

106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2498

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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 2000”.

6 **SEC. 2. FINDINGS.**

7        The Congress finds as follows:

8            (1) Over 700 lives are lost every day to sudden  
9 cardiac arrest in the United States alone.

10           (2) Two out of every three sudden cardiac  
11 deaths occur before a victim can reach a hospital.

12           (3) More than 95 percent of these cardiac ar-  
13 rest victims will die, many because of lack of readily  
14 available life saving medical equipment.

15           (4) With current medical technology, up to 30  
16 percent of cardiac arrest victims could be saved if  
17 victims had access to immediate medical response,  
18 including defibrillation and cardiopulmonary resus-  
19 citation.

20           (5) Once a victim has suffered a cardiac arrest,  
21 every minute that passes before returning the heart  
22 to a normal rhythm decreases the chance of survival  
23 by 10 percent.

24           (6) Most cardiac arrests are caused by abnor-  
25 mal heart rhythms called ventricular fibrillation.

1 Ventricular fibrillation occurs when the heart's elec-  
2 trical system malfunctions, causing a chaotic rhythm  
3 that prevents the heart from pumping oxygen to the  
4 victim's brain and body.

5 (7) Communities that have implemented pro-  
6 grams ensuring widespread public access to  
7 defibrillators, combined with appropriate training,  
8 maintenance, and coordination with local emergency  
9 medical systems, have dramatically improved the  
10 survival rates from cardiac arrest.

11 (8) Automated external defibrillator devices  
12 have been demonstrated to be safe and effective,  
13 even when used by lay people, since the devices are  
14 designed not to allow a user to administer a shock  
15 until after the device has analyzed a victim's heart  
16 rhythm and determined that an electric shock is re-  
17 quired.

18 (9) Increasing public awareness regarding auto-  
19 mated external defibrillator devices and encouraging  
20 their use in Federal buildings will greatly facilitate  
21 their adoption.

22 (10) Limiting the liability of Good Samaritans  
23 and acquirers of automated external defibrillator de-  
24 vices in emergency situations may encourage the use

1 of automated external defibrillator devices, and re-  
2 sult in saved lives.

3 **SEC. 3. RECOMMENDATIONS AND GUIDELINES OF SEC-**  
4 **RETARY OF HEALTH AND HUMAN SERVICES**  
5 **REGARDING AUTOMATED EXTERNAL**  
6 **DEFIBRILLATORS FOR FEDERAL 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 AND GUIDELINES REGARDING  
11 AUTOMATED EXTERNAL DEFIBRILLATORS FOR FED-  
12 ERAL BUILDINGS

13 “SEC. 247. (a) GUIDELINES ON PLACEMENT.—The  
14 Secretary shall establish guidelines with respect to placing  
15 automated external defibrillator devices in Federal build-  
16 ings. Such guidelines shall take into account the extent  
17 to which such devices may be used by lay persons, the  
18 typical number of employees and visitors in the buildings,  
19 the extent of the need for security measures regarding the  
20 buildings, buildings or portions of buildings in which there  
21 are special circumstances such as high electrical voltage  
22 or extreme heat or cold, and such other factors as the Sec-  
23 retary determines to be appropriate.

24 “(b) RELATED RECOMMENDATIONS.—The Secretary  
25 shall publish in the Federal Register the recommendations  
26 of the Secretary on the appropriate implementation of the

1 placement of automated external defibrillator devices  
2 under subsection (a), including procedures for the fol-  
3 lowing:

4           “(1) Implementing appropriate training courses  
5           in the use of such devices, including the role of  
6           cardiopulmonary resuscitation.

7           “(2) Proper maintenance and testing of the de-  
8           vices.

9           “(3) Ensuring coordination with appropriate li-  
10          censed professionals in the oversight of training of  
11          the devices.

12          “(4) Ensuring coordination with local emer-  
13          gency medical systems regarding the placement and  
14          incidents of use of the devices.

15          “(c) CONSULTATIONS; CONSIDERATION OF CERTAIN  
16          RECOMMENDATIONS.—In carrying out this section, the  
17          Secretary shall—

18                 “(1) consult with appropriate public and private  
19                 entities;

20                 “(2) consider the recommendations of national  
21                 and local public-health organizations for improving  
22                 the survival rates of individuals who experience car-  
23                 diac arrest in nonhospital settings by minimizing the  
24                 time elapsing between the onset of cardiac arrest

1 and the initial medical response, including  
2 defibrillation as necessary; and

3 “(3) consult with and counsel other Federal  
4 agencies where such devices are to be used.

5 “(d) DATE CERTAIN FOR ESTABLISHING GUIDE-  
6 LINES AND RECOMMENDATIONS.—The Secretary shall  
7 comply with this section not later than 180 days after the  
8 date of the enactment of the Cardiac Arrest Survival Act  
9 of 2000.

10 “(e) DEFINITIONS.—For purposes of this section:

11 “(1) The term ‘automated external defibrillator  
12 device’ has the meaning given such term in section  
13 248.

14 “(2) The term ‘Federal building’ includes a  
15 building or portion of a building leased or rented by  
16 a Federal agency, and includes buildings on military  
17 installations of the United States.”.

18 **SEC. 4. GOOD SAMARITAN PROTECTIONS REGARDING**  
19 **EMERGENCY USE OF AUTOMATED EXTERNAL**  
20 **DEFIBRILLATORS.**

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

1 “LIABILITY REGARDING EMERGENCY USE OF AUTOMATED  
2 EXTERNAL DEFIBRILLATORS

3 “SEC. 248. (a) GOOD SAMARITAN PROTECTIONS RE-  
4 GARDING AEDS.—Except as provided in subsection (b),  
5 any person who uses or attempts to use an automated ex-  
6 ternal defibrillator device on a victim of a perceived med-  
7 ical emergency is immune from civil liability for any harm  
8 resulting from the use or attempted use of such device;  
9 and in addition, any person who acquired the device is im-  
10 mune from such liability, if the harm was not due to the  
11 failure of such acquirer of the device—

12 “(1) to notify local emergency response per-  
13 sonnel or other appropriate entities of the most re-  
14 cent placement of the device within a reasonable pe-  
15 riod of time after the device was placed;

16 “(2) to properly maintain and test the device;  
17 or

18 “(3) to provide appropriate training in the use  
19 of the device to an employee or agent of the acquirer  
20 when the employee or agent was the person who  
21 used the device on the victim, except that such re-  
22 quirement of training does not apply if—

23 “(A) the employee or agent was not an em-  
24 ployee or agent who would have been reasonably  
25 expected to use the device; or

1           “(B) the period of time elapsing between  
2           the engagement of the person as an employee or  
3           agent and the occurrence of the harm (or be-  
4           tween the acquisition of the device and the oc-  
5           currence of the harm, in any case in which the  
6           device was acquired after such engagement of  
7           the person) was not a reasonably sufficient pe-  
8           riod in which to provide the training.

9           “(b) INAPPLICABILITY OF IMMUNITY.—Immunity  
10          under subsection (a) does not apply to a person if—

11           “(1) the harm involved was caused by willful or  
12           criminal misconduct, gross negligence, reckless mis-  
13           conduct, or a conscious, flagrant indifference to the  
14           rights or safety of the victim who was harmed; or

15           “(2) the person is a licensed or certified health  
16           professional who used the automated external  
17           defibrillator device while acting within the scope of  
18           the license or certification of the professional and  
19           within the scope of the employment or agency of the  
20           professional; or

21           “(3) the person is a hospital, clinic, or other en-  
22           tity whose purpose is providing health care directly  
23           to patients, and the harm was caused by an em-  
24           ployee or agent of the entity who used the device

1 while acting within the scope of the employment or  
2 agency of the employee or agent; or

3 “(4) the person is an acquirer of the device who  
4 leased the device to a health care entity (or who oth-  
5 erwise provided the device to such entity for com-  
6 pensation without selling the device to the entity),  
7 and the harm was caused by an employee or agent  
8 of the entity who used the device while acting within  
9 the scope of the employment or agency of the em-  
10 ployee or agent.

11 “(c) RULES OF CONSTRUCTION.—

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

14 “(A) This section does not establish any  
15 cause of action, or require that an automated  
16 external defibrillator device be placed at any  
17 building or other location.

18 “(B) With respect to a class of persons for  
19 which this section provides immunity from civil  
20 liability, this section supersedes the law of a  
21 State only to the extent that the State has no  
22 statute or regulations that provide persons in  
23 such class with immunity for civil liability aris-  
24 ing from the use by such persons of automated  
25 external defibrillator devices in emergency situ-

1           actions (within the meaning of the State law or  
2           regulation involved).

3           “(C) This section does not waive any pro-  
4           tection from liability for Federal officers or em-  
5           ployees under—

6                     “(i) section 224; or

7                     “(ii) sections 1346(b), 2672, and  
8                     2679 of title 28, United States Code, or  
9                     under alternative benefits provided by the  
10                    United States where the availability of  
11                    such benefits precludes a remedy under  
12                    section 1346(b) of title 28.

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

14                    “(A) IN GENERAL.—The applicability of  
15                    subsections (a) and (b) includes applicability to  
16                    any action for civil liability described in sub-  
17                    section (a) that arises under Federal law.

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

1           that in such area arises under the law of the  
2           State is subject to subsections (a) through (c)  
3           in lieu of any related State law that would  
4           apply in such area in the absence of this sub-  
5           paragraph.

6           “(d) FEDERAL JURISDICTION.—In any civil action  
7 arising under State law, the courts of the State involved  
8 have jurisdiction to apply the provisions of this section ex-  
9 clusive of the jurisdiction of the courts of the United  
10 States.

11          “(e) DEFINITIONS.—

12           “(1) PERCEIVED MEDICAL EMERGENCY.—For  
13 purposes of this section, the term ‘perceived medical  
14 emergency’ means circumstances in which the behav-  
15 ior of an individual leads a reasonable person to be-  
16 lieve that the individual is experiencing a life-threat-  
17 ening medical condition that requires an immediate  
18 medical response regarding the heart or other  
19 cardiopulmonary functioning of the individual.

20          “(2) OTHER DEFINITIONS.—For purposes of  
21 this section:

22           “(A) The term ‘automated external  
23 defibrillator device’ means a defibrillator device  
24 that—

1           “(i) is commercially distributed in ac-  
2 cordance with the Federal Food, Drug,  
3 and Cosmetic Act;

4           “(ii) is capable of recognizing the  
5 presence or absence of ventricular fibrilla-  
6 tion, and is capable of determining without  
7 intervention by the user of the device  
8 whether defibrillation should be performed;

9           “(iii) upon determining that  
10 defibrillation should be performed, is able  
11 to deliver an electrical shock to an indi-  
12 vidual; and

13           “(iv) in the case of a defibrillator de-  
14 vice that may be operated in either an  
15 automated or a manual mode, is set to op-  
16 erate in the automated mode.

17           “(B)(i) The term ‘harm’ includes physical,  
18 nonphysical, economic, and noneconomic losses.

19           “(ii) The term ‘economic loss’ means any  
20 pecuniary loss resulting from harm (including  
21 the loss of earnings or other benefits related to  
22 employment, medical expense loss, replacement  
23 services loss, loss due to death, burial costs, and  
24 loss of business or employment opportunities)

1 to the extent recovery for such loss is allowed  
2 under applicable State law.

3 “(iii) The term ‘noneconomic losses’ means  
4 losses for physical and emotional pain, suf-  
5 fering, inconvenience, physical impairment,  
6 mental anguish, disfigurement, loss of enjoy-  
7 ment of life, loss of society and companionship,  
8 loss of consortium (other than loss of domestic  
9 service), hedonic damages, injury to reputation  
10 and all other nonpecuniary losses of any kind or  
11 nature.”.

Passed the House of Representatives May 23, 2000.

Attest:

*Clerk.*