

Introduction

MEMORANDUM

September 7, 2012

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: **Introduction:** Bill 26-12, Swimming Pools - Defibrillators

Bill 26-12, Swimming Pools - Defibrillators, sponsored by Councilmembers Leventhal, Riemer and Rice is scheduled to be introduced on September 11, 2012. A public hearing is tentatively scheduled for October 9, 2012 at 1:30 p.m.

Bill 26-12 would certain swimming pools to have an automated external defibrillator available on the premises. See ©7 for a memorandum from the sponsors explaining the purpose behind Bill 26-12.

This packet contains:

Bill 26-12

Legislative Request Report

Sponsor memorandum

Circle #

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Bill No. 26-12
Concerning: Swimming Pools –
Defibrillators
Revised: 9/5/2012 Draft No. 1
Introduced: September 11, 2012
Expires: March 11, 2014
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Leventhal, Riemer and Rice

AN ACT to:

- (1) require certain swimming pools to have an automated external defibrillator available on the premises under certain circumstances; and
- (2) generally amend the law concerning swimming pools.

By amending

Montgomery County Code
Chapter 51, Swimming Pools
Section 51-1

By adding

Chapter 51, Swimming Pools
Section 51-16A

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Chapter 51 is amended by amending Section 51-1 and adding**
2 **Section 51-19A:**

3 **51-1. Definitions.**

4 In this Chapter, the following words have the following meanings:

5 [(a)] *Approving authority*[: The] means the Director of the Department of
6 Health and Human Services or the Director's designee.

7 *Automated external defibrillator* means a portable electronic device that
8 provides an electric shock to the heart in order to reestablish normal
9 contraction rhythms in a heart having dangerous arrhythmia or that is in
10 cardiac arrest.

11 [(b)] *Automatic pool cover*[: A] means a mechanical device that completely
12 covers the swimming pool surface automatically when activated, and meets
13 the requirements of a power safety cover established by the American Society
14 for Testing and Materials.

15 [(c)] *Lifeguard*[: A] means a person who:

16 (1) is at least 15 years old; and

17 (2) has a valid lifeguard certificate from the American Red Cross, the
18 Young Men's Christian Association, or a comparable program
19 approved by the Director of the Department of Health and
20 Human Services.

21 [(d)] *Owner*[: Any] means any person, cooperative, association, partnership,
22 firm, corporation, public agency, or authorized agent of any of them, excluding
23 a pool management company, under whose authority a swimming pool or
24 private spa is being constructed, remodeled, reconstructed, or operated. For the
25 purposes of serving notices of violation of this chapter, the person present at
26 the swimming pool or private spa and charged with its operation is an agent of
27 the owner.

28 [(e)] *Pool management company*[: Any] means any person, cooperative,
 29 association, partnership, firm, or corporation, excluding a pool operator, who
 30 is responsible by contract or other agreement with the owner of a public
 31 swimming pool for the operation of the public swimming pool, including [but
 32 not limited to one or more of the following]:

33 [(i) Assuring] (1) assuring compliance with all operating standards set forth
 34 in this Chapter and all rules and regulations promulgated hereunder;

35 [(ii) Providing] (2) providing for the physical maintenance, supplies, and
 36 personnel as required by this Chapter and all rules and regulations
 37 promulgated hereunder; and

38 [(iii) Obtaining] (3) obtaining all necessary permits and licenses.

39 [(f)] *Pool operator*[: Any] means any person in possession of a valid county
 40 pool operator's license who is in the immediate control of the operation of a
 41 public swimming pool.

42 [(g)] *Private spa*[: Any] means any outdoor bathing structure that is:

- 43 (1) a self-contained unit in which all control, water heating, and
- 44 water circulating equipment is an integral part of the unit;
- 45 (2) built on the grounds of a single-family private residence;
- 46 (3) used solely by the owner, immediate family, tenants, and guests;
- 47 and
- 48 (4) not used for swimming, diving, or wading.

49 [(h)] *Private swimming pool*[: Any] means any swimming pool that is:

- 50 (1) built on the grounds of a single-family private residence; and
- 51 (2) used solely by the owner, immediate family, tenants, and guests.

52 [(i)] *Public spa*[: Any] means any public swimming pool that is:

- 53 [(i) Intended] (1) intended for public recreational and therapeutic
 54 uses other than swimming, diving, or wading; and

55 [(ii) Is] (2) is not drained, cleaned, or refilled for each user.

56 [(j)] *Public swimming pool*[: A] means a swimming pool, except a private
57 swimming pool, which is intended to be used collectively by numbers of
58 persons for swimming, diving, wading, or recreational bathing.

59 [(k)] *Spa guard*[: An] means an individual currently certified in
60 cardiopulmonary resuscitation (CPR).

61 [(l)] *Swimming pool*[: Any] means any artificial structure, basin, chamber, or
62 tank, except a private spa, either above or below ground, which is used or
63 intended to be used for the primary purpose of swimming, diving, wading, or
64 recreational bathing. Swimming pool includes all appurtenant equipment,
65 structures, and facilities located within a common enclosure. A unit used in
66 conjunction with the private practice of a physician or physical therapist is not
67 a swimming pool.

68 **51-16A. Defibrillators.**

69 (a) Every public swimming pool must have available at all times when the
70 pool is open at least one automated external defibrillator in good
71 working order and at least one staff member who is trained in its use.

72 (b) (1) This Section is not intended to impose any civil liability, or
73 relieve any person from civil liability, regarding the presence or
74 use of, or failure to use, any automated external defibrillator,
75 except as expressly provided in paragraph (2).

76 (2) An owner or employee of a public swimming pool is not liable in
77 connection with the use or nonuse of an automated external
78 defibrillator , unless:

79 (A) the pool does not have an automated external defibrillator
80 available as this Section requires; or

81 (B) an employee has acted with gross negligence or engaged in
82 willful or wanton misconduct.

83 (d) Any violation of this Section is a class C civil violation. The County
84 Attorney or any affected person may file an action in a court with
85 jurisdiction to enjoin repeated violations of this Section.

86 (e) The County Fire and Rescue Service must investigate each complaint
87 alleging a violation of this Section and take appropriate action,
88 including issuing a citation when compliance cannot be obtained
89 otherwise. The Department of Health and Human Services may, if
90 requested, assist the Service in enforcing this Section.

91 *Approved:*

Roger Berliner, President, County Council

Date

93 *Approved:*

Isiah Leggett, County Executive

Date

95 *This is a correct copy of Council action.*

96

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 26-12

Swimming Pools - Defibrillators

DESCRIPTION: Bill 26-12 would require certain swimming pools to have an automated external defibrillator available on the premises under certain circumstances.

PROBLEM: Automated external defibrillators are currently not required on site at swimming pools that are open to the public.

GOALS AND OBJECTIVES: To require swimming pools, other than private swimming pools, to have an automated external defibrillator on site.

COORDINATION: Fire and Rescue Service; Department of Health and Human Services

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Amanda Mihill, Legislative Attorney, 240-777-7815

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: Class C violation.

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MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

MEMORANDUM

September 6, 2012

To: Councilmembers
From: George Leventhal and Hans Riemer
Re: Bill 26-12, Swimming Pools – Defibrillators

We are introducing a bill which is attached to this memorandum. The bill mandates that a defibrillator become standard equipment at all semi-public pools in Montgomery County (i.e. swim clubs). The county already mandates that a defibrillator be on site for all county operated swim facilities. In 2004 the Council passed Bill 22-04 which requires commercial fitness centers in Montgomery County to have a defibrillator on the premises.

The need for this legislation is illustrated by a tragic event that occurred in Anne Arundel County on June 22, 2006. A 5 year old boy, Connor Freed, drowned beneath an empty lifeguard chair, at a country club, in five feet of water. A patron of the pool spotted Connor's lifeless body and pulled him out of the water. Another patron began performing cardiopulmonary resuscitation (CPR) as he threw up water. Once 911 was called, they questioned, "Is there a defibrillator there?" The response: "Yes. But we are not allowed to use it." Connor went into cardiac arrest in the ambulance on the way to the hospital.

The importance of having a defibrillator on site is because it needs to be used within the first five minutes when someone is experiencing cardiac arrest. Paramedics usually can take five minutes or longer to arrive on scene. Defibrillators save lives. A person's chances of survival are reduced by 7 to 10 percent with every minute that passes without CPR and defibrillation. Few attempts at resuscitation succeed after 10 minutes.¹ Similar legislation has been enacted in Queen Anne's and Anne Arundel counties. All Maryland lifeguards are now required by law to be CPR certified as well as trained on the use of a defibrillator.

¹ "Cardiac Arrest," from the American Heart Association Web site,
<http://www.americanheart.org/presenter.jhtml?identifier=4481>