

2018 Regular Session

HOUSE BILL NO. 78

BY REPRESENTATIVES NANCY LANDRY, AMEDEE, ANDERS, BACALA, BAGNERIS, BARRAS, BERTHELOT, BILLIOT, BRASS, CHAD BROWN, TERRY BROWN, CARMODY, CARPENTER, ROBBY CARTER, STEVE CARTER, CONNICK, COX, CROMER, DAVIS, EDMONDS, EMERSON, FALCONER, FRANKLIN, GAINES, GAROFALO, GISCLAIR, GUINN, HALL, LANCE HARRIS, HAZEL, HENRY, HILFERTY, HODGES, HOFFMANN, HORTON, HOWARD, HUNTER, JACKSON, JAMES, JEFFERSON, JENKINS, JOHNSON, JONES, JORDAN, TERRY LANDRY, LEBAS, MACK, MARINO, MIGUEZ, GREGORY MILLER, JIM MORRIS, NORTON, PIERRE, POPE, PUGH, PYLANT, REYNOLDS, RICHARD, SCHEXNAYDER, SMITH, STAGNI, TALBOT, THOMAS, WHITE, WRIGHT, AND ZERINGUE

CRIME/FELONIES: Amends penalties relative to the crime of hazing

1 AN ACT

2 To amend and reenact R.S. 17:1801 and to enact R.S. 14:40.8, relative to acts of hazing; to
3 create the crime of hazing; to provide exceptions, definitions, and criminal penalties
4 relative to the crime of hazing; to provide relative to consequences imposed by the
5 education institution for certain acts of hazing; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:40.8 is hereby enacted to read as follows:

8 §40.8. Hazing

9 A.(1) Except as provided by Subsection D of this Section, it shall be
10 unlawful for any person to commit an act of hazing.

11 (2)(a) Except as provided by Subparagraph (b) of this Paragraph, any person
12 who commits an act of hazing shall be either fined up to one thousand dollars,
13 imprisoned for up to six months, or both.

14 (b) If the hazing results in the serious bodily injury or death of the victim,
15 or the hazing involves forced or coerced alcohol consumption that results in the

1 victim having a blood alcohol concentration of at least .25 percent by weight based
2 on grams of alcohol per one hundred cubic centimeters of blood, any person who
3 commits an act of hazing shall be fined up to ten thousand dollars and imprisoned,
4 with or without hard labor, for up to five years.

5 B.(1) If any person serving as a representative or officer of an organization,
6 including any representative, director, trustee, or officer of any national or parent
7 organization of which any of the underlying entities provided for in Paragraph (C)(3)
8 of this Section is a sanctioned or recognized member at the time of the hazing, knew
9 and failed to report to law enforcement that one or more of the organization's
10 members were hazing another person, the organization may be subject to the
11 following:

12 (a) Payment of a fine of up to ten thousand dollars.

13 (b) Forfeiture of any public funds received by the organization.

14 (c) Forfeiture of all rights and privileges of being an organization that is
15 organized and operating at the education institution for a specific period of time as
16 determined by the court. If the hazing results in the serious bodily injury or death
17 of the victim, or results in the victim having a blood alcohol concentration of at least
18 .25 percent by weight based on grams of alcohol per one hundred cubic centimeters
19 of blood, the period of time shall be for not less than four years.

20 (2) A national or parent organization that receives a report alleging the
21 commission of an act or acts of hazing may conduct a timely and efficient
22 investigation to substantiate or determine the veracity of the allegations prior to
23 making a report to law enforcement. The investigation shall be completed no later
24 than fourteen days after the date on which the report was received alleging the
25 commission of an act or acts of hazing.

26 C. For purposes of this Section:

27 (1) "Education institution" means any elementary or secondary school or any
28 postsecondary education institution in this state.

1 (2)(a) "Hazing" is any intentional, knowing, or reckless act by a person
2 acting alone or acting with others that is directed against another when both of the
3 following apply:

4 (i) The person knew or should have known that the act endangers the
5 physical health or safety of the other person or causes severe emotional distress.

6 (ii) The act was associated with pledging, being initiated into, affiliating
7 with, participating in, holding office in, or maintaining membership in any
8 organization.

9 (b) "Hazing" includes but is not limited to any of the following acts
10 associated with pledging, being initiated into, affiliating with, participating in,
11 holding office in, or maintaining membership in any organization:

12 (i) Physical brutality, such as whipping, beating, paddling, striking, branding,
13 electronic shocking, placing of a harmful substance on the body, or similar activity.

14 (ii) Physical activity, such as sleep deprivation, exposure to the elements,
15 confinement in a small space, or calisthenics, that subjects the other person to an
16 unreasonable risk of harm or that adversely affects the physical health or safety of
17 the individual or causes severe emotional distress.

18 (iii) Activity involving consumption of food, liquid, or any other substance,
19 including but not limited to an alcoholic beverage or drug, that subjects the
20 individual to an unreasonable risk of harm or that adversely affects the physical
21 health or safety of the individual or causes severe emotional distress.

22 (iv) Activity that induces, causes, or requires an individual to perform a duty
23 or task that involves the commission of a crime or an act of hazing.

24 (c) A physical activity that is normal, customary, and necessary for a
25 person's training and participation in an athletic, physical education, military
26 training, or similar program sanctioned by the education institution is not considered
27 "hazing" for purposes of this Section.

28 (3) "Organization" means a fraternity, sorority, association, corporation,
29 order, society, corps, cooperative, club, service group, social group, band, spirit

1 group, athletic team, or similar group whose members are primarily students at, or
2 former students of, an education institution."Organization" includes the national or
3 parent organization of which any of the underlying entities provided for in this
4 Paragraph is a sanctioned or recognized member at the time of the hazing.

5 (4) "Pledging", also known as "recruitment" or "rushing", means any action
6 or activity related to becoming a member of an organization.

7 D.(1) This Section does not apply to an individual who is the subject of the
8 hazing, regardless of whether the individual voluntarily allowed himself to be hazed.

9 (2) It is not a defense to prosecution for a violation of this Section that the
10 individual against whom the hazing was directed consented to or acquiesced in the
11 hazing.

12 E.(1) The penalties provided in Subsection B of this Section may be imposed
13 in addition to any penalty that may be imposed for any other criminal offense arising
14 from the same incident or activity, and in addition to any penalty imposed by the
15 organization or education institution pursuant to its by-laws, rules, or policies
16 regarding hazing.

17 (2) Nothing in this Section precludes any civil remedy provided by law.

18 Section 2. R.S. 17:1801 is hereby amended and reenacted to read as follows:

19 §1801. Hazing prohibited; ~~penalties~~

20 A. Hazing in any form, or the use of any method of initiation into ~~fraternal~~
21 ~~organizations in any educational~~ education institution supported wholly or in part by
22 public funds, which is likely to cause bodily danger or physical punishment to any
23 student or other person attending any such institution is prohibited.

24 B. Whoever violates the provisions of this Section ~~shall be fined not less~~
25 ~~than ten dollars nor more than one hundred dollars, or imprisoned for not less than~~
26 ~~ten days nor more than thirty days, or both, and in addition,~~ shall be expelled,
27 suspended, or dismissed from the ~~educational~~ education institution and not permitted
28 to return ~~during the current session or term in which the violation occurs~~ for at least
29 one semester, quarter, or comparable academic period. In addition, the person

- 1 violating the provisions of this Section may also be subject to the provisions of R.S.
2 14:40.8 which provides penalties for certain hazing activity.
3 Section 3. This Act shall be referred to as "The Max Gruver Act".
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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 78 Reengrossed

2018 Regular Session

Nancy Landry

Abstract: Creates the crime of hazing at certain education institutions and provides for exceptions, definitions, and penalties relative to the offense, and further provides relative to consequences imposed by the education institution for acts of hazing.

Present law provides that hazing in any form, or the use of any method of initiation into fraternal organizations in any educational institution supported wholly or in part by public funds, which is likely to cause bodily danger or physical punishment to any student or other person attending any such institution is prohibited. Further provides that whoever violates these provisions of present law shall be fined not less than \$10 nor more than \$100, or imprisoned for not less than 10 days nor more than 30 days, or both, and in addition, shall be expelled from the educational institution and not permitted to return during the current session or term in which the violation occurs.

Proposed law amends present law to apply to any organization in an education institution, and to remove the fine and term of imprisonment as consequences for engaging in this activity and provide that the student shall be dismissed, suspended, or expelled from the education institution for at least one semester, quarter, or comparable academic period. Further provides that persons who engage in such activity may be subject to the provisions of proposed law which provides penalties for persons who engage in hazing activity.

Proposed law creates the crime of hazing which prohibits any person from committing an act of hazing as defined by proposed law, regardless of whether the person voluntarily allowed himself to be hazed or consented to the hazing. Further provides for the following penalties:

- (1) A fine of up to \$1,000, imprisonment for up to six months, or both.
- (2) If the hazing results in the serious bodily injury or death of the victim, or if the hazing involves forced or coerced alcohol consumption that results in the victim having a blood alcohol concentration of at least .25 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, the person who committed the act of hazing shall be fined up to \$10,000, and imprisoned, with or without hard labor, for up to five years.

Proposed law also provides that if any person serving as a representative or officer of an organization, including any representative, director, trustee, or officer of any national or parent organization of which any of the underlying organization is a sanctioned or recognized member at the time of the hazing, knew and failed to report to law enforcement that one or more of the organization's members were engaging in or participating in the hazing of another person, the organization may be subject to the following:

- (1) A fine of up to \$10,000.

- (2) Forfeiture of any public funds received by the organization.
- (3) Forfeiture of all rights and privileges of being an organization that is organized and operating at the educational institution for a specific period of time as determined by the court. If the hazing results in the serious bodily injury or death of the victim, or results in the victim having a blood alcohol concentration of at least .25 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, the period of time shall be for not less than four years.

Proposed law authorizes the national or parent organization to conduct a timely and efficient investigation, of not longer than 14 days, to determine the veracity of an allegation of hazing prior to reporting the hazing to law enforcement.

Proposed law defines "hazing" as any intentional, knowing, or reckless act by a person acting alone or acting with others that is directed against another when both of the following apply:

- (1) The person knew or should have known that the act endangers the physical health or safety of the other person or causes severe emotional distress.
- (2) The act was associated with pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization.

Proposed law further provides that "hazing" includes but is not limited to any of the following that is associated with pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization:

- (1) Physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.
- (2) Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.
- (3) Activity involving consumption of food, liquid, or any other substance, including but not limited to an alcoholic beverage or drug, that subjects the individual to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.
- (4) Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

Proposed law provides exceptions for normal physical activity associated with athletics, physical education, military training, or similar programs.

Proposed law also defines "organization" as a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, band, spirit group, athletic team, or similar group whose members are primarily students at, or former students of, an elementary or secondary school or a postsecondary education institution in this state. Further includes the national or parent organization of which any of these underlying entities is a sanctioned or recognized member at the time of the hazing.

Finally, proposed law provides that the penalties provided by proposed law do not preclude any civil remedies provided by present law and may be imposed in addition to any penalty that may be imposed for any other present law criminal offense arising from the same

incident or activity, and in addition to any penalty imposed by the organization or educational institution pursuant to its by-laws, rules, or policies regarding hazing.

(Amends R.S. 17:1801; Adds 14:40.8)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Provide that the penalty provision imposing upon a person who engaged in or participated in the hazing a fine of up to \$10,000, and imprisonment for up to five years, shall also apply if the hazing resulted in the victim having a blood alcohol concentration of at least .25 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood.
2. Specify that the penalties imposed upon the organization applies if any person serving as a representative or officer of an organization, including any representative, director, trustee, or officer of any national or parent organization of which any underlying organization is a sanctioned or recognized member, knew and failed to report the hazing to law enforcement.
3. Decreases the potential fine imposed upon the organization from \$100,000 to \$10,000.
4. With regard to the court's authority to order that the organization forfeit all rights and privileges of being an organization that is organized and operating at the educational institution, provide that the court shall specify the duration and requires the duration to be at least four years if the hazing results in death, serious bodily injury, or the victim having a blood alcohol concentration of at least .25 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood.
5. With regard to the exception for physical activities associated with athletic, physical education, military training, or similar programs, specify that the activity must be normal, customary, and necessary for the person's training and participation in the program.
6. Amend the definition of "organization" to include the educational institution and the national or parent organization of which any of the underlying entities is a sanctioned or recognized member at the time of the hazing.
7. Provide that the duration for which any student that is suspended or dismissed from the educational institution for violations of the present law provisions which prohibit hazing shall be for at least the current session or term in which the hazing occurs.
8. Provide that the Act shall be referred to as "The Max Gruver Act".

The House Floor Amendments to the engrossed bill:

1. Amend the elements of the offense to provide that it shall be unlawful for any person to commit an act of hazing as defined by present law.
2. Specify that the penalty provision imposing upon a person who commits an act of hazing a fine of up to \$10,000, and imprisonment for up to five years, shall apply if the hazing involves forced or coerced alcohol consumption that results

in the victim having a blood alcohol concentration of at least .25% by weight based on grams of alcohol per one hundred cubic centimeters of blood.

3. Add a provision which authorizes the national or parent organization to conduct a timely and efficient investigation to determine the veracity of an allegation of hazing and requires the investigation to be no longer than 14 days from the date of receiving the report of the alleged act or acts of hazing.
4. Restore the provision of present law which authorizes the education institution to suspend or dismiss a student who violates the present law prohibition on hazing, and further provide that such suspension or dismissal may be for at least one semester, quarter, or comparable academic period.
5. Change references from "educational institution" to "education institution" to conform with terminology in present law (Title 17).