

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 Buttar

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8 **LONG TITLE**

9 **Committee Note:**

10                   The Health and Human Services Interim Committee recommended this bill.

11 **General Description:**

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

14 **Highlighted Provisions:**

15                   This bill:

- 16                   ▶ defines terms;
- 17                   ▶ provides for expiration of the automatic external defibrillator (AED) statewide  
18 database on September 1, 2009, and replaces it with local systems operated by  
19 public safety answering points;
- 20                   ▶ permits a person to administer CPR or use an AED on a person reasonably believed  
21 to be in sudden cardiac arrest:
- 22                   • without a license or certificate; and
  - 23                   • regardless of whether the person is trained to administer CPR or to use an AED;
- 24                   ▶ provides immunity from civil liability for certain acts or omissions relating to  
25 administering CPR, operating, designing, or managing a CPR or AED program, or  
26 providing instructions or training, or taking other specified action, in relation to  
27 CPR or AEDs, unless the actions constitute gross negligence or willful misconduct;



- 28           ▶ provides that this bill does not relieve a manufacturer, designer, developer,  
29 marketer, or commercial distributor from liability relating to an AED or an AED  
30 accessory;
- 31           ▶ requires a person who owns or leases an AED to report certain information,  
32 including the location of, or removal of, the AED, to the public safety answering  
33 point that provides emergency dispatch services for that area;
- 34           ▶ describes the duties of a public safety answering point to disclose information  
35 relating to the location of an AED;
- 36           ▶ describes the duties of the Bureau of Emergency Medical Services in relation to  
37 providing education and training on the administration of CPR and the use of an  
38 AED; and
- 39           ▶ makes technical changes.

40 **Monies Appropriated in this Bill:**

41           None

42 **Other Special Clauses:**

43           None

44 **Utah Code Sections Affected:**

45 AMENDS:

- 46           **26-8a-209**, as enacted by Laws of Utah 2003, Chapter 53
- 47           **26-8a-301**, as enacted by Laws of Utah 1999, Chapter 141
- 48           **26-8a-308**, as last amended by Laws of Utah 2000, Chapter 62
- 49           **26-8a-502**, as last amended by Laws of Utah 2000, Chapter 1
- 50           **26-8a-601**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

51 ENACTS:

- 52           **26-8b-101**, Utah Code Annotated 1953
- 53           **26-8b-102**, Utah Code Annotated 1953
- 54           **26-8b-201**, Utah Code Annotated 1953
- 55           **26-8b-202**, Utah Code Annotated 1953
- 56           **26-8b-301**, Utah Code Annotated 1953
- 57           **26-8b-302**, Utah Code Annotated 1953
- 58           **26-8b-303**, Utah Code Annotated 1953

59           **26-8b-401**, Utah Code Annotated 1953

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61 *Be it enacted by the Legislature of the state of Utah:*

62           Section 1. Section **26-8a-209** is amended to read:

63           **26-8a-209. Fully automated external defibrillator statewide database.**

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

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

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

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

74           ~~[(3)]~~ (2) Except as provided in Subsection (4):

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

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

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

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

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

86           ~~[(iii) on a quarterly basis, notify the department of the name and address of a~~  
87 ~~commercial purchaser of a fully automated external defibrillator and the type of device~~  
88 ~~purchased.]~~

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

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

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

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

99           (4) Beginning on September 1, 2009:

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

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

103           (5) On or before August 1, 2009, the department shall provide to each public safety  
104 answering point, as defined in Section 63C-7-103, all information contained in the statewide  
105 database that pertains to the area for which the public safety answering point provides  
106 emergency dispatch services.

107           (6) Beginning on the date that the department provides the information required under  
108 Subsection (5), and continuing on a weekly basis until September 1, 2009, the department shall  
109 provide any additional information that it receives for the statewide database to the public  
110 safety answering points described in Subsection (5).

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

112           **26-8a-301. General requirement.**

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

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

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

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

120           (d) an entity may not respond as an ambulance or paramedic provider without the

121 appropriate license issued under Part 4, Ambulance and Paramedic Providers.

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

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

124 **26-8a-308. Exemptions.**

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

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

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

129 (c) a family member;

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

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

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

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

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

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

141 (3) Nothing in this chapter or Title 58, Occupations and Professions, may be construed  
142 as requiring a license or certificate for an individual to ~~[perform]~~ administer cardiopulmonary  
143 resuscitation ~~[and] or to~~ use a fully automated external defibrillator ~~[if that individual has~~  
144 ~~successfully completed a course that includes instruction on cardiopulmonary resuscitation and~~  
145 ~~the operation and use of a fully automated external defibrillator that is conducted in accordance~~  
146 ~~with guidelines of the American Heart Association, American Red Cross, or other nationally~~  
147 ~~recognized program by a person qualified by training or experience]~~ under Section 26-8b-201.

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

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

152 nurse; and

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

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

156 **26-8a-502. Illegal activity.**

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

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

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

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

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

170 (4) A person may not wear, display, sell, reproduce, or otherwise use any Utah  
171 Emergency Medical Services insignia without authorization from the department.

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

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

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

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

180 **26-8a-601. Persons and activities exempt from civil liability.**

181 (1) [~~A~~] (a) Except as provided in Subsection (1)(b), a licensed physician, physician's  
182 assistant, or licensed registered nurse who, gratuitously and in good faith, gives oral or written

183 instructions to any of the following is not liable for any civil damages as a result of issuing the  
184 instructions:

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

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

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

190 (b) The liability protection described in Subsection (1)(a) does not apply if the

191 instructions given were the result of gross negligence or willful misconduct.

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

198 (3) An individual certified under Section 26-8a-302 is not subject to civil liability for  
199 failure to obtain consent in rendering emergency medical services authorized by this chapter to  
200 any individual who is unable to give his consent, regardless of the individual's age, where there  
201 is no other person present legally authorized to consent to emergency medical care, provided  
202 that the certified individual acted in good faith.

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

212 (5) A physician who gratuitously and in good faith arranges for, requests, recommends,  
213 or initiates the transfer of a patient from a hospital to a critical care unit in another hospital is

214 not liable for any civil damages as a result of such transfer where:

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

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

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

227 (7) An emergency medical service provider who, in good faith, transports an individual  
228 against his will but at the direction of a law enforcement officer pursuant to Section  
229 62A-15-629 is not liable for civil damages for transporting the individual.

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

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

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

237 **Part 1. General Provisions**

238 **26-8b-101. Title.**

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

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

241 **26-8b-102. Definitions.**

242 As used in this chapter:

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



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

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

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

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

253 (2) "Bureau" means the Bureau of Emergency Medical Services, within the 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) "Public safety answering point" is as defined in Section 63C-7-103.

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

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

260 **Part 2. Cardiopulmonary Resuscitation and Automatic External Defibrillators**

261 **26-8b-201. Authority to administer CPR or use an AED.**

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

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

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

269 **26-8b-202. Immunity.**

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

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

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

- 276 (ii) fails to administer CPR to another person;
- 277 (b) a person authorized, under Section 26-8b-201, to use an AED who:
- 278 (i) gratuitously and in good faith attempts to use or uses an AED; or
- 279 (ii) fails to use an AED;
- 280 (c) a person that teaches or provides a training course in administering CPR or using an
- 281 AED;
- 282 (d) a person that acquires an AED;
- 283 (e) a person that owns, manages, or is otherwise responsible for the premises or
- 284 conveyance where an AED is located;
- 285 (f) a person who retrieves an AED in response to a perceived or potential sudden
- 286 cardiac arrest;
- 287 (g) a person that authorizes, directs, or supervises the installation or provision of an
- 288 AED;
- 289 (h) a person involved with, or responsible for, the design, management, or operation of
- 290 a CPR or AED program; or
- 291 (i) a person involved with, or responsible for, reporting, receiving, recording, updating,
- 292 giving, or distributing information relating to the ownership or location of an AED under Part
- 293 3, AED Databases.

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

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

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

299 **Part 3. AED Databases**

300 **26-8b-301. Reporting location of automatic external defibrillators.**

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

- 303 (a) a person who owns or leases an AED shall report the person's name, address, and
- 304 telephone number, and the exact location of the AED, in writing, to the public safety answering
- 305 point that provides emergency dispatch services for the location where the AED is installed, if
- 306 the person:

- 307 (i) installs the AED;  
308 (ii) causes the AED to be installed; or  
309 (iii) allows the AED to be installed; and  
310 (b) a person who owns or leases an AED that is removed from a location where it is  
311 installed shall report the person's name, address, and telephone number, and the exact location  
312 from which the AED is removed, in writing, to the public safety answering point that provides  
313 emergency dispatch services for the location from which the AED is removed, if the person:  
314 (i) removes the AED;  
315 (ii) causes the AED to be removed; or  
316 (iii) allows the AED to be removed.  
317 (2) A report required under Subsection (1) shall be made within 30 days after the day  
318 on which the AED is installed or removed.  
319 (3) Subsection (1) does not apply to an AED that is installed in, or removed from, a  
320 private residence.  
321 (4) Beginning on September 1, 2009, a person who owns or leases an AED that is  
322 installed in, or removed from, a private residence may voluntarily report the location of, or  
323 removal of, the AED to the public safety answering point that provides emergency dispatch  
324 services for the location where the private residence is located.  
325 (5) The department may not impose a penalty on a person for failing to comply with  
326 the requirements of this section.  
327 Section 11. Section **26-8b-302** is enacted to read:  
328 **26-8b-302. Distributors to notify of reporting requirements.**  
329 A person in the business of selling or leasing an AED shall, at the time the person  
330 provides, sells, or leases an AED to another person, notify the other person, in writing, of the  
331 reporting requirements described in Section 26-8b-301.  
332 Section 12. Section **26-8b-303** is enacted to read:  
333 **26-8b-303. Duties of public safety answering points.**  
334 Beginning on September 1, 2009, a public safety answering point shall:  
335 (1) implement a system to receive and manage the information reported to the public  
336 safety answering point under Section 26-8a-209 or 26-8b-301;  
337 (2) record in the system described in Subsection (1), all information received under

338 Section 26-8a-209 or 26-8b-301 as follows:

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

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

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

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

347 (a) the department; or

348 (b) another public safety answering point.

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

350 **Part 4. Education and Training**

351 **26-8b-401. Education and training.**

352 The bureau shall work in cooperation with federal, state, and local agencies and  
353 schools, to encourage individuals to complete courses on the administration of CPR and the use  
354 of an AED.

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**Legislative Review Note**  
**as of 9-18-08 7:30 AM**

**Office of Legislative Research and General Counsel**