit the out-of-pocket cost of
11 medically necessary epinephrine injectors to a covered individual as
12 prescribed; to harmonize provisions; and to repeal the original
13 section.
14 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** (1) The Department of Health and Human Services shall in
2 consultation with the State Department of Education develop model
3 anaphylaxis policies available for use in school districts and licensed
4 child care programs setting forth guidelines and procedures to be
5 followed for the prevention of anaphylaxis and during a medical emergency
6 resulting from anaphylaxis. Such policies may be developed with input
7 from representatives of allergy medicine, pediatric physicians, school
8 nurses and other health care providers with expertise in treating
9 children with anaphylaxis, parents of children with severe allergies,
10 school administrators, teachers, school food service directors, and other
11 appropriate entities.

12 (2) Such policies shall include as applicable:

13 (a) A procedure and treatment plan, including emergency protocols
14 and responsibilities for staff members of licensed child care programs,
15 school nurses, and other appropriate school personnel, for responding to
16 anaphylaxis;

17 (b) A procedure and appropriate guidelines for the development and
18 implementation of an individualized health care plan for children with a
19 food or other allergy which could result in anaphylaxis;

20 (c) A communication plan for the intake and dissemination of
21 information provided by the state regarding children with a food or other
22 allergy which could result in anaphylaxis, including a discussion of
23 methods, treatments, and therapies to reduce the risk of allergic
24 reactions, including anaphylaxis;

25 (d) Strategies for the reduction of the risk of exposure to
26 anaphylactic causative agents, including food and other allergens; and

27 (e) A communication plan for discussion with children that have
28 developed adequate verbal communication and comprehension skills and with
29 the parents, guardians, and educational decisionmakers of all children
30 attending the school district or licensed child care program about foods
31 that are safe and unsafe and about strategies to avoid exposure to unsafe

1 food.

2 (3) The policies developed pursuant to this section shall be
3 reexamined and updated as needed at least once every three years to be
4 consistent with best practices relating to anaphylaxis prevention,
5 treatment, and emergency response methods.

6 (4) A model policy developed or updated pursuant to this section
7 shall be made available on the applicable department's website.

8 (5) For purposes of this section:

9 (a) Licensed child care program means a facility or program licensed
10 under the Child Care Licensing Act; and

11 (b) School district has the same meaning as in section 79-101.

12 **Sec. 2.** Section 71-1908, Revised Statutes Cumulative Supplement,
13 2024, is amended to read:

14 71-1908 (1) Sections 71-1908 to 71-1923.03 and section 3 of this act
15 shall be known and may be cited as the Child Care Licensing Act.

16 (2) The Legislature finds that there is a present and growing need
17 for quality child care programs and facilities. There is a need to
18 establish and maintain licensure of persons providing such programs to
19 ensure that such persons are competent and are using safe and adequate
20 facilities. The Legislature further finds and declares that the
21 development and supervision of programs are a matter of statewide concern
22 and should be dealt with uniformly on the state and local levels. There
23 is a need for cooperation among the various state and local agencies
24 which impose standards on licensees, and there should be one agency which
25 coordinates the enforcement of such standards and informs the Legislature
26 about cooperation among the various agencies.

27 **Sec. 3.** (1) Beginning July 1, 2026, a program licensed pursuant to
28 the Child Care Licensing Act without a policy in effect at such time,
29 that cares for a child with a known food or other allergy, shall adopt a
30 specific policy to address incidents of anaphylaxis involving children at
31 the program. The adopted policy may use the model policy for use in

1 licensed child care programs developed pursuant to section 1 of this act
2 as a guide.

3 (2) A program licensed pursuant to the Child Care Licensing Act that
4 cares for a child with a known food or other allergy shall publish such
5 program's anaphylaxis policy in the parent handbook, program manual, or
6 other similar publication of the program which sets forth the procedures
7 and standards of the program.

8 (3) Nothing in this section shall be construed to change the
9 personal rights, liabilities, and immunities granted pursuant to section
10 25-21,280 of certain individuals responding to or treating life-
11 threatening asthma or a systemic allergic reaction.

12 **Sec. 4.** (1) The Legislature finds and declares that all students
13 with anaphylaxis have a right to work and study in a safe environment and
14 that it is an obligation of schools to address the needs of students with
15 anaphylaxis.

16 (2) On or before July 1, 2026, the school board of each school
17 district shall adopt a written policy to address incidents of anaphylaxis
18 involving students at school. A school board may use the model policy for
19 use in school districts developed pursuant to section 1 of this act as a
20 guide. Such policy shall not conflict with or hinder the implementation
21 of an individualized anaphylaxis plan of a student and shall be
22 consistent with section 79-224 relating to self-management by a student.

23 (3) A school district shall publish the policy in any school
24 district handbook, manual, or similar publication that sets forth the
25 comprehensive rules, procedures, and standards of conduct for students at
26 school.

27 (4) A school district with a policy to address incidents of
28 anaphylaxis involving students at school that is in effect prior to the
29 effective date of this act may remain in effect and shall satisfy the
30 requirements of subsection (2) of this section.

31 (5) Nothing in this section shall be construed to change the

1 personal rights, liabilities, and immunities granted pursuant to section
2 25-21,280 of certain individuals responding to or treating life-
3 threatening asthma or a systemic allergic reaction.

4 **Sec. 5.** (1)(a) Except as provided in subdivision (b) of this
5 subsection, beginning January 1, 2026, and notwithstanding section
6 44-3,131, (i) any individual or group sickness and accident insurance
7 policy or subscriber contract delivered, issued for delivery, or renewed
8 in this state and any hospital, medical, or surgical expense-incurred
9 policy, except for policies that provide coverage for a specified disease
10 or other limited-benefit coverage, and (ii) any self-funded employee
11 benefit plan to the extent not preempted by federal law, which provides
12 coverage for medically necessary epinephrine injectors shall limit the
13 total amount that a covered individual is required to pay for a two-pack
14 of medically necessary epinephrine injectors at an amount not to exceed
15 sixty dollars, regardless of the type of epinephrine injector.

16 (b) If the requirement described in subdivision (a) of this
17 subsection would result in the ineligibility of a health savings account
18 under section 223 of the Internal Revenue Code, such requirement for such
19 health savings account shall only apply after the enrollee has satisfied
20 the minimum deductible under section 223 of the Internal Revenue Code,
21 except that for items or services that are preventive care pursuant to
22 section 223(c)(2)(C) of the Internal Revenue Code, such requirement shall
23 apply regardless of whether the minimum deductible under section 223 of
24 the Internal Revenue Code has been satisfied.

25 (2) Nothing in this section prevents a policy, contract, or plan
26 from reducing the total amount that a covered individual is required to
27 pay for each covered medically necessary epinephrine injector to an
28 amount less than the maximum specified in subsection (1) of this section.

29 **Sec. 6.** Original section 71-1908, Revised Statutes Cumulative
30 Supplement, 2024, is repealed.