

1 SENATE BILL NO. 440

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the House Committee for Courts of Justice

4 on February 25, 2022)

5 (Patron Prior to Substitute--Senator Boysko)

6 A BILL to amend and reenact § 18.2-56 of the Code of Virginia, relating to unlawful hazing; penalty.

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 18.2-56 of the Code of Virginia is amended as follows:**9 **§ 18.2-56. Hazing unlawful; civil and criminal liability; duty of school, etc., officials;**
10 **penalties.**11 A. It shall be is unlawful to haze so as to cause bodily injury, any student at any school or institution
12 of higher education.13 Any person found guilty thereof shall be when the offense did not result in death or serious bodily
14 injury to any person is guilty of a Class 1 misdemeanor. Any person found guilty thereof when the offense
15 did result in death or serious bodily injury to any person is guilty of a Class 5 felony.16 The provisions of this subsection shall not preclude prosecution under any other statute.17 B. Any person receiving bodily injury by hazing shall have a right to sue, civilly, the person or
18 persons guilty thereof, whether adults or infants.19 C. It shall be an affirmative defense to prosecution of an individual for violating this section if:20 1. Such person (i) in good faith, seeks or obtains emergency medical attention for a person who
21 has received a bodily injury by hazing by contemporaneously reporting such hazing to a firefighter, as
22 defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-
23 enforcement officer, as defined in § 9.1-101, or an emergency 911 system or (ii) in good faith, renders
24 emergency care or assistance, including cardiopulmonary resuscitation (CPR), to a person who has
25 received a bodily injury by hazing while another person seeks or obtains emergency medical attention in
26 accordance with this subdivision;

27 2. Such person remains at the scene of the hazing or at any alternative location to which he or the
28 person requiring emergency medical attention has been transported until a law-enforcement officer
29 responds to the report for emergency medical attention. If no law-enforcement officer is present at the
30 scene of the hazing or at the alternative location, then such person shall cooperate with law enforcement
31 as otherwise set forth herein;

32 3. Such person identifies himself to the law-enforcement officer who responds to the report of the
33 hazing; and

34 4. The evidence for the prosecution of an offense enumerated in this section was obtained as a
35 result of the person seeking or obtaining emergency medical attention or rendering emergency care or
36 assistance.

37 D. The president or other presiding official of any school or institution of higher education
38 receiving appropriations from the state treasury shall, upon satisfactory proof of the guilt of any student
39 hazing another student, sanction and discipline such student in accordance with the institution's policies
40 and procedures. The institution's policies and procedures shall provide for expulsions or other appropriate
41 discipline based on the facts and circumstances of each case and shall be consistent with the model policies
42 established by the Department of Education or the State Council of Higher Education for Virginia, as
43 applicable. The president or other presiding official of any school or institution of higher education
44 receiving appropriations from the state treasury shall report hazing which causes bodily injury to the
45 attorney for the Commonwealth of the county or city in which such school or institution of higher
46 education is, who shall take such action as he deems appropriate.

47 E. For the purposes of this section, "hazing" means to recklessly or intentionally endanger the
48 health or safety of a student or students or to inflict bodily injury on a student or students in connection
49 with or for the purpose of initiation, admission into or affiliation with or as a condition for continued
50 membership in a club, organization, association, fraternity, sorority, or student body regardless of whether
51 the student or students so endangered or injured participated voluntarily in the relevant activity.

52 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
53 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**

54 **appropriation cannot be determined for periods of imprisonment in state adult correctional**
55 **facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I, requires the**
56 **Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant**
57 **to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot**
58 **be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

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