

# SENATE BILL 461

E4

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By: **Senator Jacobs**

Introduced and read first time: February 2, 2012

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Emergency Medical Services – Automated External Defibrillators – Immunity**  
3 **from Liability and Facility Registration Requirement**

4 FOR the purpose of providing immunity from civil liability to a certain individual who  
5 uses an automated external defibrillator (AED) to provide certain assistance or  
6 medical aid to a victim at the scene of an emergency under certain  
7 circumstances; altering a certain education requirement for a facility that  
8 desires to make an AED available to qualify for a valid certificate from the State  
9 Emergency Medical Services Board; and generally relating to immunity from  
10 liability for use of an AED and to the Public Access Automated External  
11 Defibrillator Program.

12 BY repealing and reenacting, with amendments,  
13 Article – Courts and Judicial Proceedings  
14 Section 5–603  
15 Annotated Code of Maryland  
16 (2006 Replacement Volume and 2011 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Education  
19 Section 13–517  
20 Annotated Code of Maryland  
21 (2008 Replacement Volume and 2011 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – Courts and Judicial Proceedings**

25 5–603.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) A person described in subsection (b) of this section is not civilly liable for  
2 any act or omission in giving any assistance or medical care, if:

3 (1) The act or omission is not one of gross negligence;

4 (2) The assistance or medical care is provided without fee or other  
5 compensation; and

6 (3) The assistance or medical care is provided:

7 (i) At the scene of an emergency;

8 (ii) In transit to a medical facility; or

9 (iii) Through communications with personnel providing  
10 emergency assistance.

11 (b) Subsection (a) of this section applies to the following:

12 (1) An individual who is licensed by this State to provide medical care;

13 (2) A member of any State, county, municipal, or volunteer fire  
14 department, ambulance and rescue squad, or law enforcement agency, the National  
15 Ski Patrol System, or a corporate fire department responding to a call outside of its  
16 corporate premises, if the member:

17 (i) Has completed an American Red Cross course in advanced  
18 first aid and has a current card showing that status;

19 (ii) Has completed an equivalent of an American Red Cross  
20 course in advanced first aid, as determined by the Secretary of Health and Mental  
21 Hygiene; or

22 (iii) Is certified or licensed by this State as an emergency  
23 medical services provider;

24 (3) A volunteer fire department or ambulance and rescue squad whose  
25 members have immunity; and

26 (4) A corporation when its fire department personnel are immune  
27 under paragraph (2) of this subsection.

28 (c) An individual who is not covered otherwise by this section is not civilly  
29 liable for any act or omission in providing assistance or medical aid to a victim at the  
30 scene of an emergency, if:

1           (1)   **(I)**   The assistance or aid is provided in a reasonably prudent  
2 manner;

3           **[(2)] (II)**   The assistance or aid is provided without fee or other  
4 compensation; and

5           **[(3)] (III)**   The individual relinquishes care of the victim when someone  
6 who is licensed or certified by this State to provide medical care or services becomes  
7 available to take responsibility; **OR**

8                   **(2) (I)   THE ASSISTANCE IS PROVIDED BY USE OF AN**  
9 **AVAILABLE AUTOMATED EXTERNAL DEFIBRILLATOR;**

10                           **(II)   THE ASSISTANCE OR AID IS PROVIDED IN A**  
11 **REASONABLY PRUDENT MANNER; AND**

12                                   **(III)   THE INDIVIDUAL RELINQUISHES CARE OF THE VICTIM**  
13 **WHEN SOMEONE WHO IS LICENSED OR CERTIFIED BY THIS STATE TO PROVIDE**  
14 **MEDICAL CARE OR SERVICES BECOMES AVAILABLE TO TAKE RESPONSIBILITY.**

#### 15                                   **Article – Education**

16   13–517.

17           (a)   (1)   In this section the following words have the meanings indicated.

18                   (2)   “Automated external defibrillator (AED)” means a medical heart  
19 monitor and defibrillator device that:

20                           (i)   Is cleared for market by the federal Food and Drug  
21 Administration;

22                           (ii)   Recognizes the presence or absence of ventricular fibrillation  
23 or rapid ventricular tachycardia;

24                           (iii)   Determines, without intervention by an operator, whether  
25 defibrillation should be performed;

26                           (iv)   On determining that defibrillation should be performed,  
27 automatically charges; and

28                           (v)   1.   Requires operator intervention to deliver the  
29 electrical impulse; or

30                                   2.   Automatically continues with delivery of electrical  
31 impulse.

1           (3)   “Certificate” means a certificate issued by the EMS Board to a  
2 registered facility.

3           (4)   “Facility” means an agency, association, corporation, firm,  
4 partnership, or other entity.

5           (5)   “Jurisdictional emergency medical services operational program”  
6 means the institution, agency, corporation, or other entity that has been approved by  
7 the EMS Board to provide oversight of emergency medical services for each of the local  
8 government and State and federal emergency medical services programs.

9           (6)   “Program” means the Public Access Automated External  
10 Defibrillator Program.

11          (7)   “Regional administrator” means the individual employed by the  
12 Institute as regional administrator in each EMS region.

13          (8)   “Regional council” means an EMS advisory body as created by the  
14 Code of Maryland Regulations 30.05.

15          (9)   “Regional council AED committee” means a committee appointed  
16 by the regional council consisting of:

17               (i)   The regional medical director;

18               (ii)   The regional administrator; and

19               (iii)   Three or more individuals with knowledge of and expertise  
20 in AEDs.

21          (10)   “Registered facility” means an organization, business association,  
22 agency, or other entity that meets the requirements of the EMS Board for registering  
23 with the Program.

24          (b)   (1)   There is a Public Access Automated External Defibrillator  
25 Program.

26               (2)   The purpose of the Program is to coordinate an effective statewide  
27 public access defibrillation program.

28               (3)   The Program shall be administered by the EMS Board.

29          (c)   The EMS Board may:

30               (1)   Adopt regulations for the administration of the Program;

1           (2) Issue and renew certificates to facilities that meet the  
2 requirements of this section;

3           (3) Deny, suspend, revoke, or refuse to renew the certificate of a  
4 registered facility for failure to meet the requirements of this section;

5           (4) Approve educational and training programs required under this  
6 section that:

7                   (i) Are conducted by any private or public entity;

8                   (ii) Include training in cardiopulmonary resuscitation and  
9 automated external defibrillation; and

10                   (iii) May include courses from nationally recognized entities such  
11 as the American Heart Association, the American Red Cross, and the National Safety  
12 Council;

13           (5) Approve the protocol for the use of an AED; and

14           (6) Delegate to the Institute any portion of its authority under this  
15 section.

16           (d) (1) Each facility that desires to make automated external  
17 defibrillation available shall possess a valid certificate from the EMS Board.

18           (2) This subsection does not apply to:

19                   (i) A jurisdictional emergency medical services operational  
20 program;

21                   (ii) A licensed commercial ambulance service;

22                   (iii) A health care facility as defined in § 19–114 of the  
23 Health – General Article; or

24                   (iv) A place of business for health care practitioners who are  
25 licensed as dentists under Title 4 of the Health Occupations Article or as physicians  
26 under Title 14 of the Health Occupations Article and are authorized to use an AED in  
27 accordance with that license.

28           (e) To qualify for a certificate a facility shall:

29                   (1) Comply with the written protocol approved by the EMS Board for  
30 the use of an AED which includes notification of the emergency medical services  
31 system through the use of the 911 universal emergency access number as soon as  
32 possible on the use of an AED;

1           (2)    Have established automated external defibrillator maintenance,  
2 placement, operation, reporting, and quality improvement procedures as required by  
3 the EMS Board;

4           (3)    Maintain each AED and all related equipment and supplies in  
5 accordance with the standards established by the device manufacturer and the federal  
6 Food and Drug Administration; and

7           (4)    Ensure that [each] **ONE** individual [who is expected to operate an  
8 AED for] **AT** the registered facility has successfully completed [an educational training  
9 course and refresher training as required] **A SEMINAR ON THE USE AND  
10 MAINTENANCE OF AN AED THAT IS GIVEN BY OR APPROVED** by the EMS Board.

11          (f)    A registered facility shall report the use of an AED to the Institute for  
12 review by the regional council AED committee.

13          (g)    A facility that desires to establish or renew a certificate shall:

14               (1)    Submit an application on the form that the EMS Board requires;  
15 and

16               (2)    Meet the requirements under this section.

17          (h)    (1)    The EMS Board shall issue a new or a renewed certificate to a  
18 facility that meets the requirements of this section.

19               (2)    Each certificate shall include:

20                   (i)    The type of certificate;

21                   (ii)   The full name and address of the facility;

22                   (iii)  A unique identification number; and

23                   (iv)   The dates of issuance and expiration of the certificate.

24               (3)    A certificate is valid for 3 years.

25          (i)    The EMS Board may issue a cease and desist order or obtain injunctive  
26 relief if a facility makes automated external defibrillation available in violation of this  
27 section.

28          (j)    (1)    In addition to any other immunities available under statutory or  
29 common law, a registered facility is not civilly liable for any act or omission in the  
30 provision of automated external defibrillation if the registered facility:

1 (i) Has satisfied the requirements for making automated  
2 external defibrillation available under this section; and

3 (ii) Possesses a valid certificate at the time of the act or  
4 omission.

5 (2) In addition to any other immunities available under statutory or  
6 common law, a member of the regional council AED committee is not civilly liable for  
7 any act or omission in the provision of automated external defibrillation.

8 (3) In addition to any other immunities available under statutory or  
9 common law, an individual is not civilly liable for any act or omission if:

10 (i) The individual is acting in good faith while rendering  
11 automated external defibrillation to a person who is a victim or reasonably believed by  
12 the individual to be a victim of a sudden cardiac arrest;

13 (ii) The assistance or aid is provided in a reasonably prudent  
14 manner; and

15 (iii) The automated external defibrillation is provided without  
16 fee or other compensation.

17 (4) The immunities in this subsection are not available if the conduct  
18 of the registered facility or an individual amounts to gross negligence, willful or  
19 wanton misconduct, or intentionally tortious conduct.

20 (5) This subsection does not affect, and may not be construed as  
21 affecting, any immunities from civil or criminal liability or defenses established by any  
22 other provision of the Code or by common law to which a registered facility, a member  
23 of the regional council AED committee, or an individual may be entitled.

24 (k) (1) A registered facility aggrieved by a decision of the Institute acting  
25 under the delegated authority of the EMS Board under this section shall be afforded  
26 an opportunity for a hearing before the EMS Board.

27 (2) A registered facility aggrieved by a decision of the EMS Board  
28 under this section shall be afforded an opportunity for a hearing in accordance with  
29 Title 10, Subtitle 2 of the State Government Article.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2012.