

SENATE BILL 579

D3, F5

8lr2283
CF 8lr0936

By: **Senator Forehand**

Introduced and read first time: February 1, 2008

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Immunity from Liability – Medical Emergency – Use of Automated External**
3 **Defibrillator**

4 FOR the purpose of providing immunity from civil liability under certain
5 circumstances, notwithstanding certain other provisions of law, to an individual
6 or facility that acquires an automated external defibrillator (AED) or that owns,
7 manages, or is responsible for the premises where an AED is located, to a
8 certain individual who retrieves an AED, or to a certain individual who uses,
9 attempts to use, or fails to use an AED in response to a sudden cardiac arrest
10 emergency at a facility; altering, under the Automated External Defibrillation
11 Program of the Maryland Institute for Emergency Medical Services Systems,
12 the circumstances under which an individual is immune from civil liability for
13 providing automated external defibrillation; providing that immunity from
14 liability is not available to certain persons for certain conduct that is grossly
15 negligent, willful or wanton misconduct, or intentionally tortious conduct; and
16 generally relating to immunity from liability for use of an automated external
17 defibrillator.

18 BY repealing and reenacting, without amendments,
19 Article – Courts and Judicial Proceedings
20 Section 5–603(c)
21 Annotated Code of Maryland
22 (2006 Replacement Volume and 2007 Supplement)

23 BY adding to
24 Article – Courts and Judicial Proceedings
25 Section 5–603(d)
26 Annotated Code of Maryland
27 (2006 Replacement Volume and 2007 Supplement)

28 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Education
 2 Section 13–517(a)(1) and (3) and (m)(5)
 3 Annotated Code of Maryland
 4 (2006 Replacement Volume and 2007 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article – Education
 7 Section 13–517(m)(3) and (4)
 8 Annotated Code of Maryland
 9 (2006 Replacement Volume and 2007 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article – Courts and Judicial Proceedings**

13 5–603.

14 (c) An individual who is not covered otherwise by this section is not civilly
 15 liable for any act or omission in providing assistance or medical aid to a victim at the
 16 scene of an emergency, if:

17 (1) The assistance or aid is provided in a reasonably prudent manner;

18 (2) The assistance or aid is provided without fee or other
 19 compensation; and

20 (3) The individual relinquishes care of the victim when someone who
 21 is licensed or certified by this State to provide medical care or services becomes
 22 available to take responsibility.

23 **(D) (1) IN THIS SUBSECTION, “AUTOMATED EXTERNAL**
 24 **DEFIBRILLATOR (AED)” MEANS A MEDICAL HEART MONITOR AND**
 25 **DEFIBRILLATOR DEVICE THAT:**

26 **(I) IS CLEARED FOR MARKET BY THE FEDERAL FOOD AND**
 27 **DRUG ADMINISTRATION;**

28 **(II) RECOGNIZES THE PRESENCE OR ABSENCE OF**
 29 **VENTRICULAR FIBRILLATION OR RAPID VENTRICULAR TACHYCARDIA;**

30 **(III) DETERMINES, WITHOUT INTERVENTION BY AN**
 31 **OPERATOR, WHETHER DEFIBRILLATION SHOULD BE PERFORMED;**

32 **(IV) ON DETERMINING THAT DEFIBRILLATION SHOULD BE**
 33 **PERFORMED, AUTOMATICALLY CHARGES; AND**

1 **(V) 1. REQUIRES OPERATOR INTERVENTION TO**
2 **DELIVER THE ELECTRICAL IMPULSE; OR**

3 **2. AUTOMATICALLY CONTINUES WITH DELIVERY OF**
4 **ELECTRICAL IMPULSE.**

5 **(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE**
6 **FOLLOWING INDIVIDUALS AND FACILITIES ARE IMMUNE FROM CIVIL LIABILITY**
7 **FOR DAMAGES RELATING TO THE USE, POSSESSION, OR PURCHASE OF AN**
8 **AUTOMATED EXTERNAL DEFIBRILLATOR (AED) OR ARISING OUT OF ANY ACT**
9 **OR OMISSION IN PREPARING FOR OR RESPONDING TO A SUSPECTED SUDDEN**
10 **CARDIAC ARREST EMERGENCY:**

11 **(I) AN INDIVIDUAL OR FACILITY THAT ACQUIRES AN AED;**

12 **(II) AN INDIVIDUAL OR FACILITY THAT OWNS, MANAGES, OR**
13 **IS OTHERWISE RESPONSIBLE FOR THE PREMISES ON WHICH AN AED IS**
14 **LOCATED;**

15 **(III) AN INDIVIDUAL WHO RETRIEVES AN AED IN RESPONSE**
16 **TO A PERCEIVED SUDDEN CARDIAC ARREST EMERGENCY AT A FACILITY; OR**

17 **(IV) AN INDIVIDUAL WHO USES, ATTEMPTS TO USE, OR FAILS**
18 **TO USE AN AED IN RESPONSE TO A PERCEIVED SUDDEN CARDIAC ARREST**
19 **EMERGENCY AT A FACILITY.**

20 **(3) THE IMMUNITY PROVIDED IN THIS SUBSECTION IS NOT**
21 **AVAILABLE IF THE CONDUCT OF THE INDIVIDUAL OR FACILITY AMOUNTS TO**
22 **GROSS NEGLIGENCE, WILLFUL OR WANTON MISCONDUCT, OR INTENTIONALLY**
23 **TORTIOUS CONDUCT.**

24 **Article - Education**

25 13-517.

26 (a) (1) In this section the following words have the meanings indicated.

27 (3) "Automated external defibrillator (AED)" means a medical heart
28 monitor and defibrillator device that:

29 (i) Is cleared for market by the federal Food and Drug
30 Administration;

1 (ii) Recognizes the presence or absence of ventricular fibrillation
2 or rapid ventricular tachycardia;

3 (iii) Determines, without intervention by an operator, whether
4 defibrillation should be performed;

5 (iv) On determining that defibrillation should be performed,
6 automatically charges; and

7 (v) 1. Requires operator intervention to deliver the
8 electrical impulse; or

9 2. Automatically continues with delivery of electrical
10 impulse.

11 (m) (3) In addition to any other immunities available under statutory or
12 common law, an individual is not civilly liable for any act or omission if:

13 (i) The individual is acting in good faith while rendering
14 automated external defibrillation to a person who is a victim or reasonably believed by
15 the individual to be a victim of a sudden cardiac arrest; **AND**

16 (ii) [The assistance or aid is provided in a reasonably prudent
17 manner;

18 (iii)] The automated external defibrillation is provided without
19 fee or other compensation]; and

20 (iv) 1. The act or omission occurs while the individual is
21 providing automated external defibrillation in accordance with the requirements of
22 this section at an authorized facility;

23 2. The individual has successfully completed an AED
24 training course and is authorized to provide automated external defibrillation; or

25 3. The individual is using an automated external
26 defibrillator obtained by a prescription issued by a physician].

27 (4) The immunities in this subsection are not available if the conduct
28 of the authorized facility **OR AN INDIVIDUAL** amounts to gross negligence, willful or
29 wanton misconduct, or intentionally tortious conduct.

30 (5) This subsection does not affect, and may not be construed as
31 affecting, any immunities from civil or criminal liability or defenses established by any
32 other provision of the Code or by common law to which an authorized facility or an
33 individual may be entitled.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2008.