

A bill to be entitled

An act relating to the joint use of public school facilities; creating s. 1013.105, F.S.; providing legislative findings; encouraging each district school board to adopt written policies to promote public access to outdoor recreation and sports facilities on school property, to increase the number of joint-use agreements, and to develop and adopt policies and procedures for an appeal process if negotiations for a joint-use agreement fail; providing duties of district school boards and the Department of Education; creating s. 768.072, F.S.; providing immunity from liability for a district school board that adopts public access policies or enters into a joint-use agreement except in instances of gross negligence or intentional misconduct; providing application; providing an effective date.

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

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

1013.105 Joint use of public school facilities.—

(1) The Legislature finds that greater access to recreation and sports facilities is needed to reduce the impact of obesity on personal health and health care expenditures. The

27 Legislature further finds that public schools are equipped with
28 taxpayer-funded playgrounds, fields, tracks, courts, and other
29 outdoor recreation and sports facilities that offer easily
30 accessible opportunities for physical activity for residents of
31 the 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 specify 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
45 for 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 if the negotiations for such joint-use agreement
49 fail. The decision of the district school superintendent with
50 regard to the appeal process for joint-use agreements does not
51 constitute final agency action for purposes of chapter 120.

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

57 (3) The Department of Education shall:

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

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

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

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

68 768.072 Limitation on public school premises liability.-

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

76 (2) This section does not affect liability for injury,
77 damage, or death that occurs during school hours or during a
78 school-related or school-sponsored activity.

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79 (3) This section does not waive sovereign immunity beyond
80 the limited waiver in s. 768.28.

81 Section 3. This act shall take effect July 1, 2014.