

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 AND SENATORS ALARIO, ALLAIN, APPEL, BARROW, BISHOP, BOUDREAUX, CARTER, CLAITOR, CORTEZ, DONAHUE, ERDEY, FANNIN, GATTI, HEWITT, JOHNS, LAMBERT, LONG, LUNEAU, MARTINY, MILKOVICH, MILLS, MIZELL, MORRISH, PEACOCK, PERRY, PRICE, RISER, GARY SMITH, JOHN SMITH, TARVER, AND WALSWORTH

1 AN ACT

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

7 Be it enacted by the Legislature of Louisiana:

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

9 §40.8. Criminal hazing

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

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

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

1 victim having a blood alcohol concentration of at least .30 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 .30 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  
30                  group, athletic team, or similar group whose members are primarily students at, or

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

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

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

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

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

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

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

18 §1801. Hazing prohibited; ~~penalties~~

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

23 B. Whoever violates the provisions of this Section ~~shall be fined not less~~  
 24 ~~than ten dollars nor more than one hundred dollars, or imprisoned for not less than~~  
 25 ~~ten days nor more than thirty days, or both, and in addition,~~ shall be expelled,  
 26 suspended, or dismissed from the educational institution and not permitted  
 27 to return during the current session or term in which the violation occurs for at least  
 28 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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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_