

1 AMENDMENT TO SENATE BILL 865

2 AMENDMENT NO. _____. Amend Senate Bill 865 by replacing
3 the title with the following:

4 "AN ACT in relation to health, which may be known as the
5 Colleen O'Sullivan Law."; and

6 by replacing everything after the enacting clause with the
7 following:

8 "Section 1. Short title. This Act may be cited as the
9 Physical Fitness Facility Medical Emergency Preparedness Act.

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

12 Section 5.5. Automated external defibrillator.
13 "Automated external defibrillator" or "AED" means an
14 automated external defibrillator as defined in the Automated
15 External Defibrillator Act.

16 Section 5.10. Department. "Department" means the
17 Department of Public Health.

18 Section 5.15. Director. "Director" means the Director of

1 Public Health.

2 Section 5.20. Medical emergency. "Medical emergency"
3 means the occurrence of a sudden, serious, and unexpected
4 sickness or injury that would lead a reasonable person,
5 possessing an average knowledge of medicine and health, to
6 believe that the sick or injured person requires urgent or
7 unscheduled medical care.

8 Section 5.25. Physical fitness facility.

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

10 (1) Any of the following indoor facilities that is
11 (i) owned or operated by a park district, municipality,
12 or other unit of local government, including a home rule
13 unit, or by a public or private elementary or secondary
14 school, college, university, or technical or trade school
15 and (ii) supervised by one or more persons, other than
16 maintenance or security personnel, employed by the unit
17 of local government, school, college, or university for
18 the purpose of directly supervising the physical fitness
19 activities taking place at any of these indoor
20 facilities: a swimming pool; stadium; athletic field;
21 track and field facility; tennis court; basketball court;
22 or volleyball court; or such facilities located adjacent
23 thereto.

24 (2) A golf course.

25 (3) Except as provided in subsection (b), any other
26 indoor establishment, whether public or private, that
27 provides services or facilities focusing primarily on
28 cardiovascular exertion as defined by Department rule.

29 (b) "Physical fitness facility" does not include a
30 facility serving less than a total of 100 individuals, as
31 further defined by Department rule. In addition, the term
32 does not include a facility located in a hospital or in a

1 hotel or motel, or any outdoor facility. The term also does
2 not include any facility that does not employ any persons to
3 provide instruction, training, or assistance for persons
4 using the facility.

5 Section 10. Medical emergency plan required.

6 (a) Before January 1, 2005, each person or entity,
7 including a home rule unit, that operates a physical fitness
8 facility must adopt and implement a written plan for
9 responding to medical emergencies that occur at the facility
10 during the time that the facility is open for use by its
11 members or by the public. The plan must comply with this Act
12 and rules adopted by the Department to implement this Act.
13 The facility must file a copy of the plan with the
14 Department.

15 (b) Whenever there is a change in the structure occupied
16 by the facility or in the services provided or offered by the
17 facility that would materially affect the facility's ability
18 to respond to a medical emergency, the person or entity,
19 including a home rule unit, must promptly update its plan
20 developed under subsection (a) and must file a copy of the
21 updated plan with the Department.

22 Section 15. Automated external defibrillator required.

23 (a) By the dates specified in Section 50, every physical
24 fitness facility must have at least one AED on the facility
25 premises. The Department shall adopt rules to ensure
26 coordination with local emergency medical services systems
27 regarding the placement and use of AEDs in physical fitness
28 facilities. The Department may adopt rules requiring a
29 facility to have more than one AED on the premises, based on
30 factors that include the following:

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

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

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

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

9 Section 20. Training. The Department shall adopt rules
10 to establish programs to train physical fitness facility
11 staff on the role of cardiopulmonary resuscitation and the
12 use of automated external defibrillators. The rules must be
13 consistent with those adopted by the Department for training
14 AED users under the Automated External Defibrillator Act.

15 Section 30. Inspections. The Department shall inspect a
16 physical fitness facility in response to a complaint filed
17 with the Department alleging a violation of this Act. For the
18 purpose of ensuring compliance with this Act, the Department
19 may inspect a physical fitness facility at other times in
20 accordance with rules adopted by the Department.

21 Section 35. Penalties for violations.

22 (a) If a physical fitness facility violates this Act by
23 (i) failing to adopt or implement a plan for responding to
24 medical emergencies under Section 10 or (ii) failing to have
25 on the premises an AED or trained AED user as required under
26 subsection (a) or (b) of Section 15, the Director may issue
27 to the facility a written administrative warning without
28 monetary penalty for the initial violation. The facility may
29 reply to the Department with written comments concerning the
30 facility's remedial response to the warning. For subsequent
31 violations, the Director may impose a civil monetary penalty

1 against the facility as follows:

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

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

6 (b) The Director may impose a civil monetary penalty
7 under this Section only after it provides the following to
8 the facility:

9 (1) Written notice of the alleged violation.

10 (2) Written notice of the facility's right to
11 request an administrative hearing on the question of the
12 alleged violation.

13 (3) An opportunity to present evidence, orally or
14 in writing or both, on the question of the alleged
15 violation before an impartial hearing examiner appointed
16 by the Director.

17 (4) A written decision from the Director, based on
18 the evidence introduced at the hearing and the hearing
19 examiner's recommendations, finding that the facility
20 violated this Act and imposing the civil penalty.

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

24 (d) The fines shall be deposited into the Physical
25 Fitness Facility Medical Emergency Preparedness Fund to be
26 appropriated to the Department, together with any other
27 amounts, for the costs of administering this Act.

28 Section 40. Rules. The Department shall adopt rules to
29 implement this Act.

30 Section 45. Liability. Nothing in this Act shall be
31 construed to either limit or expand the exemptions from civil
32 liability in connection with the purchase or use of an

1 automated external defibrillator that are provided under the
2 Automated External Defibrillator Act or under any other
3 provision of law. A right of action does not exist in
4 connection with the use or non-use of an automated external
5 defibrillator at a facility governed by this Act, provided
6 that the person, unit of state or local government, or school
7 district operating the facility has adopted a medical
8 emergency plan as required under Section 10 of this Act, has
9 an automated external defibrillator at the facility as
10 required under Section 15 of this Act, and has maintained the
11 automated external defibrillator in accordance with the rules
12 adopted by the Department.

13 Section 50. Compliance dates; private and public indoor
14 physical fitness facilities.

15 (a) Privately owned indoor physical fitness facilities.
16 Every privately owned or operated indoor physical fitness
17 facility must be in compliance with this Act on or before
18 July 1, 2004.

19 (b) Publicly owned indoor physical fitness facilities.
20 A public entity owning or operating 4 or fewer indoor
21 physical fitness facilities must have at least one such
22 facility in compliance with this Act on or before July 1,
23 2004; its second facility in compliance by July 1, 2005; its
24 third facility in compliance by July 1, 2006; and its fourth
25 facility in compliance by July 1, 2007.

26 A public entity owning or operating more than 4 indoor
27 physical fitness facilities must have 25% of those facilities
28 in compliance by July 1, 2004; 50% of those facilities in
29 compliance by July 1, 2005; 75% of those facilities in
30 compliance by July 1, 2006; and 100% of those facilities in
31 compliance by July 1, 2007.

32 Section 55. Home rule. A home rule unit must comply with

1 the requirements of this Act. A home rule unit may not
2 regulate physical fitness facilities in a manner inconsistent
3 with this Act. This Section is a limitation under subsection
4 (i) of Section 6 of Article VII of the Illinois Constitution
5 on the concurrent exercise by home rule units of powers and
6 functions exercised by the State.

7 Section 75. The State Finance Act is amended by adding
8 Section 5.620 as follows:

9 (30 ILCS 105/5.620 new)

10 Sec. 5.620. The Physical Fitness Facility Medical
11 Emergency Preparedness Fund.

12 Section 88. The State Mandates Act is amended by adding
13 Section 8.27 as follows:

14 (30 ILCS 805/8.27 new)

15 Sec. 8.27. Exempt mandate. Notwithstanding Sections 6
16 and 8 of this Act, no reimbursement by the State is required
17 for the implementation of any mandate created by this
18 amendatory Act of the 93rd General Assembly.

19 Section 95. The Automated External Defibrillator Act is
20 amended by changing Section 30 as follows:

21 (410 ILCS 4/30)

22 Sec. 30. Exemption from civil liability.

23 (a) A physician licensed in Illinois to practice
24 medicine in all its branches who authorizes the purchase of
25 an automated external defibrillator is not liable for civil
26 damages as a result of any act or omission arising out of
27 authorizing the purchase of an automated external
28 defibrillator, except for willful or wanton misconduct, if

1 the requirements of this Act are met.

2 (b) An individual or entity providing training in the
3 use of automated external defibrillators is not liable for
4 civil damages as a result of any act or omission involving
5 the use of an automated external defibrillator, except for
6 willful or wanton misconduct, if the requirements of this Act
7 are met.

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

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

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

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