

The Senate Judiciary Committee offered the following substitute to SB 12:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to
2 general provisions for torts, so as to limit liability for a governing authority of a school that
3 enters into a recreational joint-use agreement with a public or private entity; to provide for
4 definitions; to provide for specifications for a recreational joint-use agreement; to provide
5 for applicability; to provide an effective date; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
10 provisions for torts, is amended by adding a new Code section to read as follows:

11 "51-1-52.

12 (a) As used in this Code section, the term:

13 (1) 'Facilities' means a school's buildings, fixtures, and equipment, including, but not
14 limited to, classrooms, libraries, rooms and space for physical education, space for fine
15 arts, restrooms, specialized laboratories, cafeterias, media centers, building equipment,
16 building fixtures, furnishings, gardens, tracks, stadiums, and other facilities or portions
17 of facilities used primarily for athletic competition.

18 (2) 'Recreational joint-use agreement' means a written agreement between the governing
19 authority of a school and a public or private entity authorizing such entity to access the
20 facilities of a school under the governing authority's jurisdiction for the purposes of
21 conducting or engaging in recreational, physical, or performing arts activity.

22 (3) 'School' means any public pre-kindergarten, elementary school, or secondary school.

23 (b) A recreational joint-use agreement shall:

24 (1) Set forth the terms and conditions of the use of a facility;

25 (2) Include a hold harmless provision in favor of the governing authority;

26 (3) Be revocable at any time by the governing authority of the school; and

- 27 (4) Require the public or private entity to maintain and provide proof of a minimum of
 28 \$1 million in liability insurance coverage effective for the duration of such agreement.
- 29 (c) The governing authority of a school, when operating pursuant to a recreational
 30 joint-use agreement, shall not be liable for any civil damages arising from the use of the
 31 school's facilities unless it is proven by clear and convincing evidence that injuries or
 32 damages arising from such use were caused by the gross negligence or willful or wanton
 33 misconduct of the school's governing authority; provided, however, that such limitation of
 34 liability shall not apply unless the entity accessing or using the facilities of a school
 35 pursuant to a recreational joint-use agreement has a minimum of \$1 million in liability and
 36 accident insurance coverage applicable to its use of the facilities.
- 37 (d) Code Section 51-12-33 shall not apply to claims for civil damages arising from the use
 38 of a school's facilities pursuant to a recreational joint-use agreement.
- 39 (e) This Code section shall apply to causes of action arising on or after July 1, 2013."

40 **SECTION 2.**

41 This Act shall become effective on July 1, 2013.

42 **SECTION 3.**

43 All laws and parts of laws in conflict with this Act are repealed.