By: Representatives Powell, Hopkins

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 5

AN ACT TO CLARIFY THE DEFINITION OF HAZING; TO PROVIDE PENALTIES FOR ORGANIZATIONS THAT FAIL TO REPORT HAZING; TO PROVIDE GUIDELINES FOR INVESTIGATIONS OF HAZING; TO AMEND SECTION 97-3-105, MISSISSIPPI CODE OF 1972, TO ADD PENALTIES FOR HAZING THAT INCLUDES FORCED CONSUMPTION OF ALCOHOL; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) For purposes of this act, the following words shall have the meanings ascribed herein, unless the context clearly requires otherwise:

(a) "Education institution" means any elementary or secondary school, junior or community college, institution of higher learning or any postsecondary education institution in this state, and includes, but is not limited to, any other educational institution.

(b) (i) "Hazing" means any intentional or reckless act by a person acting alone or acting with others that is directed against another when both of the following apply:

1. The person knew or should have known that the act endangers the physical health or safety of the other person or causes severe emotional distress; and

2. The act was done as a result of pledging, intake, being initiated into, affiliating with, participating in, holding office in, or obtaining, maintaining membership or obtaining or maintaining a certain status as a member of in any organization.

(ii) "Hazing" includes, but is not limited to, any of the following acts associated with pledging, intake, being initiated into, affiliating with, participating in, holding office in, or obtaining, maintaining membership or obtaining or maintaining a certain status as a member of in any organization:

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

2. Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that endangers the physical or mental health or safety of the individual.

3. Activity involving consumption of food, liquid, or any other substance, including, but not limited to, an alcoholic beverage or drug, that subjects the individual to an

unreasonable risk of harm or that endangers the physical or mental health or safety of the individual.

4. Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

5. Activity that coerces current or prospective members to use technological applications to transfer monies to another person for personal use, except for official organization requirements.

6. Activity that would subject forced prolonged exclusion from social contact, forced conduct which could result in extreme embarrassment, or any other forced activity which could adversely affect the mental health or dignity of the individual.

7. "Hazing" does not mean a physical or mental activity that is normal, customary, and reasonable for a person's training or participation in any band, athletic, physical education, military training, or similar program sanctioned by the education institution or that institution's athletics regulatory body or conference.

(c) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, band, spirit group, athletic team, or similar group whose members are primarily students at, or former students of, an education institution. "Organization" also

includes the local, national or parent organization of which any of the underlying entities provided for in this paragraph is a sanctioned or recognized member at the time of the hazing. "Organization" does not mean or include the educational institution.

(d) "Pledging," also known as "recruitment," "intake" or "rushing," means any action or activity related to becoming a member of, holding office in, maintaining membership in or obtaining a certain level of respect of the organization.

(2) If any person serving as a representative or officer of an organization, including any representative, director, trustee or officer of any local, national or parent organization has knowledge of an act or acts of hazing, but fails to report to law enforcement that one or more of the organization's members were hazing another person, the organization may be subject to one or more of the following penalties:

(a) Payment of a fine of up to Ten Thousand Dollars ($10,000.00);

(b) Forfeiture of any public funds received by the organization; or

(c) Forfeiture of all rights and privileges of being an organization that is organized and operating at the education institution for a specific period of time as determined by the court, if the hazing results in the serious bodily injury or death of the victim, or results in the victim having a blood alcohol

concentration of at least thirty percent (30%) by weight based on grams of alcohol per one hundred (100) cubic centimeters of blood, the period of time shall be for not less than four (4) years.

(3) A local, national or parent organization that receives a report alleging the commission of an act or acts of hazing shall immediately contact the administration of the education institution in accordance with the institution's policy for reporting such incidents. The local, national or parent organization, whichever is applicable, shall conduct a timely and efficient investigation to substantiate or determine the veracity of the allegations; a process which may be undertaken in concert with the institution depending on the institution's policies and procedures. The local, national or parent organization's investigation does not preclude the institutions from conducting its own investigation. The investigation shall begin no later than five (5) days after the date on which the report alleging the commission of an act or acts of hazing was received.

(4) It shall not be a defense to prosecution for a violation of this act that the person against whom the hazing was directed consented to or acquiesced in the hazing.

(5) The provisions of this act shall not be applied to the person who is the subject of the hazing, regardless of whether the person voluntarily allowed himself or herself to be hazed.

(6) The penalties provided in this act may be imposed in addition to any other penalty that may be imposed for any other

criminal offense arising from the same incident or activity, and in addition to any penalty imposed by the organization or education institution pursuant to its bylaws, rules, or policies regarding hazing.

(7) Nothing in this act precludes any civil remedy provided by law for any injury, incident or activity arising from violation of this act.

SECTION 2. Section 97-3-105, Mississippi Code of 1972, is amended as follows:

97-3-105. (1) A person is guilty of hazing in the first degree when, in the course of another person's pledging, intake, initiation into, participation in, holding office in, or obtaining or maintaining membership in, or obtaining or maintaining a certain status as a member of or affiliation with any organization, he or she intentionally or recklessly engages in conduct which creates a substantial risk of physical injury to such other person or a third person and thereby causes such injury.

*** * *** Any person violating the provisions of this subsection (1) *** * *** shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Two Thousand Dollars ($2,000.00) or imprisonment in the county jail for not more than six (6) months, or both.

(*** * ***2) A person is guilty of hazing in the second degree when, in the course of another person's pledging, intake,

initiation into participation in, holding office in, or obtaining or maintaining membership in, or obtaining or maintaining a certain status as a member of or affiliation with any organization, he or she intentionally or recklessly engages in conduct which creates a substantial risk of physical injury to such other person or a third person.

*** * *** Any person violating the provisions of this subsection *** * *** (2) shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00).

(3) A person is guilty of hazing in the third degree, when, in the course of another person's pledging, intake, initiation into, participation in, holding office in, or obtaining or maintaining membership in, or obtaining or maintaining a certain status as a member of or affiliation with any organization, serious bodily injury or death of the victim occurs, or the hazing involves forced or coerced alcohol consumption that results in the victim having a blood alcohol concentration of at least thirty percent (30%) by weight based on grams of alcohol per one hundred (100) cubic centimeters of blood. Any person violating the provisions of this subsection (3) shall be guilty of a felony and, upon conviction thereof, be punished by a fine up to Ten Thousand Dollars ($10,000.00) and imprisoned up to five (5) years, or both.

(4) For purposes of this act, the terms "hazing," "pledging," "intake" and "organization" mean the same as they are defined in Section 1 of this act.

(5) The provisions of this section shall be in addition to other criminal laws, and actions taken pursuant to this section shall not bar prosecutions for other violations of criminal law.

(6) Nothing in this act precludes any civil remedy provided by law for any injury, incident or activity arising from violation of this act.

SECTION 3. This act shall take effect and be in force from and after July 1, 2021.