

STATE OF NEW YORK

10660

IN SENATE

July 13, 2026

Introduced by Sen. FAHY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the social services law, the executive law, the public health law and the education law, in relation to adaptive aquatic safety services for individuals with disabilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Legislative findings and intent. The legislature finds
- 2 that:
- 3 1. Individuals with disabilities may face increased risk of injury and
- 4 death in aquatic environments due to physical, developmental, intellec-
- 5 tual, cognitive, sensory, behavioral, or other functional limitations
- 6 affecting aquatic safety.
- 7 2. The federal Medicaid program permits coverage of habilitative
- 8 services under home and community-based services waivers pursuant to
- 9 section 1915(c) of the Social Security Act.
- 10 3. New York has made significant investments in public aquatic infras-
- 11 tructure through the New York state swimming infrastructure and munici-
- 12 pal access initiative, and that such investments should be leveraged to
- 13 improve access to adaptive aquatic safety services.
- 14 4. Adaptive aquatic safety instruction, when individually designed and
- 15 based on identified functional needs, constitutes a habilitative service
- 16 that develops functional safety skills, reduces preventable injury risk,
- 17 and supports community integration.
- 18 5. Improving disability competency among aquatic professionals is
- 19 essential to reducing preventable drownings and promoting safe partic-
- 20 ipation in aquatic activities by individuals with disabilities.
- 21 6. The legislature further finds that expanding disability competency
- 22 among aquatic professionals will improve opportunities for individuals
- 23 with disabilities to safely participate in community-based aquatic
- 24 recreation in the most integrated setting appropriate to their individ-
- 25 ual needs and preferences.
- 26 7. It is therefore the intent of the legislature to establish adaptive
- 27 aquatic safety services as an available habilitative service option for
- 28 individuals with disabilities who require individualized aquatic safety
- 29 instruction consistent with federal home and community-based services
- 30 authority.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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§ 2. The social services law is amended by adding a new section 365-q to read as follows:

§ 365-q. Adaptive aquatic safety services. 1. For purposes of this section, "adaptive aquatic safety services" shall mean individualized habilitative services provided in a community aquatic environment that are designed to develop, maintain, or improve functional aquatic safety skills for individuals with disabilities who require adaptive instruction due to disability-related functional limitations. Such services may include, but shall not be limited to:

- (a) water hazard recognition;
- (b) emergency response behaviors;
- (c) safe aquatic entry and exit skills;
- (d) drowning prevention and risk mitigation skills;
- (e) adaptive communication and safety strategies; and
- (f) caregiver or support person training where appropriate.

2. The commissioner of health, in consultation with the commissioner of the office for people with developmental disabilities and other appropriate state agencies, shall evaluate and, where appropriate, seek approval from the federal centers for Medicare and Medicaid services for the inclusion of adaptive aquatic safety services as an available service component under applicable Medicaid home and community-based services authorities, including waivers authorized pursuant to section 1915(c) of the federal Social Security Act.

3. The commissioner shall ensure that any adaptive aquatic safety services authorized pursuant to this section:

- (a) are provided pursuant to person-centered planning requirements;
- (b) are based upon identified functional needs related to health, safety, independence, or community participation;
- (c) include measurable outcomes; and
- (d) are designed primarily to address health, safety, independence, or community participation goals and are not provided solely as recreational activities.

4. The commissioner shall establish provider qualification standards for adaptive aquatic safety services, which may include requirements relating to:

- (a) adaptive aquatic instruction;
- (b) disability competency;
- (c) communication strategies;
- (d) behavioral support strategies;
- (e) experience providing instruction to individuals with disabilities;
- and
- (f) aquatic emergency response.

5. Nothing in this section shall be construed to limit the ability of individuals eligible for self-directed services to access adaptive aquatic safety services consistent with applicable self-direction requirements.

6. Nothing in this section shall be construed to require reimbursement for general recreational swimming instruction that does not satisfy applicable Medicaid requirements.

§ 3. The executive law is amended by adding a new article 49-D to read as follows:

ARTICLE 49-D

ADAPTIVE AQUATIC ACCESSIBILITY

Section 997. Adaptive aquatic accessibility at state-funded public aquatic facilities.

§ 997. Adaptive aquatic accessibility at state-funded public aquatic facilities. 1. Any state agency, public authority, public benefit corporation, or other entity administering state financial assistance for the construction, reconstruction, renovation, rehabilitation, expansion, or improvement of a public aquatic facility shall require each applicant to describe, as part of its application for such assistance, how the proposed facility will provide and promote access for individuals with disabilities.

2. Such description may include, but need not be limited to:

(a) partnerships with qualified providers of adaptive aquatic safety services;

(b) opportunities for adaptive aquatic safety instruction;

(c) inclusive aquatic programming for individuals with disabilities;

(d) accessibility of the aquatic facility and related amenities; and

(e) policies facilitating the use of the facility by providers furnishing adaptive aquatic safety services.

3. In evaluating applications for state financial assistance, the administering entity shall consider and, notwithstanding any other provision of law, prioritize the applicant's proposed efforts to improve access for individuals with disabilities as one factor among others established by law, regulation, or program guidelines.

4. Nothing in this section shall be construed to require an applicant to establish a particular aquatic program or to provide Medicaid-reimbursable services.

§ 4. Section 206 of the public health law is amended by adding a new subdivision 32 to read as follows:

32. (a) The commissioner shall promulgate regulations requiring every lifeguard certification and lifeguard recertification course approved or recognized by the department to include not less than three hours of instruction concerning aquatic safety for individuals with disabilities.

(b) Such instruction shall include, but not be limited to:

(i) disability awareness and competency;

(ii) communication strategies for individuals with physical, developmental, intellectual, cognitive, sensory, and behavioral disabilities;

(iii) disability-related drowning risk factors;

(iv) supervision and emergency response considerations;

(v) adaptive drowning prevention strategies;

(vi) interaction with caregivers and support persons; and

(vii) inclusive aquatic safety instruction practices.

(c) In developing such curriculum, the commissioner may consult with adaptive aquatic providers, disability advocacy organizations, nationally recognized lifeguard certifying agencies, and other subject matter experts.

§ 5. The education law is amended by adding a new section 4411 to read as follows:

§ 4411. Adaptive aquatic safety. 1. School districts and boards of cooperative educational services may incorporate adaptive aquatic safety goals into individualized education programs where appropriate to address health, safety, community participation, transition planning, or independent living skills.

2. The commissioner shall issue guidance regarding coordination between educational programming and adaptive aquatic safety services authorized pursuant to section three hundred sixty-five-q of the social services law.

§ 6. This act shall take effect on the one hundred eightieth day after it shall have become a law.