An Act To Expand and Clarify the Prohibition of Hazing at Elementary Schools, Secondary Schools and Postsecondary Institutions

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

Presented by Representative STEWART of Presque Isle.
Cosponsored by Senator POULIOT of Kennebec and Representative: SAMPSON of Alfred, Senators: CARPENTER of Aroostook, DILL of Penobscot.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §2902, sub-§9, as amended by PL 2001, c. 452, §6, is further amended to read:

9. Medication. Meet the requirements for administering medication under section 254, subsection 5; and

Sec. 2. 20-A MRSA §2902, sub-§10, as enacted by PL 2001, c. 452, §7, is amended to read:

10. Reintegration planning. Meet the requirements for administering reintegration planning under section 254, subsection 12; and

Sec. 3. 20-A MRSA §2902, sub-§11 is enacted to read:

11. Prohibition of hazing. Meet the requirements of section 6553 prohibiting hazing in elementary and secondary private schools.

Sec. 4. 20-A MRSA §6553, as amended by PL 1999, c. 351, §4, is further amended to read:

§6553. Prohibition of hazing

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Injurious hazing." "Hazing" means any action or situation, including harassing behavior, that recklessly or intentionally endangers the mental or physical health of any school personnel or a student enrolled in a public school or that, for the purpose of pledging to, initiating in, admitting to, affiliating with or continuing or enhancing status in an organization, humiliates, degrades, abuses or endangers a minor or a student or causes the minor or student to:

(1) Violate state or federal law;

(2) Consume food, liquid, alcohol, drugs or other substances in a noncustomary manner that subjects the minor or student to risk of emotional or physical harm;

or

(3) Endure activity that may adversely affect the health and safety of the minor or student.

"Hazing" does not include a customary athletic or other similar activity or competition or activity or conduct that furthers a legal and legitimate objective.

B. "Violator" means any person or any organization which engages in injurious hazing.

2. Adoption of policy. The school board or governing body for a private school shall adopt a policy which establishes that "injurious hazing," hazing, either on or off campus, is not permitted.
school property, by any student, staff member, group or organization affiliated with the public school is prohibited.

3. **Penalties.** The school board or governing body for a private school shall establish penalties for violation of the rules policy established in subsection 2. The penalties shall must include, but may not be limited to, provisions for:

   A. In the case of a person if the violator is not associated with the public school, the ejection of the violator from school property;

   B. In the case of if the violator is a student, school administrator or school staff violator member, the individual's violator's suspension, expulsion or other appropriate disciplinary action; and

   C. In the case of if the violator is an organization affiliated with the public school which that authorizes hazing, rescission of permission for that organization to operate on school property or receive any other benefit of affiliation with the public school.

These penalties shall be are in addition to any other civil or criminal penalty to which the violator or organization may be subject.

4. **Administrative responsibility.** The school board shall assign responsibility for administering the policy established in subsection 2 to the superintendent of schools and establish procedures for appealing the action or lack of action of the superintendent. The governing body for a private school is responsible for administering the policy established in subsection 2.

5. **Dissemination.** The school board or governing body shall clearly set forth the policy adopted under subsection 2 and penalties adopted under subsection 3 and shall distribute copies of them the policy and penalties to all students enrolled in the public school.

6. **Criminal violation.** A violator commits a Class E crime. A violation under this subsection does not preclude a charge and may be in addition to a penalty imposed for a violation of any other criminal law of the State resulting from the same underlying conduct.

7. **Disallowed defenses.** It is not a defense to a violation under subsection 3 or subsection 6 that:

   A. No injury or damage resulted from the hazing;

   B. The minor or student subject to the hazing consented to or willingly participated in the hazing; or

   C. The hazing was not part of an official organization event or a condition of membership in or otherwise sanctioned or approved by an organization.

8. **Immunity from prosecution.** A person who in good faith reports or participates in the reporting of an allegation of hazing to a school, school administrative unit or law enforcement agency or takes reasonable steps to prevent hazing is not subject to any civil
or criminal liability arising from the reported hazing or any associated activity, including
the possession, consumption or furnishing of alcohol or illegal substances.

**Sec. 5. 20-A MRSA §10004, as enacted by PL 1983, c. 159, is amended to read:**

§10004. Prohibition of hazing

1. **Definitions.** As used in this section, unless the context indicates otherwise, the
following terms have the following meanings.

   A. "Injurious hazing" "Hazing" means any action or situation which recklessly
   or intentionally endangers the mental or physical health of a student enrolled at an
   institution in this State, or that, for the purpose of pledging to, initiating in, admitting
   to, affiliating with or continuing or enhancing status in an organization, humiliates,
   degrades, abuses or endangers a minor or a student or causes the minor or student to:
   
   (1) Violate state or federal law;
   
   (2) Consume food, liquid, alcohol, drugs or other substances in a noncustomary
   manner that subjects the minor or student to risk of emotional or physical harm;
   or
   
   (3) Endure activity that may adversely affect the health and safety of the minor
   or student.

   "Hazing" does not include a customary athletic or other similar activity or
   competition or activity or conduct that furthers a legal and legitimate objective.

   B. "Institution" means any post-secondary public or private postsecondary institution
   incorporated or chartered under the laws of this State.

   C. "Trustees" means trustees or the governing board of every post-secondary a
   postsecondary institution incorporated or chartered under the laws of this State.

   D. "Violator" means any person or any organization which engages in hazing.

2. **Adoption of rules.** The trustees shall adopt rules:

   A. For the maintenance of public order; and

   B. Prohibiting injurious hazing by any student, faculty member, group or
   organization affiliated with the institution, either on or off campus.

3. **Administrative penalties.** The trustees shall establish penalties for violation of
   the rules established in subsection 2. The penalties shall include, but may not be
   limited to, provisions for:

   A. In the case of a person If the violator is not associated with the institution, the
   ejection of the violator from the campus or institution property;

   B. In the case of If the violator is a student, administrator or faculty violator member,
   the individual's suspension, expulsion or other appropriate disciplinary
   action; and
C. In the case of If the violator is an organization affiliated with the institution which
that authorizes hazing, recission rescission of permission for that organization to
operate on campus property or receive any other benefit of affiliation with the
institution.

These penalties shall be are in addition to any other civil or criminal penalty to which the
violator or organization may be subject.

4. Administrative responsibility. The trustees shall assign responsibility for
administering the rules under subsection 2 to an administrative officer of the institution
and establish procedures for appealing the action or lack of action of the officer.

5. Dissemination. The trustees shall clearly set forth the rules under subsection 2
and penalties under subsection 3 and shall give a copy of them the rules and penalties to
all students enrolled in the institution.

6. Bylaws of organizations. The rules shall under subsection 2 must be part of the
bylaws of all organizations affiliated with the institution.

7. Criminal violation. A violator commits a Class E crime. A violation under this
subsection does not preclude a charge and may be in addition to a penalty imposed for a
violation of any other criminal law of the State resulting from the same underlying
conduct.

8. Disallowed defenses. It is not a defense to a violation under subsection 3 or
subsection 7 that:

A. No injury or damage resulted from the hazing;
B. The minor or student subject to the hazing consented to or willingly participated
   in the hazing; or
C. The hazing was not part of an official organization event or a condition of
   membership in or otherwise sanctioned or approved by an organization.

9. Immunity from prosecution. A person who in good faith reports or participates
in the reporting of an allegation of hazing to an institution or law enforcement agency or
takes reasonable steps to prevent hazing is not subject to any civil or criminal liability
arising from the reported hazing or any associated activity, including the possession,
consumption or furnishing of alcohol or illegal substances.

SUMMARY

This bill updates the prohibition of hazing in elementary, secondary and
postsecondary schools and institutions by:

1. Expanding and clarifying the activity that constitutes hazing;

2. Making it explicit that the prohibition applies to public and private elementary,
   secondary and postsecondary schools;
3. Making hazing a Class E crime;

4. Disallowing defenses such as consent or willing participation of the subject of the hazing, that no injury or damage resulted from the hazing or that the hazing was not sanctioned by or part of an organization's membership requirements; and

5. Providing immunity from civil or criminal liability for reporting or attempting to prevent hazing.