

BILL ANALYSIS

Senate Research Center

C.S.S.B. 122
By: Nelson
Health Services
2/17/1999
Committee Report (Substituted)

DIGEST

Currently, under the Good Samaritan Law, automated external defibrillators are not exempt from liability lawsuits. This bill would exempt persons administering a defibrillator in good faith from liability, which otherwise might prevent them from rendering aid.

PURPOSE

As proposed, C.S.S.B. 122 requires training for designated users of an automated external defibrillator and maintenance by people leasing or owning a defibrillator.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Department of Health in SECTION 1 (Section 779.002(b), Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 9B, Health and Safety Code, by adding Chapter 779, as follows:

CHAPTER 779. AUTOMATED EXTERNAL DEFIBRILLATORS

Sec. 779.001. DEFINITION. Defines “automated external defibrillator” (defibrillator).

Sec. 779.002. TRAINING. Requires a person acquiring a defibrillator to ensure that each user receives training approved by the American Heart Association, the American Red Cross or a licensed physician to ensure compliance with certain requirements of this chapter. Authorizes the Texas Department of Health to adopt rules to establish the minimum requirements for the training required by this section.

Sec. 779.003. MAINTENANCE OF AUTOMATED EXTERNAL DEFIBRILLATOR. Requires a person who owns or leases a defibrillator to maintain and test the defibrillator according to the manufacturer’s guidelines.

Sec. 779.004. USING AN AUTOMATED EXTERNAL DEFIBRILLATOR. Requires a person who provides emergency care using a defibrillator to a person in cardiac arrest to notify the local emergency medical services provider of the use of a defibrillator.

Sec. 779.005. NOTIFYING LOCAL EMERGENCY MEDICAL SERVICES PROVIDER. Requires a person acquiring a defibrillator to notify the local emergency medical services provider of the existence, location, and type of defibrillator.

Sec. 779.006. LIABILITY EXEMPTION. Provides that the physician, who authorizes acquisition, the person providing training, and the person responsible for the defibrillator are not liable for civil damages for an act performed unless the act is wilfully or wantonly negligent.

Sec. 779.007. POSSESSION OF AUTOMATED EXTERNAL DEFIBRILLATORS. Sets forth requirements for each person, other than a licensed practitioner, who acquires an automated external defibrillator.

Sec. 779.008. HOSPITAL EXEMPTION. Prohibits this chapter from applying to hospitals

licensed under Chapter 241.

SECTION 2. Amends Section 74.001(a), Civil Practice and Remedies Code, to provide that a person using a defibrillator to administer emergency care at the scene of an emergency is not liable for civil damages for an act performed.

SECTION 3. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 4. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 779.002, Health and Safety Code, to require each user of the defibrillator to receive training given or approved by the American Red Cross.

Adds Section 779.007, Health and Safety Code, regarding possession of automated external defibrillators.

Adds Section 779.008, Health and Safety Code, regarding hospital exemption.