

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Health Care Committee

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BILL: CS/SB 2426

INTRODUCER: Health Care Committee and Senator Argenziano

SUBJECT: Certification of swimming instructors

DATE: April 20, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bedford	Wilson	HE	<b>Fav/CS</b>
2.			CA	
3.				
4.				
5.				
6.				

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## I. Summary:

The bill requires additional certification of swimming instructors who hold themselves out as specializing in training for people who have developmental disabilities as defined in s. 393.063(10), F.S. These instructors must be certified by the Dan Marino Foundation, Inc., in addition to being certified under s. 514.071, F.S. The Dan Marino Foundation, Inc., is required to develop certification requirements and a training curriculum for swimming instructors for people who have developmental disabilities. The foundation must submit the requirements to the Department of Health (DOH or department) for review by January 1, 2007. If a person is certified before July 1, 2007, he or she must meet the additional requirements before January 1, 2008. If a person is certified on or after July 1, 2007, he or she must meet the additional requirements within 6 months of having received certification. In addition to seeking other remedies, the department can sue to enjoin any public swimming pool using a swimming instructor who is not properly certified.

The bill deletes an exemption from the requirement that a public pool be serviced by a person certified as a pool service technician. The exemption being removed is for a person, or direct employee of a person, permitted as a public pool operator under s. 514.031, F.S.

The bill provides an appropriation from the General Revenue Fund of \$535,000 to the department for the 2006-07 fiscal year. The appropriation is to be distributed to the Dan Marino Foundation, Inc., for the purpose of implementing this act.

This bill creates s. 514.072 of the Florida Statutes, and one undesignated section of law.

This bill amends s. 514.075, F.S.

## **II. Present Situation:**

### **Swimming Instructors**

Section 514.071, F.S., requires any person working as a swimming instructor or lifeguard at a public swimming pool to be certified by the American Red Cross, the Y.M.C.A., or another nationally recognized aquatic training program.<sup>1</sup> Swimming instructors are to be certified in swimming instruction, first aid, and cardiopulmonary resuscitation. Rule 64E-9.008, F.A.C., further requires that swimming instructors be certified in child and infant cardiopulmonary resuscitation through the American Red Cross, or the American Heart Association or the National Safety Council. In terms of enforcement, DOH may currently sue to enjoin the operation of any public swimming pool that uses any swimming instructor or lifeguard in violation of this section, in addition to any other remedies available to the department.

### **Current Swimming Instruction Provided to Developmentally Disabled Children**

Broward County has a unique program for serving developmentally disabled individuals, and currently provides instruction to between 4,000 and 5,000 special needs children each year in their regular swim instruction program that serves 27,000 children from 117 Broward elementary schools.

### **Developmental Disabilities in Florida**

Section 393.063(10), F.S., defines a developmental disability as a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely. Developmental disabilities begin anytime during development up to 22 years of age and usually last throughout a person's lifetime.<sup>2</sup> As of 2003, there were 7,151 children with autism in Florida. This represents a 690 percent cumulative growth rate of autism from 1992 to 2003, or an average annual growth rate of 19 percent. The increase in autism prevalence is systemic across the U.S., with rates having grown from 1 in 10,000 births in the 1980s to 1 in 166 births today.<sup>3</sup>

Proponents of the bill claim that many developmentally disabled children are not being taught to swim properly because instructors lack expertise in training special needs students. While

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<sup>1</sup> Pursuant to Rule 64E-9.008, F.A.C., "nationally recognized aquatic training programs" adopt as reference the standards found in the 2000 edition of the American Red Cross Lifeguarding Instructors Manual, the 1995 edition of the American Red Cross Water Safety Guide for Training Instructors, the On the Guard II, The YMCA Lifeguard Manual, Fourth Edition, (YMCA) The Youth and Adult Aquatic Program Manual (1999), and (YMCA) The Parent/Child and Preschool Aquatic Program Manual (1999).

<sup>2</sup> U.S. Centers for Disease Control. <http://www.cdc.gov/ncbddd/dd/default.htm>. (last visited on April 13, 2006)

<sup>3</sup> Public Schools Autism Prevalence Report Series, 1992-2003, [www.fightingautism.org](http://www.fightingautism.org). (last visited on April 13, 2006) Data Note: The Individuals with Disabilities Education Act (IDEA) requires each state's Department of Education and the U.S. Department of Education to record specific childhood disabilities, including autism, for each school year. This means that in order for a child to be recorded in the autism disability category the student must require special academic support for the disability; and means that some children with autism who attend private school or other facilities are not included in these counts. Data sources include [www.ideadata.org](http://www.ideadata.org) (last visited on April 13, 2006) and [www.cdc.gov/nchs/hus.htm](http://www.cdc.gov/nchs/hus.htm) (last visited on April 13, 2006).

teachers in classrooms must receive additional certification to instruct special needs children, swimming instructors are not required to have additional training.

### **Florida Geography**

Florida has 11,761 square miles covered by water, making it the third wettest state behind Alaska and Michigan.<sup>4</sup> Florida also has the second longest coastline of 1,350 miles, and the second longest shoreline of 8,426 miles.<sup>5</sup> Approximately 80 percent of residents live by the coast, and no resident is more than 75 miles from water.<sup>6</sup>

### **Drowning statistics**

Drowning is the second leading cause of injury death of infants and children younger than 15 in the U.S. and children under the age of five have the highest drowning rates. For every child who drowns, four children are hospitalized for near drowning. Of the estimated 5,000 children who are hospitalized annually for near drowning, 15 percent die in the hospital and one third suffer significant neurological damage. In Florida, drowning is the leading cause of death to children age 14 and under<sup>7</sup>, and the state has the highest number of drowning accidents in the nation.<sup>8</sup> Children under one year of age are most likely to drown in bathtubs and buckets, while children between the ages of 1 and 4 most frequently drown in residential swimming pools. Children usually enter pools through unprotected gates and are only out of eyesight for moments before immersing in the water. Children and adolescents between the ages of 5 and 19 most often drown in lakes, ponds, rivers and pools. The annual cost of care per year for an impaired survivor of a near drowning is approximately \$100,000.<sup>9</sup>

### **Factors that increase the risk of drowning**

Some underlying medical conditions are known to increase the risk of drowning. Persons with developmental disabilities are at higher risk of pedestrian accidents in general, including falls, fires, and drowning.<sup>10</sup> Children with epilepsy are estimated to be 4 to 14 times more at risk of submersion<sup>11</sup>; and two recent studies suggest that children with autism may also be at increased

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<sup>4</sup> [http://www.netstate.com/states/geography/fl\\_geography.htm](http://www.netstate.com/states/geography/fl_geography.htm). (last visited on April 13, 2006)

<sup>5</sup> <http://www.50states.com/florida.htm>. (last visited on April 13, 2006)

<sup>6</sup> Florida Department of Environmental Protection. <http://www.floridadep.org/law/grants/cmp/>. (last visited on April 13, 2006)

<sup>7</sup> Orange County, CA, Fire Authority. [http://www.poolalarms.com/pool\\_drowning\\_statistics.htm](http://www.poolalarms.com/pool_drowning_statistics.htm). (last visited on April 13, 2006)

<sup>8</sup> [http://www.poolalarms.com/statistics\\_florida\\_swimming\\_pool\\_accidents.htm](http://www.poolalarms.com/statistics_florida_swimming_pool_accidents.htm). (last visited on April 14, 2006)

<sup>9</sup> Statistics on Drowning. <http://hsc.usf.edu/CLASS/JulieJ/Statistics.htm>. (last visited on April 13, 2006)

<sup>10</sup> Strauss, D., Shavelle, R., Anderson, T. and Baumeister, A. "External Causes of Death among Persons with Developmental Disability." *American Journal of Epidemiology*. 1998, Vol. 147, No. 9: 855-862.

<http://aje.oxfordjournals.org/cgi/content/abstract/147/9/855> (last visited on April 13, 2006)

<sup>11</sup> Smith GS, Brenner RA. The changing risks of drowning for adolescents in the US and effective control strategies. *Adolescent Medicine*. 1995; 6 :153 –170. See also footnotes 39-41 in Brenner, R.A. "Prevention of Drowning in Infants, Children, and Adolescents. *Pediatrics*. Vol. 112 No. 2 August 2003, pp. 440-445. Available at <http://aappolicy.aappublications.org/cgi/content/full/pediatrics;112/2/440>. (last visited on April 13, 2006)

risk.<sup>12</sup> However, both studies are based on a small number of drowning deaths and more research is necessary to evaluate the relation between autism and drowning. For some parents of children with autism, fears about the child's wellbeing sometimes lead them to avoid swimming lessons altogether.<sup>13</sup> Minority and underprivileged children are also at increased risk of drowning. According to 2002 statistics, 40 percent of children who die from drowning are minority children. This is due to factors of race, class, privilege and poverty that limit a child's access to aquatic facilities and swimming lessons.<sup>14</sup>

### **The Dan Marino Foundation**

The Dan Marino Foundation, Inc., is based in Weston, Florida, and was founded in 1992 as a non-profit organization supporting medical, emotional or behavioral programs that provide integrated intervention services for children with special needs. The foundation has distributed and pledged over \$7 million dollars to provide research, programs, and services that have benefited more than one hundred thousand children.<sup>15</sup>

### **III. Effect of Proposed Changes:**

**Section 1.** Creates s. 514.072, F.S., titled "certification of swimming instructors for people who have developmental disabilities required." This section requires anyone working at a swimming pool who holds himself or herself out as a swimming instructor specializing in training for persons who have developmental disabilities as defined in s. 393.063(10), F.S., to be certified by the Dan Marino Foundation, Inc., in addition to being certified under s. 514.071, F.S. The Dan Marino Foundation, Inc., must develop certification requirements and a training curriculum for swimming instructors for people who have developmental disabilities and must submit the certification requirements to the department for review by January 1, 2007. A person certified under s. 514.071, F.S., before July 1, 2007, must meet this additional requirement by January 1, 2008. A person certified under s. 514.071, F.S., on or after July 1, 2007, must meet the additional requirements within 6 months after receiving certification under s. 514.071, F.S. In addition to other remedies, the department may sue to enjoin the operation of any public swimming pool not in compliance with this section.

**Section 2.** Amends s. 514.075, F.S., deleting the statement that the requirement that a public pool be serviced by a person certified as a pool service technician does not apply to a person, or the direct employee of a person, permitted as a public pool operator under s. 514.031, F.S.

**Section 3.** Creates an undesignated section of law to appropriate the sum of \$535,000, of which \$185,000 is recurring, from the General Revenue Fund to DOH for distribution to the Dan Marino Foundation, Inc., for the 2006-07 fiscal year for the purpose of implementing the bill.

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<sup>12</sup> Sibert JR, Lyons RA, Smith BA, et al. Preventing deaths by drowning in children in the United Kingdom: have we made progress in 10 years? Population based incidence study. *British Journal of Medicine* .2002; 324 :1070-1071; and Shavelle RM, Strauss DJ, Pickett J. Causes of death in autism. *Journal of Autism and Developmental Disorders*. 2001; 31 :569 -576.

<sup>13</sup> Life Science Services Contract with NASA. <http://fitness.ksc.nasa.gov/articles/autism.php>. (last visited on April 14, 2006)

<sup>14</sup> Anderson, Kelli. "Just Add Water: A Complete Guide to Aquatic Centers." *Recreation Management*. [http://www.recmanagement.com/feature\\_print.php?fid=200602fe01](http://www.recmanagement.com/feature_print.php?fid=200602fe01). (last visited April 13, 2006)

<sup>15</sup> Dan Marino Foundation, Inc. [www.danmarinofoundation.org](http://www.danmarinofoundation.org). (last visited on April 14, 2006)

**Section 4.** Provides an effective date of July 1, 2006.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

**B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Private swimming schools would incur costs for this additional certification for their swimming instructors who provide instruction to developmentally disabled students. Travel costs may be incurred for instructors to go to Broward County in order to receive training and certification.<sup>16</sup>

**C. Government Sector Impact:**

Each city or county that operates a public pool and offers swimming instruction to developmentally disabled persons will incur a cost for each staff member certified under the requirements of bill.

According to Department of Health (DOH) analysis, staff time spent at public pools will need to be increased during the routine inspections, which will result in additional costs. Increased violations could also result in a significant increase in the workload of DOH legal staff. The amounts of these costs are both indeterminate at this time.

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<sup>16</sup> Berrios, J. "Swimming teachers could get extra duties." Miami Herald. March 20, 2006.

[http://www.miami.com/mld/miamiherald/news/local/states/florida/counties/broward\\_county/13994776.htm](http://www.miami.com/mld/miamiherald/news/local/states/florida/counties/broward_county/13994776.htm) (last visited on April 14, 2006)

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The DOH would suggest that the certification proposed in the bill be done initially in Broward County only to ensure its effectiveness prior to implementation statewide.

Another option that might be considered would be to submit certification requirements to the Red Cross, YMCA or other national swimming instruction program for incorporation into existing swimming courses for certification.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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