

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 1117

(Delegate Lee, *et al.*)

Judiciary

Judicial Proceedings

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**Immunity from Liability - Medical Emergency - Use of Automated External  
Defibrillator**

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This bill extends immunity from civil liability for negligence to specified facilities and individuals for any damages relating to the use, possession, or purchase of an automated external defibrillator (AED) or arising out of an act or omission in preparing for or responding to a suspected sudden cardiac arrest emergency. The bill repeals the requirement that assistance or aid be provided in a reasonably prudent manner for an individual to qualify for civil immunity relating to the use of an AED.

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**Fiscal Summary**

**State Effect:** None. The bill does not materially affect State operations or finances.

**Local Effect:** None. The bill does not materially affect local government operations or finances.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill provides immunity from civil liability for damages for negligence relating to the use, possession, or purchase of an AED or arising out of any act or omission in preparing for or responding to a suspected sudden cardiac arrest emergency to the following individuals or facilities:

- an individual or facility that acquires an AED, so long as the AED is maintained and tested in accordance with the standards established by the device's manufacturer;
- an individual or facility that owns, manages, or is otherwise responsible for the premises on which an AED is located, so long as the AED is maintained and tested in accordance with the standards established by the device's manufacturer;
- an individual who retrieves an AED in response to a perceived sudden cardiac arrest emergency at a facility; or
- an individual who uses, attempts to use, or fails to use an AED in response to a perceived sudden cardiac arrest emergency.

The civil immunity is limited to assistance or medical care provided without compensation at the scene of a perceived sudden cardiac arrest emergency. The immunity is not available if the conduct of the individual or facility amounts to gross negligence, willful or wanton misconduct, or intentionally tortious conduct.

Though the bill repeals an existing requirement that assistance or aid be provided in a reasonably prudent manner, the bill retains provisions specifying that an individual is not civilly liable for an act or omission if the individual is acting in good faith and without fee or other compensation while rendering automated external defibrillation to a person who is a victim or reasonably believed by the individual to be a victim of a sudden cardiac arrest.

**Current Law:** In general, an individual is not civilly liable for any act or omission in providing assistance or medical aid to a victim at the scene of an emergency if the assistance or aid is provided in a reasonably prudent manner, without fee or other compensation, and the individual relinquishes care of the victim when someone who is licensed or certified to provide medical care or services becomes available to take responsibility.

The Emergency Medical Services Board certifies facilities to operate AEDs. A registered facility is not civilly liable for any act or omission in the provision of automated external defibrillation if the authorized facility: (1) has satisfied specified requirements for making automated external defibrillation available; and (2) possesses a valid certificate at the time of the act or omission. A member of a regional council AED committee is not civilly liable for any act or omission in the provision of automated external defibrillation.

An individual is not civilly liable for any act or omission if (1) the individual is acting in good faith while rendering automated external defibrillation to a person who is a victim or reasonably believed by the individual to be a victim of a sudden cardiac arrest; (2) the

assistance or aid is provided in a reasonably prudent manner; and (3) the automated external defibrillation is provided without fee or other compensation.

These immunities are not available if the conduct of the authorized facility or an individual amounts to gross negligence, willful or wanton misconduct, or intentionally tortious conduct.

**Background:** Most AEDs are about the size of a laptop computer. They analyze a cardiac arrest victim's cardiac rhythm, charge to an appropriate energy level, and deliver an electric charge, as directed by the operator, through adhesive pads placed on the victim's chest.

Pursuant to Chapter 593 of 2008, under the Public Access AED Program, a facility that wishes to make AEDs available to victims of sudden cardiac arrest must register with the Emergency Medical Services (EMS) Board. Registered facilities are organizations, business associations, agencies, or other entities that meet EMS Board registration requirements. Physician and dentist offices are exempt from registration requirements.

Chapters 596 and 597 of 2008 repealed the following eligibility requirements for civil immunity for conduct by individuals or facilities relating to the use of an AED: (1) the act or omission occurred while an individual was providing automated external defibrillation at an authorized facility; (2) the individual had successfully completed an AED training course and was authorized to provide automated external defibrillation; or (3) the individual used an AED obtained by a prescription issued by a physician.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Institute for Emergency Medical Services Systems, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - March 16, 2009  
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Analysis by: Amy A. Devadas

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510