

# HOUSE BILL 1195

F5, O4

4lr3132

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By: **Delegate Palakovich Carr**

Introduced and read first time: February 8, 2024

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 1, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Child Care Providers – Anaphylactic Food Allergies – Guidelines and Indemnity**  
3 **(Elijah’s Law)**

4 FOR the purpose of requiring the State Department of Education and the Maryland  
5 Department of Health jointly to develop guidelines to reduce the risk of exposure to  
6 anaphylactic major food allergens in child care settings; requiring the State  
7 Department of Education to create a certain model policy based on certain  
8 guidelines; requiring certain large family child care homes and child care centers to  
9 develop and adopt a certain policy on reducing the risk of exposure to anaphylactic  
10 major food allergens in child care settings; establishing that certain child care  
11 providers and employees are immune from civil liability under certain circumstances  
12 for actions related to responding to a child’s anaphylactic reaction; and generally  
13 relating to a policy on anaphylactic food allergies and child care providers.

14 BY adding to  
15 Article – Education  
16 Section 9.5–117  
17 Annotated Code of Maryland  
18 (2022 Replacement Volume and 2023 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
20 That the Laws of Maryland read as follows:

21 **Article – Education**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **9.5-117.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

4 (2) "ANAPHYLACTIC ALLERGY" HAS THE MEANING STATED IN §  
5 7-426.1 OF THIS ARTICLE.

6 (3) "AUTO-INJECTABLE EPINEPHRINE" HAS THE MEANING STATED  
7 IN § 7-426.2 OF THIS ARTICLE.

8 (4) "MAJOR FOOD ALLERGEN" HAS THE MEANING STATED IN §  
9 7-426.1 OF THIS ARTICLE.

10 (B) (1) THE DEPARTMENT AND THE MARYLAND DEPARTMENT OF  
11 HEALTH JOINTLY SHALL DEVELOP GUIDELINES TO REDUCE THE RISK OF EXPOSURE  
12 TO ANAPHYLACTIC MAJOR FOOD ALLERGENS IN CHILD CARE SETTINGS.

13 (2) THE GUIDELINES DEVELOPED UNDER PARAGRAPH (1) OF THIS  
14 SUBSECTION SHALL IDENTIFY AT LEAST ONE FREE TRAINING RESOURCE ON  
15 REDUCING THE RISK OF EXPOSURE TO ANAPHYLACTIC MAJOR FOOD ALLERGENS  
16 THAT IS APPROPRIATE FOR CHILD CARE PROVIDERS.

17 (C) BASED ON THE GUIDELINES DEVELOPED IN SUBSECTION (B) OF THIS  
18 SECTION, THE DEPARTMENT SHALL DEVELOP A MODEL POLICY FOR CHILD CARE  
19 PROVIDERS THAT, AT MINIMUM, INCLUDES:

20 (1) EMERGENCY PROTOCOLS, INCLUDING COMPREHENSIVE  
21 GUIDELINES FOR STORAGE AND ADMINISTRATION OF EPINEPHRINE;

22 (2) CROSS-CONTAMINATION PREVENTION STRATEGIES; AND

23 (3) ~~STAFF NOTIFICATION~~ NOTIFICATION OF A CHILD'S  
24 ANAPHYLACTIC ALLERGY; ~~AND~~

25 (4) ~~CLEANING AND HAND-WASHING TO:~~

26 (I) STAFF WHO COME INTO CONTACT WITH THE CHILD; AND

27 (II) CHILD CARE PROVIDER ADMINISTRATORS.

28 (D) THE DEPARTMENT SHALL POST THE GUIDELINES, MODEL POLICY, AND  
29 TRAINING RESOURCES DEVELOPED UNDER THIS SECTION ON THE DEPARTMENT'S  
30 WEBSITE.

1           **(E) (1) THIS SUBSECTION APPLIES TO THE FOLLOWING REGISTRANTS OR**  
2 **LICENSEES THAT HAVE AT LEAST ONE ENROLLED CHILD WITH A FOOD ALLERGY:**

3                           **(I) A LARGE FAMILY CHILD CARE HOME REGISTERED UNDER**  
4 **SUBTITLE 3 OF THIS TITLE; AND**

5                           **(II) A CHILD CARE CENTER LICENSED UNDER SUBTITLE 4 OF**  
6 **THIS TITLE.**

7           **(2) A REGISTERED LARGE FAMILY CHILD CARE HOME AND LICENSED**  
8 **CHILD CARE CENTER SHALL:**

9                           **(I) ADOPT AND IMPLEMENT A POLICY ON REDUCING THE RISK**  
10 **OF EXPOSURE TO ANAPHYLACTIC MAJOR FOOD ALLERGENS IN CHILD CARE**  
11 **SETTINGS IN ACCORDANCE WITH THE GUIDELINES DEVELOPED UNDER SUBSECTION**  
12 **(B) OF THIS SECTION;**

13                           **(II) MONITOR UPDATES TO THE DEPARTMENT'S GUIDELINES**  
14 **AND UPDATE THE POLICY IN ACCORDANCE WITH THE DEPARTMENT'S REVISIONS;**  
15 **AND**

16                           **(III) PROVIDE A COPY OF THE POLICY TO THE PARENT OR**  
17 **GUARDIAN OF EACH ENROLLED CHILD EACH YEAR.**

18           **(F) EXCEPT FOR ANY WILLFULLY OR GROSSLY NEGLIGENT ACT, A CHILD**  
19 **CARE PROVIDER OR AN EMPLOYEE OF A CHILD CARE PROVIDER WHO RESPONDS IN**  
20 **GOOD FAITH TO THE ANAPHYLACTIC REACTION OF A CHILD IN ACCORDANCE WITH**  
21 **THE GUIDELINES IMPLEMENTED UNDER THIS SECTION OR BY USE OF**  
22 **AUTO-INJECTABLE EPINEPHRINE ~~MAY NOT BE HELD PERSONALLY LIABLE~~ IS**  
23 **IMMUNE FROM CIVIL LIABILITY FOR ANY ACT OR OMISSION IN THE COURSE OF**  
24 **RESPONDING TO THE REACTION.**

25           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
26 1, 2024.