



## 2026 South Dakota Legislature

# Senate Bill 8

*Introduced by: The Chair of the Committee on Education at the request of the Department of Education*

1 **An Act to permit a school district to administer epinephrine using a nasal spray.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 13-33A-4 be AMENDED:**

4 **13-33A-4.** Any school may acquire and maintain a stock of epinephrine auto-  
5 injectors or nasal spray pursuant to a prescription issued by an authorized health care  
6 provider for use in an emergency situation of a severe allergic reaction causing  
7 anaphylaxis. The provisions of this section are not subject to the prescription requirements  
8 in chapter 36-11.

9 **Section 2. That § 13-33A-5 be AMENDED:**

10 **13-33A-5.** Each school shall adopt a policy for the use and storage of epinephrine  
11 auto-injectors or nasal spray and shall notify the parents or guardians of each student  
12 about the policy.

13 **Section 3. That § 13-33A-6 be AMENDED:**

14 **13-33A-6.** Any school nurse or other designated school personnel, upon  
15 authorization by the governing school body, may:  
16 (1) Administer an epinephrine auto-injector or nasal spray to a student in accordance  
17 with a prescription specific to the student on file with the school;  
18 (2) Administer an epinephrine auto-injector or nasal spray to any student during school  
19 hours if the school nurse or designated school personnel believe that the student  
20 is experiencing anaphylaxis in accordance with a standing protocol from an  
21 authorized health care provider, regardless of whether a student has a prescription  
22 for an epinephrine auto-injector or nasal spray or has been diagnosed with an  
23 allergy.

1     **Section 4. That § 13-33A-7 be AMENDED:**

2             **13-33A-7.** Prior to administering an epinephrine auto-injector or nasal spray made  
3     available by the school, each designated school personnel shall be trained by a licensed  
4     health care professional:

- 5         (1)     To recognize the symptoms of a severe allergy or anaphylactic reaction;  
6         (2)     To know the procedure for the administration of an epinephrine auto-injector or  
7             nasal spray;  
8         (3)     To know the procedure for storage of an epinephrine auto-injector or nasal spray;  
9             and  
10        (4)     To know the emergency care and aftercare for a student who has an allergic or  
11             anaphylactic reaction.

12    **Section 5. That § 13-33A-8 be AMENDED:**

13            **13-33A-8.** No school district, administrator, school board, school nurse, or  
14     designated school personnel that possess or make available epinephrine auto-injectors or  
15     nasal spray pursuant to §§ 13-33A-4 to 13-33A-8, inclusive; authorized health care  
16     provider that prescribes epinephrine auto-injectors or nasal spray to a school; or a health  
17     care professional that provides training pursuant to § 13-33A-7 may be held liable for any  
18     injury or related damage that results from the administration of, self-administration of, or  
19     failure to administer an epinephrine auto-injector or nasal spray that may constitute  
20     ordinary negligence. This immunity does not apply to an act or omission constituting gross,  
21     willful, or wanton negligence. The administration of an epinephrine auto-injector or nasal  
22     spray in accordance with the provisions of §§ 13-33A-4 to 13-33A-8, inclusive, does not  
23     constitute the practice of medicine. The immunity from liability provided under this section  
24     is in addition to, not in lieu of, that provided in any other law.