

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 274

INTRODUCER: Senator Rodriguez

SUBJECT: Child Water Safety Requirements

DATE: February 5, 2024S

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	Favorable
2.	<u>Rao</u>	<u>Tuszynski</u>	<u>CF</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 274 creates the Kareem Angel Green Act to require any organization¹ that brings a child in its care to a public bathing place or public swimming pool to require the child’s parent or legal guardian to attest whether the child is able to swim or is at risk in the water. If the child is at risk in the water, the organization must provide a specified flotation device to the child and ensure that the flotation device is properly fitted and fastened when the child is within a fenced-in area containing a public bathing place or pool or if the child is within 100 feet of an unfenced public bathing place or pool. The requirement to provide a flotation device does not apply to an organization providing swimming instruction or a swimming competition. Additionally, the bill provides specified types of organizations that are exempt from its requirements.

The bill authorizes the Department of Health (DOH) to adopt rules to administer the bill’s provisions and provides that organizations in violation are subject to disciplinary action by any state agency that has jurisdiction over that type of organization.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

The Danger of Drowning

Drowning is one of the leading causes of accidental death among children. For all ages, the current annual global estimate is 295,000 drowning deaths, although this figure is thought to underreport fatal drowning, in particular boating and disaster related drowning mortality.

¹ The bill defines “organization” to mean a summer day camp, a summer 24-hour camp, a school, a preschool, a kindergarten, a nursery school, or a child care facility as defined in s. 402.302, F.S.

Drowning disproportionately impacts children and young people, with over half of all drowning deaths occurring among people younger than 25 years old. In many countries, children under five years of age represent the highest rate of fatal and non-fatal drowning, with incidents commonly occurring in swimming pools and bathtubs in high-income countries and in bodies of water in and around a home in low-income contexts.²

Drowning Deaths in Florida

Drowning deaths in Florida have consistently ranged between 350 and 500 deaths per year in the state from 2003 to present. Data from 2022 show that most counties suffered less than 10 deaths from drowning in that year, but many highly-populated and coastal counties suffered from a much higher rate of drowning.³ For example, Broward County had 46 drowning deaths in 2022, Miami-Dade had 30, Hillsborough had 33, and Palm Beach had 42.⁴

Drowning Prevention

The National Drowning Prevention Alliance (NDPA) recommends five items for protecting children from drowning: barriers and alarms, supervision, water competency, life jackets, and emergency preparation.⁵ Specific to supervision, and since many drowning incidents occur when people are actively swimming, the NDPA recommends that an adult be within arms' length of any children who lack water competency.⁶ Active supervision is recommended even in bodies of water where a lifeguard is present.⁷

Life Jackets

The NDPA recommends that everyone wear a life jacket or personal flotation device (PFD) approved by the United States Coast Guard (USCG) whenever boating or in a natural or open body of water. The NDPA indicates it is important that the life jacket is USCG approved and fitted for the individual. Not all devices sold by retailers are tested and approved flotation devices. Devices that are not tested and approved cannot be considered a safe layer of protection and should not be part of a family's water safety plan, according to the NDPA.⁸

Personal flotation devices come in four types: Types I, II, III, and V. A Type I PFD has the greatest required inherent buoyancy and turns most unconscious persons in the water from a face-down position to a vertical and slightly backward position, thereby greatly increasing the chance of survival. A Type 2 PFD is intended to turn some unconscious

² Peden AE, Franklin RC. Learning to Swim: An Exploration of Negative Prior Aquatic Experiences among Children. *Int J Environ Res Public Health*. 2020 May 19;17(10):3557. doi: 10.3390/ijerph17103557. PMID: 32438661; PMCID: PMC7277817 available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7277817/>. (Last visited Jan. 25, 2024).

³ Florida Health Charts, Deaths from Unintentional Drowning, available at <https://www.flhealthcharts.gov/ChartsDashboards/rdPage.aspx?rdReport=Death.DataViewer&cid=0105>, (last visited Jan 25, 2024).

⁴ *Id.*

⁵ National Drowning Prevention Alliance, Learn the 5 Layers of Protection, available at <https://ndpa.org/layers/>, (last visited Jan., 25, 2024)

⁶ National Drowning Prevention Alliance, Supervision, available at <https://ndpa.org/supervision>, (last visited Jan., 24, 2024).

⁷ *Id.*

⁸ National Drowning Prevention Alliance, Life Jackets, available at <https://ndpa.org/life-jackets/> <https://ndpa.org/life-jackets/>, (last visited Jan., 25, 2024).

persons from a face-down position in the water to a position where the wearer's respiration is not impeded. A Type III PFD is intended to support a conscious person in the water in an upright position. This type of device is not required to turn an unconscious person in the water from a face-down position to a position where the wearer's respiration is not impeded. A Type V PFD is approved for restricted uses or activities such as boardsailing or commercial white water rafting. These devices may not be suitable for other boating activities. The label indicates whether a particular design of Type V can be used in specific application, what restrictions or limitations apply, and its performance type.⁹

III. Effect of Proposed Changes:

SB 274 creates s. 514.073, F.S., to establish the Kareem Angel Green Act. The bill defines the following terms:

- “Child” means a person younger than 12 years of age.
- “Organization” means a summer day camp, a summer 24-hour camp, a school, a preschool, a kindergarten, a nursery school, or a child care facility as defined in s. 402.302.¹⁰
- “Public swimming pool” has the same meaning as in s. 514.011(2) but does not include a wading pool.
- “Wading pool” means a pool, including a pool that contains a public interactive water feature or fountain, with a maximum water depth of no more than 18 inches.

The bill requires any organization that takes a child in its care or under its supervision to a public bathing place or public swimming pool to require the child's parent to attest in writing whether the child is able to swim or is at risk of injury or death when swimming or otherwise accessing a pool or body of water. Any organization that conducts an activity that provides a child under its care or supervision with access to a public bathing place or public swimming pool, whenever a child who is at risk of injury or death when swimming, is within a fenced-in area around the pool or bathing place, or is within 100 feet of a pool or bathing place that is not fenced-in, must:

- Provide the child with a USCG-approved Type II PFD if the child is near a public bathing place;
- Provide the child with either a USCG-approved Type II or Type III PFD if the child is near a public swimming pool; and
- Ensure that the PFD is properly fitted and fastened on the child.

The requirement to provide a PFD does not apply if the child is actively participating in swimming instruction or a swimming competition if the organization ensures that each such child is supervised during that time. Additionally, none of the requirements of the section apply to:

⁹ USCG, Life Jacket Wear / Wearing your Life Jacket, available at <https://uscgboating.org/recreational-boaters/life-jacket-wear-wearing-your-life-jacket.php>, (last visited Jan. 24, 2024).

¹⁰ Section 402.302, F.S., defines “child care facility” as any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The definition specifically excludes schools, summer camps, vacation Bible schools, and operators of transient establishments under specified circumstances.

- A residential boarding school that allows employees and their family members and guests to use a body of water at the school for recreational purposes.
- A child-placing agency, family foster home, or residential child-caring agency as defined in s. 409.175(2), F.S.
- A child care facility licensed under s. 402.305, F.S.

The bill authorizes the DOH to adopt rules to administer the bill's provisions and provides that organizations in violation are subject to disciplinary action, equivalent to licensure action, by any state agency that has jurisdiction over that type of organization.

The bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a negative fiscal impact on organizations that will be required to provide PFDs under the bill.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 274 defines the term “public swimming pool” but uses a number of other terms throughout the bill including public bathing place, body of water, and pool. It may be advisable to define the other terms used in the bill.

SB 274 includes child care facilities, as defined in s. 402.302, F.S., in the definition of “organization” and applies the requirements of the bill to such facilities. Meanwhile, the bill exempts child care facilities licensed under s. 402.305, F.S., from the requirements of the bill. It may be advisable to clarify whether the requirements of the bill do or do not apply to the latter facilities.

VIII. Statutes Affected:

This bill creates section 514.073 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.