

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Health Care Committee

BILL: CS/SB 248

INTRODUCER: Health Care Committee and Senator Constantine

SUBJECT: Automated External Defibrillators/High Schools

DATE: February 9, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HE	Fav/CS
2.	_____	_____	ED	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill requires each high school that is a member of the Florida High School Athletic Association to have an operational automated external defibrillator (AED) on the high school grounds. The bill encourages public/private partnerships to cover the cost associated with the purchase and placement of the AED and training in the use of the AED.

This bill creates one undesignated section of law.

II. Present Situation:

Cardiac Arrest/Automated External Defibrillators

The American Heart Association (AHA) provides the following description of cardiac arrest:

“Cardiac arrest is the sudden, abrupt loss of heart function. The victim may or may not have diagnosed heart disease...Sudden death (also called sudden cardiac death) occurs within minutes after symptoms appear.”¹

Time is of the essence in responding to cardiac arrest because brain death begins in just 4 to 6 minutes. Cardiac arrest can be reversed if it is treated within a few minutes with an electric shock to the heart to restore a normal heartbeat—a procedure known as *defibrillation*. According to AHA, a victim's chances of survival are reduced by 7 to 10 percent with every minute that

¹ See definition of “cardiac arrest” at <http://www.americanheart.org/presenter.jhtml?identifier=4481>.

passes without defibrillation, and few attempts at resuscitation succeed after 10 minutes have elapsed.

An AED is an electronic device that can shock a person's heart back into rhythm when he or she is having a cardiac arrest. According to AHA, with early defibrillation of a person in cardiac arrest, the person's possibility of survival jumps to more than 50 percent.

Section 401.2915, F.S., provides the minimum training requirements for an individual who intends to use an AED in cases of cardiac arrest, as follows:

- A person must obtain appropriate training, to include completion of a course in cardiopulmonary resuscitation or successful completion of a basic first aid course that includes cardiopulmonary resuscitation training, and demonstrated proficiency in the use of an AED;
- A person or entity in possession of an AED is encouraged to register with the local emergency medical services medical director the existence and location of the AED; and
- A person who uses an AED is required to activate the emergency medical services system as soon as possible upon use of the AED.

The section does not provide statutory definitions or minimum capabilities for such a device to be deemed an AED.

Immunity Under the Cardiac Arrest Survival Act

Section 768.1325, F.S., the Cardiac Arrest Survival Act, provides immunity from liability for a person who uses or attempts to use an AED in a perceived medical emergency.

Section 768.1325(2)(b), F.S., defines "automated external defibrillator device" to mean a defibrillator device that:

- Is commercially distributed in accordance with the Federal Food, Drug, and Cosmetic Act;
- Is capable of recognizing the presence or absence of ventricular fibrillation, and is capable of determining without intervention by the user of the device whether defibrillation should be performed; and
- Upon determining that defibrillation should be performed, is able to deliver an electrical shock to an individual.

The immunity provided under s. 768.1325, F.S., to persons using or attempting to use an AED does not apply to any harm that was due to the failure of the acquirer of the device to:

- Notify the local emergency medical services medical director of the most recent placement of the AED within a reasonable period of time after the AED is placed;
- Properly maintain and test the AED; or
- Provide appropriate training in the use of the AED to an employee or agent of the acquirer when the employee or agent was the person who used the AED on the victim, except such requirement of training does not apply if: the employee or agent was not an

employee or agent who would have been reasonably expected to use the AED; or the period of time elapsing between the engagement of the person as an employee or agent and the occurrence of the harm, or between the acquisition of the AED and the occurrence of the harm in any case in which the AED was acquired after engagement of the employee or agent, was not a reasonably sufficient period in which to provide the training.

The immunity under s. 768.1325, F.S., does not apply to a person if:

- The harm involved was caused by that person's willful or criminal misconduct, gross negligence, reckless disregard or misconduct, or a conscious, flagrant indifference to the rights or safety of the victim who was harmed;
- The person is a licensed or certified health professional who used the AED while acting within the scope of the license or certification of the health professional and within the scope of the employment or agency of the professional;
- The person is a hospital, clinic, or other entity whose primary purpose is providing health care directly to patients, and the harm was caused by an employee or agent of the entity who used the device while acting within the scope of the employment or agency of the employee or agent;
- The person is an acquirer of the AED who leased the device to a health care entity, or who otherwise provided the AED to such entity for compensation without selling the device to the entity, and the harm was caused by an employee or agent of the entity who used the AED while acting within the scope of the employment or agency of the employee or agent; or
- The person is the manufacturer of the AED.

Immunity under the Good Samaritan Act

Section 768.13, F.S., the "Good Samaritan Act," provides immunity from civil liability to:

- Any persons, including those licensed to practice medicine, who gratuitously and in good faith render emergency care or treatment either in direct response to emergency situations related to and arising out of a public health emergency declared pursuant to s. 381.00315, F.S., or a state of emergency which has been declared pursuant to s. 252.36, F.S., or at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment. The immunity applies if the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.
- Any health care provider, including a licensed hospital providing emergency services pursuant to federal or state law. The immunity applies to damages as a result of any act or omission of providing medical care or treatment, including diagnosis, which occurs prior to the time that the patient is stabilized and is capable of receiving medical treatment as a nonemergency patient, unless surgery is required as a result of the emergency, in which case the immunity applies to any act or omission of providing medical care or treatment which occurs prior to the stabilization of the patient following surgery, or which is related to the original medical emergency. The act does not extend immunity from liability to

acts of medical care or treatment under circumstances demonstrating a reckless disregard for the consequences so as to affect the life or health of another.

- Any health care practitioner who is in a hospital attending to a patient of his or her practice or for business or personal reasons unrelated to direct patient care, and who voluntarily responds to provide care or treatment to a patient with whom at that time the practitioner does not have a then-existing health care patient-practitioner relationship, and when such care or treatment is necessitated by a sudden or unexpected situation or by an occurrence that demands immediate medical attention, unless that care or treatment is proven to amount to conduct that is willful and wanton and would likely result in injury so as to affect the life or health of another. The immunity extended to health care practitioners does not apply to any act or omission of providing medical care or treatment unrelated to the original situation that demanded immediate medical attention.

School Health

Section 381.0056, F.S., provides requirements for the school health services program. The Department of Health has the responsibility, in cooperation with the Department of Education, to supervise the administration of the school health services program and perform periodic program reviews. The principal at each school has immediate supervisory authority over the health personnel working in the school. Each county health department must develop, jointly with the district school board and the local school health advisory committee, a school health services plan that must include, at a minimum, provisions outlined in s. 381.0056, F.S., which include meeting emergency health needs in each school. "Emergency health needs" is defined to mean the onsite management and aid for illness or injury pending the student's return to the classroom or release to a parent, guardian, designated friend, or designated health care provider.

Federal Legislation on AEDs in Schools

The Automatic Defibrillation in Adam's Memory Act was passed by Congress and signed into law on July 1, 2003.² The legislation is intended to encourage schools to have the equipment and trained expertise to restart hearts in emergencies. The Act calls for establishment of a clearinghouse to provide information to increase access to defibrillation in schools and allows use of grant funds under the Public Health Service Act to support the clearinghouse. The legislation has not yet been funded.

Florida High School Athletic Association

Under s. 1006.20, F.S., the Florida High School Athletic Association is designated as the governing nonprofit organization of athletics in Florida public schools. The bylaws of the organization are to be the rules by which high school athletic programs in its member schools, and the students who participate in them, are governed, unless otherwise specifically provided by statute.³ The Florida High School Athletic Association has adopted guidelines and policies which strongly recommend that an AED be present and available for use if needed at the site of every interscholastic athletic contest conducted during the preseason and regular season in which

² See Public Law 108-41, 117 Stat. 839.

³ See s. 1006.20, F.S.

member schools participate.⁴ The association's guidelines and policies require that an AED be available at the site of every Florida High School Athletic Association state championship series contest on the district, regional, sectional and state levels.

III. Effect of Proposed Changes:

The bill requires each high school that is a member of the Florida High School Athletic Association to have an operational AED on the high school grounds. The bill encourages public/private partnerships to cover the cost associated with the purchase and placement of the AED and training in the use of the AED.

The effective date of the bill is July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the Division of Emergency Medical Operations within the Department of Health, concerning bids for AEDs, it is estimated that each AED will cost between \$800 and \$1,700. These costs are for the AED only and do not include extra parts or maintenance. Private schools may incur costs to purchase an AED unless a defibrillator is donated. A layperson may be trained to use an AED in 5 to 6 hours.

⁴ See the 2005-06 Florida High School Athletic Association Handbook (Section A, Paragraph 4 of Policy 3, "General Policies on Interscholastic Contests." within the handbook) containing the association's policy on AEDs, which was passed by its Board of Directors and went into effect on July 1, 2005.

C. Government Sector Impact:

According to the Division of Emergency Medical Operations within the Department of Health, concerning bids for AEDs, it is estimated that each AED will cost between \$800 and \$1,700. These costs are for the AED only and do not include extra parts or maintenance. The Florida High School Athletic Association reports that approximately 638 high schools are members of its association. The Department of Education has indicated that, in 2005-06, there were 671 public senior high schools and 86 charter schools that include high school grades. Some school districts have already placed AEDs in each school, according to the Department of Education. School districts may incur costs to purchase an AED unless a defibrillator is donated. A layperson may be trained to use an AED in 5 to 6 hours.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
