

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 develop written policies to promote public  
 6           access to outdoor recreation and sports facilities on  
 7           school property and increase joint-use agreements;  
 8           providing duties of the Department of Education;  
 9           creating s. 768.072, F.S.; providing immunity from  
 10          liability for a district school board that adopts  
 11          public access policies or enters into a joint-use  
 12          agreement except in instances of gross negligence or  
 13          intentional misconduct; defining the term "gross  
 14          negligence"; providing an effective date.

15  
 16   Be It Enacted by the Legislature of the State of Florida:

17  
 18           Section 1.   Section 1013.105, Florida Statutes is created  
 19   to read:

20           1013.105 Joint use of public school facilities.-  
 21           (1) The Legislature finds that greater access to  
 22           recreation and sports facilities is needed to reduce the impact  
 23           of obesity on personal health and health care expenditures. The  
 24           Legislature further finds that public schools are equipped with  
 25           taxpayer-funded playgrounds, fields, tracks, courts, and other  
 26           outdoor recreation and sports facilities that offer easily  
 27           accessible opportunities for physical activity for residents of  
 28           the community.

- 29        (2) Each district school board is encouraged to:
- 30        (a) Adopt written policies to promote public access to the
- 31 outdoor recreation and sports facilities on public school
- 32 property during nonschool hours when a school-sponsored or
- 33 school-related activity is not occurring. A public access
- 34 policy should outline the outdoor recreation and sports
- 35 facilities that are open to the public and the hours the
- 36 facilities are open.
- 37        (b) Increase the number of joint use agreements entered
- 38 into with a local government or a private organization. A joint
- 39 use agreement should set forth the terms and conditions for the
- 40 shared use of outdoor recreation and sports facilities on public
- 41 school property.
- 42
- 43 Within 30 days of adopting a public access policy or entering
- 44 into a joint use agreement, a district school board must submit
- 45 a copy of the policy or agreement to the Department of
- 46 Education.
- 47        (3) The Department of Education shall:
- 48        (a) Develop a model joint use agreement and post the model
- 49 agreement on its website.
- 50        (b) Post on its website links to or copies of all district
- 51 school board public access policies and joint use agreements
- 52 submitted to the department by a district school board.
- 53        (c) Develop criteria for the acceptance of grants for
- 54 implementing joint use agreements and post the criteria on its
- 55 website.

56            Section 2. Section 768.072, Florida Statutes, is

PCS FOR HB 431

ORIGINAL

2012

57 created to read:

58 768.072 Limitation on public school premises liability.-

59 (1) A district school board is not liable for civil  
60 damages for personal injury, property damage, or death that  
61 occurs on a public school property that the district school  
62 board has opened up to the public, through public access  
63 policies or joint use agreements, under s. 1013.105, unless  
64 gross negligence or intentional misconduct on the part of the  
65 district school board is a proximate cause of the damage,  
66 injury, or death.

67 (2) As used in this section, "gross negligence" is the  
68 intentional failure to perform a manifest duty in reckless  
69 disregard of the consequences as affecting the life or property  
70 of another.

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