



**W**ater. It can be so much fun, but oh so dangerous. The National Safe Kids Campaign (2004) reports that “drowning is the second leading cause of unintentional injury-related death among children ages 1–14 and the leading cause of unintentional injury-related death among children ages 1–4. The majority of drownings and near-drownings occur in residential swimming pools and in open water sites.” Furthermore, in 2004, “approximately 2,300 children ages 14 and under died from unintentional injuries that occurred in the home. Nearly 80 percent of these deaths were among children ages 4 and under.”

Reported cases of swimming pool accidents involving foster children that actually go to trial are not common.<sup>1</sup> Many more cases are filed and settled out of court. A sampling of unfortunate headlines tells the story:

**Suit Settled In Foster Child’s Near-drowning<sup>2</sup>**

**Mother may sue over baby who drowned in foster care<sup>3</sup>**

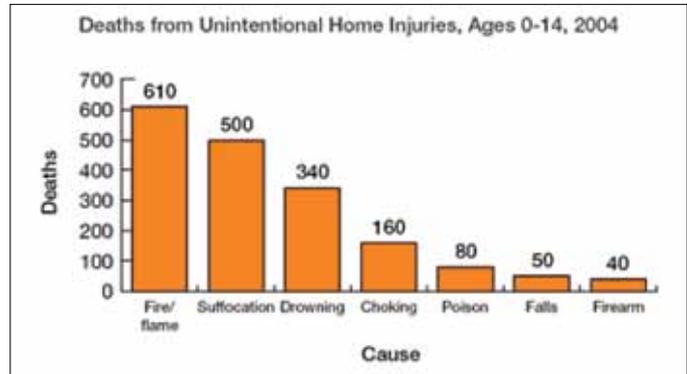
**Toddler ‘drowned in pool while her foster parents partied’<sup>4</sup>**

**Foster child drowns in pool, parents question DHS<sup>5</sup>**

As a result of these lawsuits, child welfare officials have reviewed and revamped safety and training procedures. A review of numerous state regulations regarding swimming pool safety for children in foster care reveals the following common suggestions:

- ♦ If a swimming pool is installed, the foster parent must immediately notify the licensor.
- ♦ The pool must have a barrier on all sides, a specified number of feet high.
- ♦ Any entrances must have a safety feature. This can be a keyed lock, alarm, bolt lock, self-locking door or some other device.
- ♦ If the pool is not being used, it must be locked.

- ♦ Ladders to above-ground pools must be removed when the pool is not being used.
- ♦ Responsible supervision must always be provided.
- ♦ Anyone watching foster children in the pool should know how to swim.
- ♦ Life-saving equipment must be available. This can include such things as a long pole, a ring buoy, or a rescue tube.
- ♦ Foster parents must demonstrate that they have taken an approved water safety course and are currently certified.



many other questions will be asked and will need to be answered.

In the final analysis, as we all know, the real key to preventing a tragedy is to have multiple layers of protection, and to be ever vigilant. ☒

## Keeping Foster Children Safe in the Water

- ♦ Foster children should not be left alone near any body of water even for a moment.
- ♦ Baby sitters and respite care providers should be alerted about potential water hazards.
- ♦ Anyone watching foster children should know how to contact emergency assistance.
- ♦ Anyone watching foster children should know how to perform CPR.

When a swimming pool accident occurs numerous legal questions will be posed: To what extent might the Department of Human Services (DHS) and its employees have immunity? To what extent can the DHS and its employees be held liable due to their licensing oversight function? Did the DHS or its employees breach their duty of oversight during the initial or annual inspection? Can the DHS and its employees be said to have knowledge of a dangerous condition? These and

1. See Texas Department of Family and Protective Services v. Rachel Atwood et al., 176 S.W.3d 522 (2004) and Alan Hunte et al. v. Richard Blumenthal, et al., 238 Conn. 146, 680 A.2d 1231, (1996)
2. [http://articles.baltimoresun.com/1991-05-22/news/9113005412\\_1\\_foster-care-jamar-suit](http://articles.baltimoresun.com/1991-05-22/news/9113005412_1_foster-care-jamar-suit)
3. <http://www.dailymail.co.uk/news/article-472252/Mother-sue-baby-drowned-foster-care.html>
4. <http://www.thisislondon.co.uk/news/article-23406246-toddler-drowned-in-pool-as-her-foster-parents-partied.do>
5. <http://www.news9.com/story/8581393/foster-child-drowns-in-pool-parents-question-dhs?clienttype=printable&redirected=true>

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