

By the Committee on Education Pre-K - 12; and Senators Norman and Negrón

581-02975-12

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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, increase the number of joint-use
8 agreements, and develop and adopt policies and
9 procedures for an appeal process when negotiations for
10 a joint-use agreement fail; providing duties of
11 district school boards and the Department of
12 Education; creating s. 768.072, F.S.; providing
13 immunity from liability for a district school board
14 that adopts public access policies or enters into a
15 joint-use agreement except in instances of gross
16 negligence or intentional misconduct; defining the
17 term "gross negligence"; providing an effective date.

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

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

23 1013.105 Joint use of public school facilities.-

24 (1) The Legislature finds that greater access to recreation
25 and sports facilities is needed to reduce the impact of obesity
26 on personal health and health care expenditures. The Legislature
27 further finds that public schools are equipped with taxpayer-
28 funded playgrounds, fields, tracks, courts, and other outdoor
29 recreation and sports facilities that offer easily accessible

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30 opportunities for physical activity for residents of the
31 community.

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

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

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

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

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

55 (3) The Department of Education shall:

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

58 (b) Post on its website links to or copies of all district

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59 school board public access policies and joint-use agreements
60 submitted to the department by a district school board.

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

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

66 768.072 Limitation on public school premises liability.—

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

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

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