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Legislative Document

No. 1765

H.P. 1254

House of Representatives, May 21, 2019

**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.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

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.

1 **Be it enacted by the People of the State of Maine as follows:**

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

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

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

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

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

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

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

15 **§6553. Prohibition of hazing**

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

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

24 (1) Violate state or federal law;

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

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

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

32 B. "Violator" means any person or any organization ~~which~~ that engages in ~~injurious~~
33 hazing.

34 **2. Adoption of policy.** The school board or governing body for a private school
35 shall adopt a policy ~~which~~ that establishes that ~~"injurious hazing,"~~ hazing, either on or off

1 school property, by any student, staff member, group or organization affiliated with the
2 ~~public~~ school is prohibited.

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

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

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

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

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

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

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

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

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

31 A. No injury or damage resulted from the hazing;

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

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

36 **8. Immunity from prosecution.** A person who in good faith reports or participates
37 in the reporting of an allegation of hazing to a school, school administrative unit or law
38 enforcement agency or takes reasonable steps to prevent hazing is not subject to any civil

1 or criminal liability arising from the reported hazing or any associated activity, including
2 the possession, consumption or furnishing of alcohol or illegal substances.

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

4 **§10004. Prohibition of hazing**

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

7 A. ~~"Injurious hazing"~~ "Hazing" means any action or situation ~~which that~~ recklessly
8 or intentionally endangers the mental or physical health of a student enrolled at an
9 institution in this State: or that, for the purpose of pledging to, initiating in, admitting
10 to, affiliating with or continuing or enhancing status in an organization, humiliates,
11 degrades, abuses or endangers a minor or a student or causes the minor or student to:

12 (1) Violate state or federal law;

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

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

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

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

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

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

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

26 A. For the maintenance of public order; and

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

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

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

34 B. ~~In the case of~~ If the violator is a student, administrator or faculty ~~violator~~ member,
35 the ~~individual's~~ violator's suspension, expulsion or other appropriate disciplinary
36 action; and

1 C. ~~In the case of~~ If the violator is an organization affiliated with the institution which
2 that authorizes hazing, ~~recession~~ rescission of permission for that organization to
3 operate on campus property or receive any other benefit of affiliation with the
4 institution.

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

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

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

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

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

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

21 A. No injury or damage resulted from the hazing;

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

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

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

31 SUMMARY

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

34 1. Expanding and clarifying the activity that constitutes hazing;

35 2. Making it explicit that the prohibition applies to public and private elementary,
36 secondary and postsecondary schools;

- 1 3. Making hazing a Class E crime;
- 2 4. Disallowing defenses such as consent or willing participation of the subject of the
- 3 hazing, that no injury or damage resulted from the hazing or that the hazing was not
- 4 sanctioned by or part of an organization's membership requirements; and
- 5 5. Providing immunity from civil or criminal liability for reporting or attempting to
- 6 prevent hazing.