

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1499 Automated External Defibrillators

SPONSOR(S): Brutus and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 248

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care General Committee	_____	Ciccone	Brown-Barrios
2) Education Appropriations Committee	_____	_____	_____
3) Health & Families Council	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

An Automatic External Defibrillator (AED) is a small, lightweight device used to assess a person's heart rhythm, and, if necessary, administer an electric shock to restore a normal rhythm in victims of sudden cardiac arrest. AEDs are designed to be used by people without medical backgrounds, such as police, firefighters, flight attendants, security guards and lay rescuers.

HB 1499 requires each high school that is a member of the Florida High School Athletic Association to have an operational automated external defibrillator (AED) on high school grounds. The bill encourages Public and Private Partnerships to cover the cost associated with the purchase and placement of the AED and training in the use of the AED.

There is no state fiscal impact associated with this bill. The bill encourages public and private partnerships to cover the cost associated with the purchase of an AED, which is estimated between \$800 and \$1,700 per defibrillator.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current law does not require high schools to have an AED on high school grounds. The bill would require 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 and private partnerships to cover the cost associated with the purchase and placement of the AED and training in the use of the AED.

Background

Cardiac Arrest:

The American Heart Association (AHA) describes a cardiac arrest as:

Cardiac arrest is the sudden, abrupt loss of heart function. It is also called sudden cardiac arrest or unexpected cardiac arrest. Sudden death (also called sudden cardiac death) occurs within minutes after symptoms appear. The most common underlying reason for patients to die suddenly from cardiac arrest is coronary heart disease. Most cardiac arrests that lead to sudden death occur when the electrical impulses in the diseased heart become rapid (ventricular tachycardia) or chaotic (ventricular fibrillation) or both. This irregular heart rhythm (arrhythmia) causes the heart to suddenly stop beating.¹

According to the AHA, brain death and permanent death start to occur within 4 to 6 minutes after someone experiences cardiac arrest. 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 process called defibrillation. The AHA states that a victim's chances of survival are reduced by 7 to 10 percent with every passing minute without defibrillation, and few attempts at resuscitation succeed after 10 minutes.

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. The AHA estimates that more than 95 percent of cardiac arrest victims die before reaching the hospital. In cases where defibrillation is provided within 5 to 7 minutes, the survival rate from sudden cardiac arrest can be up to 49 percent.

AEDs in Schools

The Department of Education (DOE) has indicated that, in 2005-06, there were 671 public senior high schools and 86 charter schools that include high school grades. The Florida High School Athletic Association reports that approximately 638 high schools are members of its association. The Department of Education recently conducted a survey of school districts concerning AEDs. Thirty-five of 67 districts plus two lab schools and the Florida School for the Deaf and the Blind responded. According to the responses, 23 districts have some type of AED, and 17 of the 23 districts have some type of AED at each high school within the district. Some school districts have already placed AEDs in each school, according to the DOE.

¹ See definition of "cardiac arrest" at www.americanheart.org

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.²

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, 2003.³ 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 act has never been funded; it is scheduled to be reauthorized this year.

Florida High School Athletic Association

Under s. 1006.20, F.S., the Florida High School Athletic Association (FHSAA) is designated as the governing nonprofit organization of athletics in Florida public schools. The bylaws of the organization are 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.

The FHSAA 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 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.

The FHSAA reported to the DOE that:

- 420 of the association's full members are public schools;
- 216 of the association's full members are private schools;
- 3 of the association's affiliate members are public high schools; and
- 44 of the association's affiliate members are private high schools.

Cardiac Arrest Survival Act Immunity

Section 768.1325, F.S., the Cardiac Survival Act, provides immunity from liability for a person who uses or attempts to use an automated external defibrillator as defined under s. 768.1325(2)(b), F.S..

The immunity provided under s. 768.1325, F.S., to persons using or attempting to use an AED

² Section 381.0056(e)(a), F.S.

³ See Public Law 108-41, 117 Stat.839.

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, www.fhsaa.org/rules/handbook

does not apply if the harm 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;
- 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.

C. SECTION DIRECTORY:

Section 1. Creates an undesignated section of law and provides that each high school that is a member of the Florida High School Athletic Association have an operational automated external defibrillator (AED) on high school grounds.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

The Division of Emergency Medical Operations within the Department of Health estimates that each AED will cost between \$800 and \$1,700. School districts may incur costs to purchase an AED unless an AED is donated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Division of Emergency Medical Operations within the Department of Health estimates that each AED will cost between \$800 and \$1,700. Private schools may incur costs to purchase an AED unless an AED is donated.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take action requiring the expenditure of funds, nor does it reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor does it reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES