



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-0082/1  
JPC:emw

## 2023 ASSEMBLY BILL 9

February 7, 2023 - Introduced by Representatives SORTWELL, GOEBEN, SHANKLAND, BRANDTJEN, BROOKS, CABRERA, KNODL, MOSES, MURPHY, ROZAR, SUBECK, TITTL, TUSLER, WICHGERS and VINING, cosponsored by Senators JACQUE, BALLWEG, COWLES, SPREITZER and WANGGAARD. Referred to Committee on Health, Aging and Long-Term Care.

\*\*\*AUTHORS SUBJECT TO CHANGE\*\*\*

1     **AN ACT to repeal** 118.29 (1) (bm), 118.292 (1g) (b), 118.292 (1g) (bm), 118.2925  
2           (1) (d), 118.2925 (1) (fm), 255.07 (1) (c) and 255.07 (1) (e); **to amend** 118.29 (2)  
3           (a) 2m., 118.292 (1r) (intro.), 118.292 (1r) (a), 118.292 (2) (a), 118.292 (2) (b),  
4           118.2925 (1) (h), 118.2925 (3), 118.2925 (4) (a), (b) and (c), 118.2925 (4m) (a),  
5           118.2925 (4m) (b), 118.2925 (5), 255.07 (2) (a), 255.07 (2) (b), 255.07 (3), 255.07  
6           (4), 255.07 (5) (a) 2., 255.07 (5) (a) 3., 255.07 (6) (a) (intro.), 255.07 (6) (a) 1., 2.  
7           and 3., 255.07 (6) (b), 255.07 (6) (d), 255.07 (6) (e), 255.07 (6) (f), 448.03 (2) (q)  
8           and 450.11 (4) (a) 5. d.; and **to create** 118.29 (1) (br), 118.292 (1g) (bg), 118.2925  
9           (1) (dm) and 255.07 (1) (cm) of the statutes; **relating to:** use of epinephrine  
10          delivery systems and standing orders for epinephrine.

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### ***Analysis by the Legislative Reference Bureau***

This bill amends current law authority related to the possession, administration, and dispensing of epinephrine auto-injectors and prefilled syringes of epinephrine to instead include all epinephrine delivery systems. Under the bill, “epinephrine delivery system” is defined to mean a device that is approved by the federal Food and Drug Administration, that contains a dose of epinephrine, and that

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is used to administer epinephrine into the human body to prevent or treat a life-threatening allergic reaction.

Current law allows designated school personnel, school nurses, and other authorized entities and individuals who have completed a training program to provide or administer epinephrine auto-injectors and prefilled syringes to pupils and other individuals. "Authorized entities" are those entities or organizations that operate or participate in a business, activity, or event where anaphylaxis-causing allergens may be present. Authorized entities include restaurants, camps, institutions of higher education, places of employment, amusement parks, and sports leagues and arenas. The bill allows the same individuals and entities to provide or administer any epinephrine delivery system.

Under current law, pupils are also allowed to possess and use an epinephrine auto-injector or a prefilled syringe in certain circumstances while in school, participating in a school-sponsored activity, or under supervision by a school. Under the bill, pupils are allowed to possess and use any epinephrine delivery system under those same circumstances.

In addition, current law allows prescribers to prescribe epinephrine auto-injectors and prefilled syringes in the name of the school or the name of the authorized entity or individual. The bill provides prescribing authority for any epinephrine delivery system.

Finally, current law allows any prescriber to issue a standing order or a statewide standing order for the dispensing of epinephrine auto-injectors or prefilled syringes for use by trained individuals. The bill allows prescribers to issue a standing order or statewide standing orders for any epinephrine delivery system for use by trained individuals.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 118.29 (1) (bm) of the statutes is repealed.

2           **SECTION 2.** 118.29 (1) (br) of the statutes is created to read:

3           118.29 (1) (br) "Epinephrine delivery system" means a device that is approved  
4 by the federal food and drug administration, that contains a dose of epinephrine, and  
5 that is used to administer epinephrine into the human body to prevent or treat a  
6 life-threatening allergic reaction.

7           **SECTION 3.** 118.29 (2) (a) 2m. of the statutes is amended to read:

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1           118.29 (2) (a) 2m. Except for epinephrine administered under subd. 2., may use  
2           an ~~epinephrine auto-injector, or prefilled syringe, as defined in s. 118.292 (1g) (bm),~~  
3           epinephrine delivery system to administer epinephrine to any pupil who appears to  
4           be experiencing a severe allergic reaction if, as soon as practicable, the school bus  
5           operator, employee or volunteer reports the allergic reaction by dialing the telephone  
6           number “911” or, in an area in which the telephone number “911” is not available, the  
7           telephone number for an emergency medical service provider.

8           **SECTION 4.** 118.292 (1g) (b) of the statutes is repealed.

9           **SECTION 5.** 118.292 (1g) (bg) of the statutes is created to read:

10           118.292 (1g) (bg) “Epinephrine delivery system” means a device that is  
11           approved by the federal food and drug administration, that contains a dose of  
12           epinephrine, and that is used to administer epinephrine into the human body to  
13           prevent or treat a life-threatening allergic reaction.

14           **SECTION 6.** 118.292 (1g) (bm) of the statutes is repealed.

15           **SECTION 7.** 118.292 (1r) (intro.) of the statutes is amended to read:

16           118.292 (1r) (intro.) While in school, at a school-sponsored activity or under  
17           the supervision of a school authority, a pupil may possess and use an ~~epinephrine~~  
18           ~~auto-injector or prefilled syringe~~ epinephrine delivery system if all of the following  
19           are true:

20           **SECTION 8.** 118.292 (1r) (a) of the statutes is amended to read:

21           118.292 (1r) (a) The pupil uses the ~~epinephrine auto-injector or prefilled~~  
22           ~~syringe~~ epinephrine delivery system to prevent the onset or alleviate the symptoms  
23           of an emergency situation.

24           **SECTION 9.** 118.292 (2) (a) of the statutes is amended to read:

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1           118.292 (2) (a) A pupil as a result of using an ~~epinephrine auto-injector or~~  
2 ~~prefilled syringe~~ epinephrine delivery system under sub. (1r).

3           **SECTION 10.** 118.292 (2) (b) of the statutes is amended to read:

4           118.292 (2) (b) Any person as a result of a pupil possessing or using an  
5 ~~epinephrine auto-injector or prefilled syringe~~ epinephrine delivery system under  
6 sub. (1r).

7           **SECTION 11.** 118.2925 (1) (d) of the statutes is repealed.

8           **SECTION 12.** 118.2925 (1) (dm) of the statutes is created to read:

9           118.2925 (1) (dm) “Epinephrine delivery system” means a device that is  
10 approved by the federal food and drug administration, that contains a dose of  
11 epinephrine, and that is used to administer epinephrine into the human body to  
12 prevent or treat a life-threatening allergic reaction.

13           **SECTION 13.** 118.2925 (1) (fm) of the statutes is repealed.

14           **SECTION 14.** 118.2925 (1) (h) of the statutes is amended to read:

15           118.2925 (1) (h) “Self-administer” means to administer an epinephrine  
16 ~~auto-injector or prefilled syringe~~ epinephrine delivery system to one’s own body.

17           **SECTION 15.** 118.2925 (3) of the statutes is amended to read:

18           118.2925 (3) PRESCRIPTIONS FOR SCHOOLS. A physician, an advanced practice  
19 nurse prescriber, or a physician assistant may prescribe ~~epinephrine auto-injectors~~  
20 ~~or prefilled syringes~~ epinephrine delivery systems in the name of a school that has  
21 adopted a plan under sub. (2) (a), to be maintained by the school for use under sub.  
22 (4).

23           **SECTION 16.** 118.2925 (4) (a), (b) and (c) of the statutes are amended to read:

24           118.2925 (4) (a) Provide an ~~epinephrine auto-injector or prefilled syringe~~  
25 epinephrine delivery system to a pupil to self-administer the epinephrine

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1 ~~auto-injector or prefilled syringe~~ epinephrine delivery system in accordance with a  
2 prescription specific to the pupil that is on file with the school.

3 (b) Administer an ~~epinephrine auto-injector or prefilled syringe~~ epinephrine  
4 delivery system to a pupil in accordance with a prescription specific to the pupil that  
5 is on file with the school.

6 (c) Administer an ~~epinephrine auto-injector or prefilled syringe~~ epinephrine  
7 delivery system to a pupil or other person who the school nurse or designated school  
8 personnel in good faith believes is experiencing anaphylaxis in accordance with a  
9 standing protocol from a physician, an advanced practice nurse prescriber, or a  
10 physician assistant, regardless of whether the pupil or other person has a  
11 prescription for an ~~epinephrine auto-injector or prefilled syringe~~ epinephrine  
12 delivery system. If the pupil or other person does not have a prescription for an  
13 ~~epinephrine auto-injector or prefilled syringe~~, epinephrine delivery system, or the  
14 person who administers the ~~epinephrine auto-injector or prefilled syringe~~  
15 epinephrine delivery system does not know whether the pupil or other person has a  
16 prescription for an ~~epinephrine auto-injector or prefilled syringe~~ epinephrine  
17 delivery system, the person who administers the ~~epinephrine auto-injector or~~  
18 ~~prefilled syringe~~ epinephrine delivery system shall, as soon as practicable, report the  
19 administration by dialing the telephone number “911” or, in an area in which the  
20 telephone number “911” is not available, the telephone number for an emergency  
21 medical service provider.

22 **SECTION 17.** 118.2925 (4m) (a) of the statutes is amended to read:

23 118.2925 (4m) (a) The authority to self-administer an ~~epinephrine~~  
24 ~~auto-injector or prefilled syringe~~ epinephrine delivery system under sub. (4) (a) is

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1 independent of the authorized possession and use of an ~~epinephrine auto-injector or~~  
2 ~~prefilled syringe~~ epinephrine delivery system under s. 118.292 (1r).

3 **SECTION 18.** 118.2925 (4m) (b) of the statutes is amended to read:

4 118.2925 (4m) (b) The authority to administer an ~~epinephrine auto-injector or~~  
5 ~~prefilled syringe~~ epinephrine delivery system under sub. (4) (b) and (c) is  
6 independent of the authority to administer an ~~epinephrine auto-injector~~  
7 epinephrine delivery system under s. 118.29 (2) (a) 2. and 2m.

8 **SECTION 19.** 118.2925 (5) of the statutes is amended to read:

9 118.2925 (5) IMMUNITY FROM CIVIL LIABILITY; EXEMPTION FROM PRACTICE OF  
10 MEDICINE. A school and its designated school personnel, and a physician, advanced  
11 practice nurse prescriber, or physician assistant who provides a prescription or  
12 standing protocol for school ~~epinephrine auto-injectors or prefilled syringes~~  
13 epinephrine delivery systems, are not liable for any injury that results from the  
14 administration or self-administration of an ~~epinephrine auto-injector or prefilled~~  
15 ~~syringe~~ epinephrine delivery system under this section, regardless of whether  
16 authorization was given by the pupil's parent or guardian or by the pupil's physician,  
17 physician assistant, or advanced practice nurse prescriber, unless the injury is the  
18 result of an act or omission that constitutes gross negligence or willful or wanton  
19 misconduct. The immunity from liability provided under this subsection is in  
20 addition to and not in lieu of that provided under s. 895.48.

21 **SECTION 20.** 255.07 (1) (c) of the statutes is repealed.

22 **SECTION 21.** 255.07 (1) (cm) of the statutes is created to read:

23 255.07 (1) (cm) "Epinephrine delivery system" means a device that is approved  
24 by the federal food and drug administration, that contains a dose of epinephrine, and

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1 that is used to administer epinephrine into the human body to prevent or treat a  
2 life-threatening allergic reaction.

3 **SECTION 22.** 255.07 (1) (e) of the statutes is repealed.

4 **SECTION 23.** 255.07 (2) (a) of the statutes is amended to read:

5 255.07 (2) (a) A health care practitioner may prescribe an epinephrine  
6 ~~auto-injector or prefilled syringe~~ epinephrine delivery system in the name of an  
7 authorized entity or an authorized individual for use in accordance with this section.  
8 A health care practitioner may issue to one or more persons a standing order  
9 authorizing the dispensing of ~~epinephrine auto-injectors or prefilled syringes~~  
10 epinephrine delivery systems for use under sub. (4) by an authorized individual or  
11 by an employee or agent of an authorized entity who has completed the training  
12 required by sub. (5).

13 **SECTION 24.** 255.07 (2) (b) of the statutes is amended to read:

14 255.07 (2) (b) A health care provider with prescribing authority who is  
15 employed by or under contract with the department may issue a statewide standing  
16 order for the dispensing of ~~epinephrine auto-injectors or prefilled syringes~~  
17 epinephrine delivery systems for use under sub. (4) by authorized individuals or by  
18 employees or agents of authorized entities who have completed the training required  
19 by sub. (5).

20 **SECTION 25.** 255.07 (3) of the statutes is amended to read:

21 255.07 (3) AUTHORIZED ENTITIES OR INDIVIDUALS PERMITTED TO MAINTAIN SUPPLY.  
22 An authorized entity or an authorized individual may acquire and maintain a supply  
23 of ~~epinephrine auto-injectors and prefilled syringes~~ epinephrine delivery systems  
24 pursuant to a prescription issued in accordance with this section. The authorized  
25 entity or authorized individual shall store an ~~epinephrine auto-injector or prefilled~~

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1 ~~syringe~~ epinephrine delivery system in a location readily accessible in an emergency  
2 and in accordance with the ~~epinephrine auto-injector's or prefilled syringe's~~  
3 epinephrine delivery system's instructions for use. An authorized entity shall  
4 designate an employee or agent who has completed the training required in sub. (5)  
5 to be responsible for the storage, maintenance, control, and general oversight of  
6 ~~epinephrine auto-injectors or prefilled syringes~~ epinephrine delivery systems  
7 acquired by the authorized entity.

8 **SECTION 26.** 255.07 (4) of the statutes is amended to read:

9 255.07 (4) USE OF EPINEPHRINE. An employee or agent of an authorized entity  
10 who has completed the training required by sub. (5) or an authorized individual may  
11 use an ~~epinephrine auto-injector or prefilled syringe~~ epinephrine delivery system  
12 prescribed under sub. (2) to do any of the following:

13 (a) Provide one or more ~~epinephrine auto-injectors or prefilled syringes~~  
14 epinephrine delivery systems to any individual who the employee, agent, or  
15 authorized individual believes in good faith is experiencing anaphylaxis, or to the  
16 parent, guardian, or caregiver of that individual for immediate administration,  
17 regardless of whether the individual has a prescription for an ~~epinephrine~~  
18 ~~auto-injector or prefilled syringe~~ epinephrine delivery system or has previously been  
19 diagnosed with an allergy.

20 (b) Administer an ~~epinephrine auto-injector or prefilled syringe~~ epinephrine  
21 delivery system to any individual who the employee, agent, or authorized individual  
22 believes in good faith is experiencing anaphylaxis, regardless of whether the  
23 individual has a prescription for an ~~epinephrine auto-injector or prefilled syringe~~  
24 epinephrine delivery system or has previously been diagnosed with an allergy.

25 **SECTION 27.** 255.07 (5) (a) 2. of the statutes is amended to read:



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1           255.07 (5) (a) 2. Standards and procedures for the storage and administration  
2 of an ~~epinephrine auto-injector and, if applicable, a prefilled syringe~~ epinephrine  
3 delivery system.

4           **SECTION 28.** 255.07 (5) (a) 3. of the statutes is amended to read:

5           255.07 (5) (a) 3. Emergency follow-up procedures after an ~~epinephrine~~  
6 ~~auto-injector or prefilled syringe~~ epinephrine delivery system is administered,  
7 including the necessity of calling the telephone number “911” or another telephone  
8 number for an emergency medical service provider.

9           **SECTION 29.** 255.07 (6) (a) (intro.) of the statutes is amended to read:

10           255.07 (6) (a) (intro.) All of the following are not liable for any injury that  
11 results from the administration or failure to administer an ~~epinephrine~~  
12 ~~auto-injector or prefilled syringe~~ epinephrine delivery system under this section,  
13 unless the injury is the result of an act or omission that constitutes gross negligence  
14 or willful or wanton misconduct:

15           **SECTION 30.** 255.07 (6) (a) 1., 2. and 3. of the statutes are amended to read:

16           255.07 (6) (a) 1. An authorized entity or authorized individual that possesses  
17 and makes available an ~~epinephrine auto-injector or prefilled syringe~~ epinephrine  
18 delivery system and employees, agents, and authorized individuals that store,  
19 maintain, control, oversee, provide, or use an ~~epinephrine auto-injector or prefilled~~  
20 ~~syringe~~ epinephrine delivery system.

21           2. A health care practitioner who prescribes or dispenses an ~~epinephrine~~  
22 ~~auto-injector or prefilled syringe~~ epinephrine delivery system to an authorized  
23 entity or authorized individual.

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1           3. A pharmacist or other person who dispenses an ~~epinephrine auto-injector~~  
2 ~~or pre-filled syringe~~ epinephrine delivery system to an authorized entity or  
3 authorized individual.

4           **SECTION 31.** 255.07 (6) (b) of the statutes is amended to read:

5           255.07 (6) (b) The use of an ~~epinephrine auto-injector or pre-filled syringe~~  
6 epinephrine delivery system under this section does not constitute the practice of  
7 medicine or of any other health care profession that requires a credential to practice.

8           **SECTION 32.** 255.07 (6) (d) of the statutes is amended to read:

9           255.07 (6) (d) A person is not liable for any injuries or related damages that  
10 result from providing or administering an ~~epinephrine auto-injector or pre-filled~~  
11 ~~syringe~~ epinephrine delivery system outside of this state if the person satisfies any  
12 of the following criteria:

13           1. The person would not have been liable for injuries or damages if the  
14 ~~epinephrine auto-injector or pre-filled syringe~~ epinephrine delivery system was  
15 provided or administered in this state.

16           2. The person is not liable for injuries or damages under the law of the state  
17 in which the ~~epinephrine auto-injector or pre-filled syringe~~ epinephrine delivery  
18 system was provided or administered.

19           **SECTION 33.** 255.07 (6) (e) of the statutes is amended to read:

20           255.07 (6) (e) Nothing in this section creates or imposes any duty, obligation,  
21 or basis for liability on any authorized entity, or employees, agents, or authorized  
22 individuals, to acquire or make available an ~~epinephrine auto-injector or pre-filled~~  
23 ~~syringe~~ epinephrine delivery system.

24           **SECTION 34.** 255.07 (6) (f) of the statutes is amended to read:

