

CS/CS/HB 431

2012

1 A bill to be entitled
2 An act relating to the joint use of public school
3 facilities; creating s. 1013.105, F.S.; providing
4 legislative findings; encouraging each district school
5 board to adopt written policies to promote public
6 access to outdoor recreation and sports facilities on
7 school property, to increase the number of joint-use
8 agreements, and to develop and adopt policies and
9 procedures for an appeal process if negotiations for a
10 joint-use agreement fail; providing duties of district
11 school boards and the Department of Education;
12 creating s. 768.072, F.S.; providing immunity from
13 liability for a district school board that adopts
14 public access policies or enters into a joint-use
15 agreement except in instances of gross negligence or
16 intentional misconduct; defining the term "gross
17 negligence"; providing application; providing an
18 effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Section 1013.105, Florida Statutes is created
23 to read:

24 1013.105 Joint use of public school facilities.—

25 (1) The Legislature finds that greater access to
26 recreation and sports facilities is needed to reduce the impact
27 of obesity on personal health and health care expenditures. The
28 Legislature further finds that public schools are equipped with

29 taxpayer-funded playgrounds, fields, tracks, courts, and other
 30 outdoor recreation and sports facilities that offer easily
 31 accessible opportunities for physical activity for residents of
 32 the community.

33 (2) Each district school board is encouraged to:

34 (a) Adopt written policies to promote public access to the
 35 outdoor recreation and sports facilities on public school
 36 property during nonschool hours when a school-sponsored or
 37 school-related activity is not occurring. A public access policy
 38 should outline the outdoor recreation and sports facilities that
 39 are open to the public and the hours the facilities are open.

40 (b) Increase the number of joint-use agreements entered
 41 into with a local government or a private organization. A joint-
 42 use agreement should set forth the terms and conditions for the
 43 shared use of outdoor recreation and sports facilities on public
 44 school property.

45 (c) Develop and adopt policies and procedures providing
 46 for an appeal process in which a party seeking to enter into a
 47 joint-use agreement with a school district pursuant to this
 48 section may file an appeal with the district school
 49 superintendent if the negotiations for such joint-use agreement
 50 fail.

51
 52 Within 30 days after adopting a public access policy or entering
 53 into a joint-use agreement, a district school board must submit
 54 a copy of the policy or agreement to the Department of
 55 Education.

56 (3) The Department of Education shall:

57 (a) Develop a model joint-use agreement and post the model
 58 agreement on its website.

59 (b) Post on its website links to or copies of all district
 60 school board public access policies and joint-use agreements
 61 submitted to the department by a district school board.

62 (c) Develop criteria for the acceptance of grants for
 63 implementing joint-use agreements and post the criteria on its
 64 website.

65 Section 2. Section 768.072, Florida Statutes, is created
 66 to read:

67 768.072 Limitation on public school premises liability.-

68 (1) A district school board is not liable for civil
 69 damages for personal injury, property damage, or death that
 70 occurs on a public school property that the district school
 71 board has opened up to the public, through public access
 72 policies or joint-use agreements under s. 1013.105, unless gross
 73 negligence or intentional misconduct on the part of the district
 74 school board is a proximate cause of the injury, damage, or
 75 death.

76 (2) As used in this section, the term "gross negligence"
 77 means the intentional failure to perform a manifest duty in
 78 reckless disregard of the consequences as affecting the life or
 79 property of another.

80 (3) Nothing in this section shall be deemed a waiver of
 81 sovereign immunity beyond the limited waiver in s. 768.28.

82 Section 3. This act shall take effect July 1, 2012.