

106TH CONGRESS  
2D SESSION

# S. 1488

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2000

Referred to the Committee on Commerce

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## AN ACT

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,*

3       **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. FINDINGS.**

2 The Congress finds as follows:

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

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

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

19 (4) Survival from cardiac arrest requires suc-  
20 cessful early implementation of a chain of events,  
21 known as the chain of survival, which must be initi-  
22 ated as soon as the person sustains a cardiac arrest  
23 and must continue until the person arrives at the  
24 hospital.

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

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

6                   (A) recognizing an emergency and acti-  
7                   vating the emergency medical services system;

8                   (B) beginning CPR; and

9                   (C) using an automated external  
10                  defibrillator (“AED”) if one is available at the  
11                  scene.

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

21          (8) The Federal Government should facilitate  
22          programs for the placement of AEDs in public build-  
23          ings, including provisions regarding the training of  
24          personnel in CPR and AED use, integration with

1 the emergency medical services system, and mainte-  
 2 nance of the devices.

3 **SEC. 3. RECOMMENDATIONS OF SECRETARY OF HEALTH**  
 4 **AND HUMAN SERVICES REGARDING PLACE-**  
 5 **MENT OF AUTOMATIC EXTERNAL**  
 6 **DEFIBRILLATORS IN BUILDINGS.**

7 Part B of title II of the Public Health Service Act  
 8 (42 U.S.C. 238 et seq.) is amended by adding at the end  
 9 the following section:

10 “RECOMMENDATIONS REGARDING PLACEMENT OF  
 11 AUTOMATED EXTERNAL DEFIBRILLATORS IN BUILDINGS

12 “SEC. 247. (a) RECOMMENDATION FOR FEDERAL  
 13 BUILDINGS.—

14 “(1) IN GENERAL.—Not later than 90 days  
 15 after the date of the enactment of the Cardiac Ar-  
 16 rest Survival Act of 1999, the Secretary shall assist  
 17 in providing for an improvement in the survival  
 18 rates of individuals who experience cardiac arrest in  
 19 Federal buildings by publishing in the Federal Reg-  
 20 ister for public comment the recommendations of the  
 21 Secretary with respect to placing automatic external  
 22 defibrillators in such buildings. The Secretary shall  
 23 in addition assist Federal agencies in implementing  
 24 programs for such placement.

25 “(2) AGENCY ASSESSMENTS.—Not later than  
 26 180 days after the date on which the recommenda-

1        tions are published under paragraph (1), the head of  
2        each Federal agency that occupies a Federal build-  
3        ing that meets the criteria described in subsection  
4        (a)(1) shall submit to the Secretary an assessment  
5        of the ability of each such agency to meet the goals  
6        described in subsection (c).

7        “(b) ADDITIONAL RECOMMENDATIONS.—The Sec-  
8        retary shall publish, as part of the recommendations re-  
9        ferred to in subsection (a), recommendations with respect  
10      to the placement of automatic external defibrillators in  
11      buildings and facilities, or other appropriate venues, fre-  
12      quented by the public (other than the buildings referred  
13      to in subsection (a)). Such recommendations shall only be  
14      for information purposes for States and localities to con-  
15      sider in determining policy regarding the use or placement  
16      of such defibrillators in recommended buildings, facilities  
17      or venues.

18      “(c) CONSIDERATION OF CERTAIN GOALS FOR SUR-  
19      VIVAL RATES.—In carrying out this section, the Secretary  
20      shall consider the goals established by national public-  
21      health organizations for improving the survival rates of  
22      individuals who experience cardiac arrest in nonhospital  
23      settings, including goals for minimizing the time elapsing  
24      between the onset of cardiac arrest and the initial medical  
25      response.

1       “(d) CERTAIN PROCEDURES.—The matters ad-  
2 dressed by the Secretary in the recommendations under  
3 subsections (a) and (b) shall include the following:

4           “(1) Procedures for implementing appropriate  
5 nationally recognized training courses in performing  
6 cardiopulmonary resuscitation and the use of auto-  
7 matic external defibrillators.

8           “(2) Procedures for proper maintenance and  
9 testing of such devices, according to the guidelines  
10 of the manufacturer of the devices.

11          “(3) Procedures for ensuring direct involvement  
12 of a licensed medical professional and coordination  
13 with local emergency medical services in the over-  
14 sight of training and notification of incidents of the  
15 use of the devices.

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

19       “(e) CERTAIN CRITERIA.—In making recommenda-  
20 tions under subsections (a) and (b), the Secretary shall  
21 determine the following:

22           “(1) Criteria for selecting the public buildings,  
23 facilities and other venues in which automatic exter-  
24 nal defibrillators should be placed, taking into  
25 account—

1           “(A) the typical number of employees and  
2 visitors in the buildings, facilities or venues;

3           “(B) the extent of the need for security  
4 measures regarding the buildings, facilities or  
5 venues;

6           “(C) buildings, facilities or other venues,  
7 or portions thereof, in which there are special  
8 circumstances such as high electrical voltage or  
9 extreme heat or cold; and

10          “(D) such other factors as the Secretary  
11 determines to be appropriate.

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

14          “(3) Criteria for coordinating the use of the de-  
15 vices in public buildings, facilities or other venues  
16 with providers of emergency medical services for the  
17 geographic areas in which the buildings, facilities or  
18 venues are located.”.

19 **SEC. 4. IMMUNITY FROM CIVIL LIABILITY FOR EMERGENCY**  
20 **USE OF AUTOMATED EXTERNAL**  
21 **DEFIBRILLATORS.**

22          Part B of title II of the Public Health Service Act,  
23 as amended by section 3 of this Act, is amended by adding  
24 at the end the following section:

1 “LIABILITY REGARDING EMERGENCY USE OF AUTOMATED  
2 EXTERNAL DEFIBRILLATORS

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

9 “(b) OTHER PERSONS INVOLVED WITH AEDS; SPE-  
10 CIAL RULES FOR ACQUIRERS.—

11 “(1) IN GENERAL.—With respect to a personal  
12 injury or wrongful death to which subsection (a) ap-  
13 plies, in addition to the person who provided emer-  
14 gency medical care through the use of the automated  
15 external defibrillator, the person described in para-  
16 graph (2) is with respect to the device immune from  
17 civil liability for the personal injury or wrongful  
18 death in accordance with such paragraph, except as  
19 provided in subsection (c).

20 “(2) PERSON DESCRIBED.—A person described  
21 in this paragraph is the person who acquired the de-  
22 vice for use at a nonmedical facility (in this para-  
23 graph referred to as the ‘acquirer’). Such person  
24 shall be immune from liability as provided for in  
25 paragraph (1) if the following conditions are met:



1           “(A) The condition that the acquirer noti-  
2           fied local emergency response personnel of the  
3           most recent placement of the device within a  
4           reasonable period of time after the device was  
5           placed.

6           “(B) The condition that, as of the date on  
7           which the emergency occurred, the device had  
8           been maintained and tested in accordance with  
9           the guidelines established for the device by the  
10          manufacturer of the device.

11          “(C) In any case in which the person who  
12          provided the emergency medical care through  
13          the use of the device was an employee or agent  
14          of the acquirer, and the employee or agent was  
15          within the class of persons the acquirer ex-  
16          pected would use the device in the event of a  
17          relevant emergency, the condition that the em-  
18          ployee or agent received reasonable instruction  
19          in the use of such devices through a course ap-  
20          proved by the Secretary or by the chief public  
21          health officer of any of the States.

22          “(c) INAPPLICABILITY OF IMMUNITY.—Immunity  
23          under subsections (a) and (b) does not apply to a person  
24          if—

1           “(1) the person engaged in gross negligence or  
2           willful or wanton misconduct in the circumstances  
3           described in such subsections that apply to the per-  
4           son with respect to automated external defibrillators;  
5           or

6           “(2) the person was a licensed or certified med-  
7           ical professional who was using the automated exter-  
8           nal defibrillator while acting within the scope of  
9           their license or certification, and within the scope of  
10          their employment as a medical professional.

11          “(d) RULES OF CONSTRUCTION.—

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

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

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

1 “(i) section 224; or

2 “(ii) sections 1346(b), 2672 and 2679  
3 of title 28, United States Code, or under  
4 alternative benefits provided by the United  
5 States where the availability of such bene-  
6 fits precludes a remedy under section  
7 1346(b) of title 28.

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

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

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

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

1           in lieu of any related State law that would  
 2           apply in such area in the absence of this sub-  
 3           paragraph.”.

Passed the Senate November 19, 1999.

Attest:

GARY SISCO,  
*Secretary.*