

By: Representative Barnett

To: Public Health and Human Services; Judiciary A

HOUSE BILL NO. 1185

1 AN ACT TO AMEND SECTION 41-60-31, MISSISSIPPI CODE OF 1972,  
 2 TO DEFINE CERTAIN TERMS IN THE LAW REGARDING THE USE OF AN  
 3 AUTOMATED EXTERNAL DEFIBRILLATOR (AED); TO AMEND SECTION 41-60-33,  
 4 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN AED MUST BE  
 5 MAINTAINED AND TESTED ACCORDING TO THE MANUFACTURER'S OPERATIONAL  
 6 GUIDELINES; TO PROVIDE ANY AED PLACED FOR PLANNED RESPONSE OR  
 7 PUBLIC ACCESS RESPONSE IN MISSISSIPPI MUST BE REGISTERED WITH THE  
 8 STATE DEPARTMENT OF HEALTH WITHIN THIRTY DAYS OF RECEIPT; TO  
 9 CREATE NEW SECTION 41-60-37, MISSISSIPPI CODE OF 1972, TO PROVIDE  
 10 CIVIL IMMUNITY FOR LAY PERSONS AND TRAINED PERSONNEL WHO USE AN  
 11 AED UNDER CERTAIN CONDITIONS; TO AMEND SECTION 73-25-37,  
 12 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION;  
 13 AND FOR RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1.** Section 41-60-31, Mississippi Code of 1972, is  
 16 amended as follows:

17 41-60-31. As used in Sections 41-60-31 through 41-60-37:

18 (a) "AED" means an automated external defibrillator,  
 19 which is a device, heart monitor and defibrillator that:

20 (i) Has received approval of its premarket  
 21 notification filed under 21 USCS, Section 360(k) from the United  
 22 States Food and Drug Administration;

23 (ii) Is capable of recognizing the presence or  
 24 absence of ventricular fibrillation, which is an abnormal heart  
 25 rhythm that causes the ventricles of the heart to quiver and  
 26 renders the heart unable to pump blood, or rapid ventricular  
 27 tachycardia, which is a rapid heartbeat in the ventricles and is  
 28 capable of determining, without intervention by an operator,  
 29 whether defibrillation should be performed; and

30 (iii) Upon determining that defibrillation should  
 31 be performed, automatically charges and advises the operator to  
 32 deliver hands-free external electrical shock to patients or

33 automatically delivers hands-free external electrical shock to  
34 patients to terminate ventricular fibrillation or ventricular  
35 tachycardia when the heart rate exceeds a preset value.

36 (b) "Emergency medical services (EMS) notification"  
37 means activation of the 911 emergency response system or the  
38 equivalent.

39 (c) "Planned response" means any action taken as part of  
40 a predetermined emergency plan of action. Those plans may  
41 include, but are not limited to, persons dispatched by emergency  
42 medical dispatch services or by emergency medical services,  
43 procedures and personnel identified as part of a facility's  
44 guidelines for emergency action, and other individual(s) acting in  
45 an official emergency response capacity.

46 (d) "Public access response" means any action taken by  
47 an unanticipated or serendipitous bystander who volunteers to help  
48 in an emergency.

49 (e) "Expected user" means any person who, in the  
50 execution of his or her job, is designated to respond in an  
51 emergency situation.

52 **SECTION 2.** Section 41-60-33, Mississippi Code of 1972, is  
53 amended as follows:

54 41-60-33. (1) Any person may use an automated external  
55 defibrillator for the purpose of saving the life of another person  
56 in sudden cardiac death, subject to the following requirements:

57 (a) A Mississippi licensed physician must exercise  
58 medical control authority over the person using the AED to ensure  
59 compliance with requirements for training, emergency medical  
60 services (EMS) notification and maintenance;

61 (b) The person using the AED must have received  
62 appropriate training in cardiopulmonary resuscitation (CPR) and in  
63 the use of an AED by the American Heart Association, American Red  
64 Cross, National Safety Council or other nationally recognized  
65 course in CPR and AED use;

66           (c) The AED must be maintained and tested according to  
67 the manufacturer's operational guidelines, and must not operate in  
68 a manual mode except when access control devices are in place or  
69 when appropriately licensed individuals such as registered nurses,  
70 physicians or emergency medical technician-paramedics utilize the  
71 AED; \* \* \*

72           (d) Any person who renders emergency care or treatment  
73 on a person in sudden cardiac death by using an AED must activate  
74 the EMS system as soon as possible, and report any clinical use of  
75 the AED to the licensed physician; and

76           (e) Any AED placed for planned response or public  
77 access response, not including AEDs prescribed for private use by  
78 an individual by a physician, in Mississippi must be registered  
79 with the State Department of Health, Office of Emergency Planning  
80 and Response, within thirty (30) days of receipt. The State  
81 Department of Health, Office of Emergency Planning and Response,  
82 may promulgate rules and regulations for the placement and  
83 registry of AEDs in the State of Mississippi.

84           **SECTION 3.** The following shall be codified as Section  
85 41-60-37, Mississippi Code of 1972:

86           41-60-37. (1) Any lay person who gratuitously and in good  
87 faith renders emergency care when medically appropriate by use of  
88 or provision of an AED as part of a public access response,  
89 without objection of the injured victim or victims thereof, where  
90 the person acts as an ordinarily reasonable, prudent person, shall  
91 not be liable for any civil damages as a result of any act or  
92 omission of acts related to the operation of an AED that do not  
93 amount to willful or wanton misconduct or gross negligence.

94           (2) Any person acting as part of a planned response, who has  
95 had appropriate training, including a course in CPR, has  
96 demonstrated a proficiency in the use of an AED, and who  
97 gratuitously and in good faith renders emergency care when  
98 medically appropriate by use of or provision of an AED, with or

99 without compensation, without the objection of the ill or injured  
100 victim or victims thereof, in accordance with the provisions of  
101 Sections 41-60-31 through 41-60-35, shall be immune from civil  
102 liability for any personal injury as a result of that care or  
103 treatment, or as a result of any act, or failure to act, in  
104 providing or arranging further medical treatment, where the person  
105 acts as an ordinary, reasonably prudent person, or with regard to  
106 a health care professional, including the licensed physician who  
107 reviews and approves the clinical usage, as a reasonably prudent  
108 and careful health care provider would have acted, under the same  
109 or similar circumstances and the person's actions or failure to  
110 act does not amount to willful or wanton misconduct or gross  
111 negligence. In addition, any authorized health care professional  
112 who prescribes an AED for public or private use, any person who  
113 provided training in CPR and in the use of an AED, any purchaser  
114 or lessee of an AED, any person responsible for the site where the  
115 AED is located and any expected user on the premises shall not be  
116 liable for any civil damages as a result of any act or omission of  
117 acts related to the operation of an AED that do not amount to  
118 willful or wanton misconduct or gross negligence.

119       **SECTION 4.** Section 73-25-37, Mississippi Code of 1972, is  
120 amended as follows:

121       73-25-37. \* \* \* No duly licensed, practicing physician,  
122 dentist, registered nurse, licensed practical nurse, certified  
123 registered emergency medical technician, or any other person who,  
124 in good faith and in the exercise of reasonable care, renders  
125 emergency care to any injured person at the scene of an emergency,  
126 or in transporting the injured person to a point where medical  
127 assistance can be reasonably expected, shall be liable for any  
128 civil damages to the injured person as a result of any acts  
129 committed in good faith and in the exercise of reasonable care or  
130 omissions in good faith and in the exercise of reasonable care by

131 such persons in rendering the emergency care to the injured  
132 person.

133 \* \* \*

134 **SECTION 5.** This act shall take effect and be in force from  
135 and after July 1, 2004.