

Senate Bill 85

By: Senators Albers of the 56th, Strickland of the 17th, Miller of the 49th, Kennedy of the 18th, Hufstetler of the 52nd and others

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) '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 physical injury, including injury resulting from
30 whipping, beating, paddling, branding, or dangerous physical activity, which results in
31 medically verifiable physical harm or severe emotional distress; or

32 (D) Perform or endure physical activity, including, but not limited to, sleep
33 deprivation, exposure to the elements, confinement in a small space, or calisthenics,
34 that subjects the other person to an unreasonable risk of harm or that adversely affects
35 the physical health or safety of the individual or causes severe emotional distress.

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

38 (5) 'Local organization' means a school organization that is not chartered or recognized
39 by a national organization.

40 (6) 'Minor' means any person under the age of 18 years.

41 (7) 'National organization' means a school organization that is a separate legal entity
 42 from a local affiliate organization which may charter or recognize local affiliate
 43 organizations at one or more schools.

44 (8) 'Postsecondary educational institution' means a school which is:

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

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

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

49 ~~(2)~~(9) 'School' means any public or private school, college, or university, or secondary
 50 school in this state.

51 ~~(3)~~(10) 'School organization' means any club, society, fraternity, sorority, or a group
 52 living together which has students as its principal members association; corporation;
 53 order; club; society; fraternity; sorority; interscholastic, intercollegiate, or club athletic
 54 team; group living together which has students as its principal members; or similar group
 55 whose members are primarily students or alumni of a school, including local affiliate
 56 organizations.

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

61 ~~(4)~~(12) 'Student' means any person attending or enrolled in a school in this state or who
 62 has been accepted for admission to the school where the hazing incident occurred which
 63 gives rise to an offense under this Code section.

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

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

72 (d)(1) Any person who is 17 years or older, with the element of force, commits the
73 offense of hazing against a minor or student who suffers serious bodily injury as a result
74 of such hazing shall, upon conviction thereof, be guilty of a felony and shall be punished
75 by imprisonment for not less than one nor more than five years or a fine not to exceed
76 \$50,000.00, or both.

77 (2) Any person who is 17 years or older, with the element of force, commits the offense
78 of hazing against a minor or student who suffers death as a result of such hazing shall,
79 upon conviction thereof, be guilty of a felony and shall be punished by imprisonment for
80 not less than one nor more than ten years or a fine not to exceed \$50,000.00, or both.

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

87 (2) A person who fails to render reasonable assistance as required by this subsection
88 shall, upon conviction, be guilty of a misdemeanor of a high and aggravated nature and
89 shall be punished by imprisonment for not more than 12 months or a fine not to exceed
90 \$5,000.00, or both.

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

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

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

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

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

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

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

113 (3) A physical activity that is normal, customary, and necessary for a person's training
114 and participation in an athletic, physical education, military training, or similar program
115 sanctioned by the postsecondary educational institution shall not be considered hazing
116 for purposes of this Code section.

117 (h) The Attorney General is authorized to bring a civil action against the governing board
118 of a local organization, local affiliate organization, or national organization when an
119 employee, agent, official, or governing board member of such organization knowingly

120 directed, authorized, or permitted activities which resulted in hazing; knowingly failed
 121 to attempt to prevent or otherwise intervene in activities which resulted in hazing;
 122 knowingly failed to timely report an allegation of hazing to a law enforcement official or
 123 a school official; or knowingly directed or authorized a person with direct knowledge of
 124 an alleged hazing to refrain from reporting such alleged hazing to a law enforcement
 125 official or a school official. The imposition of a civil penalty under this subsection shall
 126 not bar any criminal prosecution under this Code section."

127

SECTION 3.

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

130

"ARTICLE 3

131 20-1-30.

132 As used in this article, the term:

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

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

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

140 (A) Violate federal or state law;

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

144 (C) Experience threatened or actual exposure to physical injury, including injury
145 resulting from whipping, beating, paddling, branding, dangerous physical activity, or
146 exposure to elements, which exposure results in medically verifiable mental or physical
147 harm; or

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

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

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

155 (6) 'National organization' means a school organization that is a separate legal entity
156 from a local affiliate organization which may charter or recognize local affiliate
157 organizations at one or more schools.

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

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

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

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

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

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

170 20-1-31.

171 (a) Beginning with the 2021-2022 school year, each postsecondary educational institution
172 shall maintain and publicly report actual findings of violations of the school's code of
173 student conduct or federal or state laws relating to hazing that are reported to school
174 officials, law enforcement officials, national organizations, or any organization formally
175 affiliated with the postsecondary educational institution.

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

177 (1) The name of the school organization;

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

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

180 (4) The date the investigation was initiated;

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

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

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

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

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

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

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

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

201 (f) Each postsecondary educational institution shall furnish a printed notice of the nature
202 and availability of this report and the website address where it can be found to attendees
203 at each student orientation.

204 (g) Each postsecondary educational institution shall maintain reports as they are updated
205 for five years."

206 **SECTION 4.**

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