

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 351

Printer's No.: 745

Sponsor: Senator Baker

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Synopsis: This bill amends sections of the Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes, to further provide for good Samaritan civil immunity for the use of an automated external defibrillator and to provide for bystander, including emergency response provider, good Samaritan civil immunity.

Summary:

Automated external defibrillator (AED)

Section 8331.2 of the Judicial Code provides for good Samaritan civil immunity for the use of an AED. As amended, any person who in good faith acquires and maintains an AED or uses an AED in an emergency shall not be liable for any civil damages as a result of any acts or omissions by any individual in using the AED. The civil immunity does not apply if the acts or omissions are intentionally designed to harm or they are grossly negligent acts or omissions which result in harm to the individual receiving the AED treatment.

An "emergency" is defined as a situation where an individual is believed to be in cardiac arrest or is in need of immediate medical attention to prevent death or serious injury.

Emergency response provider and bystander

Section 8332 of the Judicial Code provides for good Samaritan civil immunity for certain nonmedical individuals who respond to an emergency. As amended, the provision specifically includes emergency response providers so that they are covered when they are off-duty. Any person, including an emergency response provider, whether or not trained to practice medicine, who in good faith renders emergency care, treatment, first aid or rescue at the scene of an emergency or to a victim of a crime shall not be liable for any civil damages as a result of providing such care. The civil immunity does not apply if the acts or omissions are intentionally designed to harm or they are grossly negligent acts or omissions which result in harm to the person receiving care.

The bill defines "emergency response provider" as including Federal, State and local emergency public safety, law enforcement, emergency response, emergency medical, including hospital emergency facilities, and related personnel, response teams, agencies and authorities.

Effective date

This act takes effect in 60 days.

Background: There are several sections of the Judicial Code providing for civil immunity, for example: 42 Pa.C.S. §8331 (Medical good Samaritan civil immunity), §8331.1 (Veterinary good Samaritan civil immunity), §8331.2 (Good Samaritan civil immunity for use of automated external defibrillator), §8331.3 (Criminal victim aid good Samaritan civil immunity), and §8332 (Nonmedical good Samaritan civil immunity).

According to the sponsor, “Pennsylvania is one of only 14 states that do not provide Good Samaritan protection for bystanders performing first aid and rescue, including CPR. Effective bystander CPR, provided immediately after sudden cardiac arrest, can double or triple a victim’s chance of survival. Yet, despite the prevalence and fatality rate of out-of-hospital sudden cardiac arrests, the training given to 911 operators in guided CPR, and the advancements in today’s AEDs, current law does not protect the bystander from liability when rendering life-saving aid.”

Automated external defibrillator (AED)

Currently section 8331.2 provides civil immunity for an individual who is trained to use an AED. As amended by Senate Bill 351, civil immunity would no longer be contingent upon whether the individual using the AED has received training. Section 8331.2 will continue to have training requirements consistent with American Red Cross, American Heart Association or other national standards but if an untrained individual uses an AED in a good faith effort to save an individual the organization maintaining the AED and the individual using the AED are protected.

According to the American Heart Association “AEDs are specifically manufactured to be used by the general public and their technology and capabilities have advanced considerably since the law was first enacted. They provide specific voice instructions to the user, accurately detect an irregular heart rhythm, and will only deliver a shock if an irregular heart rhythm is confirmed. Pennsylvania 911 protocols now require all 911 emergency operators to be trained in CPR/AED instruction so that when bystanders call 911 for assistance with someone who has gone into cardiac arrest, the operator instructs the bystander on how to properly administer CPR and use an AED. Ironically, current law does not protect the bystander from liability in rendering assistance.”

Emergency response provider and bystander

Currently section 8332 provides civil immunity to a nonmedical individual who renders emergency care, first aid or rescue at the scene of an emergency. To receive civil immunity, the individual must have a current certificate evidencing the successful completion of a course in first aid, advanced life saving or basic life support sponsored by the American Red Cross, American Heart Association or an equivalent course approved by the Department of Health. Current law does not relieve the driver of a vehicle, including an ambulance or other emergency rescue vehicle, from liability arising from the operation of the vehicle and this exception is carried over into the new law.

According to the Pennsylvania Emergency Health Services Council “The public perception of Good Samaritan laws is that, as a bystander, should they act voluntarily to provide aid in an emergency, that the public would be protected from liability under these laws. The American Red Cross and American Heart Association include Good Samaritan laws in their educational programs and 36 out of the 50 states and the District of Columbia provide civil immunity protection for ‘any person’ who renders aid ‘in good faith’ in an emergency situation.”