

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 231

Short Title: The Harrison Kowiak Act. (Public)

Sponsors: Representatives Setzer, Howard, and Henson (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Education - Universities, if favorable, Judiciary, if favorable, Rules, Calendar, and Operations of the House

March 4, 2019

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PUNISHMENT FOR COMMITTING ACTS OF HAZING.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as the "Harrison Kowiak Act."

SECTION 2. G.S. 14-35 reads as rewritten:

"§ 14-35. Hazing; definition and punishment.

(a) Prohibition. – It is unlawful for any ~~student in attendance at any university, college, or school in this State~~ person to engage in hazing, or to aid or abet any other ~~student person~~ person in the commission of this offense. ~~For the purposes of this section hazing is defined as follows: "to subject another student to physical injury as part of an initiation, or as a prerequisite to membership, into any organized school group, including any society, athletic team, fraternity or sorority, or other similar group."~~ Any violation of this section shall constitute a Class 2 misdemeanor.

(b) Criminal Penalty for Hazing. – Unless the conduct is covered under some other provision of law providing greater punishment, the following penalties apply for violations of subsection (a) of this section:

(1) A violation of subsection (a) of this section is a Class D felony if the hazing results in the serious bodily injury or death of the victim, or the hazing involves forced or coerced alcohol consumption that results in the victim having a blood alcohol concentration of .30 or higher within a relevant time after the drinking. Notwithstanding any provision of G.S. 15A-1340.17 to the contrary, the court shall sentence the defendant to an active sentence of no more than 60 months for a first offense under this subdivision. A violation under this subdivision may include a fine of up to ten thousand dollars (\$10,000).

(2) Any other violation of subsection (a) of this section is a Class H felony, which may include a fine of up to one thousand dollars (\$1,000).

(c) Additional Penalties. – The penalties set forth in subsection (b) of this section may be imposed in addition to (i) any penalty that may be imposed for any other criminal offense arising from the same incident or activity and (ii) any penalty that may be imposed by the organization or educational institution pursuant to its bylaws, rules, or policies regarding hazing.

(d) Criminal Penalty for Failure to Report. – Subject to the investigation authorized under subsection (e), if any person serving as a representative or officer of an organization knew and failed to report to law enforcement that one or more of the organization's members hazed or were



1 hazing another person, the person and organization shall be guilty of a Class A1 misdemeanor.
2 The court may order any or all of the following for an organization convicted under this
3 subsection:

4 (1) Payment of a fine of up to ten thousand dollars (\$10,000).

5 (2) Forfeiture of any State funds received by the organization.

6 (3) For a period of time determined by the court, forfeiture of all rights and
7 privileges of being an organization that is organized and operating at the
8 educational institution. If the hazing results in the serious bodily injury or
9 death of the victim, or results in the victim having a blood alcohol
10 concentration of at least .30 within a relevant time after the hazing, the period
11 of time shall be for not less than four years.

12 (e) Investigation. – An organization that receives a report alleging the commission of an
13 act or acts of hazing may conduct a timely and efficient investigation to substantiate or determine
14 the veracity of the allegations prior to making a report to law enforcement. The investigation
15 shall be completed no later than 14 days after the date on which the report was received alleging
16 the commission of the act or acts of hazing.

17 (f) Civil Remedy. – Nothing in this section shall be construed as precluding any civil
18 remedy provided by law.

19 (g) Applicability. – Subsections (a) and (d) of this section do not apply to a person who
20 is the subject of the hazing, regardless of whether the person voluntarily allowed himself or
21 herself to be hazed.

22 (h) No Defense. – It is not a defense to prosecution for a violation of this section that the
23 person against whom the hazing was directed consented to or acquiesced in the hazing.

24 (i) Definitions. – The following definitions apply in this section:

25 (1) Educational institution. – Any elementary or secondary school in this State,
26 and any postsecondary educational institution in this State.

27 (2) Hazing. – Any intentional, knowing, or reckless act by a person acting alone
28 or acting with other people that is directed against another person when (i) the
29 person knew or should have known that the act endangered the physical health
30 or safety of the other person or causes severe emotional distress and (ii) the
31 act was associated with pledging, being initiated into, affiliating with,
32 participating in, holding office in, or maintaining membership in any
33 organization. This term does not include a physical activity that is normal,
34 customary, and necessary for a person's training and participation in an
35 athletic, physical education, military training, or similar program sanctioned
36 by the education institution. This term does include all of the following:

37 a. Physical brutality, such as whipping, beating, paddling, striking,
38 branding, electronic shocking, placing of a harmful substance on the
39 body, or a similar activity.

40 b. Physical activity, such as sleep deprivation, exposure to the elements,
41 confinement in a small space, or calisthenics, that subjects an
42 individual to an unreasonable risk of harm or that adversely affects the
43 physical health or safety of an individual or causes severe emotional
44 distress.

45 c. Activity involving the consumption of food, liquid, or any other
46 substance, including an alcoholic beverage or drug, that subjects an
47 individual to an unreasonable risk of harm or that adversely affects the
48 physical health or safety of an individual or causes severe emotional
49 distress.

50 d. Activity that induces, causes, or requires an individual to perform a
51 duty or task that involves the commission of a crime.

1 (3) Organization. – Any fraternity, sorority, association, corporation, order,
2 society, corps, cooperative, club, service group, social group, band, spirit
3 group, athletic team, or similar group, whose members are primarily students
4 at, or former students of, an educational institution. This term includes the
5 national or parent organization of which any of the underlying entities covered
6 under this subdivision is a sanctioned or recognized member at the time of the
7 hazing.

8 (4) Pledging. – Any action or activity related to becoming a member of an
9 organization."

10 **SECTION 3.** G.S. 115C-238.66(12) reads as rewritten:

11 "(12) ~~Policy~~ Policies against hazing and bullying. – A regional school is encouraged
12 to adopt a policy against bullying or harassing behavior, including
13 cyber-bullying, and a policy against hazing, that ~~is~~ are consistent with the
14 provisions of Article 29C of this Chapter. If a regional school adopts a policy
15 ~~to prohibit bullying and harassing behavior, pursuant to this subdivision,~~ the
16 regional school shall, at the beginning of each school year, provide the policy
17 to staff, students, and parents as defined in G.S. 115C-390.1(b)(8)."

18 **SECTION 4.** G.S. 115C-218.75(c) reads as rewritten:

19 "(c) ~~Policy~~ Policies Against Hazing and Bullying. – A charter school is encouraged to
20 adopt a policy against bullying or harassing behavior, including cyber bullying, and a policy
21 against hazing, that ~~is~~ are consistent with the provisions of Article 29C of this Chapter. If a charter
22 school adopts a policy ~~to prohibit bullying and harassing behavior, pursuant to this subsection,~~
23 the charter school shall, at the beginning of each school year, provide the policy to staff, students,
24 and parents as defined in G.S. 115C-390.1(b)(8)."

25 **SECTION 5.** G.S. 116-239.8(b)(15) reads as rewritten:

26 "(15) ~~Policy~~ Policies against hazing and bullying. – A laboratory school is
27 encouraged to adopt a policy against bullying or harassing behavior, including
28 cyberbullying, and a policy against hazing, that ~~is~~ are consistent with the
29 provisions of Article 29C of Chapter 115C of the General Statutes. If a
30 laboratory school adopts a policy ~~to prohibit bullying and harassing behavior,~~
31 pursuant to this subdivision, the laboratory school shall, at the beginning of
32 each school year, provide the policy to staff, students, and parents as defined
33 in G.S. 115C-390.1(b)(8)."

34 **SECTION 6.** Section 6(h) of S.L. 2018-32 reads as rewritten:

35 "**SECTION 6.(h)** ~~Policy~~ Policies Against Hazing and Bullying. – The local school
36 administrative unit operating under a renewal school system plan is encouraged to adopt a policy
37 against bullying or harassing behavior, including cyber-bullying, and a policy against hazing,
38 that ~~is~~ are consistent with the provisions of Article 29C of Chapter 115C of the General Statutes.
39 If the local school administrative unit adopts a policy ~~to prohibit bullying and harassing behavior~~
40 pursuant to this subsection, the unit shall, at the beginning of each school year, provide the policy
41 to staff, students, and parents as defined in G.S. 115C-390.1(b)(8)."

42 **SECTION 7.** Article 29C of Chapter 115C of the General Statutes is amended by
43 adding a new section to read:

44 "**§ 115C-407.16A. Policy against hazing.**

45 (a) Definitions. – The following definitions apply in this section:

46 (1) Hazing. – Any intentional, knowing, or reckless act by a person acting alone
47 or acting with other people that is directed against another person when (i) the
48 person knew or should have known that the act endangered the physical health
49 or safety of the other person or causes severe emotional distress and (ii) the
50 act was associated with pledging, being initiated into, affiliating with,
51 participating in, holding office in, or maintaining membership in any

1 organization. This term does not include a physical activity that is normal,
2 customary, and necessary for a person's training and participation in an
3 athletic, physical education, military training, or similar program sanctioned
4 by the education institution. This term does include all of the following:

5 a. Physical brutality, such as whipping, beating, paddling, striking,
6 branding, electronic shocking, placing of a harmful substance on the
7 body, or a similar activity.

8 b. Physical activity, such as sleep deprivation, exposure to the elements,
9 confinement in a small space, or calisthenics, that subjects an
10 individual to an unreasonable risk of harm or that adversely affects the
11 physical health or safety of an individual or causes severe emotional
12 distress.

13 c. Activity involving the consumption of food, liquid, or any other
14 substance, including an alcoholic beverage or drug, that subjects an
15 individual to an unreasonable risk of harm or that adversely affects the
16 physical health or safety of an individual or causes severe emotional
17 distress.

18 d. Activity that induces, causes, or requires an individual to perform a
19 duty or task that involves the commission of a crime.

20 (2) Organization. – Any fraternity, sorority, association, corporation, order,
21 society, corps, cooperative, club, service group, social group, band, spirit
22 group, athletic team, or similar group, whose members are primarily students
23 at, or former students of, a local school administrative unit in this State. This
24 term includes the national or parent organization of which any of the
25 underlying entities covered under this subdivision is a sanctioned or
26 recognized member at the time of the hazing.

27 (3) Pledging. – Any action or activity related to becoming a member of an
28 organization.

29 (b) Requirement. – Each local school administrative unit shall adopt a policy prohibiting
30 hazing.

31 (c) Minimum Components. – The policy shall contain, at a minimum, the following
32 components:

33 (1) A statement prohibiting hazing.

34 (2) A definition of hazing no less inclusive than that set forth in this section.

35 (3) A description of the type of behavior expected for each student and school
36 employee.

37 (4) Consequences and appropriate remedial action for a person who commits an
38 act of hazing, which shall include expulsion, suspension, or dismissal from
39 the school for at least one semester, quarter, or comparable academic period.

40 (5) Consequences and appropriate remedial action for an organization whose
41 member or members commit an act of hazing.

42 (6) A procedure for reporting an act of hazing, including a provision that permits
43 a person to report such an act anonymously. This shall not be construed to
44 permit formal disciplinary action solely on the basis of an anonymous report.

45 (7) A procedure for prompt investigation of reports of serious violations and
46 complaints of any act of hazing, identifying either the principal or the
47 principal's designee as the person responsible for the investigation.

48 (8) A statement that (i) prohibits reprisal or retaliation against any person who
49 reports an act of hazing and (ii) specifies the consequence and appropriate
50 remedial action for a person who engages in reprisal or retaliation.

1 (9) A statement of how the policy is to be disseminated and publicized, including
2 notice that the policy applies to participation in school-sponsored functions.

3 (d) Additional Components. – Nothing in this Article shall prohibit a local school
4 administrative unit from adopting a policy that includes components beyond the minimum
5 components required in this section.

6 (e) Dissemination. – At the beginning of each school year, the principal shall provide the
7 local school administrative unit's policy prohibiting hazing to staff, students, and parents as
8 defined in G.S. 115C-390.1(b)(8). Notice of the local policy shall appear in any school unit
9 publication that sets forth the comprehensive rules, procedures, and standards of conduct for
10 schools within the school unit and in any student and school employee handbook.

11 (f) Training. – Information regarding the local policy against hazing shall be
12 incorporated into a school's employee training program. To the extent funds are appropriated for
13 these purposes, a local school administrative unit shall provide training on the local policy to
14 school employees and volunteers who have significant contact with students.

15 (g) Criminal Penalty. – Any remedial action under a policy adopted under this section is
16 additional to any punishment provided under G.S. 14-35 and any other applicable law."

17 **SECTION 8.** Article 7 of Chapter 115D of the General Statutes is amended by
18 adding a new section to read:

19 **"§ 115D-77.1. Policy against hazing.**

20 (a) Definitions. – The following definitions apply in this section:

21 (1) Hazing. – Any intentional, knowing, or reckless act by a person acting alone
22 or acting with other people that is directed against another person when (i) the
23 person knew or should have known that the act endangered the physical health
24 or safety of the other person or causes severe emotional distress and (ii) the
25 act was associated with pledging, being initiated into, affiliating with,
26 participating in, holding office in, or maintaining membership in any
27 organization. This term does not include a physical activity that is normal,
28 customary, and necessary for a person's training and participation in an
29 athletic, physical education, military training, or similar program sanctioned
30 by the education institution. This term does include all of the following:

31 a. Physical brutality, such as whipping, beating, paddling, striking,
32 branding, electronic shocking, placing of a harmful substance on the
33 body, or a similar activity.

34 b. Physical activity, such as sleep deprivation, exposure to the elements,
35 confinement in a small space, or calisthenics, that subjects an
36 individual to an unreasonable risk of harm or that adversely affects the
37 physical health or safety of an individual or causes severe emotional
38 distress.

39 c. Activity involving the consumption of food, liquid, or any other
40 substance, including an alcoholic beverage or drug, that subjects an
41 individual to an unreasonable risk of harm or that adversely affects the
42 physical health or safety of an individual or causes severe emotional
43 distress.

44 d. Activity that induces, causes, or requires an individual to perform a
45 duty or task that involves the commission of a crime.

46 (2) Organization. – Any fraternity, sorority, association, corporation, order,
47 society, corps, cooperative, club, service group, social group, band, spirit
48 group, athletic team, or similar group, whose members are primarily students
49 at, or former students of, a community college. This term includes the national
50 or parent organization of which any of the underlying entities covered under

- 1 this subdivision is a sanctioned or recognized member at the time of the
2 hazing.
- 3 (3) Pledging. – Any action or activity related to becoming a member of an
4 organization.
- 5 (b) Requirement. – The State Board of Community Colleges shall adopt a policy
6 prohibiting hazing by any student enrolled in a community college.
- 7 (c) Minimum Components. – The policy shall contain, at a minimum, the following
8 components:
- 9 (1) A statement prohibiting hazing.
- 10 (2) A definition of hazing no less inclusive than that set forth in this section.
- 11 (3) A description of the type of behavior expected for each student and school
12 employee.
- 13 (4) Consequences and appropriate remedial action for a person who commits an
14 act of hazing, which shall include expulsion, suspension, or dismissal from
15 the community college for at least one semester, quarter, or comparable
16 academic period.
- 17 (5) Consequences and appropriate remedial action for an organization whose
18 member or members commit an act of hazing.
- 19 (6) A procedure for reporting an act of hazing, including a provision that permits
20 a person to report such an act anonymously. This shall not be construed to
21 permit formal disciplinary action solely on the basis of an anonymous report.
- 22 (7) A procedure for prompt investigation of reports of serious violations and
23 complaints of any act of hazing.
- 24 (8) A statement that (i) prohibits reprisal or retaliation against any person who
25 reports an act of hazing and (ii) specifies the consequence and appropriate
26 remedial action for a person who engages in reprisal or retaliation.
- 27 (9) A statement of how the policy is to be disseminated and publicized, including
28 notice that the policy applies to participation in community college-sponsored
29 functions.
- 30 (d) Additional Components. – Nothing in this Article shall prohibit a local community
31 college board of trustees from adopting a policy that includes components beyond the minimum
32 components required in this section.
- 33 (e) Training. – Information regarding the local policy against hazing shall be
34 incorporated into a community college's employee training program. To the extent funds are
35 appropriated for these purposes, a community college shall provide training on the local policy
36 to community college employees and volunteers who have significant contact with students.
- 37 (f) Criminal Penalty. – Any remedial action under a policy adopted under this section is
38 additional to any punishment provided under G.S. 14-35 and any other applicable law."

39 **SECTION 9.** Article 1 of Chapter 116 of the General Statutes is amended by adding
40 a new section to read:

41 "**§ 116-40.13. Policy against hazing.**

42 (a) Definitions. – The following definitions apply in this section:

- 43 (1) Hazing. – Any intentional, knowing, or reckless act by a person acting alone
44 or acting with other people that is directed against another person when (i) the
45 person knew or should have known that the act endangered the physical health
46 or safety of the other person or causes severe emotional distress and (ii) the
47 act was associated with pledging, being initiated into, affiliating with,
48 participating in, holding office in, or maintaining membership in any
49 organization. This term does not include a physical activity that is normal,
50 customary, and necessary for a person's training and participation in an

- 1 athletic, physical education, military training, or similar program sanctioned
2 by the education institution. This term does include all of the following:
- 3 a. Physical brutality, such as whipping, beating, paddling, striking,
4 branding, electronic shocking, placing of a harmful substance on the
5 body, or a similar activity.
 - 6 b. Physical activity, such as sleep deprivation, exposure to the elements,
7 confinement in a small space, or calisthenics, that subjects an
8 individual to an unreasonable risk of harm or that adversely affects the
9 physical health or safety of an individual or causes severe emotional
10 distress.
 - 11 c. Activity involving the consumption of food, liquid, or any other
12 substance, including an alcoholic beverage or drug, that subjects an
13 individual to an unreasonable risk of harm or that adversely affects the
14 physical health or safety of an individual or causes severe emotional
15 distress.
 - 16 d. Activity that induces, causes, or requires an individual to perform a
17 duty or task that involves the commission of a crime.
- 18 (2) Organization. – Any fraternity, sorority, association, corporation, order,
19 society, corps, cooperative, club, service group, social group, band, spirit
20 group, athletic team, or similar group, whose members are primarily students
21 at, or former students of, a constituent institution. This term includes the
22 national or parent organization of which any of the underlying entities covered
23 under this subdivision is a sanctioned or recognized member at the time of the
24 hazing.
- 25 (3) Pledging. – Any action or activity related to becoming a member of an
26 organization.
- 27 (b) Requirement. – The Board of Governors shall adopt a policy prohibiting hazing by
28 any student enrolled in a constituent institution.
- 29 (c) Minimum Components. – The policy shall contain, at a minimum, the following
30 components:
- 31 (1) A statement prohibiting hazing.
 - 32 (2) A definition of hazing no less inclusive than that set forth in this section.
 - 33 (3) A description of the type of behavior expected for each student and employee
34 of the institution.
 - 35 (4) Consequences and appropriate remedial action for a person who commits an
36 act of hazing, which shall include expulsion, suspension, or dismissal from
37 the institution for at least one semester, quarter, or comparable academic
38 period.
 - 39 (5) Consequences and appropriate remedial action for an organization whose
40 member or members commit an act of hazing.
 - 41 (6) A procedure for reporting an act of hazing, including a provision that permits
42 a person to report such an act anonymously. This shall not be construed to
43 permit formal disciplinary action solely on the basis of an anonymous report.
 - 44 (7) A procedure for prompt investigation of reports of serious violations and
45 complaints of any act of hazing.
 - 46 (8) A statement that (i) prohibits reprisal or retaliation against any person who
47 reports an act of hazing and (ii) specifies the consequence and appropriate
48 remedial action for a person who engages in reprisal or retaliation.
 - 49 (9) A statement of how the policy is to be disseminated and publicized, including
50 notice that the policy applies to participation in constituent
51 institution-sponsored functions.

1 (d) Additional Components. – Nothing in this Article shall prohibit the Board of
2 Governors from adopting a policy that includes components beyond the minimum components
3 required in this section.

4 (e) Training. – Information regarding the policy against hazing shall be incorporated into
5 a constituent institution's employee training program. To the extent funds are appropriated for
6 these purposes, a constituent institution shall provide training on the policy to institution
7 employees and volunteers who have significant contact with students.

8 (f) Criminal Penalty. – Any remedial action under a policy adopted under this section is
9 additional to any punishment provided under G.S. 14-35 and any other applicable law."

10 **SECTION 10.** Section 2 of this act becomes effective December 1, 2019, and applies
11 to offenses committed on or after that date. The remainder of this act is effective when it becomes
12 law. Sections 3 through 7 of this act apply beginning with the 2019-2020 school year. Sections 8
13 and 9 of this act apply beginning with the 2019-2020 academic year.