

Senate Bill 423

By: Senators Albers of the 56th, Beach of the 21st, Kirkpatrick of the 32nd and Martin of the 9th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-5-61 of the Official Code of Georgia Annotated, relating to
2 hazing, so as to provide for an expanded definition of hazing; to provide for inclusion of
3 minors as the subject of hazing; to provide for penalties; to amend Chapter 1 of Title 20 of
4 the Official Code of Georgia Annotated, relating to education generally, so as to provide for
5 the Department of Education, the Board of Regents of the University System of Georgia, the
6 State Board of the Technical College System of Georgia, and the governing bodies of private
7 schools in this state to develop respective plans for hazing awareness, prevention, and
8 intervention; to provide for the establishment of a State Anti-Hazing Fund; to provide for
9 mandatory information programs on hazing at schools in the state; to provide for mandatory
10 reports of hazing related violations at schools in the state; to amend Part 3 of Article 2 of
11 Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to student
12 organization responsibility for drug abuse, so as to make student organizations responsible
13 for hazing; to provide for and revise definitions; to provide for a short title; to provide for
14 related matters; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**SECTION 1.**

17 This Act shall be known and may be cited as the "Max Gruver Act."

18 style="text-align:center">**SECTION 2.**

19 Code Section 16-5-61 of the Official Code of Georgia Annotated, relating to hazing, is
20 amended as follows:

21 "16-5-61.

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

23 (1) 'Alcohol' means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from
24 whatever source or by whatever process produced.

- 25 (2) 'Alcoholic liquid' means any liquid which contains alcohol in any form, including,
 26 but not limited to, distilled spirits, beer, malt beverages, wine, or fortified wine.
- 27 ~~(1)~~(3) 'Haze' or 'hazing' means to force or subject a minor or student to an activity,
 28 regardless of whether the minor or student is willing to participate in such activity, which
 29 endangers or is likely to endanger the physical or mental health of a the minor or student;
 30 regardless of a student's willingness to participate in such activity or which causes or is
 31 likely to cause the minor or student to:
- 32 (A) Violate federal or state law;
- 33 (B) Consume any food, liquid, alcoholic liquid, drug, or other substance in a manner
 34 which subjects the minor or student to a substantial risk of emotional, mental, or
 35 physical harm, including, but not limited to, sickness, vomiting, intoxication, or
 36 unconsciousness;
- 37 (C) Experience threatened or actual exposure to physical injury, including, but not
 38 limited to, injury resulting from whipping, beating, paddling, branding, dangerous
 39 physical activity, or exposure to elements, which exposure results in medically
 40 verifiable mental or physical harm; or
- 41 (D) Experience threatened or actual exposure to mental injury, including, but not
 42 limited to, injury resulting from activity adversely affecting the mental health or dignity
 43 of the individual, sleep deprivation, exclusion from social contact, or conduct that could
 44 result in extreme embarrassment, which exposure results in medically verifiable mental
 45 or physical harm.
- 46 (4) 'Local affiliate organization' means a school organization that is chartered or
 47 recognized by a national organization.
- 48 (5) 'Local organization' means a school organization that is not chartered or recognized
 49 by a national organization.
- 50 (6) 'Minor' means any person under the age of 18 years.
- 51 (7) 'National organization' means a school organization that is a separate legal entity than
 52 a local affiliate organization which may charter or recognize local affiliate organizations
 53 at one or more schools.
- 54 (8) 'Postsecondary educational institution' means a school which is:
- 55 (A) A unit of the University System of Georgia;
- 56 (B) A unit of the Technical College System of Georgia; or
- 57 (C) An independent or private college or university located in Georgia and eligible to
 58 be deemed an approved school pursuant to paragraph (2) of Code Section 20-3-411.
- 59 ~~(2)~~(9) 'School' means any public or private school, college, or university, or secondary
 60 school in this state.

61 ~~(3)~~(10) 'School organization' means any club, society, fraternity, sorority, or a group
 62 living together which has students as its principal members association; corporation;
 63 order; club; society; fraternity; sorority; interscholastic, intercollegiate, or club athletic
 64 team; group living together which has students as its principal members; or similar group
 65 whose members are primarily students or alumni of a school.

66 (11) 'Serious bodily injury' includes, but is not limited to, incapacitation which results
 67 from or is in conjunction with the consumption of alcoholic liquid and which requires
 68 emergency medical attention or which results in a blood alcohol concentration of 0.25
 69 grams or more.

70 ~~(4)~~(12) 'Student' means any person attending or enrolled in a school in this state or who
 71 has been accepted for admission to the school where the hazing incident occurred which
 72 gives rise to an offense under this Code section.

73 (b) It shall be unlawful for any person to haze any minor or student in connection with or
 74 as a condition or precondition of gaining acceptance, membership, office, or other status,
 75 including enhanced status, in a school organization.

76 (c) Except as provided for in subsections (d) and (e) of this Code section, any person who
 77 commits the offense of hazing ~~Any person who violates this Code section shall, upon~~
 78 conviction thereof, be guilty of a misdemeanor of a high and aggravated nature and shall
 79 be punished by imprisonment for not more than 12 months or a fine not to exceed
 80 \$5,000.00, or both.

81 (d) Any person who commits the offense of hazing against a minor or student who suffers
 82 serious bodily injury or death as a result of such hazing shall, upon conviction thereof, be
 83 guilty of a felony and shall be punished by imprisonment for not less than one nor more
 84 than ten years or a fine not to exceed \$25,000.00, or both.

85 (e)(1) Any person who directs, encourages, or participates in an act of alleged hazing
 86 which results in an injury to another person shall, to the extent possible without danger
 87 or peril to himself or herself or another, give reasonable assistance to the injured person,
 88 including but not limited to requesting medical attention for the injured person directly
 89 to a health services provider, law enforcement official, or school official, or by contacting
 90 9-1-1 or a similar emergency service.

91 (2) Except as provided for in paragraph (3) of this subsection, a person who fails to
 92 render reasonable assistance as required by this subsection shall, upon conviction, be
 93 guilty of a misdemeanor of a high and aggravated nature and shall be punished by
 94 imprisonment for not more than 12 months or a fine not to exceed \$5,000.00, or both.

95 (3) A person who fails to render reasonable assistance as required by this subsection to
 96 an injured person who suffers serious bodily injury or death shall, upon conviction, be

97 guilty of a felony and shall be punished by imprisonment for not less than one nor more
 98 than five years or a fine not to exceed \$25,000.00, or both.

99 (f)(1) Expressed or implied consent of the minor or student who is the subject of hazing
 100 shall not be a defense to the offense of hazing.

101 (2) The fact that the acts or omissions which constituted the hazing were sanctioned,
 102 approved, or treated as traditional or customary by the school organization, local
 103 organization, local affiliate organization, national organization, or school shall not be a
 104 defense to the offense of hazing.

105 (g)(1) A person acting in good faith and in a timely manner who reports or participates
 106 in reporting an allegation of hazing to a law enforcement official or a school official in
 107 advance of the hazing and who takes reasonable steps to prevent the hazing shall not be
 108 subject to civil or criminal liability arising from the reported hazing incident.

109 (2) A person acting in good faith and in a timely manner shall not be subject to
 110 administrative, civil, or criminal liability related to alcohol or drug possession,
 111 consumption, or distribution if a law enforcement official or school official has contact
 112 with the person because the person:

113 (A) Requests emergency medical attention for himself or herself or another person who
 114 needs or appears to need medical attention because of an injury or alcohol or drug
 115 consumption related to alleged hazing;

116 (B) Acts in concert with another person who requests emergency medical attention for
 117 himself or herself or another person who needs or appears to need medical attention
 118 because of an injury or alcohol or drug consumption related to alleged hazing; or

119 (C) Appears to be in need of emergency medical attention because of an injury or
 120 alcohol or drug consumption related to alleged hazing."

121 **SECTION 3.**

122 Chapter 1 of Title 20 of the Official Code of Georgia Annotated, relating to education
 123 generally, is amended by adding a new article to read as follows:

124 "ARTICLE 3

125 20-1-30.

126 As used in this article, the term:

127 (1) 'Alcohol' means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from
 128 whatever source or by whatever process produced.

129 (2) 'Alcoholic liquid' means any liquid which contains alcohol in any form, including,
 130 but not limited to, distilled spirits, beer, malt beverages, wine, or fortified wine.

131 (3) 'Hazing' means to force or subject a minor or student to an activity, regardless of
 132 whether the minor or student is willing to participate in such activity, which endangers
 133 or is likely to endanger the physical or mental health of the minor or student or which
 134 causes or is likely to cause the minor or student to:

135 (A) Violate federal or state law;

136 (B) Consume any food, liquid, alcoholic liquid, drug, or other substance in a manner
 137 which subjects the minor or student to a substantial risk of emotional, mental, or
 138 physical harm, including, but not limited to, sickness, vomiting, intoxication, or
 139 unconsciousness;

140 (C) Experience threatened or actual exposure to physical injury, including, but not
 141 limited to, injury resulting from whipping, beating, paddling, branding, dangerous
 142 physical activity, or exposure to elements, which exposure results in medically
 143 verifiable mental or physical harm; or

144 (D) Experience threatened or actual exposure to mental injury, including, but not
 145 limited to, injury resulting from activity adversely affecting the mental health or dignity
 146 of the individual, sleep deprivation, exclusion from social contact, or conduct that could
 147 result in extreme embarrassment, which exposure results in medically verifiable mental
 148 or physical harm.

149 (4) 'Local affiliate organization' means a school organization that is chartered or
 150 recognized by a national organization.

151 (5) 'Minor' means any person under the age of 18 years.

152 (6) 'National organization' means a school organization that is a separate legal entity than
 153 a local affiliate organization which may charter or recognize local affiliate organizations
 154 at one or more schools.

155 (7) 'Postsecondary educational institution' means a school which is:

156 (A) A unit of the University System of Georgia;

157 (B) A unit of the Technical College System of Georgia; or

158 (C) An independent or private college or university located in Georgia and eligible to
 159 be deemed an approved school pursuant to paragraph (2) of Code Section 20-3-411.

160 (8) 'School' means any public or private college, university, or secondary school in this
 161 state.

162 (9) 'School organization' means any association; corporation; order; club; society;
 163 fraternity; sorority; interscholastic, intercollegiate, or club athletic team; group living
 164 together which has students as its principal members; or similar group whose members
 165 are primarily students or alumni of a school.

166 (10) 'Student' means any person attending or enrolled in a school in this state or who has
167 been accepted for admission to the school where the hazing incident occurred which
168 gives rise to an offense under this article.

169 20-1-31.

170 (a) The Department of Education shall develop a state-wide plan for hazing awareness,
171 prevention, and intervention at secondary schools in this state.

172 (b) The Board of Regents of the University System of Georgia shall develop a state-wide
173 plan for hazing awareness, prevention, and intervention at units of the University System
174 of Georgia.

175 (c) The State Board of the Technical College System of Georgia shall develop a state-wide
176 plan for hazing awareness, prevention, and intervention at branches of the Technical
177 College System of Georgia.

178 (d) The governing body of each private college, university, and secondary school in this
179 state shall develop a plan for hazing awareness, prevention, and intervention at each such
180 college, university, or school.

181 (e) The Department of Education shall establish the State Anti-Hazing Fund and shall
182 deposit into the fund all moneys appropriated by law for deposit into such fund. The
183 Department of Education shall allocate moneys available in the State Anti-Hazing Fund for
184 the purpose of making grants to schools for the development and dissemination of hazing
185 awareness, prevention, and intervention information as described in Code Section 20-1-32.

186 20-1-32.

187 (a) Each school shall provide students with information on hazing awareness, prevention,
188 and intervention and the school's policies on hazing. The information shall be provided in
189 person or online. A student who does not acknowledge in writing his or her receipt of such
190 information within 30 calendar days of commencing participation with a school
191 organization shall not continue to participate in such school organization until the
192 information is provided and the student acknowledges its receipt in writing. Each school
193 is responsible for verifying student receipt of such information.

194 (b) Each school shall provide all administrators, faculty, staff, and volunteers who advise
195 or coach school organizations with information on hazing awareness, prevention, and
196 intervention and the school's policies on hazing. The information shall be provided in
197 person or online. Each school is responsible for verifying receipt of such information by
198 administrators, faculty, staff, and volunteers who advise or coach school organizations.

199 (c) National organizations shall provide separate and supplemental information on hazing
200 awareness, prevention, and intervention for their local affiliate organizations operating
201 within the state.

202 20-1-33.

203 (a) Beginning with the 2020-2021 school year, each postsecondary educational institution
204 shall maintain and publicly report actual findings of violations of the school's code of
205 student conduct or federal or state laws relating to hazing that are reported to school
206 officials, law enforcement officials, national organizations, or any organization formally
207 affiliated with the postsecondary educational institution.

208 (b) The report required pursuant to subsection (a) of this Code section shall include:

209 (1) The name of the school organization;

210 (2) The date the school organization was charged with misconduct;

211 (3) The date or dates on which the misconduct occurred;

212 (4) The date the investigation was initiated;

213 (5) A general description of the incident and the charges, findings, and sanctions placed
214 on the school organization; and

215 (6) The date on which the investigation ended with a finding that a violation occurred.

216 (c) Investigations that do not result in a finding of formal violations of the school's code
217 of student conduct shall not be included in the report required pursuant to subsection (a)
218 of this Code section. The report shall not include personal identifying information of the
219 individual students and shall be subject to the requirements of the Family Education Rights
220 and Privacy Act (FERPA), 20 U.S.C. Section 1232g.

221 (d) Each postsecondary educational institution shall update this report at least ten calendar
222 days before the start of the fall and spring academic semesters.

223 (e) Each postsecondary educational institution must make reports required under this Code
224 section available on its website in a prominent location. The website that contains the
225 reports must include a statement notifying the public:

226 (1) Of the availability of additional information related to findings, sanctions, and
227 whether the school organization has completed or complied with sanctions imposed;

228 (2) Where a member of the public may obtain the additional information that is not
229 protected under the Family Education Rights and Privacy Act (FERPA), 20 U.S.C.
230 Section 1232g; and

231 (3) That the postsecondary educational institution is required to provide this additional
232 information pursuant to the Article 4 of Chapter 18 of Title 50.

233 (f) Each postsecondary educational institution shall furnish a printed notice of the nature
 234 and availability of this report and the website address where it can be found to attendees
 235 at each student orientation.
 236 (g) Each postsecondary educational institution shall maintain reports as they are updated
 237 for five years."

238 **SECTION 4.**

239 Part 3 of Article 2 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated,
 240 relating to student organization responsibility for drug abuse, is amended by revising Code
 241 Section 20-3-91, relating to legislative findings and intent, as follows:

242 "20-3-91.

243 The General Assembly finds that hazing and the unlawful abuse and misuse of marijuana,
 244 controlled substances, or dangerous drugs constitutes a serious threat to the public health,
 245 welfare, and academic achievement of students enrolled in the public colleges and
 246 universities of this state. It is declared to be a purpose and goal of this state to encourage
 247 and, to the fullest extent possible, require all student organizations, including but not
 248 limited to, societies, fraternities, sororities, clubs, and similar groups of students which are
 249 affiliated with, recognized by, or using the facilities of those educational institutions or
 250 facilities which comprise the University System of Georgia, to encourage and enforce
 251 compliance with state law on the part of their members, guests, or others attending or
 252 participating in their functions and affairs, social or otherwise, by not permitting hazing or
 253 the sale, distribution, serving, possession, consumption, or use of such marijuana,
 254 controlled substances, or dangerous drugs at such functions and affairs in violation of state
 255 law."

256 **SECTION 5.**

257 Said part is further amended by revising Code Section 20-3-92, relating to definitions, as
 258 follows:

259 "20-3-92.

260 As used in this chapter, the term:

261 (1) 'Controlled substance' means any drug, substance, or immediate precursor included
 262 in the definition of controlled substances in paragraph (4) of Code Section 16-13-21.

263 (2) 'Dangerous drug' means any drug defined as such under Code Section 16-13-71.

264 (3) 'Hazing' shall have the same meaning as such term is defined in Code Section
 265 16-5-61.

266 ~~(3)~~(4) 'Marijuana' shall have the same meaning as such term is defined in paragraph (16)
 267 of Code Section 16-13-21.

268 ~~(4)~~(5) 'Student' means any person who is enrolled as a student in courses for academic
 269 credit on a full-time, part-time, temporary, or intermittent basis in any college, university,
 270 institution of higher education, or facility which is a unit or member institution of the
 271 University System of Georgia.

272 ~~(5)~~(6) 'Student organization' means any organized group or body of students, social,
 273 academic, political, or otherwise, which is affiliated with or primarily composed of
 274 students enrolled in any university system institution or facility. The term shall include
 275 any and all societies, clubs, fraternities, sororities, academic disciplinary groups, or other
 276 student entities which operate on the campus of, or which ~~is~~ are recognized as a student
 277 ~~organization~~ organizations by, any college, university, or other educational institution or
 278 facility of the University System of Georgia. The term shall also include any school
 279 organization as such term is defined in Code Section 16-5-61.

280 ~~(6)~~(7) 'University system' refers to that system of colleges, universities, and educational
 281 institutions which is governed, managed, controlled, and operated by the Board of
 282 Regents of the University System of Georgia, a department and an agency of the
 283 executive branch of state government of the State of Georgia under Article VIII, Section
 284 IV, Paragraph I of the Constitution."

285 **SECTION 6.**

286 Said part is further amended by revising Code Section 20-3-93, relating to circumstances
 287 requiring withdrawal of student organization recognition, as follows:

288 "20-3-93.

289 Notwithstanding any law to the contrary, any student organization functioning in
 290 conjunction with, incidental to, or at any university system institution, which through its
 291 officers, agents, or responsible members knowingly permits or authorizes hazing or the
 292 sale, distribution, serving, possession, consumption, or use of marijuana, a controlled
 293 substance, or a dangerous drug at any affair, function, or activity of that student
 294 organization, social or otherwise, when such hazing, sale, distribution, serving, possession,
 295 consumption, or use is not in compliance with the laws of this state shall have its
 296 recognition as a student organization withdrawn, shall be expelled from campus for a
 297 minimum of a calendar year from the year of determination of guilt, and shall be prohibited
 298 from the use of all property and facilities of the university system institution with which
 299 it is affiliated or at which it operates, with any and all leasing, possession, or use
 300 agreements respecting the student organization's use of institutional property to be
 301 terminated by operation of law for any such knowing, permission, or authorization of the
 302 unlawful actions defined in this Code section, subject to the administrative review and
 303 hearing procedures set forth in this Code section."

304

SECTION 7.

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