



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB1475

by Rep. Terri Bryant

SYNOPSIS AS INTRODUCED:

New Act
105 ILCS 5/27A-5
30 ILCS 805/8.43 new

Creates the Seizure Smart School Act. Provides for legislative findings and defines terms. Requires the parent or guardian of a student with epilepsy who seeks assistance with epilepsy-related care in a school setting to submit a seizure action plan with the student's school. Provides that a delegated care aide shall perform the activities and tasks necessary to assist a student with epilepsy in accordance with the student's seizure action plan. Requires training for school employees and delegated care aides. Requires that an information sheet be provided to any school employee who transports a student with epilepsy to a school-sponsored activity. Provides that a school district may not restrict the assignment of a student with epilepsy to a particular school on the basis that the school does not have a full-time school nurse and a school may not deny a student access to the school or any school-related activity on the basis that the student has epilepsy. Provides for school employee protection against retaliation, immunity, and rights under federal law. Amends the Charter Schools Law of the School Code to make a related change. Amends the State Mandates Act to require implementation without reimbursement.

LRB101 06173 AXK 51195 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Seizure Smart School Act.

6 Section 5. Findings. The General Assembly finds all of the
7 following:

8 (1) Over 200,000 people in the State of Illinois have
9 epilepsy.

10 (2) Epilepsy is the fourth most common neurological
11 disorder in the United States, after migraines, strokes,
12 and Alzheimer's disease.

13 (3) The prevalence of epilepsy is greater than autism
14 spectrum disorder, cerebral palsy, multiple sclerosis, and
15 Parkinson's disease combined.

16 (4) One-third of people with epilepsy live with
17 uncontrollable seizures.

18 (5) Fifty thousand people die from epilepsy-related
19 causes in the United States every year.

20 (6) Federal law affords people with epilepsy specific
21 rights and protections. These laws include Section 504 of
22 the Rehabilitation Act of 1973, the Individuals with
23 Disabilities Education Improvement Act of 2004, the

1 Americans with Disabilities Act of 1990, and the ADA
2 Amendments Act of 2008.

3 (7) These federal laws are not enforced consistently in
4 schools and school districts throughout this State, which
5 may leave students with epilepsy at risk.

6 Section 10. Definitions. In this Act:

7 "Delegated care aide" means a school employee who has
8 volunteered to receive training in epilepsy and to assist a
9 student in implementing his or her seizure action plan and who
10 has entered into an agreement with a parent or guardian of that
11 student.

12 "School" means any primary or secondary public, charter, or
13 nonpublic school located in this State.

14 "School employee" means a person who is employed by a
15 school district or school, a person who is employed by a local
16 health department and assigned to a school, or a person who
17 contracts with a school or school district to perform services
18 in connection with a student's seizure action plan.

19 "Seizure action plan" means a document that specifies the
20 services needed by a student with epilepsy at school and at
21 school-sponsored activities and delegates to a delegated care
22 aide the authority to provide and supervise these services.

23 Section 15. Seizure action plan.

24 (a) The parent or guardian of a student with epilepsy who

1 seeks assistance with epilepsy-related care in a school setting
2 must sign and submit a seizure action plan with the student's
3 school. The seizure action plan must include the treating
4 physician's, advanced practice registered nurse's, or
5 physician assistant's instructions on the student's epilepsy
6 management during the school day, including a copy of any
7 prescriptions and the methods of administering those
8 prescriptions.

9 (b) The services and accommodations specified in a seizure
10 action plan must be reasonable, reflect the current best
11 practice guidelines of seizure-management care, and include
12 appropriate safeguards to ensure the proper disposal of used
13 equipment and medication.

14 (c) A seizure action plan must be submitted to the
15 student's school (i) at the beginning of the school year, (ii)
16 upon enrollment, as soon practicable following the student's
17 diagnosis, or (iii) when a student's care needs change during
18 the school year.

19 Section 20. Delegated care aides.

20 (a) A delegated care aide shall perform the activities and
21 tasks necessary to assist a student with epilepsy in accordance
22 with the student's seizure action plan.

23 (b) The principal of a school shall ensure that the school
24 has at least one delegated care aide present and available at
25 the school during all school hours and, as needed, during

1 school-sponsored activities.

2 Section 25. Training for school employees and delegated
3 care aides.

4 (a) All school employees shall receive training in the
5 basics of seizure recognition and first aid and appropriate
6 emergency protocols and training on who will administer rescue
7 medication.

8 (b) A delegated care aide must be trained to perform the
9 tasks necessary to assist a student with epilepsy in accordance
10 with the student's seizure action plan.

11 (c) The principal of a school shall coordinate the training
12 of all delegated care aides.

13 (d) Training for school employees and delegated care aides
14 must be provided by a trained health care provider with an
15 expertise in epilepsy.

16 (e) An information sheet must be provided to any school
17 employee who transports a student with epilepsy to a
18 school-sponsored activity. The sheet must identify the student
19 with epilepsy, potential emergencies that may occur as a result
20 of the student's epilepsy, and the appropriate responses to
21 those emergencies and provide the student's emergency contact
22 information.

23 Section 30. Self-management. In accordance with his or her
24 seizure action plan, a student must be permitted to possess on

1 his or her person, at all times, the supplies, equipment, and
2 medication necessary to treat epilepsy.

3 Section 35. Restricting access to school prohibited. A
4 school district may not restrict the assignment of a student
5 with epilepsy to a particular school on the basis that the
6 school does not have a full-time school nurse, and a school may
7 not deny a student access to the school or any school-related
8 activity on the basis that the student has epilepsy.

9 Section 40. Protection against retaliation. A school
10 employee may not be subject to any penalty, sanction,
11 reprimand, discharge, demotion, denial of a promotion,
12 withdrawal of benefits, or other disciplinary action for
13 choosing not to volunteer to serve as a delegated care aide.

14 Section 45. Immunity.

15 (a) A school or a school employee is not liable for civil
16 or other damages as a result of conduct, other than willful or
17 wanton misconduct, related to the care of a student with
18 epilepsy.

19 (b) A school employee may not be subject to any
20 disciplinary proceeding resulting from an action taken in
21 compliance with this Act, unless the action constitutes willful
22 or wanton misconduct.

1 Section 50. Federal law. Nothing in this Act limits any
2 rights available under federal law.

3 Section 90. The School Code is amended by changing Section
4 27A-5 as follows:

5 (105 ILCS 5/27A-5)

6 Sec. 27A-5. Charter school; legal entity; requirements.

7 (a) A charter school shall be a public, nonsectarian,
8 nonreligious, non-home based, and non-profit school. A charter
9 school shall be organized and operated as a nonprofit
10 corporation or other discrete, legal, nonprofit entity
11 authorized under the laws of the State of Illinois.

12 (b) A charter school may be established under this Article
13 by creating a new school or by converting an existing public
14 school or attendance center to charter school status. Beginning
15 on April 16, 2003 (the effective date of Public Act 93-3), in
16 all new applications to establish a charter school in a city
17 having a population exceeding 500,000, operation of the charter
18 school shall be limited to one campus. The changes made to this
19 Section by Public Act 93-3 do not apply to charter schools
20 existing or approved on or before April 16, 2003 (the effective
21 date of Public Act 93-3).

22 (b-5) In this subsection (b-5), "virtual-schooling" means
23 a cyber school where students engage in online curriculum and
24 instruction via the Internet and electronic communication with

1 their teachers at remote locations and with students
2 participating at different times.

3 From April 1, 2013 through December 31, 2016, there is a
4 moratorium on the establishment of charter schools with
5 virtual-schooling components in school districts other than a
6 school district organized under Article 34 of this Code. This
7 moratorium does not apply to a charter school with
8 virtual-schooling components existing or approved prior to
9 April 1, 2013 or to the renewal of the charter of a charter
10 school with virtual-schooling components already approved
11 prior to April 1, 2013.

12 On or before March 1, 2014, the Commission shall submit to
13 the General Assembly a report on the effect of
14 virtual-schooling, including without limitation the effect on
15 student performance, the costs associated with
16 virtual-schooling, and issues with oversight. The report shall
17 include policy recommendations for virtual-schooling.

18 (c) A charter school shall be administered and governed by
19 its board of directors or other governing body in the manner
20 provided in its charter. The governing body of a charter school
21 shall be subject to the Freedom of Information Act and the Open
22 Meetings Act.

23 (d) For purposes of this subsection (d), "non-curricular
24 health and safety requirement" means any health and safety
25 requirement created by statute or rule to provide, maintain,
26 preserve, or safeguard safe or healthful conditions for

1 students and school personnel or to eliminate, reduce, or
2 prevent threats to the health and safety of students and school
3 personnel. "Non-curricular health and safety requirement" does
4 not include any course of study or specialized instructional
5 requirement for which the State Board has established goals and
6 learning standards or which is designed primarily to impart
7 knowledge and skills for students to master and apply as an
8 outcome of their education.

9 A charter school shall comply with all non-curricular
10 health and safety requirements applicable to public schools
11 under the laws of the State of Illinois. On or before September
12 1, 2015, the State Board shall promulgate and post on its
13 Internet website a list of non-curricular health and safety
14 requirements that a charter school must meet. The list shall be
15 updated annually no later than September 1. Any charter
16 contract between a charter school and its authorizer must
17 contain a provision that requires the charter school to follow
18 the list of all non-curricular health and safety requirements
19 promulgated by the State Board and any non-curricular health
20 and safety requirements added by the State Board to such list
21 during the term of the charter. Nothing in this subsection (d)
22 precludes an authorizer from including non-curricular health
23 and safety requirements in a charter school contract that are
24 not contained in the list promulgated by the State Board,
25 including non-curricular health and safety requirements of the
26 authorizing local school board.

1 (e) Except as otherwise provided in the School Code, a
2 charter school shall not charge tuition; provided that a
3 charter school may charge reasonable fees for textbooks,
4 instructional materials, and student activities.

5 (f) A charter school shall be responsible for the
6 management and operation of its fiscal affairs including, but
7 not limited to, the preparation of its budget. An audit of each
8 charter school's finances shall be conducted annually by an
9 outside, independent contractor retained by the charter
10 school. To ensure financial accountability for the use of
11 public funds, on or before December 1 of every year of
12 operation, each charter school shall submit to its authorizer
13 and the State Board a copy of its audit and a copy of the Form
14 990 the charter school filed that year with the federal
15 Internal Revenue Service. In addition, if deemed necessary for
16 proper financial oversight of the charter school, an authorizer
17 may require quarterly financial statements from each charter
18 school.

19 (g) A charter school shall comply with all provisions of
20 this Article, the Illinois Educational Labor Relations Act, all
21 federal and State laws and rules applicable to public schools
22 that pertain to special education and the instruction of
23 English learners, and its charter. A charter school is exempt
24 from all other State laws and regulations in this Code
25 governing public schools and local school board policies;
26 however, a charter school is not exempt from the following:

1 (1) Sections 10-21.9 and 34-18.5 of this Code regarding
2 criminal history records checks and checks of the Statewide
3 Sex Offender Database and Statewide Murderer and Violent
4 Offender Against Youth Database of applicants for
5 employment;

6 (2) Sections 10-20.14, 10-22.6, 24-24, 34-19, and
7 34-84a of this Code regarding discipline of students;

8 (3) the Local Governmental and Governmental Employees
9 Tort Immunity Act;

10 (4) Section 108.75 of the General Not For Profit
11 Corporation Act of 1986 regarding indemnification of
12 officers, directors, employees, and agents;

13 (5) the Abused and Neglected Child Reporting Act;

14 (5.5) subsection (b) of Section 10-23.12 and
15 subsection (b) of Section 34-18.6 of this Code;

16 (6) the Illinois School Student Records Act;

17 (7) Section 10-17a of this Code regarding school report
18 cards;

19 (8) the P-20 Longitudinal Education Data System Act;

20 (9) Section 27-23.7 of this Code regarding bullying
21 prevention;

22 (10) Section 2-3.162 of this Code regarding student
23 discipline reporting;

24 (11) Sections 22-80 and 27-8.1 of this Code;

25 (12) Sections 10-20.60 and 34-18.53 of this Code;

26 (13) Sections 10-20.63 and 34-18.56 of this Code; ~~and~~

- 1 (14) Section 26-18 of this Code; ~~and~~
2 (15) Section 22-30 of this Code; ~~and~~;
3 (16) The Seizure Smart School Act.

4 The change made by Public Act 96-104 to this subsection (g)
5 is declaratory of existing law.

6 (h) A charter school may negotiate and contract with a
7 school district, the governing body of a State college or
8 university or public community college, or any other public or
9 for-profit or nonprofit private entity for: (i) the use of a
10 school building and grounds or any other real property or
11 facilities that the charter school desires to use or convert
12 for use as a charter school site, (ii) the operation and
13 maintenance thereof, and (iii) the provision of any service,
14 activity, or undertaking that the charter school is required to
15 perform in order to carry out the terms of its charter.
16 However, a charter school that is established on or after April
17 16, 2003 (the effective date of Public Act 93-3) and that
18 operates in a city having a population exceeding 500,000 may
19 not contract with a for-profit entity to manage or operate the
20 school during the period that commences on April 16, 2003 (the
21 effective date of Public Act 93-3) and concludes at the end of
22 the 2004-2005 school year. Except as provided in subsection (i)
23 of this Section, a school district may charge a charter school
24 reasonable rent for the use of the district's buildings,
25 grounds, and facilities. Any services for which a charter
26 school contracts with a school district shall be provided by

1 the district at cost. Any services for which a charter school
2 contracts with a local school board or with the governing body
3 of a State college or university or public community college
4 shall be provided by the public entity at cost.

5 (i) In no event shall a charter school that is established
6 by converting an existing school or attendance center to
7 charter school status be required to pay rent for space that is
8 deemed available, as negotiated and provided in the charter
9 agreement, in school district facilities. However, all other
10 costs for the operation and maintenance of school district
11 facilities that are used by the charter school shall be subject
12 to negotiation between the charter school and the local school
13 board and shall be set forth in the charter.

14 (j) A charter school may limit student enrollment by age or
15 grade level.

16 (k) If the charter school is approved by the Commission,
17 then the Commission charter school is its own local education
18 agency.

19 (Source: P.A. 99-30, eff. 7-10-15; 99-78, eff. 7-20-15; 99-245,
20 eff. 8-3-15; 99-325, eff. 8-10-15; 99-456, eff. 9-15-16;
21 99-642, eff. 7-28-16; 99-927, eff. 6-1-17; 100-29, eff. 1-1-18;
22 100-156, eff. 1-1-18; 100-163, eff. 1-1-18; 100-413, eff.
23 1-1-18; 100-468, eff. 6-1-18; 100-726, eff. 1-1-19; 100-863,
24 eff. 8-14-18; revised 10-5-18.)

25 Section 95. The State Mandates Act is amended by adding

1 Section 8.43 as follows:

2 (30 ILCS 805/8.43 new)

3 Sec. 8.43. Exempt mandate. Notwithstanding Sections 6 and 8
4 of this Act, no reimbursement by the State is required for the
5 implementation of any mandate created by the Seizure Smart
6 School Act.