

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 868 (Wilk)
Version: March 20, 2023
Hearing Date: April 18, 2023
Fiscal: Yes
Urgency: No
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SUBJECT

Pupil safety: trauma kits

DIGEST

This bill requires local educational agencies to equip each classroom with a trauma kit and to offer training to employees on the use of such kits. Employees who render emergency care with such kits are granted qualified immunity from civil damages, as provided.

EXECUTIVE SUMMARY

According to the Stop the Bleed campaign: “Uncontrolled bleeding is a major cause of preventable deaths. Approximately 40 [percent] of trauma-related deaths worldwide are due to bleeding or its consequences, establishing hemorrhage as the most common cause of preventable death in trauma.” The Stop the Bleed Coalition seeks to raise awareness of this threat and how proper training and materials can prevent bleeding deaths in the wake of a trauma event.

This bill carries out this purpose by requiring “trauma kits,” first aid response kits that contain certain materials, including tourniquets, pressure dressings, chest seals, and instructional documents to be placed in each classroom in California by the local educational agency (LEA), commencing with the 2024–25 school year. Each LEA is required to provide training to employees on the use of the kits, as specified. The bill immunizes those actually using the kits to render emergency care at the scene of an emergency, except for acts constituting gross negligence or willful or wanton misconduct.

This bill is author sponsored. It is supported by a wide coalition of law enforcement groups and the Emergency Nurses Association, California State Council. There is no registered opposition. The bill passed out of the Senate Education Committee on a 7 to 0 vote.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides that no person who, in good faith, and not for compensation, renders emergency medical or nonmedical care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered. This applies only to medical, law enforcement, and emergency personnel, as specified. (Health & Saf. Code § 1799.102(a).)
- 2) Extends to all other persons not covered by the above who are rendering medical or nonmedical care or other assistance in such situations immunity from civil damages resulting from any act or omission other than acts or omissions constituting gross negligence or willful or wanton misconduct. (Health & Saf. Code § 1799.102(b).)
- 3) Provides that, in order to encourage local agencies and other organizations to train people in emergency medical services, no local agency, entity of state or local government, private business, or nonprofit organization included on the statewide registry that voluntarily and without expectation and receipt of compensation donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2 of the Government Code, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of people, or certifies those people, excluding physicians and surgeons, registered nurses, and licensed vocational nurses, as defined, in emergency medical services, shall be liable for any civil damages alleged to result from those training programs. (Health & Saf. Code § 1799.100.)
- 4) Requires the person or entity responsible for managing the building, facility, and tenants of specified structures do all of the following:
 - a) acquire and place a trauma kit on the premises of the building or facility;
 - b) inspect all trauma kits acquired and placed on the premises of a building or structure every three years from the date of installation to ensure that all materials, supplies, and equipment contained in the trauma kit are not expired, and replace any expired materials, supplies, and equipment as necessary;
 - c) if a property managing entity or person is aware, or reasonably should be aware, that a trauma kit has been used, restock the trauma kit after each use and replace any materials, supplies, and equipment as necessary to ensure that all materials, supplies, and equipment required to be contained in the trauma kit are contained in the trauma kit; and

- d) at least once per year, notify tenants of the building or structure of the location of the trauma kit and provide information to tenants regarding contact information for training in the use of the trauma kit. (Health and Saf. Code § 19310.)
- 5) Provides civil immunity to those persons or entities that comply with the trauma kit requirements in connection with any damages that result from acts or omissions in the rendering of emergency care by use of a trauma kit. A property managing entity is also civilly immune from damages resulting from the failure, improper operation, or malfunction of equipment or materials within a properly stocked trauma kit. (Health and Saf. Code § 19310.)
- 6) Applies the immunities of the “Good Samaritan” law codified in Section 1799.102 to persons who, in good faith and not for compensation, render emergency care or treatment by the use of a trauma kit at the scene of an emergency. (Civ. Code § 1714.29(c).)
- 7) Provides that a person who renders emergency care or treatment by the use of a trauma kit at the scene of an emergency and who receives compensation as a result of their employment by a property managing entity, a tenant of a building, or any other private or public employer, but is not compensated to provide emergency medical care, is not providing emergency medical care “for compensation” for purposes of Section 1799.102 of the Health and Safety Code. (Civ. Code § 1714.29(d).)
- 8) Applies the immunities of Section 1799.100 to a person or entity that voluntarily, and without expectation or receipt of compensation, does the following:
 - a) provides training in the use of trauma kits, as specified; or
 - b) certifies persons, as specified, who are trained in the use of a trauma kit to provide emergency medical treatment to victims of trauma. (Civ. Code § 1714.29(e).)
- 9) Provides that any person who, in good faith and not for compensation, renders emergency care or treatment by the use of an automated external defibrillator (AED) at the scene of an emergency is not liable for any civil damages resulting from any acts or omissions in rendering the emergency care. (Civ. Code § 1714.21(b).) A person or entity who provides CPR and AED training to a person who renders such emergency care is not liable for any civil damages resulting from any acts or omissions of the person rendering the emergency care. (Civ. Code § 1714.21(c).)
- 10) Provides that a person or entity that acquires an AED for emergency use, as specified, is not liable for any civil damages resulting from any acts or omissions in the rendering of the emergency care by use of an AED if that person or entity

has complied with subdivision (b) of Section 1797.196 of the Health and Safety Code. (Civ. Code § 1714.21(d).)

- 11) Provides that when an AED is placed in a building, the building owner shall do all of the following:
- a) at least once a year, notify the tenants as to the location of the AED units and provide information to tenants about who they can contact if they want to voluntarily take AED or CPR training;
 - b) at least once a year, offer a demonstration to at least one person associated with the building so that the person can be taught how to use an AED properly in an emergency. The building owner may arrange for the demonstration or partner with a nonprofit organization to do so; and
 - c) next to the AED, post instructions, in no less than 14-point type, on how to use the AED. (Health & Saf. Code § 1797.196(b)(2).)

This bill:

- 1) Requires each local educational agency to do the following, commencing with the 2024–25 school year:
 - a) equip each classroom at each of its schoolsites with a trauma kit; and
 - b) notify, at least once each school year, its administrative employees, classified employees, pupil services employees, and teachers of the location of the trauma kits and provide them with contact information for training in the use of the trauma kit.
- 2) Immunizes any administrative employee, classified employee, pupil services employee, or teacher of a local educational agency who in good faith, and not for compensation, renders emergency care or treatment by the use of a trauma kit at the scene of an emergency from civil damages resulting from any act or omission, other than an act or omission constituting gross negligence or willful or wanton misconduct. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered.
- 3) Provides the following definitions:
 - a) “local education agency” means a school district, county office of education, or charter school.
 - b) “trauma kit” has the same meaning as defined in Section 19305 of the Health and Safety Code.
- 4) Provides that its implementation is contingent upon an appropriation for its purposes in the annual Budget Act or another statute.

COMMENTS

1. Civil liability and immunity

As a general rule, California law provides that persons are responsible, not only for the result of their willful acts, but also for an injury occasioned to another by their want of ordinary care or skill in the management of their property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon themselves. (Civ. Code § 1714(a).) Liability has the primary effect of ensuring that some measure of recourse exists for those persons injured by the negligent or willful acts of others; the risk of that liability has the primary effect of ensuring parties act reasonably to avoid harm to those to whom they owe a duty.

Conversely, immunity from liability disincentivizes careful planning and acting on the part of individuals and entities. When one enjoys immunity from civil liability, they are relieved of the responsibility to act with due regard and an appropriate level of care in the conduct of their activities. Immunity provisions are also disfavored because they, by their nature, preclude parties from recovering when they are injured, and force injured parties to absorb losses for which they are not responsible. Liability acts not only to allow a victim to be made whole, but to encourage appropriate compliance with legal requirements.

Although immunity provisions are rarely preferable, the Legislature has, in limited scenarios, approved measured immunity from liability (as opposed to blanket immunities) to promote other policy goals that could benefit the public. Immunities are generally afforded when needed to ensure the willingness of individuals to continue taking on certain roles that may involve some risk and to incentivize certain conduct, such as the provision of life-saving or other critical services. Examples include protections for use of CPR (Civ. Code § 1714.2); use of an automated external defibrillator (Civ. Code § 1714.21); use of opiate overdose treatment (Civ. Code § 1714.22); providing emergency care at the scene of an emergency (Health & Saf. Code §§ 1799.102, 1799.106); and performing emergency rescue services (Health & Saf. Code § 1799.107). However, as indicated above, rarely is immunity absolute, and these immunities generally do not cover grossly negligent conduct or intentional misconduct.

2. Incentivizing the deployment and proper use of trauma kits

In order to maximize the life-saving capabilities of trauma kits, this bill requires placement of trauma kits in all classrooms in California. Each school district, county office of education, or charter school is not only required to equip classrooms with these kits, but must notify, at least every year, its employees of the location of the kits and provide them with contact information for training.

A person who, in good faith, and not for compensation, renders emergency care or treatment by the use of a trauma kit at the scene of an emergency shall not be liable for civil damages resulting from any act or omission, other than an act or omission constituting gross negligence or willful or wanton misconduct. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered.

These provisions track with similar laws governing the placement of automated external defibrillators (AED) and the attached immunity. (Civ. Code § 1714.21; Health & Saf. Code § 1797.196.)

The bill affords liability protections for any administrative employee, classified employee, pupil services employee, or teacher of an LEA who, in good faith and not for compensation, renders emergency care or treatment through the use of a trauma kit at the scene of an emergency.

This tracks with the immunity provisions of Section 1799.102 of the Health and Safety Code, often referred to as the "Good Samaritan Law." That statute provides immunity for those rendering emergency medical or nonmedical care at the scene of an emergency, as specified. The Good Samaritan law applies two standards, one solely applies to specified medical, law enforcement, or emergency personnel. Subdivision (b) applies to all other persons and establishes immunity from damages resulting from the same acts or omissions, but specifically excludes those acts or omissions constituting gross negligence or willful or wanton misconduct. The latter standard is the one the bill appropriately applies here, as it specifically does not apply immunity where the act or omission constitutes gross negligence or willful or wanton misconduct.

In fact, a person who, in good faith and not for compensation, renders emergency care or treatment by the use of a trauma kit at the scene of an emergency is likely already covered by the existing Good Samaritan law. However, this provision will likely incentivize more individuals to take action when needed.

According to the author:

The unfortunate reality is that schools and classrooms are ill-prepared for threats against our kids. School shootings are a terrible and devastating reality in 2023, and schools do not have the resources necessary to save children if a dangerous or life-threatening emergency occurs. We must adapt our schools to be prepared for these threats against our children. While many legislative ideas work to prevent these tragedies, we must be prepared for when they do eventually occur. A lack of access to proper tools should not be the barrier faced when a life-threatening injury occurs. In order to improve student safety, this bill would place life-saving

trauma kits where they are most likely to be needed in a school emergency: in the classroom.

3. Stakeholder positions

Writing in support, a coalition of law enforcement groups, including the Riverside Sheriffs' Association and Santa Ana Police Officers' Association, asserts that the bill "would place life-saving trauma kits where they are most likely to be needed in a school emergency: in the classroom. Building on previous efforts to make trauma kits more widely available, this bill will require each K-12 classroom to have a trauma kit available. SB 868 is a common sense public safety/student safety measure."

SUPPORT

Arcadia Police Officers' Association
Burbank Police Officers' Association
California Coalition of School Safety Professionals
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Deputy Sheriffs' Association of Monterey County
Emergency Nurses Association, California State Council
Fullerton Police Officers' Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Santa Ana Police Officers Association
Upland Police Officers Association

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 1810 (Levine, Ch. 906, Stats. 2022) authorized schools to designate and train persons to provide anti-seizure medication in an emergency involving a pupil diagnosed with a seizure disorder. The persons must be provided defense and indemnification and are granted qualified immunity, as specified.

AB 2260 (Rodriguez, Ch. 586, Stats. 2022) required certain public and private buildings to maintain a trauma kit on the building's premises. It provided specified immunity to persons supplying trauma kits, training others on their use, and using them in emergency situations.

SB 687 (Hueso, 2021) was substantially similar to AB 2260. However, it required the person or entity responsible for managing the building, facility, and tenants to comply with all regulations governing the placement of a trauma kit and afforded less immunity to them. This bill died in the Assembly Appropriations Committee.

AB 2053 (Rodriguez, 2020) was substantially similar to 2260. This bill died in the Assembly Appropriations Committee.

AB 1708 (Rodriguez, 2019) was substantially similar to AB 2260. This bill died in the Assembly Appropriations Committee.

SB 1305 (Glazer, Ch. 900, Stats. 2018) permitted an emergency responder to provide basic first aid, as specified, to a dog or a cat, without being in violation of the Veterinary Medicine Practice Act and ensured existing immunity laws apply.

AB 1766 (Maienschein, Ch. 270, Stats. 2018) provided that every public swimming pool that is required to provide lifeguard services and that charges a direct fee shall provide on its premises an AED that must be readily available during pool operations and applied conditional liability protections to those acquiring or using these AEDs.

PRIOR VOTES:

Senate Education Committee (Ayes 7, Noes 0)
