

Senate Bill 423

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

AS PASSED SENATE

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 provide for the Attorney General
4 to bring civil actions against certain organizations regarding hazing incidents; to amend
5 Chapter 1 of Title 20 of the Official Code of Georgia Annotated, relating to general
6 provisions regarding education, so as to provide for mandatory reports of hazing related
7 violations at schools in the state; to provide for and revise definitions; to provide for a short
8 title; to provide for related matters; to repeal conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

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

12 **SECTION 2.**

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

15 "16-5-61.

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

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

19 (2) 'Alcoholic liquid' means any liquid which contains alcohol in any form, including
20 distilled spirits, beer, malt beverages, wine, or fortified wine.

21 ~~(1)(3)~~ (3) 'Haze' or 'hazing' means to force or subject a minor or student to perform an
22 activity which endangers or is likely to endanger the physical health of a student,
23 regardless of a student's willingness to participate in such activity; or mental health of the
24 minor or student or which causes or is likely to cause the minor or student to:

25 (A) Violate federal or state law;

- 26 (B) Consume any food, liquid, alcoholic liquid, drug, or other substance in a manner
 27 which subjects the minor or student to a substantial risk of emotional, mental, or
 28 physical harm, including sickness, vomiting, intoxication, or unconsciousness;
 29 (C) Experience threatened or actual exposure to physical injury, including injury
 30 resulting from whipping, beating, paddling, branding, dangerous physical activity, or
 31 exposure to elements, which exposure results in medically verifiable mental or physical
 32 harm; or
 33 (D) Experience threatened or actual exposure to mental injury, including injury
 34 resulting from activity adversely affecting the mental health or dignity of the individual,
 35 sleep deprivation, exclusion from social contact, or conduct that could result in extreme
 36 embarrassment, which exposure results in medically verifiable mental or physical harm.
 37 (4) 'Local affiliate organization' means a school organization that is chartered or
 38 recognized by a national organization.
 39 (5) 'Local organization' means a school organization that is not chartered or recognized
 40 by a national organization.
 41 (6) 'Minor' means any person under the age of 18 years.
 42 (7) 'National organization' means a school organization that is a separate legal entity than
 43 a local affiliate organization which may charter or recognize local affiliate organizations
 44 at one or more schools.
 45 (8) 'Postsecondary educational institution' means a school which is:
 46 (A) A unit of the University System of Georgia;
 47 (B) A unit of the Technical College System of Georgia; or
 48 (C) An independent or private college or university located in Georgia and eligible to
 49 be deemed an approved school pursuant to paragraph (2) of Code Section 20-3-411.
 50 ~~(2)~~(9) 'School' means any public or private school, college, or university, or secondary
 51 school in this state.
 52 ~~(3)~~(10) 'School organization' means any club, society, fraternity, sorority, or a group
 53 living together which has students as its principal members association; corporation;
 54 order; club; society; fraternity; sorority; interscholastic, intercollegiate, or club athletic
 55 team; group living together which has students as its principal members; or similar group
 56 whose members are primarily students or alumni of a school, including local affiliate
 57 organizations.
 58 (11) 'Serious bodily injury' includes, but is not limited to, incapacitation which results
 59 from or is in conjunction with the consumption of alcoholic liquid and which requires
 60 emergency medical attention or which results in a blood alcohol concentration of 0.25
 61 grams or more.

62 ~~(4)(12)~~ 'Student' means any person attending or enrolled in a school in this state or who
 63 has been accepted for admission to the school where the hazing incident occurred which
 64 gives rise to an offense under this Code section.

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

68 (c) Except as provided for in subsections (d) and (e) of this Code section, any person who
 69 commits the offense of hazing ~~Any person who violates this Code section shall, upon~~
 70 conviction thereof, be guilty of a misdemeanor of a high and aggravated nature and shall
 71 be punished by imprisonment for not more than 12 months or a fine not to exceed
 72 \$5,000.00, or both.

73 (d) Any person who, with the element of force, commits the offense of hazing against a
 74 minor or student who suffers serious bodily injury or death as a result of such hazing shall,
 75 upon conviction thereof, be guilty of a felony and shall be punished by imprisonment for
 76 not less than one nor more than five years or a fine not to exceed \$50,000.00, or both.

77 (e)(1) Any person who directs, encourages, or participates in an act of alleged hazing
 78 which results in an injury to another person shall, to the extent possible without danger
 79 or peril to himself or herself or another, give reasonable assistance to the injured person,
 80 including by requesting medical attention for the injured person directly to a health
 81 services provider, law enforcement official, or school official or by contacting 9-1-1 or
 82 a similar emergency service.

83 (2) A person who fails to render reasonable assistance as required by this subsection
 84 shall, upon conviction, be guilty of a misdemeanor of a high and aggravated nature and
 85 shall be punished by imprisonment for not more than 12 months or a fine not to exceed
 86 \$5,000.00, or both.

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

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

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

97 (2) A person acting in good faith and in a timely manner shall not be subject to
 98 administrative, civil, or criminal liability related to alcohol or drug possession,

99 consumption, or distribution if a law enforcement official or school official has contact
 100 with the person because the person:

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

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

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

109 (h) The Attorney General is authorized to bring a civil action against a local
 110 organization, local affiliate organization, or national organization when an employee,
 111 agent, official, or governing board member of such organization knowingly directed,
 112 authorized, or permitted activities which resulted in hazing; knowingly failed to attempt
 113 to prevent or otherwise intervene in activities which resulted in hazing; knowingly failed
 114 to timely report an allegation of hazing to a law enforcement official or a school official;
 115 or knowingly directed or authorized a person with direct knowledge of an alleged hazing
 116 to refrain from reporting such alleged hazing to a law enforcement official or a school
 117 official. The imposition of a civil penalty under this subsection shall not bar any criminal
 118 prosecution under this Code section."

119 **SECTION 3.**

120 Chapter 1 of Title 20 of the Official Code of Georgia Annotated, relating to general
 121 provisions regarding education, is amended by adding a new article to read as follows:

122 "ARTICLE 3

123 20-1-30.

124 As used in this article, the term:

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

127 (2) 'Alcoholic liquid' means any liquid which contains alcohol in any form, including
 128 distilled spirits, beer, malt beverages, wine, or fortified wine.

129 (3) 'Hazing' means to force or subject a minor or student to perform an activity which
 130 endangers or is likely to endanger the physical or mental health of the minor or student
 131 or which causes or is likely to cause the minor or student to:

132 (A) Violate federal or state law;

133 (B) Consume any food, liquid, alcoholic liquid, drug, or other substance in a manner
 134 which subjects the minor or student to a substantial risk of emotional, mental, or
 135 physical harm, including sickness, vomiting, intoxication, or unconsciousness;

136 (C) Experience threatened or actual exposure to physical injury, including injury
 137 resulting from whipping, beating, paddling, branding, dangerous physical activity, or
 138 exposure to elements, which exposure results in medically verifiable mental or physical
 139 harm; or

140 (D) Experience threatened or actual exposure to mental injury, including injury
 141 resulting from activity adversely affecting the mental health or dignity of the individual,
 142 sleep deprivation, exclusion from social contact, or conduct that could result in extreme
 143 embarrassment, which exposure results in medically verifiable mental or physical harm.

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

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

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

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

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

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

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

155 (8) 'School organization' means any association; corporation; order; club; society;
 156 fraternity; sorority; interscholastic, intercollegiate, or club athletic team; group living
 157 together which has students as its principal members; or similar group whose members
 158 are primarily students or alumni of a school, including local affiliate organizations.

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

162 20-1-31.

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

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

- 169 (1) The name of the school organization;
 170 (2) The date the school organization was charged with misconduct;
 171 (3) The date or dates on which the misconduct occurred;
 172 (4) The date the investigation was initiated;
 173 (5) A general description of the incident and the charges, findings, and sanctions placed
 174 on the school organization; and
 175 (6) The date on which the investigation ended with a finding that a violation occurred.
 176 (c) Investigations that do not result in a finding of formal violations of the school's code
 177 of student conduct shall not be included in the report required pursuant to subsection (a)
 178 of this Code section. The report shall not include personal identifying information of the
 179 individual students and shall be subject to the requirements of the Family Education Rights
 180 and Privacy Act (FERPA), 20 U.S.C. Section 1232g.
 181 (d) Each postsecondary educational institution shall update this report at least ten calendar
 182 days before the start of the fall and spring academic semesters.
 183 (e) Each postsecondary educational institution must make reports required under this Code
 184 section available on its website in a prominent location. The website that contains the
 185 reports must include a statement notifying the public:
 186 (1) Of the availability of additional information related to findings, sanctions, and
 187 whether the school organization has completed or complied with sanctions imposed;
 188 (2) Where a member of the public may obtain the additional information that is not
 189 protected under the Family Education Rights and Privacy Act (FERPA), 20 U.S.C.
 190 Section 1232g; and
 191 (3) That the postsecondary educational institution is required to provide this additional
 192 information pursuant to the Article 4 of Chapter 18 of Title 50.
 193 (f) Each postsecondary educational institution shall furnish a printed notice of the nature
 194 and availability of this report and the website address where it can be found to attendees
 195 at each student orientation.
 196 (g) Each postsecondary educational institution shall maintain reports as they are updated
 197 for five years."

198 **SECTION 4.**

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