

**HEALTH, SAFETY AND CIVIL LIABILITY  
(CHILDREN IN SCHOOLS AND CHILD CARE SERVICES) BILL 2010**

*Introduction and First Reading*

Bill introduced, on motion by **Dr K.D. Hames (Minister for Health)**, and read a first time.

Explanatory memorandum presented by the minister.

*Second Reading*

**DR K.D. HAMES (Dawesville — Minister for Health)** [12.14 pm]: I move —

That the bill be now read a second time.

The Health, Safety and Civil Liability (Children in Schools and Child Care Services) Bill is an integral part of the framework for the management of anaphylaxis in Western Australian schools and childcare services. Anaphylaxis is a sudden, severe reaction to an allergen such as peanuts or bee stings. The reaction can be serious and even life threatening. In 2001, a 13-year-old boy died in New South Wales from an anaphylactic reaction while on a school excursion. Three years later, a four-year-old girl died from an anaphylactic reaction at a Victorian kindergarten. These deaths have highlighted the issue of anaphylaxis risk for children while at school and childcare services and how it is managed.

Western Australia to date has not had a reported death from anaphylaxis in a school or childcare service and has been proactive in developing a comprehensive interagency approach to anaphylaxis management. To this end, in 2006 the Western Australian Anaphylaxis Expert Working Committee was established to review the issues relating to the management of anaphylaxis in schools and licensed childcare services in Western Australia and to make recommendations. The committee released a report in September 2007, "Anaphylaxis: Meeting the Challenge for Western Australian Children". The report includes recommendations to provide a comprehensive plan to manage anaphylaxis in schools and childcare services, including legislative proposals. The Health, Safety and Civil Liability (Children in Schools and Child Care Services) Bill is based on these recommendations.

The key objectives of the bill are —

to ensure that information is provided to schools as to any change in a child's allergy status;

to ensure that children who have an anaphylactic reaction while attending school receive timely and appropriate treatment, even in circumstances in which consent to treatment has not been provided by parents or guardians. This is of particular concern when a child has his or her first anaphylactic reaction at school or day care; and

to provide staff members of a school or childcare service with additional protection from civil liability in circumstances in which the staff member, in good faith, treats a child or student who is experiencing an anaphylactic reaction.

Part 2 of the bill amends the Civil Liability Act 2002 to provide childcare staff and teachers with protection from civil liability when they administer medication to a child experiencing an anaphylactic reaction and the childcare staff or teacher has acted in good faith and without recklessness. The purpose of this amendment is to ensure that teachers and childcare staff are protected from civil liability in these circumstances.

Part 3 of the bill amends the School Education Act 1999. Although the School Education Act already requires the provision of information to a school about medical conditions of a child that might require treatment, there is no ongoing obligation to provide such information. The School Education Act is to be amended to require that the school be notified of any change in particulars regarding a child's health. The School Education Act is to be further amended to include a regulation-making power to make provision for requirements as to the health and safety of children at a school or community kindergarten. The purpose of this amendment is to enable a regulation to be made for the administration of medication in an emergency in circumstances in which the staff member reasonably believes that the child is experiencing an anaphylactic reaction, even if there is no consent to treatment. It is possible that a child may experience an anaphylactic reaction for the first time at school. In these circumstances, parents may have not given consent for treatment, not knowing of the possible reaction. Amendments to the bill aim to make it clear that where a child is experiencing an anaphylactic reaction, medication may be given without consent. Implementation of other legislative proposals contained in the report are to be achieved through subsidiary legislation.

The proposals for this bill are part of a comprehensive plan to manage anaphylaxis in WA schools and childcare services. The aim of the overall plan is to reassure parents and guardians of children in schools and childcare services that there is a means to manage anaphylaxis when it occurs. This plan seeks to underpin and strengthen the existing partnership between parents and schools and childcare services to ensure that Western Australian

children are kept safe. The bill also builds on other initiatives implemented from the report. In February of this year training in the use of adrenaline auto-injectors and the distribution of resource kits to schools and childcare services commenced. These practical measures complement the bill's proposals.

Considerable work has been undertaken in developing this bill for introduction into Parliament. I would like to acknowledge the cooperative approach between the three agencies of Education, Health and community services in preparing this legislation. I would also like to acknowledge the valuable input and contribution made by members of the Anaphylaxis Management Implementation Group chaired by Professor Phillip Della of Curtin University. Members of this group represent the following key stakeholders: Anaphylaxis Australia Incorporated, including a parent representative; the Association of Independent Schools of Western Australia Incorporated; the Australasian Society of Clinical Immunology and Allergy; the Catholic Education Office; community health nurses; the Department for Communities and the Departments of Education and Health; the Dieticians Association of Australia; and general practitioners.

I commend this bill to the house.

Debate adjourned, on motion by **Mr D.A. Templeman**.