

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 Education

BILL: SB 358

INTRODUCER: Senator Berman and others

SUBJECT: Water Safety

DATE: March 29, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Westmark	Bouck	ED	Pre-meeting
2.			CF	
3.			RC	

I. Summary:

SB 358 establishes the “Edna Mae McGovern Act,” which requires each district school board and the governing authority of each private school to require each child entitled to initial entrance into a public or private school in this state, to present a certificate of having successfully completed a nationally recognized water safety education course and nationally recognized age-appropriate swimming lessons within one year before enrollment in school. In addition, the bill:

- Holds a parent of such a child responsible for assuring that his or her child is in compliance.
- Exempts a child from the certification requirement if his or her parent submits a written objection, based on any grounds, to the school in which the child is enrolled or into which the child is entering.

The fiscal impact of this bill is indeterminate.

The bill takes effect July 1, 2021.

II. Present Situation:

In 2020, 68 children in Florida died from accidental drowning, while 16 child drownings have occurred in 2021, year to date.¹ In the past decade, the number of drownings among children ages 3 to 5 and ages 5 to 12 has increased more than 50 and 62 percent, respectively.² Drowning

¹ Florida Department of Children and Families, *Child Fatality Prevention*, <https://www.myflfamilies.com/ChildFatality/stateresults.shtml?minage=0&maxage=18&year=2020&cause=Drowning&prior12=&verified=> (last visited March 24, 2021).

² Florida TaxWatch, *Every Child a Swimmer* (March 2021), available at <https://floridataxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/19005>, at 1.

is the leading cause of injury death in children ages 1 to 4, and the biggest drowning threat facing families with toddlers is unexpected, unsupervised access to water.³

As one of several strategies to help prevent accidental drowning deaths, the American Academy of Pediatrics recommends that children ages 4 and older learn to swim, through strategies including swim lessons that provide instruction on swimming techniques and water survival skills taught by instructors certified through a nationally recognized curriculum.⁴

K-12 Student and Parent Rights

All K-12 public school students are entitled to a uniform, safe, secure, efficient, and high quality system of education, one that allows students the opportunity to obtain a high quality education. Parents are responsible to ready their children for school.⁵

Each district school board and the governing authority of each private school must require each child who is entitled to initial entrance into a public or private school, to present a certification of a school-entry health examination performed within one year before enrollment in school.⁶ Similar requirements exist for each child to have on file with the immunization registry a certification of immunization for the prevention of specified communicable diseases.⁷

The parent of any child attending a public or private school is exempt by law from student health-related school entrance requirements upon written request of the parent on religious grounds. Such exemptions include the requirement of a health examination⁸ and the administration of immunizations.⁹

Next Generation Sunshine State Standards

Florida's Next Generation Sunshine State Standards include instruction on water safety from kindergarten through high school, involving identifying the dangers of entering a body of water without supervision, rules for safe water activities, and safety equipment and practices relating to water activities.¹⁰

³ American Academy of Pediatrics, *Drowning Prevention for Curious Toddlers: What Parents Need to Know* (March 15, 2019), available at <https://www.healthychildren.org/English/safety-prevention/at-play/Pages/Water-Safety-And-Young-Children.aspx>.

⁴ American Academy of Pediatrics, *Swim Lessons: When to Start & What Parents Should Know* (March 15, 2019), available at <https://www.healthychildren.org/English/safety-prevention/at-play/Pages/swim-lessons.aspx>.

⁵ Section 1002.20(1), F.S.

⁶ Section 1003.22(1), F.S.

⁷ Section 1003.22(4)(a), F.S.

⁸ Section 1003.22(1), F.S.

⁹ Section 1003.22(5)(a), F.S.

¹⁰ See CPALMS, *Standards Information and Resources*, <https://www.cpalms.org/Public/search/Standard#> (last visited March 24, 2021).

III. Effect of Proposed Changes:

SB 358 establishes the “Edna Mae McGovern Act,”¹¹ which creates s. 1003.225, F.S., to, beginning with the 2022-2023 school year, require each district school board and the governing authority of each private school to require each child who is entitled to admittance to kindergarten, or who is entitled to any other initial entrance into a public or private school in this state, to present a certificate of having successfully completed a nationally recognized water safety¹² education course and nationally recognized age-appropriate swimming lessons within one year before enrollment in school. The bill specifies that such certification must comply with the rules adopted by the State Board of Education (SBE).

In addition, the bill:

- Holds a parent of a child admitted to, or in attendance at, a Florida public or private school in prekindergarten through grade 12 responsible for assuring that his or her child is in compliance with demonstrating successful completion of a nationally recognized water safety education course and appropriate swimming lessons. A child is exempt from the certification requirement if his or her parent submits a written objection, based on any grounds, to the school in which the child is enrolled or into which the child is entering.
- Requires the SBE to, subject to the concurrence of the Department of Health, adopt rules necessary to administer and enforce this section by the beginning of the 2022-2023 school year. The rules must prescribe the form of the certification required and define “nationally recognized,” “water safety education course,” and “age appropriate swimming lessons.”
- Specifies that a member or an employee of a district school board, or a member or an employee of the governing board of a private school, is not liable for any injury caused by swimming lessons undertaken by a child as specified.
- Specifies that these requirements do not apply to those persons admitted to or attending adult education classes unless such students are under 21 years of age.

The bill also modifies s. 1002.20, F.S., relating to parental rights over their children’s health, to exempt a child, upon written request from his or her parent, from the requirement of presenting a certificate of having successfully completed a nationally recognized water safety education course and nationally recognized age-appropriate swimming lessons.

The bill also conforms cross-references.

¹¹ The name of the act is based on the accidental drowning in Florida of a girl who was less than two years of age on August 3, 2009. See McGovern Foundation Inc., *Our Story*, <https://www.mcgovernfoundation.com/our-story> (last visited March 25, 2021); Water Smart Broward, *Edna Mae McGovern (12/29/07-9/11/09)* (June 29, 2015), available at <https://watersmartbroward.org/news-stories/stories/edna-mae-mcgovern/>.

¹² The American Red Cross describes water safety through the following components: ensuring every member of one’s family learns to swim to at least achieve skills of water competency (ability to enter the water, get a breath, stay afloat, change position, swim a distance, then get out of the water safely); employing layers of protection including barriers to prevent access to water, life jackets, and close supervision of children to prevent drowning; and knowing what to do in a water emergency, including how to help someone in trouble in the water safely, call for emergency help, and CPR. American Red Cross, *Water Safety*, <https://www.redcross.org/get-help/how-to-prepare-for-emergencies/types-of-emergencies/water-safety.html> (last visited March 25, 2021). “Water competency” means being able to anticipate, avoid, and survive common drowning situations, as well as being able to recognize and provide assistance to those in need. It includes water safety awareness, basic swimming skills, and helping others. Water Safety USA, *Become water competent*, <https://www.watersafetyusa.org/water-competency.html> (last visited March 25, 2021).

The bill takes effect July 1, 2021.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Parents may be responsible for the cost of water safety courses and swimming lessons.

C. Government Sector Impact:

There may be costs for all district school boards and governing authorities of all private schools to administer the requirement in the bill that children upon initial entry present a certificate of having successfully completed a nationally recognized water safety education course and nationally recognized age-appropriate swimming lessons as specified. The costs are not known at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.88, 1002.20, and 1002.42.

This bill creates section 1003.225 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.

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