

1 **UTAH SUDDEN CARDIAC ARREST SURVIVAL**

2 **ACT**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Carl Wimmer**

6 Senate Sponsor: D. Chris Buttars

8 **LONG TITLE**

9 **General Description:**

10 This bill enacts the Utah Sudden Cardiac Arrest Survival Act and amends civil liability
11 immunity provisions relating to the act.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ provides for expiration of the automatic external defibrillator (AED) statewide
16 database on September 1, 2009, and replaces it with local systems operated by
17 emergency medical dispatch centers;
- 18 ▶ permits a person to administer CPR or use an AED on a person reasonably believed
19 to be in sudden cardiac arrest:
 - 20 • without a license or certificate; and
 - 21 • regardless of whether the person is trained to administer CPR or to use an AED;
- 22 ▶ provides immunity from civil liability for certain acts or omissions relating to
23 administering CPR, operating, designing, or managing a CPR or AED program, or
24 providing instructions or training, or taking other specified action, in relation to
25 CPR or AEDs, unless the actions constitute gross negligence or willful misconduct;
- 26 ▶ provides that this bill does not relieve a manufacturer, designer, developer,
27 marketer, or commercial distributor from liability relating to an AED or an AED
28 accessory;
- 29 ▶ requires a person who owns or leases an AED to report certain information,

30 including the location of, or removal of, the AED, to the emergency medical dispatch center
31 that provides emergency dispatch services for that area;

32 ▶ describes the duties of an emergency medical dispatch center to disclose
33 information relating to the location of an AED;

34 ▶ describes the duties of the Bureau of Emergency Medical Services and a person
35 who owns or leases an AED in relation to providing education and training on the
36 administration of CPR and the use of an AED; and

37 ▶ makes technical changes.

38 **Monies Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 None

42 **Utah Code Sections Affected:**

43 AMENDS:

44 **26-8a-209**, as enacted by Laws of Utah 2003, Chapter 53

45 **26-8a-301**, as enacted by Laws of Utah 1999, Chapter 141

46 **26-8a-308**, as last amended by Laws of Utah 2000, Chapter 62

47 **26-8a-502**, as last amended by Laws of Utah 2000, Chapter 1

48 **26-8a-601**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

49 ENACTS:

50 **26-8b-101**, Utah Code Annotated 1953

51 **26-8b-102**, Utah Code Annotated 1953

52 **26-8b-201**, Utah Code Annotated 1953

53 **26-8b-202**, Utah Code Annotated 1953

54 **26-8b-301**, Utah Code Annotated 1953

55 **26-8b-302**, Utah Code Annotated 1953

56 **26-8b-303**, Utah Code Annotated 1953

57 **26-8b-401**, Utah Code Annotated 1953

58

59 *Be it enacted by the Legislature of the state of Utah:*60 Section 1. Section **26-8a-209** is amended to read:61 **26-8a-209. Fully automated external defibrillator statewide database.**

62 [~~(1) The department shall work in cooperation with state, federal, and local agencies to~~
63 ~~encourage individuals to complete a course that includes instruction on cardiopulmonary~~
64 ~~resuscitation and the operation and use of a fully automated external defibrillator that is~~
65 ~~conducted in accordance with guidelines of the American Heart Association, American Red~~
66 ~~Cross, or other nationally recognized program by a person qualified by training or experience.]~~

67 [~~(2) The~~] (1) Except as provided in Subsection (4), the department shall establish and
68 maintain a statewide database containing the following information:

69 (a) the name of the owner of a fully automated external defibrillator; and

70 (b) the precise location of the fully automated external defibrillator, including the
71 address and the place in which the defibrillator is stored.

72 [~~(3)~~] (2) Except as provided in Subsection (4):

73 (a) [~~The~~] the department shall give the information from the database to emergency
74 medical service dispatch centers in the state~~[-]; and~~

75 (b) [~~Emergency~~] emergency medical dispatch centers in the state may disclose the
76 nearest location of a fully automated external defibrillator to a person calling the dispatch
77 center in the event of a medical emergency and to first responders in an emergency.

78 [~~(4) (a) Manufacturers selling fully automated external defibrillators in the state shall:]~~

79 [~~(i) inform commercial purchasers in writing of the requirement to register the~~
80 ~~ownership and location of the fully automated external defibrillator with the department;]~~

81 [~~(ii) provide to the purchaser of a fully automated external defibrillator all information~~
82 ~~governing the use, installation, operation, training, and maintenance of the fully automated~~
83 ~~external defibrillator; and]~~

84 [~~(iii) on a quarterly basis, notify the department of the name and address of a~~85 ~~commercial purchaser of a fully automated external defibrillator and the type of device~~

86 ~~purchased.]~~

87 ~~[(b)]~~ (3) Except as provided in Subsection (4):

88 ~~[(i) A]~~ (a) a commercial owner of a fully automated external defibrillator shall register
89 the ownership and precise location of the defibrillator with the department within 30 days of
90 acquisition of the defibrillator[-];

91 ~~[(ii) An]~~ (b) an owner of a fully automated external defibrillator purchased for use in
92 a private residence may register the ownership and precise location of the defibrillator with the
93 department[-]; and

94 (c) ~~[The]~~ the department may not impose penalties on a manufacturer or an owner of a
95 fully automated external defibrillator for failing to comply with the requirements of this
96 section.

97 (4) Beginning on September 1, 2009:

98 (a) the provisions of this section are no longer in effect; and

99 (b) the provisions of Title 26, Chapter 8b, Utah Sudden Cardiac Arrest Survival Act,
100 supercede the provisions of this section.

101 (5) On or before August 1, 2009, the department shall provide to each emergency
102 medical dispatch center, as defined in Section 26-8b-102, all information contained in the
103 statewide database that pertains to the area for which the emergency medical dispatch center
104 provides emergency dispatch services.

105 (6) Beginning on the date that the department provides the information required under
106 Subsection (5), and continuing on a weekly basis until September 1, 2009, the department
107 shall provide any additional information that it receives for the statewide database to the
108 emergency medical dispatch centers described in Subsection (5).

109 Section 2. Section **26-8a-301** is amended to read:

110 **26-8a-301. General requirement.**

111 (1) Except as provided in Section 26-8a-308 or 26-8b-201:

112 (a) an individual may not provide emergency medical services without a certificate
113 issued under Section 26-8a-302;

114 (b) a facility or provider may not hold itself out as a designated emergency medical
115 service provider without a designation issued under Section 26-8a-303;

116 (c) a vehicle may not operate as an ambulance or emergency response vehicle without
117 a permit issued under Section 26-8a-304; and

118 (d) an entity may not respond as an ambulance or paramedic provider without the
119 appropriate license issued under Part 4, Ambulance and Paramedic Providers.

120 (2) Section 26-8a-502 applies to violations of this section.

121 Section 3. Section **26-8a-308** is amended to read:

122 **26-8a-308. Exemptions.**

123 (1) The following persons may provide emergency medical services to a patient
124 without being certified or licensed under this chapter:

125 (a) out-of-state emergency medical service personnel and providers in time of disaster;

126 (b) an individual who gratuitously acts as a Good Samaritan;

127 (c) a family member;

128 (d) a private business if emergency medical services are provided only to employees at
129 the place of business and during transport;

130 (e) an agency of the United States government if compliance with this chapter would
131 be inconsistent with federal law; and

132 (f) police, fire, and other public service personnel if:

133 (i) emergency medical services are rendered in the normal course of the person's
134 duties; and

135 (ii) medical control, after being apprised of the circumstances, directs immediate
136 transport.

137 (2) An ambulance or emergency response vehicle may operate without a permit issued
138 under Section 26-8a-304 in time of disaster.

139 (3) Nothing in this chapter or Title 58, Occupations and Professions, may be construed
140 as requiring a license or certificate for an individual to [~~perform~~] administer cardiopulmonary
141 resuscitation [~~and~~] or to use a fully automated external defibrillator [~~if that individual has~~

142 ~~successfully completed a course that includes instruction on cardiopulmonary resuscitation~~
143 ~~and the operation and use of a fully automated external defibrillator that is conducted in~~
144 ~~accordance with guidelines of the American Heart Association, American Red Cross, or other~~
145 ~~nationally recognized program by a person qualified by training or experience] under Section~~
146 26-8b-201.

147 (4) Nothing in this chapter may be construed as requiring a license, permit,
148 designation, or certificate for an acute care hospital, medical clinic, physician's office, or other
149 fixed medical facility that:

150 (a) is staffed by a physician, physician's assistant, nurse practitioner, or registered
151 nurse; and

152 (b) treats an individual who has presented himself or was transported to the hospital,
153 clinic, office, or facility.

154 Section 4. Section **26-8a-502** is amended to read:

155 **26-8a-502. Illegal activity.**

156 (1) Except as provided in Section 26-8a-308 or 26-8b-201, a person may not:

157 (a) practice or engage in the practice, represent himself to be practicing or engaging in
158 the practice, or attempt to practice or engage in the practice of any activity that requires a
159 license, certification, or designation under this chapter unless that person is so licensed,
160 certified, or designated; or

161 (b) offer an emergency medical service that requires a license, certificate, or
162 designation unless the person is so licensed, certified, or designated.

163 (2) A person may not advertise or hold himself out as one holding a license,
164 certification, or designation required under this chapter, unless that person holds the license,
165 certification, or designation.

166 (3) A person may not employ or permit any employee to perform any service for which
167 a license or certificate is required by this chapter, unless the person performing the service
168 possesses the required license or certificate.

169 (4) A person may not wear, display, sell, reproduce, or otherwise use any Utah

170 Emergency Medical Services insignia without authorization from the department.

171 (5) A person may not reproduce or otherwise use materials developed by the
172 department for certification or recertification testing or examination without authorization
173 from the department.

174 (6) A person may not willfully summon an ambulance or emergency response vehicle
175 or report that one is needed when such person knows that the ambulance or emergency
176 response vehicle is not needed.

177 (7) A person who violates this section is subject to Section 26-23-6.

178 Section 5. Section **26-8a-601** is amended to read:

179 **26-8a-601. Persons and activities exempt from civil liability.**

180 (1) [A] (a) Except as provided in Subsection (1)(b), a licensed physician, physician's
181 assistant, or licensed registered nurse who, gratuitously and in good faith, gives oral or written
182 instructions to any of the following is not liable for any civil damages as a result of issuing the
183 instructions:

184 (i) an individual certified under Section 26-8a-302 [~~or~~];

185 (ii) a person [~~permitted to use~~] who uses a fully automated external defibrillator
186 [~~because of Section 26-8a-308 is not liable for any civil damages as a result of issuing the~~
187 ~~instructions, unless~~], as defined in Section 26-8b-102; or

188 (iii) a person who administers CPR, as defined in Section 26-8b-102.

189 (b) The liability protection described in Subsection (1)(a) does not apply if the
190 instructions given were the result of gross negligence or willful misconduct.

191 (2) An individual certified under Section 26-8a-302, during either training or after
192 certification, a licensed physician, physician's assistant, or a registered nurse who,
193 gratuitously and in good faith, provides emergency medical instructions or renders emergency
194 medical care authorized by this chapter is not liable for any civil damages as a result of any act
195 or omission in providing the emergency medical instructions or medical care, unless the act or
196 omission is the result of gross negligence or willful misconduct.

197 (3) An individual certified under Section 26-8a-302 is not subject to civil liability for

198 failure to obtain consent in rendering emergency medical services authorized by this chapter to
199 any individual who is unable to give his consent, regardless of the individual's age, where
200 there is no other person present legally authorized to consent to emergency medical care,
201 provided that the certified individual acted in good faith.

202 (4) A principal, agent, contractor, employee, or representative of an agency,
203 organization, institution, corporation, or entity of state or local government that sponsors,
204 authorizes, supports, finances, or supervises any functions of an individual certified under
205 Section 26-8a-302 is not liable for any civil damages for any act or omission in connection
206 with such sponsorship, authorization, support, finance, or supervision of the certified
207 individual where the act or omission occurs in connection with the certified individual's
208 training or occurs outside a hospital where the life of a patient is in immediate danger, unless
209 the act or omission is inconsistent with the training of the certified individual, and unless the
210 act or omission is the result of gross negligence or willful misconduct.

211 (5) A physician who gratuitously and in good faith arranges for, requests,
212 recommends, or initiates the transfer of a patient from a hospital to a critical care unit in
213 another hospital is not liable for any civil damages as a result of such transfer where:

214 (a) sound medical judgment indicates that the patient's medical condition is beyond
215 the care capability of the transferring hospital or the medical community in which that hospital
216 is located; and

217 (b) the physician has secured an agreement from the receiving facility to accept and
218 render necessary treatment to the patient.

219 (6) A person who is a registered member of the National Ski Patrol System (NSPS) or
220 a member of a ski patrol who has completed a course in winter emergency care offered by the
221 NSPS combined with CPR for medical technicians offered by the American Red Cross or
222 American Heart Association, or an equivalent course of instruction, and who in good faith
223 renders emergency care in the course of ski patrol duties is not liable for civil damages as a
224 result of any act or omission in rendering the emergency care, unless the act or omission is the
225 result of gross negligence or willful misconduct.

226 (7) An emergency medical service provider who, in good faith, transports an
227 individual against his will but at the direction of a law enforcement officer pursuant to Section
228 62A-15-629 is not liable for civil damages for transporting the individual.

229 ~~[(8) A person who is permitted to use a fully automated external defibrillator because
230 of Section 26-8a-308 is not liable for civil damages as a result of any act or omission related to
231 the use of the defibrillator in providing emergency medical care gratuitously and in good faith
232 to a person who reasonably appears to be in cardiac arrest, unless the act or omission is the
233 result of gross negligence or wilful misconduct.]~~

234 Section 6. Section **26-8b-101** is enacted to read:

235 **CHAPTER 8b. UTAH SUDDEN CARDIAC ARREST SURVIVAL ACT**

236 **Part 1. General Provisions**

237 **26-8b-101. Title.**

238 This chapter is known as the "Utah Sudden Cardiac Arrest Survival Act."

239 Section 7. Section **26-8b-102** is enacted to read:

240 **26-8b-102. Definitions.**

241 As used in this chapter:

242 (1) "Automatic external defibrillator" or "AED" means an automated or automatic
243 computerized medical device that:

244 (a) has received pre-market notification approval from the United States Food and
245 Drug Administration, pursuant to Section 360(k), Title 21 of the United States Code;

246 (b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid
247 ventricular tachycardia;

248 (c) is capable of determining, without intervention by an operator, whether
249 defibrillation should be performed; and

250 (d) upon determining that defibrillation should be performed, automatically charges,
251 enabling delivery of an electrical impulse through the chest wall and to a person's heart.

252 (2) "Bureau" means the Bureau of Emergency Medical Services, within the
253 department.

254 (3) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external
255 chest compression applied to a person who is in respiratory or cardiac arrest.

256 (4) "Emergency medical dispatch center" means a public safety answering point, as
257 defined in Section 63C-7-103, that is designated as an emergency medical dispatch center by
258 the bureau.

259 (5) "Sudden cardiac arrest" means a life-threatening condition that results when a
260 person's heart stops or fails to produce a pulse.

261 Section 8. Section **26-8b-201** is enacted to read:

262 **Part 2. Cardiopulmonary Resuscitation and Automatic External Defibrillators**
263 **26-8b-201. Authority to administer CPR or use an AED.**

264 (1) A person may administer CPR on another person without a license, certificate, or
265 other governmental authorization if the person reasonably believes that the other person is in
266 sudden cardiac arrest.

267 (2) A person may use an AED on another person without a license, certificate, or other
268 governmental authorization if the person reasonably believes that the other person is in sudden
269 cardiac arrest.

270 Section 9. Section **26-8b-202** is enacted to read:

271 **26-8b-202. Immunity.**

272 (1) Except as provided in Subsection (3), the following persons are not subject to civil
273 liability for any act or omission relating to preparing to care for, responding to care for, or
274 providing care to, another person who reasonably appears to be in sudden cardiac arrest:

275 (a) a person authorized, under Section 26-8b-201, to administer CPR, who:

276 (i) gratuitously and in good faith attempts to administer or administers CPR to another
277 person; or

278 (ii) fails to administer CPR to another person;

279 (b) a person authorized, under Section 26-8b-201, to use an AED who:

280 (i) gratuitously and in good faith attempts to use or uses an AED; or

281 (ii) fails to use an AED;

282 (c) a person that teaches or provides a training course in administering CPR or using
283 an AED;

284 (d) a person that acquires an AED;

285 (e) a person that owns, manages, or is otherwise responsible for the premises or
286 conveyance where an AED is located;

287 (f) a person who retrieves an AED in response to a perceived or potential sudden
288 cardiac arrest;

289 (g) a person that authorizes, directs, or supervises the installation or provision of an
290 AED;

291 (h) a person involved with, or responsible for, the design, management, or operation of
292 a CPR or AED program;

293 (i) a person involved with, or responsible for, reporting, receiving, recording,
294 updating, giving, or distributing information relating to the ownership or location of an AED
295 under Part 3, AED Databases; or

296 (j) a physician who gratuitously and in good faith:

297 (i) provides medical oversight for a public AED program; or

298 (ii) issues a prescription for a person to acquire or use an AED.

299 (2) This section does not relieve a manufacturer, designer, developer, marketer, or
300 commercial distributor of an AED, or an accessory for an AED, of any liability.

301 (3) The liability protection described in Subsection (1) does not apply to an act or
302 omission that constitutes gross negligence or willful misconduct.

303 Section 10. Section **26-8b-301** is enacted to read:

304 **Part 3. AED Databases**

305 **26-8b-301. Reporting location of automatic external defibrillators.**

306 (1) Beginning on September 1, 2009, in accordance with Subsection (2) and except as
307 provided in Subsection (3):

308 (a) a person who owns or leases an AED shall report the person's name, address, and
309 telephone number, and the exact location of the AED, in writing, to the emergency medical

310 dispatch center that provides emergency dispatch services for the location where the AED is
311 installed, if the person:

- 312 (i) installs the AED;
- 313 (ii) causes the AED to be installed; or
- 314 (iii) allows the AED to be installed; and

315 (b) a person who owns or leases an AED that is removed from a location where it is
316 installed shall report the person's name, address, and telephone number, and the exact location
317 from which the AED is removed, in writing, to the emergency medical dispatch center that
318 provides emergency dispatch services for the location from which the AED is removed, if the
319 person:

- 320 (i) removes the AED;
- 321 (ii) causes the AED to be removed; or
- 322 (iii) allows the AED to be removed.

323 (2) A report required under Subsection (1) shall be made within 30 days after the day
324 on which the AED is installed or removed.

325 (3) Subsection (1) does not apply to an AED that is installed in, or removed from, a
326 private residence.

327 (4) Beginning on September 1, 2009, a person who owns or leases an AED that is
328 installed in, or removed from, a private residence may voluntarily report the location of, or
329 removal of, the AED to the emergency medical dispatch center that provides emergency
330 dispatch services for the location where the private residence is located.

331 (5) The department may not impose a penalty on a person for failing to comply with
332 the requirements of this section.

333 Section 11. Section **26-8b-302** is enacted to read:

334 **26-8b-302. Distributors to notify of reporting requirements.**

335 A person in the business of selling or leasing an AED shall, at the time the person
336 provides, sells, or leases an AED to another person, notify the other person, in writing, of the
337 reporting requirements described in Section 26-8b-301.

338 Section 12. Section **26-8b-303** is enacted to read:

339 **26-8b-303. Duties of emergency medical dispatch centers.**

340 Beginning on September 1, 2009, an emergency medical dispatch center shall:

341 (1) implement a system to receive and manage the information reported to the
342 emergency medical dispatch center under Section 26-8a-209 or 26-8b-301;

343 (2) record in the system described in Subsection (1), all information received under
344 Section 26-8a-209 or 26-8b-301 as follows:

345 (a) if the information is received under Subsection 26-8a-209(5), within 30 days after
346 the day on which the information is received; or

347 (b) if the information is received under Subsection 26-8a-209(6) or Section
348 26-8b-301, within 14 days after the day on which the information is received;

349 (3) inform a person who calls to report a potential incident of sudden cardiac arrest of
350 the location of any nearby AED; and

351 (4) provide the information contained in the system described in Subsection (1), upon
352 request, to:

353 (a) the bureau; or

354 (b) another emergency medical dispatch center.

355 Section 13. Section **26-8b-401** is enacted to read:

356 **Part 4. Education and Training**

357 **26-8b-401. Education and training.**

358 (1) The bureau shall work in cooperation with federal, state, and local agencies and
359 schools, to encourage individuals to complete courses on the administration of CPR and the
360 use of an AED.

361 (2) A person who owns or leases an AED shall encourage each person who is likely to
362 use the AED to complete courses on the administration of CPR and the use of an AED.