

HOUSE BILL No. 1159

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-31-10.

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

Effective: July 1, 2013.

Huston, Behning

January 10, 2013, read first time and referred to Committee on Judiciary.

C
o
p
y



First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

C
o
p
y

HOUSE BILL No. 1159



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, 2013]:
 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. This chapter does not apply to an activity if the**
 10 **participant is paid to participate in the activity.**
 11 **Sec. 3. (a) As used in this chapter, "inherent risk of a physical**
 12 **fitness activity" means a condition, danger, or hazard that is an**
 13 **integral part of:**
 14 **(1) a physical fitness activity;**
 15 **(2) the use of exercise equipment; or**
 16 **(3) the use of a facility provided by a school;**
 17 **as determined by a reasonable person considering the nature of the**



1 activity, equipment, or facility.

2 (b) The term includes the negligent acts of a participant that
3 may contribute to injury to the participant or others, including:

4 (1) failing to follow instructions;

5 (2) failing to exercise reasonable caution while engaging in an
6 activity; or

7 (3) failing to obey written warnings or postings.

8 Sec. 4. (a) As used in this chapter, "participant" means a person
9 who is engaging in a school physical fitness activity.

10 (b) The term does not include a school employee or other person
11 providing, directing, or supervising the school physical fitness
12 activity.

13 Sec. 5. As used in this chapter, "school" means:

14 (1) a public school (as defined in IC 20-18-2-15); or

15 (2) an accredited nonpublic school (as defined in
16 IC 20-18-2-12).

17 Sec. 6. As used in this chapter, "school physical fitness activity"
18 means an activity in which the general public is invited to use:

19 (1) school property;

20 (2) school equipment; or

21 (3) a school facility;

22 to participate in a physical fitness activity, including sports,
23 weightlifting, running, swimming, diving, bicycling, or any other
24 similar activity, whether or not the member of the public pays to
25 participate in the activity.

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

31 (1) make a claim against;

32 (2) bring or maintain an action against; or

33 (3) recover damages from;

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

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

38 (1) that has actual knowledge of, or that knows or reasonably
39 should have known of, a dangerous condition on the property,
40 facilities, or equipment used in the school physical fitness
41 activity;

42 (2) that fails to properly train a school employee or other

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

person providing, directing, or supervising the school physical fitness activity, if the act or omission of the school employee or other person proximately causes the injury, loss, damage, or death; or

(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 the warning notice set forth in subsection (a) is posted on a sign as described in section 9(1) of this chapter, the warning must be posted on the sign in letters at least one (1) inch in height and the sign must be placed in a location where participants will likely be present during the school physical fitness activity.

(c) If the warning notice set forth in subsection (a) is included in

C
O
P
Y



1 **a written contract as described section 10 of this chapter, the notice**
2 **must be in at least 14 point boldface type.**

C
o
p
y

