

BILL ANALYSIS

C.S.S.B. 199
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The use of an automated external defibrillator can increase chances of survival in the event of sudden cardiac arrest. In 1999, the legislature passed legislation that shields from liability laypersons who use such devices at the scene of an emergency, which has led to widespread use at gyms, malls, airports, and various businesses and has helped save countless lives. Certain technological advancements have made these devices easier to use, and in many instances, the rescuer is not an employee of a business providing access to the device, but rather a customer or bystander. C.S.S.B. 199 seeks to provide certain liability exemptions regarding the use or attempted use of, or the failure to use, an automated external defibrillator to a person or entity that owns, occupies, manages, or is otherwise responsible for the designated location where the defibrillator is placed and to repeal burdensome training requirements to better align training with current technology. The bill also seeks to ensure that the defibrillator is regularly inspected and maintained.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.S.B. 199 amends the Health and Safety Code to require a person or entity that owns or leases an automated external defibrillator to conduct a monthly inspection to verify the 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.

C.S.S.B. 199 revises provisions exempting a person or entity from liability for civil damages relating to the prescription, acquisition, or training in the use of an automated external defibrillator by doing the following:

- exempts the following from liability for civil damages related to such prescription, acquisition, or training or any use or attempted use of or the failure to use the defibrillator unless the conduct is wilfully or wantonly negligent:
 - a physician who prescribes or is otherwise involved in the acquisition of the defibrillator; and
 - any person or entity that provides training in the use of the defibrillator;
- removes language making any person or entity that acquires such a defibrillator and negligently fails to comply with the applicable requirements regarding the defibrillator liable for civil damages caused by such negligence;

- exempts the following from liability for civil damages related to the use or attempted use of or the failure to use such a defibrillator unless the conduct is wilfully or wantonly negligent:
 - any person or entity that acquires the defibrillator; and
 - any person or entity that owns, occupies, manages, or is otherwise responsible for the designated location where the defibrillator is placed; and
- establishes that immunity from such liability is in addition to any other immunity or limitations of liability provided by other law and applies regardless of whether the person who uses, attempts to use, or fails to use the defibrillator received training in the use of the defibrillator.

C.S.S.B. 199 repeals provisions relating to guidelines for automated external defibrillator training and amends the Education Code to reflect the repeal by revising the requirement for 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 such a defibrillator that meets any guidelines approved by the SBEC.

C.S.S.B. 199 repeals the following provisions:

- Section 22.902(b), Education Code; and
- Section 779.002, Health and Safety Code.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 199 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute does not include a requirement that appeared in the engrossed for a person or entity that owns or leases an automated external defibrillator to ensure a licensed physician is involved in the acquisition of the defibrillator.