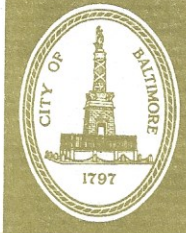


CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

ANDRE M. DAVIS, City Solicitor
101 City Hall
Baltimore, Maryland 21202

March 1, 2019

The Honorable President and Members
of the Baltimore City Council
Attn: Natawna B. Austin, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 19-0337 – Youth Athletic Protection

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 19-0337 for form and legal sufficiency. The bill would establish certain protections for youth athletes using Baltimore City Department of Recreations and Parks facilities. The bill would require youth athletic coaches to complete certain training. It would require that youth athletes be removed from athletic play if they are suspected to have sustained certain medical conditions. It would require that youth sports programs have an automated external defibrillator at athletic events and that coaches report to certain authorities suspected abuse and neglect.

The Law Department has several concerns with this bill.

First, Section 54-5 requires that an athlete be removed from play under certain circumstances but does not specify who is responsible for removing the athlete. If the intent is to make the coach responsible for the removal, this section should be amended to clarify that.

Second, Section 54-7 of the bill contains requirements for reporting suspected child abuse and neglect. Although the bill seems to parallel state law in several respects, it conflicts in others, and is likely preempted by state law. The pervasiveness with which the State has legislated in the area of reporting child abuse suggests an intent to occupy the field. Further, the General Assembly has considered imposing penalties for failure to report child abuse and has declined to do so, although several bills are currently pending in the General Assembly. This also manifests an intent to occupy the field. *See, e.g. Allied Vending, Inc. v. City of Bowie*, 332 Md. 279, 303-4 (1993) (“If the General Assembly intended to change existing law governing the sale of cigarettes through vending machines, it certainly has had the opportunities to do so. The failure to enact such measures ‘strongly suggests that there was no intent to allow local governments to enact different ... requirements.’” quoting *Skipper*, 329 Md. at 493.). Lastly, there is no mention of concurrent jurisdiction with local governments in the state law. *See MD Code, Family Law, §§ 5-701 et seq.*



For these reasons, Section 54-7 of the bill should be removed in its entirety or it should be deleted and replaced by a requirement that coaches report in accordance with §§ 5-701 *et seq* of the Maryland Code, which could ensure that failure to report could result in loss of a future permit issued by the Department.

Otherwise, this regulation is an exercise of the City's police powers found in Article II, Section 27 of the City Charter. Police powers can be legitimately exercised when the regulations are rationally related to preserving the public health, safety, morals or general welfare of the public. *See* City Charter, Article II, Section 47.

Subject to the above, the Law Department approves the bill for form and legal sufficiency.

Sincerely,



Ashlea H. Brown
Assistant Solicitor

cc: Andre M. Davis, City Solicitor
Karen Stokes, Director, Mayor's Office of Government Relations
Jeff Amoros, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel
Hilary Ruley, Chief Solicitor
Victor Tervalá, Chief Solicitor