

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 597 (Delegate Kullen)
Health and Government Operations

T.R.A. Act of 2008

This bill establishes equipment, supervision, and insurance requirements for swimming pools located at family day care homes.

Fiscal Summary

State Effect: The Maryland State Department of Education could handle any enforcement responsibilities with existing resources. It is not anticipated that the bill's requirements would result in enforcement activity greater than the amount currently provided.

Local Effect: None.

Small Business Effect: Potential meaningful for family day care providers.

Analysis

Bill Summary: A swimming pool at a family day care home must be surrounded by a fence that is secured by a self-closing, self-latching gate. The gate must be locked when the pool is not in use. The pool must be equipped with a motion-detecting alarm and is required to be covered during the off season. Steps to an above-ground pool must be removed from the pool when it is not in use.

If a child attending family day care is in the pool, there must be adults present with training in cardiopulmonary resuscitation at a ratio determined by the Maryland State Department of Education. A family day care home with a pool must also obtain

insurance coverage for liability resulting from the bodily injury or death of a family day care child who uses the pool.

Current Law: MSDE registers family day care homes with the purpose of protecting the health, safety, and welfare of the children while they are in family day care; identifying family day care homes; providing basic technical assistance to these providers; and minimizing the regulatory rigidity often associated with licensing.

A family day care provider is defined as an individual who cares for no more than eight children in a registered family day care home. At any given time, the provider may not care for more than four children under age two. A provider's own children under age two are counted toward these totals. The provider must at all times maintain a minimum adult-to-child ratio of one adult for every two children under age two.

Regulations adopted by MSDE establish environmental health and safety standards for family day care homes, procedures for registering and inspecting family day care providers, and requirements for training in CPR and basic first aid. Each provider must meet registration requirements before operating a family day care. Care provided to a child related by blood or marriage, occasional care provided by the parents' friends, and care provided to child placed by a State or local agency are exempted from registration requirements.

Water Safety Requirements for Family Day Care Providers

MSDE regulations establish that providers may permit children in their care to use only swimming facilities that meet all applicable State and local health and sanitation standards. A child's parent must provide written approval before a provider allows that child to swim or wade. If the water in the pool does not exceed four feet in depth, no lifesaving training is required of the supervisor. If the water exceeds four feet, a lifeguard must be present. An additional adult must be present to supervise a child in the pool who cannot swim. Any pool used by a child while under a provider's care must have an operable circulation system approved by the local health department.

DHMH regulations establish standards for limited public-use pools, such as those owned by a family day care provider. The pool's construction, measurements, and safety features must meet nationally recognized standards. Barriers must meet the requirements established by the American National Standard for Residential Inground Swimming Pools and must include a self-closing, self-latching access gate that opens outward and can accommodate a locking device. A first aid kit and rescue materials must be immediately available and an individual certified in CPR must be on duty while the pool is in use.

Background: The bill is named for Tashear Renee Alston, who at age three drowned while in the care of a family day care provider. According to her mother, the gate to the family's pool was left open, allowing Tashear to enter without the knowledge of her caregiver. With the fence obstructing the caregiver's view, Tashear climbed the steps to the above-ground pool unnoticed. Her caregiver later found her body floating in the pool.

Small Business Effect: The 11,158 family day care homes currently registered with MSDE are already required to comply with fencing and lifeguard requirements. If not already equipped, family day care homes may incur additional expenses in equipping a pool with a motion sensor. Liability insurance requirements could also impose additional costs.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Maryland State Department of Education, American National Standard for Residential Inground Swimming Pools, Department of Legislative Services

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