**A** **BILL**

TO AMEND ARTICLE 6, CHAPTER 3, TITLE 16, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO UNLAWFUL HAZING, SO AS TO DEFINE NECESSARY TERMS AND RESTRUCTURE THE OFFENSES AND PENALTIES ASSOCIATED WITH UNLAWFUL HAZING.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 6, Chapter 3, Title 16 of the 1976 Code is amended to read:

“Article 6

Hazing

Section 16‑3‑505. As used in this article, the term:

(1) ‘Aggravated coercion’ means an organization member uses force or threatens to use force or violence to entice the victim to consume alcohol if the victim reasonably believes that the organization member has the present ability to carry out the threat or threatens to retaliate in the future by the infliction of physical harm to the victim or another person.

(2) ‘Educational institution’ means any elementary or secondary school or any postsecondary education institution in this State.

(3) ‘Great bodily injury’ means bodily injury which creates substantial risk of death or causes serious or permanent disfigurement.

(4) ‘Hazing’ means any intentional, knowing, or reckless act by a person acting alone or acting with others that is directed against another and:

(a) 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;

(b) the act was associated with pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization; and

(c) actions that rise to the offense of hazing include, but are not limited to, the following:

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

(ii) physical activity, such as sleep deprivation, exposure to the elements, or 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 person or causes severe emotional distress. Physical activity that is normal, customary, and necessary for a person’s training and participation in athletic, physical education, military training, or similar program sanctioned by an education institution does not meet the definition of hazing;

(iii) activity involving consumption of food, liquid, or any other substance including, but not limited to, an alcoholic beverage or drug that subjects the person to an unreasonable risk of harm, that adversely affects the physical health or safety of the person, or causes severe emotional distress; or

(iv) activity that induces, causes, or requires a person to perform a duty or task that involves the commission of a crime or an act of hazing.

(5) ‘Organization’ means a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, band, spirit group, athletic team, or similar group, including national and parent entities who sanction the underlying affiliates and whose members are primarily students or former students of an educational institution.

(6) ‘Pledging, recruitment, or rushing’ means any action or activity related to becoming a member of an organization.

(7) ‘Representative’ means an officer, agent, director, trustee, or employee of an organization.

Section 16‑3‑510. It is unlawful for a person to intentionally or recklessly engage in acts which have a foreseeable potential for causing physical harm to a person for the purpose of initiation or admission into or affiliation with a chartered or nonchartered student, fraternal, or sororal organization. Fraternity, sorority, or other organization for purposes of this section means those chartered and nonchartered fraternities, sororities, or other organizations operating in connection with a school, college, or university. This section does not include customary athletic events or similar contests or competitions, or military training whether state, federal, or educational.

Section 16‑3‑520. It is unlawful for any person to knowingly permit or assist any person in committing acts made unlawful by Section 16‑3‑510 or to fail to report promptly any information within his knowledge of acts made unlawful by Section 16‑3‑510 to the chief executive officer of the appropriate school, college, or university.

Section 16‑3‑525. (A) A person who commits an act of hazing is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than six months, or both.

(B) A person who commits an act of hazing that results in the serious impairment of a bodily function of the victim is guilty of a felony and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than five years, or both.

(C) A person who commits an act of hazing that results in the death or great bodily injury of the victim or the person, through aggravated coercion or force, caused the victim to consume alcohol that resulted in a blood alcohol content of .30 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood or caused the person to ingest an illegal substance is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than fifteen years, or both.

(D) A victim may not be charged with a violation of this article even if the victim volunteered, participated, or consented to the hazing.

(E) Nothing in this section precludes any other civil remedy provided by law.

Section 16‑3‑530. ~~Any person who violates the provisions of Sections 16‑3‑510 or 16‑3‑520 is guilty of a misdemeanor and, upon conviction, must be punished by a fine not to exceed five hundred dollars or by imprisonment for a term not to exceed twelve months, or both.~~

(A) A person serving as a representative of an organization who knew and failed to report to law enforcement that one or more of the organization’s members were hazing another person may subject the organization to the following penalties in the discretion of the court:

(1) a fine of not more than ten thousand dollars;

(2) forfeiture of any public funds received by the organization; or

(3) forfeiture of all rights and privileges of being an organization operating at the educational institution as determined by the court, provided a hazing incident pursuant to Section 16‑3‑520(C) must not be less than four years.

(B) A national or parent organization that receives a report alleging the commission of an act or acts of hazing may conduct an independent investigation into the allegations prior to making a report to law enforcement. The investigations must be completed no later than fourteen days after notice of the alleged act or acts of hazing were received.

(C) The penalties provided in this section may be imposed in addition to any other penalty for other criminal offenses arising from the same incident and any penalty or sanctions imposed by the national or parent organization or educational institution.

~~Section 16‑3‑540.~~ ~~The implied or express consent of a person to acts which violate Section 16‑3‑510 does not constitute a defense to violations of Sections 16‑3‑510 or 16‑3‑520.~~”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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