



## 93RD GENERAL ASSEMBLY

### State of Illinois

2003 and 2004

HB4232

Introduced 1/27/2004, by Daniel J. Burke - JoAnn D. Osmond -  
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#### SYNOPSIS AS INTRODUCED:

New Act  
30 ILCS 105/5.625 new  
30 ILCS 805/8.28 new  
410 ILCS 4/30

Creates the Physical Fitness Facility Medical Emergency Preparedness Act. Requires various indoor physical fitness facilities to develop and implement a plan for responding to medical emergencies and to file a copy of the plan with the Department of Public Health. Requires each such facility to have at least one automated external defibrillator (AED) on the facility premises and to have a trained AED user on staff. Requires the Department to adopt rules to ensure coordination with local emergency medical services systems regarding the placement and use of AEDs in physical fitness facilities. Authorizes the Department to inspect facilities to investigate complaints and ensure compliance with the Act. Authorizes civil monetary penalties for violations of the Act. Contains provisions concerning civil liability in connection with the purchase or use of an AED. Establishes a time frame for compliance with the Act. Preempts home rule. Provides for the deposit of fines into the Physical Fitness Facility Medical Emergency Preparedness Fund. Amends The State Finance Act to create the Fund. Amends the State Mandates Act to provide that no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act. Amends the Automated External Defibrillator Act to provide that (i) a unit of State or local government, or school district (as well as a "person") is not liable for civil damages as a result of an act or omission involving the use of an AED, (ii) "an" AED user (instead of "a trained" AED user) is not liable for such damages, and (iii) the provisions concerning exemption from civil liability do not apply to a public hospital.

LRB093 18968 AMC 44703 b

FISCAL NOTE ACT  
MAY APPLY

HOME RULE NOTE  
ACT MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT in relation to health, which may be known as the  
2 Colleen O'Sullivan Law.

3 **Be it enacted by the People of the State of Illinois,**  
4 **represented in the General Assembly:**

5 Section 1. Short title. This Act may be cited as the  
6 Physical Fitness Facility Medical Emergency Preparedness Act.

7 Section 5. Definitions. In this Act, words and phrases have  
8 the meanings set forth in the following Sections.

9 Section 5.5. Automated external defibrillator. "Automated  
10 external defibrillator" or "AED" means an automated external  
11 defibrillator as defined in the Automated External  
12 Defibrillator Act.

13 Section 5.10. Department. "Department" means the  
14 Department of Public Health.

15 Section 5.15. Director. "Director" means the Director of  
16 Public Health.

17 Section 5.20. Medical emergency. "Medical emergency" means  
18 the occurrence of a sudden, serious, and unexpected sickness or  
19 injury that would lead a reasonable person, possessing an  
20 average knowledge of medicine and health, to believe that the  
21 sick or injured person requires urgent or unscheduled medical  
22 care.

23 Section 5.25. Physical fitness facility.

24 (a) "Physical fitness facility" means the following:

25 (1) Any of the following indoor facilities that is (i)  
26 owned or operated by a park district, municipality, or  
27 other unit of local government, including a home rule unit,

1 or by a public or private elementary or secondary school,  
2 college, university, or technical or trade school and (ii)  
3 supervised by one or more persons, other than maintenance  
4 or security personnel, employed by the unit of local  
5 government, school, college, or university for the purpose  
6 of directly supervising the physical fitness activities  
7 taking place at any of these indoor facilities: a swimming  
8 pool; stadium; athletic field; track and field facility;  
9 tennis court; basketball court; or volleyball court; or  
10 such facilities located adjacent thereto.

11 (2) Except as provided in subsection (b), any other  
12 indoor establishment, whether public or private, that  
13 provides services or facilities focusing primarily on  
14 cardiovascular exertion as defined by Department rule.

15 (b) "Physical fitness facility" does not include a facility  
16 serving less than a total of 100 individuals, as further  
17 defined by Department rule. In addition, the term does not  
18 include a facility located in a hospital or in a hotel or  
19 motel, or any outdoor facility. The term also does not include  
20 any facility that does not employ any persons to provide  
21 instruction, training, or assistance for persons using the  
22 facility.

23 Section 10. Medical emergency plan required.

24 (a) Before July 1, 2005, each person or entity, including a  
25 home rule unit, that operates a physical fitness facility must  
26 adopt and implement a written plan for responding to medical  
27 emergencies that occur at the facility during the time that the  
28 facility is open for use by its members or by the public. The  
29 plan must comply with this Act and rules adopted by the  
30 Department to implement this Act. The facility must file a copy  
31 of the plan with the Department.

32 (b) Whenever there is a change in the structure occupied by  
33 the facility or in the services provided or offered by the  
34 facility that would materially affect the facility's ability to  
35 respond to a medical emergency, the person or entity, including

1 a home rule unit, must promptly update its plan developed under  
2 subsection (a) and must file a copy of the updated plan with  
3 the Department.

4 Section 15. Automated external defibrillator required.

5 (a) By the dates specified in Section 50, every physical  
6 fitness facility must have at least one AED on the facility  
7 premises. The Department shall adopt rules to ensure  
8 coordination with local emergency medical services systems  
9 regarding the placement and use of AEDs in physical fitness  
10 facilities. The Department may adopt rules requiring a facility  
11 to have more than one AED on the premises, based on factors  
12 that include the following:

13 (1) The size of the area or the number of buildings or  
14 floors occupied by the facility.

15 (2) The number of persons using the facility, excluding  
16 spectators.

17 (b) A physical fitness facility must ensure that there is a  
18 trained AED user on staff.

19 (c) Every physical fitness facility must ensure that every  
20 AED on the facility's premises is properly tested and  
21 maintained in accordance with rules adopted by the Department.

22 Section 20. Training. The Department shall adopt rules to  
23 establish programs to train physical fitness facility staff on  
24 the role of cardiopulmonary resuscitation and the use of  
25 automated external defibrillators. The rules must be  
26 consistent with those adopted by the Department for training  
27 AED users under the Automated External Defibrillator Act.

28 Section 30. Inspections. The Department shall inspect a  
29 physical fitness facility in response to a complaint filed with  
30 the Department alleging a violation of this Act. For the  
31 purpose of ensuring compliance with this Act, the Department  
32 may inspect a physical fitness facility at other times in  
33 accordance with rules adopted by the Department.

1 Section 35. Penalties for violations.

2 (a) If a physical fitness facility violates this Act by (i)  
3 failing to adopt or implement a plan for responding to medical  
4 emergencies under Section 10 or (ii) failing to have on the  
5 premises an AED or trained AED user as required under  
6 subsection (a) or (b) of Section 15, the Director may issue to  
7 the facility a written administrative warning without monetary  
8 penalty for the initial violation. The facility may reply to  
9 the Department with written comments concerning the facility's  
10 remedial response to the warning. For subsequent violations,  
11 the Director may impose a civil monetary penalty against the  
12 facility as follows:

13 (1) At least \$1,500 but less than \$2,000 for a second  
14 violation.

15 (2) At least \$2,000 for a third or subsequent  
16 violation.

17 (b) The Director may impose a civil monetary penalty under  
18 this Section only after it provides the following to the  
19 facility:

20 (1) Written notice of the alleged violation.

21 (2) Written notice of the facility's right to request  
22 an administrative hearing on the question of the alleged  
23 violation.

24 (3) An opportunity to present evidence, orally or in  
25 writing or both, on the question of the alleged violation  
26 before an impartial hearing examiner appointed by the  
27 Director.

28 (4) A written decision from the Director, based on the  
29 evidence introduced at the hearing and the hearing  
30 examiner's recommendations, finding that the facility  
31 violated this Act and imposing the civil penalty.

32 (c) The Attorney General may bring an action in the circuit  
33 court to enforce the collection of a monetary penalty imposed  
34 under this Section.

35 (d) The fines shall be deposited into the Physical Fitness

1 Facility Medical Emergency Preparedness Fund to be  
2 appropriated to the Department, together with any other  
3 amounts, for the costs of administering this Act.

4 Section 40. Rules. The Department shall adopt rules to  
5 implement this Act.

6 Section 45. Liability. Nothing in this Act shall be  
7 construed to either limit or expand the exemptions from civil  
8 liability in connection with the purchase or use of an  
9 automated external defibrillator that are provided under the  
10 Automated External Defibrillator Act or under any other  
11 provision of law. A right of action does not exist in  
12 connection with the use or non-use of an automated external  
13 defibrillator at a facility governed by this Act, provided that  
14 the person, unit of state or local government, or school  
15 district operating the facility has adopted a medical emergency  
16 plan as required under Section 10 of this Act, has an automated  
17 external defibrillator at the facility as required under  
18 Section 15 of this Act, and has maintained the automated  
19 external defibrillator in accordance with the rules adopted by  
20 the Department.

21 Section 50. Compliance dates; private and public indoor  
22 physical fitness facilities.

23 (a) Privately owned indoor physical fitness facilities.  
24 Every privately owned or operated indoor physical fitness  
25 facility must be in compliance with this Act on or before July  
26 1, 2005.

27 (b) Publicly owned indoor physical fitness facilities. A  
28 public entity owning or operating 4 or fewer indoor physical  
29 fitness facilities must have at least one such facility in  
30 compliance with this Act on or before July 1, 2005; its second  
31 facility in compliance by July 1, 2006; its third facility in  
32 compliance by July 1, 2007; and its fourth facility in  
33 compliance by July 1, 2008.

1 A public entity owning or operating more than 4 indoor  
2 physical fitness facilities must have 25% of those facilities  
3 in compliance by July 1, 2005; 50% of those facilities in  
4 compliance by July 1, 2006; 75% of those facilities in  
5 compliance by July 1, 2007; and 100% of those facilities in  
6 compliance by July 1, 2008.

7 Section 55. Home rule. A home rule unit must comply with  
8 the requirements of this Act. A home rule unit may not regulate  
9 physical fitness facilities in a manner inconsistent with this  
10 Act. This Section is a limitation under subsection (i) of  
11 Section 6 of Article VII of the Illinois Constitution on the  
12 concurrent exercise by home rule units of powers and functions  
13 exercised by the State.

14 Section 90. The State Finance Act is amended by adding  
15 Section 5.625 as follows:

16 (30 ILCS 105/5.625 new)

17 Sec. 5.625. The Physical Fitness Facility Medical  
18 Emergency Preparedness Fund.

19 Section 95. The State Mandates Act is amended by adding  
20 Section 8.28 as follows:

21 (30 ILCS 805/8.28 new)

22 Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8  
23 of this Act, no reimbursement by the State is required for the  
24 implementation of any mandate created by this amendatory Act of  
25 the 93rd General Assembly.

26 Section 100. The Automated External Defibrillator Act is  
27 amended by changing Section 30 as follows:

28 (410 ILCS 4/30)

29 Sec. 30. Exemption from civil liability.

1 (a) A physician licensed in Illinois to practice medicine  
2 in all its branches who authorizes the purchase of an automated  
3 external defibrillator is not liable for civil damages as a  
4 result of any act or omission arising out of authorizing the  
5 purchase of an automated external defibrillator, except for  
6 willful or wanton misconduct, if the requirements of this Act  
7 are met.

8 (b) An individual or entity providing training in the use  
9 of automated external defibrillators is not liable for civil  
10 damages as a result of any act or omission involving the use of  
11 an automated external defibrillator, except for willful or  
12 wanton misconduct, if the requirements of this Act are met.

13 (c) A person, unit of State or local government, or school  
14 district owning, occupying, or managing the premises where an  
15 automated external defibrillator is located is not liable for  
16 civil damages as a result of any act or omission involving the  
17 use of an automated external defibrillator, except for willful  
18 or wanton misconduct, if the requirements of this Act are met.

19 (d) An ~~A trained~~ AED user is not liable for civil damages  
20 as a result of any act or omission involving the use of an  
21 automated external defibrillator in an emergency situation,  
22 except for willful or wanton misconduct, if the requirements of  
23 this Act are met.

24 (e) This Section does not apply to a public hospital.

25 (Source: P.A. 91-524, eff. 1-1-00.)