

## **BILL ANALYSIS**

Senate Research Center

S.B. 199  
By: Nelson  
Health & Human Services  
5/28/2021  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 1999 and 2001 the legislature passed legislation that shields from liability laypersons who use automated external defibrillators (AEDs) at the scene of an emergency. This led to widespread usage at gyms, malls, airports, state buildings, and other businesses, saving countless lives. Advancement in AED technology makes the devices extremely easy to use, and in many instances the rescuer is not an employee but a customer or bystander. S.B. 199 extends current liability protections regarding AED usage to businesses and property owners. The bill also repeals burdensome training requirements to better align training with current AED technology.

(Original Author's / Sponsor's Statement of Intent)

S.B. 199 amends current law relating to automated external defibrillators.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the State Board of Education on behalf of the State Board for Educator Certification is modified in SECTION 3 (Section 21.0541, Education Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is rescinded in SECTION 4 (Section 779.002, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 779.003, Health and Safety Code, as follows:

Sec. 779.003. New heading: ACQUISITION, MAINTENANCE, AND INSPECTION OF AUTOMATED EXTERNAL DEFIBRILLATOR. Requires a person or entity that owns or leases an automated external defibrillator to conduct a monthly inspection to verify the automated external defibrillator is placed at its designated location, reasonably appears to be ready for use, and does not reasonably appear to be damaged in a manner that could prevent operation. Makes nonsubstantive changes.

SECTION 2. Amends Section 779.006, Health and Safety Code, as follows:

Sec. 779.006. LIABILITY EXEMPTION. (a) Creates this subsection from existing text. Provides that, unless the conduct is wilfully or wantonly negligent, a physician who prescribes or is otherwise involved in the acquisition of an automated external defibrillator and any person or entity that provides training in the use of an automated external defibrillator are not liable for civil damages related to the prescription, acquisition, or training in the use of the automated external defibrillator or any use or attempted use of or the failure to use the automated external defibrillator. Deletes existing text providing that the prescribing physician who authorizes the acquisition of an automated external defibrillator in accordance with Chapter 779 (Automated External Defibrillators), a person or entity that provides approved training in the use of an automated external defibrillator in accordance with Chapter 779, and the person or entity that acquires the automated external defibrillator and meets the requirements of Chapter

779 are not liable for civil damages for such prescription, training, or acquisition unless the conduct is wilfully or wantonly negligent. Makes nonsubstantive changes.

(b) Creates this subsection from existing text. Provides that any person or entity that acquires an automated external defibrillator and any person or entity that owns, occupies, manages, or is otherwise responsible for the designated location where the automated external defibrillator is placed are not liable for civil damages related to the use or attempted use of or the failure to use the automated external defibrillator unless the conduct is wilfully and wantonly negligent. Deletes existing text providing that any person or entity that acquires an automated external defibrillator and negligently fails to comply with the requirements of Chapter 779 is liable for civil damages caused by such negligence.

(c) Provides that the immunity provided by this section is in addition to any other immunity or limitations of liability provided by other law.

(d) Provides that the immunity described by this section applies regardless of whether the person who uses, attempts to use, or fails to use the automated external defibrillator received training in the use of an automated external defibrillator.

SECTION 3. Amends Section 21.0541, Education Code, as follows:

Sec. 21.0541. CONTINUING EDUCATION CREDIT FOR INSTRUCTION RELATED TO USE OF AUTOMATED EXTERNAL DEFIBRILLATOR. Requires the State Board for Educator Certification (SBEC) to adopt rules allowing an educator to receive credit towards the educator's continuing education requirements for completion of an instructional course on the use of an automated external defibrillator that meets any guidelines for automated external defibrillator training approved by SBEC, rather than that meets the guidelines for automated external defibrillator training approved under Section 779.002 (Training), Health and Safety Code.

SECTION 4. (1) Repealer: Section 22.902(b) (relating to requiring that the instruction provided by a school district in the use of an automated external defibrillator meet certain guidelines), Education Code.

(2) Repealer: Section 779.002 (Training), Health and Safety Code.

SECTION 5. Effective date: September 1, 2021.