

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40024-ML-5

Short Title: The Harrison Kowiak Act.

(Public)

Sponsors: Representative Setzer.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE THE PUNISHMENT FOR COMMITTING ACTS OF HAZING.  
3 The General Assembly of North Carolina enacts:

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

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

6 "**§ 14-35. Hazing; definition and punishment.**

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

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

17 (1) A violation of subsection (a) of this section is a Class D felony if the hazing  
18 results in the serious bodily injury or death of the victim, or the hazing  
19 involves forced or coerced alcohol consumption that results in the victim  
20 having a blood alcohol concentration of .30 or higher within a relevant time  
21 after the drinking. Notwithstanding any provision of G.S. 15A-1340.17 to the  
22 contrary, the court shall sentence the defendant to an active sentence of no  
23 more than 60 months for a first offense under this subdivision. A violation  
24 under this subdivision may include a fine of up to ten thousand dollars  
25 (\$10,000).

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

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

32 (d) Criminal Penalty for Failure to Report. – Subject to the investigation authorized under  
33 subsection (e), if any person serving as a representative or officer of an organization knew and  
34 failed to report to law enforcement that one or more of the organization's members hazed or were  
35 hazing another person, the person and organization shall be guilty of a Class A1 misdemeanor.



1 The court may order any or all of the following for an organization convicted under this  
2 subsection:

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

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

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

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

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

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

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

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

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

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

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

39 b. Physical activity, such as sleep deprivation, exposure to the elements,  
40 confinement in a small space, or calisthenics, 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 c. Activity involving the consumption of food, liquid, or any other  
45 substance, including an alcoholic beverage or drug, that subjects an  
46 individual to an unreasonable risk of harm or that adversely affects the  
47 physical health or safety of an individual or causes severe emotional  
48 distress.

49 d. Activity that induces, causes, or requires an individual to perform a  
50 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.