

SENATE BILL NO. 440

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on _____)

(Patron Prior to Substitute--Senator Boysko)

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

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-56 of the Code of Virginia is amended as follows:****§ 18.2-56. Hazing unlawful; civil and criminal liability; duty of school, etc., officials; penalty.**

A. It shall be ~~is~~ unlawful to haze so as to cause bodily injury, any student at any school or institution of higher education.

Any person found guilty thereof ~~shall be~~ is guilty of a Class 1 misdemeanor.

The provisions of this subsection shall not preclude prosecution under any other statute.

B. Any person receiving bodily injury by hazing shall have a right to sue, civilly, the person or persons guilty thereof, whether adults or infants.

C. No person shall be subject to arrest or prosecution for involuntary manslaughter or violating this section if:

1. Such person (i) in good faith, seeks or obtains emergency medical attention for a person who has received a bodily injury by hazing by contemporaneously reporting such hazing to a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system or (ii) in good faith, renders emergency care or assistance, including cardiopulmonary resuscitation (CPR), to a person who has received a bodily injury by hazing while another person seeks or obtains emergency medical attention in accordance with this subdivision;

2. Such person remains at the scene of the hazing or at any alternative location to which he or the person requiring emergency medical attention has been transported until a law-enforcement officer

responds to the report for emergency medical attention. If no law-enforcement officer is present at the scene of the hazing or at the alternative location, then such person shall cooperate with law enforcement as otherwise set forth herein;

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

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

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

E. The attorney for the Commonwealth may file a petition for mandamus or injunction, supported by an affidavit showing good cause, against the president or other presiding official of any school or institution of higher education receiving appropriations from the state treasury seeking to enforce the provisions of subsection D if such president or other presiding official fails to perform his duties as required by subsection D. Venue for such petition shall be in the circuit court of the county or city where the school or institution of higher education is located.

If the court finds that the president or other presiding official willfully or knowingly failed to perform his duties, the court shall impose upon such president or other presiding official in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than

54 \$500 nor more than \$2,000, which amount shall be paid into the Literary Fund. For a second or subsequent
55 violation, such civil penalty shall be not less than \$2,000 nor more than \$5,000.

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

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