

- SUBJECT:** Child water safety requirements for certain organizations
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 9 ayes — Klick, Guerra, Allison, Coleman, Jetton, Oliverson, Price, Smith, Zwiener
- 0 nays
- 2 absent — Campos, Collier
- WITNESSES:** For — Alissa Magrum, Colin's Hope; Kimery Duda, The Expedition School; Brian Buster; Juan DelaPena; Korina Delapena; Kim Tyson; (*Registered, but did not testify:* Courtney Hoffman, Camping Association for Mutual Progress; Lulu Jones, Sam's Adventure Camp; Clayton Travis, Texas Pediatric Society; Kara Swinney, The Arc of the Capital Area; and 11 individuals)
- Against — None
- On — (*Registered, but did not testify:* Kevin Veal, Department of State Health Services)
- BACKGROUND:** Health and Safety Code ch. 341 establishes minimum standards of health protection measures that are regulated by the Department of State Health Services.
- Human Resources Code sec. 42.002 defines "child-care facility" as a facility licensed, certified, or registered by the Department of Family and Protective Services to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the facility owner or operator for all or part of the 24-hour day, regardless of whether the facility operates for profit or charges for offered services.

Health and Safety Code sec. 141.002(5) defines "youth camp" as a facility or property, other than a facility required to be licensed by the Department of Family and Protective Services.

Concerns have been raised that drowning is the number one cause of unintentional injury-related deaths for children under 4 and a leading cause up to age 14. It has been suggested that requiring organizations to supply lifejackets for children at risk of drowning would decrease preventable drowning deaths.

**DIGEST:**

CSHB 1676 would establish water safety requirements for certain child-care organizations that provide a child under 18 years of age access to a body of water. The bill would not apply to a youth camp.

Under the bill, "body of water" would mean an artificial or natural body of water, including a swimming pool, lake, or river, typically used for recreational swimming, bathing, or play. The term would exclude a wading pool.

"Wading pool" would mean a pool, including a pool that contained a public interactive water feature and fountain as defined by Department of State Health Services rule, with a maximum water depth of 18 inches.

**Safety requirements.** Specified organizations, including a licensed child-care facility, that provided a child access to a body of water would have to:

- require the child's parent or legal guardian to affirm in writing whether the child was able to swim or was at risk of injury or death when swimming or otherwise accessing a body of water; and
- if the organization did not own or operate the body of water, provide the owner or operator of the body of water a disclosure that clearly identified each child who was unable to swim or was at risk of injury or death when swimming or accessing a body of water.

The bill would require an organization to provide certain personal

flotation devices to a child who was unable to swim or at risk of injury or death when swimming or accessing a body of water when the child was within a fenced-in area around a body of water or within 100 feet of a body of water without a fenced-in area. The organization would have to ensure the child was wearing the appropriate personal flotation device and that the device was properly fitted and fastened.

*Exception.* The bill would not require an organization to provide a child with a flotation device if the child was actively participating in swim instruction and the organization ensured that each child was closely supervised during the instruction.

**Other provisions.** Organizations that violated the bill's provisions would be subject to disciplinary action, including the imposition of an administrative penalty, by any state regulatory agency with the power to take such action.

The executive commissioner of the Health and Human Services Commission could adopt rules to implement the bill's provisions.

The bill would take effect September 1, 2021.