

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 1050 (Substitute S-1 as passed by the Senate)
Senate Bill 1051 (as passed by the Senate)
Sponsors: Senator Robert Geake (S.B. 1050)
Senator Dale L. Shugars (S.B. 1051)
Committee: Health Policy and Senior Citizens

Date Completed: 7-7-98

RATIONALE

It has been widely reported that more than 350,000 Americans die each year from sudden cardiac arrest. According to the American Heart Association, many of these victims could be saved through the timely use of automated external defibrillators (AEDs) to restart the heart to a normal pumping action. Reportedly, however, many people are reluctant to use AEDs because they fear potential liability. Currently, under the Public Health Code, there is a list of medical and emergency personnel who are immune from liability for the treatment of patients if the acts or omissions are consistent with the personnel's licensure or additional required training, unless an act or omission is the result of gross negligence or willful misconduct. The listed personnel include medical first responders, emergency medical technicians, emergency medical technician specialists, paramedics, and medical directors of medical control authorities. The immunity applies to services performed outside a hospital or in a hospital before a patient is transferred to hospital personnel. In addition, under the Good Samaritan law, persons who in good faith voluntarily render cardiopulmonary resuscitation (CPR) to another person are immune from liability, as long as their actions do not constitute gross negligence or willful and wanton misconduct. It has been suggested that, to prevent anyone from hesitating or neglecting to use an AED for fear of being sued, immunity for use of an AED be specified in law.

CONTENT

Senate Bill 1050 (S-1) would amend the Good Samaritan law, and Senate Bill 1051 would amend the Public Health Code, to provide immunity from liability for persons who treated

individuals by using an automated external defibrillator.

Senate Bill 1050 (S-1)

The bill provides that an individual who had no duty to do so, who in good faith voluntarily rendered emergency services to another individual using an automated external defibrillator, would not be liable in a civil action for damages resulting from an act or omission in rendering the emergency services, except an act or omission that constituted gross negligence or willful and wanton misconduct. The bill would apply only to a civil action that was filed or pending on or after July 1, 1998. The bill would not apply if the emergency services were rendered as the result of a request made through 9-1-1 or another universal emergency telephone number, or any other designated emergency services telephone number. The bill would apply only to an individual who was not licensed under the Public Health Code in emergency medical services.

Senate Bill 1051

The bill provides that certain medical and emergency personnel who rendered services consisting of the use of an automated external defibrillator on an individual who was in, or was exhibiting symptoms of, cardiac distress would be immune from liability for the treatment, if the acts or omissions were consistent with the personnel's licensure or additional training required by the local medical control authority. The immunity would not apply if an act or omission were the result of gross negligence or willful misconduct. The bill would apply to the medical and emergency personnel who currently are immune from liability in the treatment of patients.

BACKGROUND

The American Heart Association estimates that nearly 1,000 people per day in the United States die from cardiovascular disease, and an increasing percentage of these deaths is attributable to sudden cardiac arrest. In a heart attack there are often warning signs, such as heavy pressure in the chest, upper body pain, or shortness of breath, to alert the person that blood flow to part of the heart has been restricted. While it is essential that the victim be treated as quickly as possible, persons often survive even though they may have waited several hours to seek treatment. When sudden cardiac arrest occurs, however, in almost all cases death will result if the victim is not treated within the first 10 minutes, according to the American Heart Association. Abnormal heart rhythms (arrhythmias) cause most sudden cardiac arrests, and ventricular fibrillation is the most common arrhythmia. Ventricular fibrillation is "...a condition in which the heart's electrical impulses suddenly become chaotic, often without warning. This causes the heart to stop abruptly. Victims collapse and quickly lose consciousness. Death usually follows unless responders restore a normal heart rhythm within 5 - 7 minutes" ("When Every Second Counts", American Heart Association pamphlet).

Before 1947, when the first successful defibrillation was attempted, ventricular fibrillation meant death because there was no treatment. While CPR applied to a victim of ventricular fibrillation may buy some time, an electric shock to the heart (defibrillation) apparently is the only way to eliminate ventricular fibrillation and allow steady electrical impulses, and thus pumping action, to resume. Early defibrillators were large machines that had to be plugged into a direct electric supply. This meant that, in the vast majority of cases, they were available for use only in hospital emergency rooms. Technological advances have freed defibrillators from this setting, and made them simple to use. Automatic external defibrillators are small, portable, light-weight machines that analyze heart rhythm, determine if electric shock is advised, and instruct the user to deliver the shock. The American Heart Association reports that AEDs are safe to use, and highly effective if used within a few minutes of cardiac arrest; however, it also reports that 95% of cardiac arrest victims die, often because an AED is unavailable or arrives at the scene too late.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Heart attack victims, particularly victims of sudden cardiac arrest, must be treated as soon as possible or death will result. The use of an AED can be a highly effective treatment for ventricular fibrillation, which causes sudden cardiac arrest. Reportedly, the new AEDs are equipped with voice commands and the ability to read electrical activity in the heart. This means that the user does not have to be highly trained or able to interpret heart wave patterns on a graph, but instead can follow the instructions of the machine. It is likely that these machines will become increasingly more common, and thus available to save a greater number of victims. The American Heart Association is encouraging placement of AEDs in first-responder vehicles, such as ambulances, police cars, and fire department vehicles, and advocates expanding the use of AEDs by a broader range of first responders. According to an article in *Reader's Digest* (November 1997), Rochester, Minnesota, boasts what may be the highest cardiac arrest survival rate in the world--45%--as a result of equipping police cars with AEDs and training patrol officers in their use. Since decisive, immediate response to sudden cardiac arrest is vital to the survival of the victim, no person should hesitate or fail to use an AED out of fear of being sued for its use. State law already offers protection for persons who come to the aid of a heart attack victim by administering CPR. The bills further would ensure that a person would not have to stop to consider a lawsuit before attempting to use an AED to save a life. Reportedly, at least two other states--Florida and California--have enacted similar legislation.

Response: The issue of training has been raised. Although it is said that AEDs can be used by virtually anyone, perhaps the bills should include a training component. Florida's AED legislation, for example, provides that anyone who has access to or who uses an AED must obtain appropriate training, including the completion of a course in CPR or basic first aid that includes proficiency in the use of an AED.

Supporting Argument

As an article in *The New York Times* (4-16-97) pointed out, the congested traffic in most American cities and the vast distances ambulances must travel in rural areas mean that emergency workers simply cannot reach most cardiac arrest victims in time to save them. According to the article, cardiologists now argue that it is time to give up on emergency medical squads as the chief means of reviving heart patients. Easy-to-use AEDs, however, could be used by nonmedical people in a wide variety of settings, such as factories, health clubs, schools, airplanes, prisons, theaters, and private homes. While Senate Bill 1051 would extend immunity to emergency medical personnel, Senate Bill 1050 (S-1) would ensure that other individuals who used AEDs in emergency situations were protected from liability.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: M. Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.