

WEST VIRGINIA LEGISLATURE
2019 FIRST EXTRAORDINARY SESSION

Introduced

Senate Bill 1004

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND
PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Introduced May 20, 2019]

1 A BILL to amend and reenact §18-16-1, §18-16-2, §18-16-3, and §18-16-4 of the Code of West
 2 Virginia, 1931, as amended, all relating generally to prohibiting hazing; adopting a short
 3 title; defining terms; criminalizing participation in hazing; establishing criminal penalties;
 4 expanding and clarifying organizations subject to anti-hazing provisions; requiring
 5 institutions of higher education to promulgate policies related to hazing; requiring
 6 enforcement of institution anti-hazing policies; and authorizing institutions to impose
 7 noncriminal penalties for hazing.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. ANTIHAZING LAW.

§18-16-1. Short title.

1 This article shall be known and may be cited as the ~~“Antihazing Law”~~ “West Virginia Anti-
 2 hazing Law.”

§18-16-2. Definitions.

1 As used in this article:

2 (1) “Hazing” means to cause any action or situation which recklessly or intentionally
 3 endangers the mental or physical health or safety of another person or persons or causes another
 4 person or persons to destroy or remove public or private property for the purpose of initiation or
 5 admission into or affiliation with, or as a condition for continued membership in, any organization
 6 ~~operating under the sanction of or recognized as an organization by~~ the members of which are
 7 primarily students or alumni of an institution of higher education. The term includes, but is not
 8 limited to, ~~any brutality~~ acts of a physical nature, such as whipping, beating, branding, ~~forced~~
 9 required consumption of any food, liquor, drug or other substance, or any other ~~forced~~ required
 10 physical activity which could reasonably be deemed to adversely affect the physical health and
 11 safety of the ~~individual~~ person or ~~individuals~~ persons so treated, and includes any activity which
 12 would subject the ~~individual~~ person or ~~individuals~~ persons so treated to extreme mental stress,
 13 such as sleep deprivation, forced exclusion from social contact, ~~forced~~ required conduct which

14 could result in extreme embarrassment, or any other ~~forced~~ required activity which could
 15 reasonably be deemed to adversely affect the mental health or dignity of the ~~individual~~ person or
 16 ~~individuals~~ person so treated, or any willful destruction or removal of public or private property:
 17 *Provided*, That the implied or expressed consent or willingness of a person or persons to hazing
 18 ~~shall~~ may not be a defense under this section.

19 (2) "Institution of higher education" or "institution" means any public or private institution
 20 as defined in §18B-1-2 of this code.

21 (3) "Organization" means any fraternity, sorority, association, corporation, order, society,
 22 corps, club, or similar group, or a national or international affiliate thereof, the membership of
 23 which is primarily made up students or alumni of an institution of higher education.

§18-16-3. Hazing prohibited.

1 Any person ~~or persons~~ who causes hazing is guilty of a misdemeanor, and, upon
 2 conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in a ~~county~~
 3 ~~or regional~~ jail for not more than nine months, or both fined and ~~imprisoned~~ confined. *Provided*,
 4 That if the act would otherwise be deemed a felony as defined in this code, the person committing
 5 such act may be found guilty of such felony and, be subject to penalties provided for such felony

§18-16-4. Enforcement by institutions.

1 (a) ~~Antihazing policy.~~ – ~~The university of West Virginia board of trustees created pursuant~~
 2 ~~to article two, chapter eighteen-b of this code and the board of directors of the state college system~~
 3 ~~created pursuant to article three of said chapter shall by August 1, 1995, promulgate guidelines~~
 4 ~~for antihazing policies~~ The governing body of each institution of higher education in this state shall
 5 promulgate and enforce antihazing rules consistent with this article.

6 (b) Enforcement and penalties. —

7 (1) Each institution shall provide a program for the enforcement of ~~such~~ rules promulgated
 8 pursuant to subsection (a) of this section and shall adopt appropriate penalties for violations of

9 ~~such rules to be administered by the person or agency at the institution responsible for the~~
10 ~~sanctioning or recognition of such organizations~~ thereof.

11 (2) ~~In the case of an organization which authorizes hazing in blatant disregard of such~~
12 ~~rules, penalties~~ Penalties may also include rescission of permission for that an organization to
13 operate on campus property or to otherwise operate under the sanction or recognition of the
14 institution.

15 (3) All penalties imposed under the authority of this section shall be in addition to any
16 penalty imposed for violation of §18-16-3 of this code or of any of the criminal laws of this state.
17 ~~or for violation of any other institutional rule to which the violator may be subject~~

18 (4) Rules adopted pursuant hereto apply to acts conducted on or off campus whenever
19 such acts ~~are deemed to~~ constitute hazing as defined in §18-16-2 of this code.

NOTE: The purpose of this bill is to extend the prohibition against hazing to any organization whose members are primarily students or alumni of an institution of higher education.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.