

106TH CONGRESS
1ST SESSION

S. 1488

To amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

IN THE SENATE OF THE UNITED STATES

AUGUST 4, 1999

Mr. GORTON introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Cardiac Arrest Sur-
3 vival Act of 1999”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds as follows:

6 (1) Each year more than 250,000 adults suffer
7 cardiac arrest, usually away from a hospital. More
8 than 95 percent of them will die, in many cases be-
9 cause cardiopulmonary resuscitation (“CPR”),
10 defibrillation, and advanced life support are provided
11 too late to reverse the cardiac arrest. These cardiac
12 arrests occur primarily from occult underlying heart
13 disease and from drowning, allergic or sensitivity re-
14 actions, or electrical shocks.

15 (2) Every minute that passes before returning
16 the heart to a normal rhythm after a cardiac arrest
17 causes the chance of survival to fall by 10 percent.

18 (3) In communities where strong public access
19 to defibrillation programs have been implemented,
20 survival from cardiac arrest has improved by as
21 much as 20 percent.

22 (4) Survival from cardiac arrest requires suc-
23 cessful early implementation of a chain of events,
24 known as the chain of survival, which must be initi-
25 ated as soon as the person sustains a cardiac arrest

1 and must continue until the person arrives at the
2 hospital.

3 (5) The chain of survival is the medical stand-
4 ard of care for treatment of cardiac arrest.

5 (6) A successful chain of survival requires the
6 first person on the scene to take rapid and simple
7 initial steps to care for the patient and to assure
8 that the patient promptly enters the emergency med-
9 ical services system. These steps include—

10 (A) recognizing an emergency and acti-
11 vating the emergency medical services system;

12 (B) beginning CPR; and

13 (C) using an automated external
14 defibrillator (“AED”) if one is available at the
15 scene.

16 (7) The first persons at the scene of an arrest
17 are typically lay persons who are friends or family
18 of the victim, fire services, public safety personnel,
19 basic life support emergency medical services pro-
20 viders, teachers, coaches and supervisors of sports or
21 other extracurricular activities, providers of day
22 care, school bus drivers, lifeguards, attendants at
23 public gatherings, coworkers, and other leaders with-
24 in the community.

1 (8) The Federal Government should facilitate
2 programs for the placement of AEDs in public build-
3 ings, including provisions regarding the training of
4 personnel in CPR and AED use, integration with
5 the emergency medical services system, and mainte-
6 nance of the devices.

7 **SEC. 3. RECOMMENDATIONS OF SECRETARY OF HEALTH**
8 **AND HUMAN SERVICES REGARDING PLACE-**
9 **MENT OF AUTOMATIC EXTERNAL**
10 **DEFIBRILLATORS IN FEDERAL BUILDINGS.**

11 Part B of title II of the Public Health Service Act
12 (42 U.S.C. 238 et seq.) is amended by adding at the end
13 the following section:

14 “RECOMMENDATIONS REGARDING PLACEMENT OF AUTO-
15 MATED EXTERNAL DEFIBRILLATORS IN FEDERAL
16 BUILDINGS

17 “SEC. 247. (a) IN GENERAL.—Not later than 90
18 days after the date of the enactment of the Cardiac Arrest
19 Survival Act of 1999, the Secretary shall assist in pro-
20 viding for an improvement in the survival rates of individ-
21 uals who experience cardiac arrest in Federal buildings by
22 publishing in the Federal Register for public comment the
23 recommendations of the Secretary with respect to placing
24 automatic external defibrillators in such buildings. The
25 Secretary shall in addition assist Federal agencies in im-
26 plementing programs for such placement.

1 “(b) CONSIDERATION OF CERTAIN GOALS FOR SUR-
2 VIVAL RATES.—In carrying out this section, the Secretary
3 shall consider the goals established by national public-
4 health organizations for improving the survival rates of
5 individuals who experience cardiac arrest in nonhospital
6 settings, including goals for minimizing the time elapsing
7 between the onset of cardiac arrest and the initial medical
8 response.

9 “(c) CERTAIN PROCEDURES.—The matters ad-
10 dressed by the Secretary in the recommendations under
11 subsection (a) shall include the following:

12 “(1) Procedures for implementing appropriate
13 nationally recognized training courses in performing
14 cardiopulmonary resuscitation and the use of auto-
15 matic external defibrillators.

16 “(2) Procedures for proper maintenance and
17 testing of such devices, according to the guidelines
18 of the manufacturer of the devices.

19 “(3) Procedures for ensuring direct involvement
20 of a licensed medical professional and coordination
21 with local emergency medical services in the over-
22 sight of training and notification of incidents of the
23 use of the devices.

1 “(4) Procedures for ensuring notification of an
2 agent of the local emergency medical system dis-
3 patch center of the location and type of device.

4 “(d) CERTAIN CRITERIA.—In making recommenda-
5 tions under subsection (a), the Secretary shall determine
6 the following:

7 “(1) Criteria for selecting the Federal public
8 buildings in which automatic external defibrillators
9 should be placed, taking into account the typical
10 number of employees and visitors in the buildings,
11 the extent of the need for security measures regard-
12 ing the buildings, buildings or portions of buildings
13 in which there are special circumstances such as
14 high electrical voltage or extreme heat or cold, and
15 such other factors as the Secretary determines to be
16 appropriate.

17 “(2) Criteria regarding the maintenance of such
18 devices (consistent with the labeling for the devices).

19 “(3) Criteria for coordinating the use of the de-
20 vices in public buildings with providers of emergency
21 medical services for the geographic areas in which
22 the buildings are located.”.

1 **SEC. 4. IMMUNITY FROM CIVIL LIABILITY FOR EMERGENCY**
 2 **USE OF AUTOMATIC EXTERNAL**
 3 **DEFIBRILLATORS.**

4 Part B of title II of the Public Health Service Act,
 5 as amended by section 3 of this Act, is amended by adding
 6 at the end the following section:

7 “LIABILITY REGARDING EMERGENCY USE OF AUTOMATED
 8 EXTERNAL DEFIBRILLATORS

9 “SEC. 248. (a) PERSONS USING AEDS.—Any person
 10 who provides emergency medical care through the use of
 11 an automated external defibrillator is immune from civil
 12 liability for any personal injury or wrongful death result-
 13 ing from the provision of such care, except as provided
 14 in subsection (c).

15 “(b) OTHER PERSONS INVOLVED WITH AEDS; SPE-
 16 CIAL RULES FOR ACQUIRERS.—With respect to a personal
 17 injury or wrongful death to which subsection (a) applies,
 18 in addition to the person who provided emergency medical
 19 care through the use of the automated external
 20 defibrillator, the following persons are with respect to the
 21 device immune from civil liability for the personal injury
 22 or wrongful death in accordance with the following, except
 23 as provided in subsection (c):

24 “(1) Any person who maintained the device,
 25 tested the device, or provided training in the use of
 26 the device is immune from such liability.

1 “(2) Any physician who provided medical over-
2 sight regarding the device is immune from such li-
3 ability.

4 “(3) The person who acquired the device (in
5 this paragraph referred to as the ‘acquirer’) is im-
6 mune from such liability if the following conditions
7 are met:

8 “(A) The condition that the acquirer noti-
9 fied local emergency response personnel of the
10 most recent placement of the device within a
11 reasonable period of time after the device was
12 placed.

13 “(B) The condition that, as of the date on
14 which the emergency occurred, the device had
15 been maintained and tested in accordance with
16 the guidelines established for the device by the
17 manufacturer of the device.

18 “(C) In any case in which the person who
19 provided the emergency medical care through
20 the use of the device was an employee or agent
21 of the acquirer, and the employee or agent was
22 within the class of persons the acquirer ex-
23 pected would use the device in the event of a
24 relevant emergency, the condition that the em-
25 ployee or agent received reasonable instruction

1 in the use of such devices through a course ap-
2 proved by the Secretary or by the chief public
3 health officer of any of the States.

4 “(c) INAPPLICABILITY OF IMMUNITY.—Immunity
5 under subsections (a) and (b) does not apply to a person
6 if the person engaged in gross negligence or willful or wan-
7 ton misconduct in the circumstances described in such
8 subsections that apply to the person with respect to auto-
9 mated external defibrillators.

10 “(d) RULES OF CONSTRUCTION.—

11 “(1) IN GENERAL.—The following applies with
12 respect to this section:

13 “(A) This section does not supersede the
14 law of any State that (before, on, or after the
15 date of the enactment of the Cardiac Arrest
16 Survival Act of 1999) provides through statute
17 or regulations any degree of immunity for any
18 class of persons for civil liability for personal in-
19 jury or wrongful death arising from the provi-
20 sion of emergency medical care through the use
21 of an automated external defibrillator.

22 “(B) This section does not waive any pro-
23 tection from liability for Federal officers or em-
24 ployees under—

25 “(i) section 224; or

1 “(ii) sections 1346(b) and 2672 of
2 title 28, United States Code, or under al-
3 ternative benefits provided by the United
4 States where the availability of such bene-
5 fits precludes a remedy under section
6 1346(b) of title 28.

7 “(C) This section does not require that an
8 automated external defibrillator be placed at
9 any building or other location.

10 “(2) CIVIL ACTIONS UNDER FEDERAL LAW.—

11 “(A) IN GENERAL.—The applicability of
12 subsections (a) through (c) includes applica-
13 bility to any action for civil liability described in
14 subsection (a) that arises under Federal law.

15 “(B) FEDERAL AREAS ADOPTING STATE
16 LAW.—If a geographic area is under Federal
17 jurisdiction and is located within a State but
18 out of the jurisdiction of the State, and if, pur-
19 suant to Federal law, the law of the State ap-
20 plies in such area regarding matters for which
21 there is no applicable Federal law, then an ac-
22 tion for civil liability described in subsection (a)
23 that in such area arises under the law of the
24 State is subject to subsections (a) through (c)
25 in lieu of any related State law that would

1 apply in such area in the absence of this sub-
2 paragraph.”.

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