

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 198

By Senators Hamilton and Maroney

[Originating in the Committee on Government
Organization; reported on February 1, 2023]

1 A BILL to amend and reenact §16-4D-1, §16-4D-2, §16-4D-3, and §16-4D-4 of the Code of West
2 Virginia, 1931, as amended, all relating to automated external defibrillator devices (AEDs);
3 stating findings; revising definitions; modifying AED registration requirements; eliminating
4 requirement to designate medical director; and clarifying limitation on liability.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4D. AUTOMATED EXTERNAL DEFIBRILLATORS.

§16-4D-1. Purpose and findings.

1 (a) The West Virginia Legislature hereby finds and declares that each year more than
2 250,000 Americans die from out-of-hospital incidents of sudden cardiac arrest. More than 95
3 percent of these incidents result in death and, in many cases, death occurs because properly
4 trained persons with life-saving automated external defibrillators arrive at the scene too late.

5 (b) The American Heart Association estimates that more than 20,000 deaths could be
6 prevented each year if early defibrillation were more widely available.

7 (c) Many communities around the country have invested in 911 emergency notification
8 systems and emergency medical services, including well-trained emergency personnel and
9 ambulance vehicles. However, in many communities, there are not enough strategically placed
10 automated external defibrillators and persons trained to properly operate them.

11 (d) It is, therefore, the intent of this Legislature to improve access to early defibrillation by
12 encouraging ~~the establishment~~ increased placement of automated external defibrillator programs
13 devices in careful coordination with the emergency medical services system.

14 (e) Finally, the Legislature finds that automated external defibrillator devices need to be
15 registered with the Office of Emergency Medical Services, local EMS providers, and local
16 emergency dispatch centers.

§16-4D-2. Definitions.

1 (a) "Anticipated operator" means any person trained in accordance with section three of
2 this article who utilizes an automated external defibrillator ~~which~~ that was placed ~~through an early~~

3 ~~defibrillation program by an entity on its premises.~~

4 (b) "Automated external defibrillator", hereinafter referred to as AED, means a medical
5 device heart monitor and defibrillator that: (1) Has undergone the premarket approval process
6 pursuant to the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §360, as amended; (2) is
7 capable of recognizing the presence or absence of ventricular fibrillation; (3) is capable of
8 determining, without intervention by the operator, whether defibrillation should be performed; and
9 (4) upon determining that defibrillation should be performed, automatically charges and requests
10 delivery of an electrical impulse to an individual's heart.

11 ~~(c) "Early defibrillation program" means a coordinated program that meets the~~
12 ~~requirements of section three of this article and one that provides early public access to~~
13 ~~defibrillation for individuals experiencing sudden cardiac arrest through the use of an automated~~
14 ~~external defibrillator.~~

15 ~~(d)~~ (c) "Emergency medical services (EMS)" means all services established by the
16 Emergency Medical Services Act of 1973 in §16-4C-1 *et seq.* of this code, including, but not limited
17 to, the emergency medical services plan of the Department of Health and Human Resources
18 providing a response to the medical needs of an individual to prevent the loss of life or aggravation
19 of illness or injury.

20 ~~(e)~~ (d) "Entity" means a public or private group, organization, business, association, or
21 agency that ~~meets the requirements of section three of this article~~ places an AED or AEDs on its
22 premises. "Entity" does not include emergency medical services operational programs or licensed
23 commercial ambulance services, and does not include an individual who purchases or acquires an
24 AED and places it at his or her residence or in his or her personal vehicle.

25 ~~(f) "Medical director" means a duly licensed physician who serves as the designated~~
26 ~~medical coordinator for an entity's early defibrillation program.~~

27 ~~(g)~~ (e) "Unanticipated operator" means any person rendering emergency medical care
28 involving the use of an AED.

§16-4D-3. Early defibrillation programs Requirement to register AEDs.

1 An entity ~~providing an early defibrillation program~~ that places an AED or AEDs on its
2 premises shall:

3 (1) Register the ~~program~~ device or devices with the Office of Emergency Medical Services,
4 pursuant to §16-4C-1 *et seq.* of this code, identifying the ~~placement~~ location of ~~the~~ AEDs, training
5 of anticipated operators, ~~preplanned~~ EMS system coordination, ~~designation of a medical director,~~
6 maintenance of AED ~~equipment~~ devices, and reports of AED utilization;

7 (2) Require the any anticipated operator of an AED to receive appropriate training in
8 cardiopulmonary resuscitation, referred to as "CPR", in the operation of an AED ~~and in the~~
9 ~~determination of advance directives~~ from the American Heart Association, American Red Cross,
10 any other nationally recognized course in CPR and AED, or an AED and CPR training program
11 approved by the Office of Emergency Medical Services;

12 (3) Maintain and test the AED in accordance with the manufacturer's guidelines and keep
13 written records of this maintenance and testing;

14 ~~(4) Designate a medical director for the coordination of the program, which shall include,~~
15 ~~but not be limited to, training, coordinating with EMS, creating AED deployment strategies and~~
16 ~~reviewing each operation of an AED;~~

17 ~~(5)~~ (4) Notify the local EMS system and public safety answering point or other appropriate
18 emergency dispatch center of the existence of an entity's ~~early defibrillation program~~ AEDs, the
19 location of the ~~program~~ AED devices, and ~~the program's plan for coordination~~ that the entity has
20 planned to coordinate with the EMS system;

21 ~~(6)~~ (5) ~~Provide that~~ Require an operator of an AED who renders emergency care or
22 treatment on a person experiencing cardiac arrest ~~shall~~ to activate the EMS system as soon as
23 possible and ~~shall~~ to report the use of an AED to the ~~program medical director~~ Office of Emergency
24 Medical Services; and

25 ~~(7)~~ (6) Comply with the guidelines of the West Virginia Office of Emergency Medical

26 Services regarding data collection and reporting.

§16-4D-4. Limitation on liability.

1 A person or entity is not liable for civil damages as a result of any act or omission in
2 rendering emergency medical care or treatment involving the use of an AED on the entity's
3 premises if the care or treatment does not amount to gross negligence and the following conditions
4 are met:

5 (1) The person or entity ~~certified trainer or medical director of the early defibrillation~~
6 ~~program~~ is in compliance with the provisions of section three of this article; and

7 (2) The person is an anticipated operator of an AED who gratuitously and in good faith
8 rendered emergency medical care, pursuant to the requirements of section three of this article,
9 other than in the ordinary course of the person's employment or profession as a health care
10 provider, as defined in §16-2D-2 of this code; or

11 (3) The person is an unanticipated operator who gratuitously and in good faith rendered
12 emergency medical care.