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SENATE BILL NO. 440

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 25, 2022)

(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; penalties.***A. It shall be 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 when the offense did not result in death or serious bodily injury to any person is guilty of a Class 1 misdemeanor. Any person found guilty thereof when the offense did result in death or serious bodily injury to any person is guilty of a Class 5 felony.**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. It shall be an affirmative defense to prosecution of an individual for 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 she 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. For the purposes of this section, "hazing" means to recklessly or intentionally endanger the health or safety of a student or students or to inflict bodily injury on a student or students in connection with or for the purpose of initiation, admission into or affiliation with or as a condition for continued membership in a club, organization, association, fraternity, sorority, or student body regardless of whether the student or students so endangered or injured participated voluntarily in the relevant activity.***2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**