

SENATE BILL No. 415

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-31-10.

Synopsis: Liability for use of school facilities. Limits the liability of a school that provides physical fitness activities to the general public.

Effective: July 1, 2012.

Schneider, Head

January 9, 2012, read first time and referred to Committee on Education and Career Development.

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Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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SENATE BILL No. 415



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-31-10 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]:
4 **Chapter 10. Limited Liability Arising From the Public Use of**
5 **School Facilities for Physical Fitness Activities**
6 **Sec. 1. The limited liability provided in this chapter is in**
7 **addition to any immunity or limited liability provided by the**
8 **Indiana tort claims act (IC 34-13-3).**
9 **Sec. 2. (a) This chapter does not apply to activities if the**
10 **participant is paid to participate in the activity.**
11 **(b) This chapter does not apply to a school that does not comply**
12 **with the requirements concerning signs and warning notices**
13 **required by this chapter.**
14 **Sec. 3. As used in this chapter, "inherent risk of a physical**
15 **fitness activity" means a condition, danger, or hazard that is an**
16 **integral part of:**
17 **(1) a physical fitness activity;**



1 (2) the use of exercise equipment; or
 2 (3) the use of a facility provided by a school;
 3 as determined by a reasonable person considering the nature of the
 4 activity, equipment, or facility. The term includes the negligent acts
 5 of a participant that may contribute to injury to the participant or
 6 others, including failing to follow instructions, failing to exercise
 7 reasonable caution while engaging in activity, or failing to obey
 8 written warnings or postings.

9 Sec. 4. As used in this chapter, "participant" means a person
 10 who is engaging in a school physical fitness activity. The term does
 11 not include a school employee or other person providing, directing,
 12 or supervising the school physical fitness activity.

13 Sec. 5. As used in this chapter, "school" means a public school
 14 (as defined by IC 20-18-2-15) or an accredited nonpublic school (as
 15 defined by IC 20-18-2-12).

16 Sec. 6. As used in this chapter, "school physical fitness activity"
 17 means an activity where the general public is invited to use school
 18 property, school equipment, or a school facility to participate in a
 19 physical fitness activity, including participation in sports,
 20 weightlifting, running, swimming, diving, bicycling, or any other
 21 similar activity, whether or not the member of the public pays to
 22 participate in the activity.

23 Sec. 7. Except as provided in sections 8 through 10 of this
 24 chapter, a school is not liable for the death or injury of a
 25 participant that results from an inherent risk of a physical fitness
 26 activity. A participant or the representative of a participant may
 27 not:

- 28 (1) make a claim against;
- 29 (2) bring or maintain an action against; or
- 30 (3) recover damages from;

31 a school for injury, loss, damage, or death of a participant that
 32 results from the inherent risk of a physical fitness activity.

33 Sec. 8. Section 7 of this chapter does not prevent or limit the
 34 liability of a school:

- 35 (1) that has actual knowledge of, or that knows or reasonably
 36 should have known of, a dangerous condition on the property,
 37 facilities, or equipment used in the school physical fitness
 38 activity;
- 39 (2) that fails to properly train a school employee or other
 40 person providing, directing, or supervising the school physical
 41 fitness activity, if the act or omission proximately causes the
 42 loss;

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(3) for an act or omission that is the result of willful, wanton, or intentional misconduct.

Sec. 9. Section 7 of this chapter does not prevent or limit the liability of a school that receives monetary consideration for a school physical fitness activity from any person other than a government agency unless the school:

(1) posts and maintains a sign on which is printed the warning notice set forth in section 11 of this chapter; or

(2) has received a signed release from the participant indicating that the participant has received written notice of the warning set forth in section 11 of this chapter.

Sec. 10. If there is a written contract between a school and a participant for the provision of a school physical fitness activity, section 7 of this chapter does not prevent or limit the liability of a school unless the contract contains the warning notice set forth in section 11 of this chapter.

Sec. 11. (a) The warning notice described in sections 9 through 10 of this chapter must state the following:

WARNING

Under Indiana law, a school is not liable for an injury to, or the death of, a participant in physical fitness activities at this location if the death or injury results from the inherent risks of the physical fitness activity.

Inherent risks of physical fitness activities include risks of injury inherent in exercise, the nature of a sport, the use of exercise equipment, or the use of a facility provided by a school. Inherent risks also include the potential that you may act in a negligent manner that may contribute to your injury or death, or that other participants may act in a manner that may result in injury or death to you.

You are assuming the risk of participating in this physical fitness activity.

(b) If this warning notice is posted on a sign as described in section 9 of this chapter, the warning must be posted in letters at least one (1) inch in height on a sign placed in a location where participants will likely be.

(c) If this warning notice is included in a written contract as described section 10 of this chapter, the notice must be in at least 14 point bold face type.

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