

Bill No. 26-12  
Concerning: Swimming Pools -  
Defibrillators  
Revised: 11/6/2012 Draft No. 2  
Introduced: September 11, 2012  
Enacted: November 13, 2012  
Executive: \_\_\_\_\_  
Effective: November 13, 2013  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmembers Leventhal, Riemer, Rice, Navarro, Andrews, Elrich and Floreen

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**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

<b>Boldface</b>	<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]] 51-16A:~~**

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.

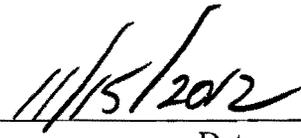
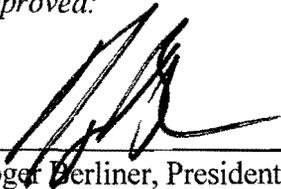
83 (d) Any violation of this Section is a class C civil violation. The County  
 84 Attorney or any affected person may file an action in a court with  
 85 jurisdiction to enjoin repeated violations of this Section.

86 (e) The Department of Health and Human Services must inspect each pool  
 87 to assure that the pool has an automated external defibrillator on site and  
 88 that defibrillator is registered with the Maryland Institute for Emergency  
 89 Medical Services Systems. The [[County Fire and Rescue Service]]  
 90 Department of Health and Human Services must investigate each  
 91 complaint alleging a violation of this Section and take appropriate  
 92 action, including issuing a citation when compliance cannot be obtained  
 93 otherwise. [[The Department of Health and Human Services may, if  
 94 requested, assist the Service in enforcing this Section.]]

95 **Sec. 2.** This law may be cited as “Connor’s Law.”

96 **Sec. 3. Effective date.** This Act takes effect on November 13, 2013.

97 *Approved:*



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Roger Berliner, President, County Council

Date

99 *Approved:*

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Isiah Leggett, County Executive

Date

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

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Linda M. Lauer, Clerk of the Council

Date