

BILL ANALYSIS

C.S.H.B. 2026
By: Gallego
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Sudden Cardiac Arrest (SCA) can happen to anyone at any time -without warning, and athletic club members are not immune. The need to recognize and react to sudden cardiac arrest is critical. The likelihood of successful resuscitation decreases by about 10% with every minute that passes. Automated External Defibrillators (AEDS) treat cardiac arrests before they become deadly, therefore it is essential that every athletic club in Texas carry one.

With the number of people who workout increasing, and the average age of athletic club visitors also increasing, the threat of cardiac arrest is greater now more than ever. CSHB 2026 will not only require each facility to have one, but also require an employee or volunteer trained on how to use an (AED) to be present during staffed business hours. By having access to defibrillators athletic club visitors will have a chance to be resuscitated in a timely manner.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHB 2026 defines both an "automated external defibrillator" and an "athletic club." It requires an athletic club to make an AED available at each facility or location, and to make reasonable efforts to have at least one athletic club employee trained in the proper use of an AED during staffed business hours. The bill establishes that an athletic club or other person is not liable for civil damages arising from the use, attempted use, or failure to use an AED on the premises of an athletic club unless the act is wilful, or wanton, or constitutes gross negligence, and this limitation on liability is not exclusive and a person may raise any other defense to liability available under law.

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EFFECTIVE DATE

September 1, 2008.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute amends the introduced by changing the definition of an athletic club from enrolling at least 75 members to at least 125 members. In the introduced version, an athletic club is required to have an employee trained in the use of an AED at each facility at all times, where in the substitute, it is required to make reasonable efforts that during staffed business hours there is at least one athletic club employee trained in the proper use of an AED. Also, the substitute deletes language relating to civil penalties, and instead exempts an athletic club or other persons from civil liability under certain circumstances. The limitation on liability provided by the section is not exclusive, and a person may raise any other defense to liability under the law. It further provides that the added section of the bill related to liability, applies only to a cause of action that accrues on or after September 1, 2008, whereas a cause of action accruing before that date is governed in effect at the time of the act, and that law continues in effect for that purpose.

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The substitute changes the effective date from January 1, 2008 to September 1, 2008.