

By Senator Norman

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1                                   A bill to be entitled  
2           An act relating to the use of public school grounds  
3           and facilities; providing that a public school that  
4           substantially implements specified public uses of its  
5           grounds or facilities is not liable for personal  
6           injury or property damage unless the injury or damage  
7           is due to gross negligence; defining the term "gross  
8           negligence"; amending s. 810.097, F.S.; providing that  
9           a student who is not under suspension or expulsion and  
10          who is on a public school's grounds or facilities for  
11          the purpose of engaging in physical fitness or  
12          recreation does not commit a trespass; revising the  
13          definition of the term "school" to conform to changes  
14          made by the act; amending s. 1013.10, F.S.; providing  
15          legislative findings and intent; providing  
16          definitions; authorizing a district school board to  
17          permit the use of public school facilities and grounds  
18          for physical fitness and recreation; encouraging each  
19          district school board to enter into a joint use  
20          agreement that provides local community access to a  
21          public school's grounds and facilities for physical  
22          fitness and recreation; requiring that each district  
23          school board provide public access to public school  
24          playgrounds, courts, tracks, and fields; providing  
25          that access points to public school recreation  
26          facilities may be locked during regular school hours,  
27          but may not be locked during nonschool hours;  
28          providing that access points may be protected by  
29          staggered fencing or any other method of restriction

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30 that prevents vehicles from entering public school  
31 grounds or facilities; requiring that the Department  
32 of Education develop a model joint use agreement and  
33 publish the model agreement on its Internet website;  
34 requiring that each district school board provide the  
35 department with copies of or electronic links to joint  
36 use agreements, upon the department's request;  
37 requiring that the department publish the copies or  
38 electronic links on its Internet website; requiring  
39 that the department adopt rules specifying criteria  
40 for a grant application process; requiring that each  
41 district school board adopt rules; providing an  
42 effective date.

43  
44 WHEREAS, every year an estimated 300,000 people in the  
45 United States die because they are overweight or obese, and

46 WHEREAS, since the 1970's, the number of overweight  
47 children in the state has increased by 300 percent, and

48 WHEREAS, overweight and obese children experience the same  
49 health risk factors as overweight and obese adults, such as  
50 heart disease, high blood pressure, high cholesterol levels, and  
51 type 2 diabetes, once referred to as "adult-onset diabetes," and

52 WHEREAS, studies have shown that up to 80 percent of  
53 overweight adolescents become overweight adults, and

54 WHEREAS, 14 percent of cancer deaths in men and 20 percent  
55 of cancer deaths in women are due to being overweight and obese,  
56 and

57 WHEREAS, the annual economic impact on the United States  
58 health care system caused by an overweight and obese population

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59 is estimated by the Centers for Disease Control and Prevention  
60 at \$147 billion, and

61 WHEREAS, a recent study by a major insurance carrier stated  
62 that 50 percent of all Americans will have diabetes by the year  
63 2020, which will cost the health care system approximately \$3.35  
64 trillion dollars if current trends in obesity are not abated,  
65 and

66 WHEREAS, many communities, especially more urbanized ones,  
67 have little or no access to parks or playgrounds, and

68 WHEREAS, providing greater access to public school  
69 recreation and athletic facilities will make it more convenient  
70 for kids and families to exercise and play in multiple  
71 locations, NOW, THEREFORE,

72  
73 Be It Enacted by the Legislature of the State of Florida:

74  
75 Section 1. Limitation on public school premises liability.-

76 (1) A public school that substantially implements the uses  
77 of its grounds or facilities pursuant to s. 1013.10, Florida  
78 Statutes, is not liable for personal injury or property damage  
79 unless the injury or damage is due to gross negligence.

80 (2) As used in this section, the term "gross negligence"  
81 means a lack of proper maintenance or upkeep of public school  
82 grounds and facilities or a failure to cordon off or restrict  
83 access to a piece of equipment or an area that is in need of  
84 repair and that would reasonably endanger a student during  
85 normal school hours.

86 Section 2. Present subsection (5) of section 810.097,  
87 Florida Statutes, is renumbered as subsection (6) and amended,

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88 and a new subsection (5) is added to that section, to read:

89 810.097 Trespass upon grounds or facilities of a school;  
90 penalties; arrest.-

91 (5) A student who is not under suspension or expulsion and  
92 who is on a public school's grounds or facilities for the  
93 purpose of engaging in physical fitness or recreation does not  
94 commit a trespass as provided in subsection (1).

95 (6)-(5) As used in this section, the term "school" means the  
96 grounds or any facility of any kindergarten, elementary school,  
97 middle school, junior high school, or secondary school, whether  
98 public or nonpublic, unless otherwise specified.

99 Section 3. Section 1013.10, Florida Statutes, is amended to  
100 read:

101 1013.10 Use of buildings and grounds.-

102 (1) LEGISLATIVE FINDINGS AND INTENT.-The Legislature finds  
103 that public schools are equipped with taxpayer-funded  
104 playgrounds, fields, tracks, courts, and other facilities that  
105 provide quick and easy access to residents regardless of income.  
106 The Legislature intends to allow greater access to public school  
107 grounds and facilities for the purpose of providing  
108 opportunities for physical fitness and recreation and reducing  
109 the impact that an increasingly overweight and obese population  
110 has on health care expenditures.

111 (2) DEFINITIONS.-As used in this section, the term:

112 (a) "Joint use agreement" means a formal agreement between  
113 a district school board and a local government or a private  
114 organization which sets forth the terms and conditions for the  
115 shared public use of a public school's grounds or facilities.

116 (b) "Public access" means unencumbered access to a public

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117 school's grounds and facilities, including playgrounds, courts,  
118 tracks, and fields, for the purpose of engaging in physical  
119 fitness and recreation during nonschool hours, but not during a  
120 previously scheduled school-related activity.

121 (c) "Access point" means a place where the public can pass  
122 through to access the public school's grounds or facilities.

123 (d) "Department" means the Department of Education.

124 (3) PUBLIC USES.—A district school ~~The board may permit the~~  
125 use of public school grounds and facilities ~~educational~~  
126 ~~facilities and grounds for any legal assembly, or for community~~  
127 use centers, or physical fitness and recreation ~~or may permit~~  
128 ~~the same to be used as voting places in any primary, regular, or~~  
129 special election.

130 (4) JOINT USE AGREEMENTS.—Each district school board is  
131 encouraged to enter into a joint use agreement that provides the  
132 local community access to a public school's grounds and  
133 facilities.

134 (5) PUBLIC ACCESS.—Each district school board shall provide  
135 access to public school grounds and facilities, including  
136 playgrounds, courts, tracks, and fields. Access points to public  
137 school grounds and facilities may be locked during regular  
138 school hours; however, the access points may not be locked  
139 during nonschool hours. Access points may be restricted by  
140 staggered fencing or any other method of restriction to prevent  
141 vehicles from entering public school grounds or facilities.

142 (6) DEPARTMENT.—The department shall develop a model joint  
143 use agreement and publish the model agreement on its Internet  
144 website. Upon the department's request, each district school  
145 board shall provide copies of or electronic links to the

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146 district school board's joint use agreements under this section.  
147 The department shall publish the copies or electronic links on  
148 its Internet website. The department shall adopt rules  
149 specifying criteria for a grant application process pursuant to  
150 this section.

151 (7) RULES.—Each district school ~~The board shall adopt~~  
152 ~~rules, regulations, or policies and procedures necessary to~~  
153 ~~protect public school grounds and facilities~~ educational  
154 ~~facilities and grounds~~ when used for the ~~such~~ purposes  
155 authorized in this section and to administer this section.

156 Section 4. This act shall take effect July 1, 2012.