

Senate Bill 378

By: Senators Albers of the 56th, Mullis of the 53rd, Kennedy of the 18th, Gooch of the 51st,
Beach of the 21st and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 4 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated,
2 relating to reckless conduct, so as to expand the definition of hazing; to provide for inclusion
3 of minors as subjects 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 Article 3 of Chapter 1 of Title 20 of the Official Code of Georgia Annotated, relating to
6 mandatory reporting of hazing, so as to provide for mandatory reports and disclosures of
7 hazing related violations at postsecondary educational institutions in the state; to provide for
8 and revise definitions; to provide for related matters; to repeal conflicting laws; and for other
9 purposes.

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

11 **SECTION 1.**

12 Article 4 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to
13 reckless conduct, is amended by revising Code Section 16-5-61, relating to hazing, as
14 follows:

S.B. 378

- 1 -

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 or
23 coerces the student through the use of social or physical pressure to consume any food,
24 liquid, alcohol, drug, or other substance which subjects the student to a likely risk of
25 vomiting, intoxication, or unconsciousness regardless of a student's willingness to
26 participate in such activity. or mental health of the minor or student or which causes or
27 is likely to cause the minor or student to:

28 (A) Violate federal or state law;

29 (B) Consume any food, liquid, alcoholic liquid, drug, or other substance in a manner
30 which subjects the minor or student to a substantial risk of harm to his or her physical
31 or mental health or to severe emotional distress, including sickness, vomiting,
32 intoxication, or unconsciousness;

33 (C) Experience threatened or actual physical injury, including injury resulting from
34 whipping, beating, paddling, branding, or dangerous physical activity, which results in
35 severe emotional or physical distress or medically verifiable harm to his or her physical
36 health; or

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

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

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

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

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

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

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

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

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

55 ~~(2)(9) 'School' means any unit of the University System of Georgia, any unit of the~~
 56 ~~Technical College System of Georgia, or any private postsecondary school, college, or~~
 57 ~~university public or private college, university, or secondary school in this state.~~

58 ~~(3)(10) 'School organization' means any association, corporation, order, club, society,~~
 59 ~~fraternity, sorority;; any interscholastic, intercollegiate, or club athletic team, or a ; any~~
 60 ~~group living together which has students or alumni as its principal members;; or any~~
 61 ~~similar group whose members are primarily students or alumni of a school, including~~
 62 ~~local affiliate organizations.~~

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

67 ~~(4)~~(12) 'Student' means any person attending, prospectively enrolled, or enrolled in a
68 school in this state where the hazing incident occurred which gives rise to an offense
69 under this Code section.

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

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

78 (d)(1) Any person 17 years of age or older who, with the element of force, commits the
79 offense of hazing against a minor or student who suffers serious bodily injury as a result
80 of such hazing shall, upon conviction thereof, be guilty of a felony and shall be punished
81 by imprisonment for not less than one nor more than five years or a fine not to exceed
82 \$50,000.00, or both.

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

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

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

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

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

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

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

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

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

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

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

124 (h) The Attorney General is authorized to bring a civil action against the governing board
 125 of a local organization, local affiliate organization, or national organization when an
 126 employee, agent, official, or governing board member of such organization knowingly
 127 directed, authorized, or permitted activities which resulted in hazing; knowingly failed to
 128 attempt to prevent or otherwise intervene in activities which resulted in hazing; knowingly
 129 failed to timely report an allegation of hazing to a law enforcement official or a school
 130 official; or knowingly directed or authorized a person with direct knowledge of an alleged
 131 hazing to refrain from reporting such alleged hazing to a law enforcement official or a
 132 school official. The imposition of a civil penalty under this subsection shall not bar any
 133 criminal prosecution under this Code section."

134

SECTION 2.

135 Article 3 of Chapter 1 of Title 20 of the Official Code of Georgia Annotated, relating to
 136 mandatory reporting of hazing, is amended by revising Code Section 20-1-30, relating to
 137 establishment of school policies on hazing, public disclosure of incidents, and confidentiality
 138 of student information, as follows:

139 "20-1-30.

140 (a) As used in this ~~Code section~~ article, the term:

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

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

145 ~~(1)~~(3) 'Hazing' shall have the same meaning as provided for under Code Section 16-5-61.

146 (4) 'Local affiliate organization' shall have the same meaning as provided for under Code
 147 Section 16-5-61.

148 (5) 'National organization' shall have the same meaning as provided for under Code
 149 Section 16-5-61.

150 (6) '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 ~~(2) 'School' shall have the same meaning as provided for under Code Section 16-5-61.~~

156 ~~(3)~~(7) 'School organization' shall have the same meaning as provided for under Code
 157 Section 16-5-61.

158 ~~(4)~~(8) 'Student' shall have the same meaning as provided for under Code
 159 Section 16-5-61.

160 (b) ~~Not later than July 1, 2021, each school~~ 2022, each postsecondary educational
 161 institution shall establish policies to facilitate the:

162 ~~(1) Reporting;~~ reporting, investigation, provision of due process, and administrative
 163 adjudication of alleged incidents of hazing as related to students and ~~student~~ school
 164 organizations; and

165 ~~(2) Public disclosure of administrative adjudications of hazing or hazing related~~
 166 ~~convictions within 15 calendar days of final adjudication or public notice of criminal~~
 167 ~~conviction.~~

168 (c) Beginning with the 2022-2023 academic year, and each academic year thereafter, each
 169 postsecondary educational institution shall:

170 (1) Maintain and publicly report actual findings of violations of the school's code of
 171 student conduct or federal or state laws relating to hazing that are reported to school

172 officials, law enforcement officials, national organizations, or any organization formally
173 affiliated with the postsecondary educational institution; and

174 (2) Publicly disclose each administrative adjudication or criminal conviction for hazing
175 or hazing related offenses within 15 calendar days of final adjudication or public notice
176 of conviction.

177 (d) The reports and disclosures required under this Code section shall include:

178 (1) The name of the school organization;

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

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

181 (4) The date the investigation was initiated;

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

184 (6) The date on which the investigation ended with a finding that a violation occurred;
185 and

186 (7) In cases where a finding of a violation of the school's code of student conduct or
187 federal or state laws related to hazing have been made by way of administrative
188 adjudication or criminal conviction, the date of such adjudication or conviction.

189 (e) The reports and disclosures required under this Code section shall not include or refer
190 to:

191 (1) Personal identifying information of the individual students and shall be subject to the
192 requirements of the federal Family Educational Rights and Privacy Act (FERPA), 20
193 U.S.C. Section 1232g; or

194 (2) Investigations that do not result in a finding of a violation of the school's code of
195 student conduct or federal or state laws related to hazing.

196 (f) Each postsecondary educational institution shall update the report required under this
197 Code section at least ten calendar days before the start of the fall and spring academic
198 semesters.

- 199 (g) Each postsecondary educational institution must make reports and disclosures required
200 under this Code section available on its website in a prominent location. The website that
201 contains such reports and disclosures must include a statement notifying the public:
- 202 (1) Of the availability of additional information related to findings, sanctions, and
203 whether the school organization has completed or complied with sanctions imposed;
204 (2) Where a member of the public may obtain the additional information that is not
205 protected under the federal Family Educational Rights and Privacy Act (FERPA), 20
206 U.S.C. Section 1232g; and
- 207 (3) That the postsecondary educational institution is required to provide this additional
208 information pursuant to Article 4 of Chapter 18 of Title 50.
- 209 (h) Each postsecondary educational institution shall furnish to attendees at each student
210 orientation a printed notice of the nature and availability of the reports and disclosures
211 required under this Code section and the website address where they can be found.
- 212 (i) Each postsecondary educational institution shall maintain reports and disclosures
213 required under this Code section as they are updated for five years. ~~The public disclosure~~
214 of each incident of hazing adjudicated pursuant to subsection (b) of this Code section,
215 criminal convictions for hazing pursuant to Code Section 16-5-61, and other criminal
216 convictions arising from any incident of hazing shall require the following minimum
217 information be posted prominently on the school's website for a period of not less than five
218 years after final adjudication or conviction:
- 219 (1) ~~The name of any school organization involved;~~
220 (2) ~~The date or dates on which the hazing occurred; and~~
221 (3) ~~A description of the specific hazing related findings, sanctions, adjudications, and~~
222 convictions for any person or school organization.
- 223 (d) ~~Public disclosure provided pursuant to subsection (c) of this Code section shall not~~
224 include the personal identifying information of any individual student and shall be subject

225 ~~to the requirements of the Family Education Rights and Privacy Act (FERPA), 20 USC~~
226 ~~1232g."~~

227

SECTION 3.

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