

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 747 Student Diabetes Management

SPONSOR(S): PreK-12 Policy Committee

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	<u>PreK-12 Policy Committee</u>	<u></u>	<u>Davis</u>	<u>Ahearn</u>
1)	<u></u>	<u></u>	<u></u>	<u></u>
2)	<u></u>	<u></u>	<u></u>	<u></u>
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SUMMARY ANALYSIS

The Proposed Committee Substitute for House Bill 747 (PCS) prohibits school districts from restricting the assignment of a student who has diabetes to a particular school on the basis that the student has diabetes, that the school does not have a full-time nurse, or that the school does not have trained diabetes personnel. The PCS permits diabetic students, whose parent and physician provide their written authorization to the school principal, to carry diabetic supplies and equipment on their person and attend to the management and care of their diabetes while in school to the extent authorized by the parent and physician and within the parameters set forth by State Board of Education rule.

The parent of a student authorized to carry diabetic supplies or equipment must indemnify the school district, county health department, public-private partner, and their employees and volunteers from any and all liability with respect to the student’s use of such supplies and equipment.

The State Board of Education, in cooperation with the Department of Health, must adopt rules for the management and care of diabetes by students in schools that must include provisions to protect the safety of all students from the misuse or abuse of diabetic supplies or equipment.

This PCS does not appear to have a fiscal impact on state and local government revenues or expenditures.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Administering Medication in School

Current law authorizes district school board personnel authorized by the school principal to assist students in the administration of prescription medication when they have been trained by a registered nurse, licensed practical nurse, physician, or physician's assistant.¹ Each district school board must adopt policies and procedures governing the administration of prescription medication by district school board personnel. These policies and procedures must include the requirement that, for each prescription medication, parents must provide the school principal with a written statement granting the school principal or the principal's designee permission to assist in administering the child's medication. Parents must also explain why it is necessary for the medication to be provided during the school day, including any occasion when the student is away from school property on official school business.²

Any prescribed medication to be administered by district school board personnel must be received, counted, and stored in its original container. When it is not in use, the medication must be stored in its original container in a secure fashion under lock and key in a location designated by the school principal.³

There is no liability for civil damages as a result of the administration of medication when the person administering the medication acts as an ordinarily reasonably prudent person would have acted under the same or similar circumstances.⁴

Asthmatic and Severely Allergic Students

Current law permits asthmatic students to carry a metered dose inhaler on their person while in school. The student's parent and physician must provide their approval to the school principal.⁵

¹ s. 1006.062(1)(a), F.S.

² s. 1006.062(1)(b), F.S.

³ s. 1006.062(1)(b)2., F.S.

⁴ s. 1006.062(2), F.S.

⁵ s. 1002.20(3)(h), F.S.

Students who have experienced or are at risk for life-threatening allergic reactions may carry and self-administer an epinephrine auto-injector while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities if parental and physician authorization has been provided to the school. The law requires the State Board of Education (SBE), in cooperation with the Department of Health (DOH), to adopt rules for such use of epinephrine auto-injectors. These rules must include provisions to protect the safety of all students from the misuse or abuse of auto-injectors. The parent must indemnify the school district, county health department, public-private partner, and their employees and volunteers from any and all liability with respect to the student's use of an epinephrine auto-injector.⁶

Diabetes

Type 1 diabetes is usually diagnosed in children and young adults.⁷ About one in every 400 to 600 children and adolescents have type 1 diabetes. One in six overweight adolescents aged 12-19 have pre-diabetes.⁸ In type 1 diabetes, the body does not produce insulin. Insulin is a hormone that is needed to convert sugar, starches and other food into energy needed for daily life. Only 5-10 percent of people with diabetes have this form of the disease.⁹

Type 2 diabetes is the most common form of diabetes. Millions of Americans have been diagnosed with type 2 diabetes. With type 2 diabetes, either the body does not produce enough insulin or the cells ignore the insulin, which is necessary for the body to be able to use glucose for energy..¹⁰

Children and teens with diabetes must meet their diabetes needs around the clock, including at school, on field trips, or at school sponsored activities.¹¹ Each student with diabetes has different needs; however the basics of diabetes care are similar. Careful tracking of food intake, monitoring of physical activity, insulin or medication dosing and several daily blood glucose checks enhances the ability to maintain blood glucose levels within target range.¹²

Effect of Proposed Changes

This PCS prohibits school districts from restricting the assignment of a student who has diabetes to a particular school on the basis that the student has diabetes, that the school does not have a full-time nurse, or that the school does not have trained diabetes personnel. It permits diabetic students, whose parent and physician provide their written authorization to the school principal, to carry diabetic supplies and equipment on their person and attend to the management and care of their diabetes while in school to the extent authorized by the parent and physician and within the parameters set forth by SBE rule. This written authorization must identify the diabetic supplies and equipment that the student is authorized to carry and describe the activities the child is capable of performing without assistance, such as performing blood-glucose level checks and urine ketone testing; administering insulin through the insulin-delivery system used by the student; and treating hypoglycemia and hyperglycemia.

The SBE, in cooperation with the DOH, is required to adopt rules for the management and care of diabetes by students in schools that must include provisions to protect the safety of all students from the misuse or abuse of diabetic supplies or equipment.

The parent of a student authorized to carry diabetic supplies or equipment must indemnify the school district, county health department, public-private partner, and their employees and volunteers from any and all liability with respect to the student's use of such supplies and equipment.

⁶ s. 1002.20(3)(i), F.S.

⁷ <http://www.diabetes.org/diabetes-basics/type-1/>, American Diabetes Association.

⁸ <http://www.diabetes.org/diabetes-basics/diabetes-statistics/>, American Diabetes Association.

⁹ <http://www.diabetes.org/diabetes-basics/type-1/>, American Diabetes Association.

¹⁰ <http://www.diabetes.org/diabetes-basics/type-2/>, American Diabetes Association.

¹¹ <http://www.diabetes.org/living-with-diabetes/parents-and-kids/diabetes-care-at-school/safe-at-school/>, American Diabetes Association.

¹² <http://www.diabetes.org/living-with-diabetes/parents-and-kids/diabetes-care-at-school/>, American Diabetes Association.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.20(3), F.S., adding new language preventing school districts from restricting the school assignment of a student who has diabetes; allowing diabetic students to carry and use diabetic supplies and equipment at school; requiring written authorization from parent and physician; requiring the SBE, in cooperation with the DOH, to adopt rules for such use; and providing indemnification from any and all liability of school districts, county health departments, and others by the parents of such students.

Section 2. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This PCS does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

This PCS does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This PCS does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This PCS does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The PCS does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The PCS does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The SBE, in cooperation with the DOH, is required to adopt rules for the management and care of diabetes by students in schools that must include provisions to protect the safety of all students from the misuse or abuse of diabetic supplies or equipment.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The indemnity provision does not prohibit a person from filing a lawsuit. This provision merely provides that the school district, county health department, public-private partner, and their employees and volunteers may recover from the parent of the student authorized to carry diabetic supplies or equipment.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

N/A